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Conspiracy Is Charged to U.S. At Trial of 3 in B26 Case

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BUFFALO, N.Y. — The

"spooks" of the Central Intelligence Agency will appear throughout the trial here of three men accused of conspiring to smuggle B26 bombers out of the United States, the attorney for one of the defendants predicted in his opening statement.

If there was conspiracy, the chief conspirator was the U.S. government, Edwin Marger, a high-flying lawyer-pilot from Miami Beach, Fla., told the jury of 10 men and two women as the case opened yesterday afternoon.

Marger represents John Richard Hawke, 29, a former Royal Air Force fighter pilot from Fort Lauderdale, Fla., who has described on a number of occasions how he flew seven B-26 bombers from Tucson, Ariz., where they had been bought from the government and reconditioned, to Tancos Air Force Base near Lisbon for use by the Portuguese in their African possession of Angola and Mozambique.

"We will show," Marger said, "that at all times the government knew what was going on — and that the government wanted the planes moved to Portugal."

Sees a Pattern

During the trial, he told the jury, he will attempt to show that the shipment of planes between May and mid-August of last year followed a pattern similar to that in which the

same type of attack-bombers were provided clandestinely for use in the Bay of Pigs invasion, in the Congo and in other trouble spots.

"Hawke thought and had every reason to believe he was working for the government of the U.S.," Marger said.

Earlier in the day, Marger asked U.S. District Judge John O. Anderson to subpoena a number of witnesses at government expense because Hawke could not afford to pay for their appearance at the trial here. The list of witnesses he will submit to the judge later in the week, he indicated, will include a number of high-ranking government officials, including present and former employees of the CIA.

In his opening statement, U.S. Atty. John T. Curtin said he would also call a number of government officials to show that the alleged conspiracy was carried on contrary to U.S. policy and without the knowledge of the government.

Whether or not the government itself will call an official of the CIA to make a formal denial of the offense contention has not yet been decided.

The possibility of CIA involvement in the case was not raised by Edward Brotsky of New York, attorney for Count Henri de Montmarin, an alleged go-between in the deal. Instead, he argued that De Montmarin, a Frenchman who is accompanied to court each day by an interpreter, thought that export

licenses had been obtained for the planes and that he was engaged in a perfectly legitimate business deal.

No opening statement was made by Paul Birzon of Buffalo, attorney for Woodrow Wilson Roderick, a Canadian who is accused only under the conspiracy indictment and is not accused, as are Hawke and De Montmarin, of actually taking planes from the country.

First Witness

In a surprise move, Curtin called as his first witness Keat Griggers, a 42-year-old pilot-mechanic who now runs a bar and restaurant in Jamestown, Calif. An indictment against Griggers was dismissed Tuesday and he was immediately subpoenaed as a prosecution witness.

Griggers told how he had supervised the reconstruction of the planes by the Hamilton Aircraft Co. in Tucson for Gregory Board, a 45-year-old resident of Jamaica, the alleged brains behind the entire operation. Board left the country two days before Hawke and De Montmarin were arrested on Sept. 16, 1965, and, the government says, cannot be extradited on the smuggling charge.

Board instructed him, Griggers said, to pick surplus planes with low airframe and engine time, and, if possible, to select those that could be fitted with nose sections capable of mounting and firing eight .50-caliber machine guns.