

Testimony

By Barry Kalb

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The tale of the surprise Watergate cover-up memorandum has turned into a melange of differing recollections, a broken love affair and sharp conflicts in sworn testimony.

The contradictions appear in the testimony of Washington attorney William O. Bittman, and that of two of his former law partners.

The love affair, which ended with the burning of a package of letters which may have contained the original copy of the memorandum in question, was that of E. Howard Hunt Jr., the confessed Watergate wiretapper.

The memo itself was written by Hunt in November 1972—apparently on Nov. 13, although it was dated Nov. 14 — and given to Bittman, his lawyer.

THE MEMO states in clear terms that Hunt and the other original Watergate defendants were being paid to keep silent about the facts of the bugging operation. This so-called "hush money," the Watergate special prosecutors contend, formed the basis of the Watergate cover-up.

Hunt testified late last month that Bittman had told him that he had read it in November 1972 to Kenneth Wells Parkinson, then a lawyer for the Committee for the Re-election of the President. The memo itself was nowhere to be found, Hunt said.

On Monday, Nov. 4, Associate Special Prosecutor James F. Neal told the

court that over the previous weekend Bittman suddenly had given him a copy of the memo, and had admitted having had it for the previous two years, despite indications in Bittman's testimony and private statements to the prosecutors that he had never heard of any such memo.

That set off a furor over whether the document could be used as evidence, and whether Bittman would be called as a witness.

Judge John J. Sirica said it would have to be proven that the original could not be located before Bittman's copy could be introduced, and Neal said that in light of Bittman's conflicting statements, Bittman would not be called as a prosecution witness.

Bittman appeared Tuesday and again late yesterday afternoon, both times with the jury out of the room.

Sirica's impatience at the long questions by Asst. Special Prosecutor Richard Ben-Veniste, and the longer answers by Bittman, was obvious early in yesterday's session.

"Let's hurry this up," he said over and over.

BITTMAN, among other things, testified that he had received the memo that November from Hunt or his wife, Dorothy, in a closed envelope. He said he was told it was for possible delivery to then-Special Presidential Counsel Charles W. Colson, but he was not asked to deliver it. He said he put it, unopened and unread, in his files until the following April.

Yesterday, Bittman's associate, Austin S. Mittler,

on Hunt Memo



—United Press International

William O. Bittman leaves court after testifying.

testified that Bittman might have shown him the memo, out of the envelope, that Nov. 14.

Mittler, who worked with Bittman for 10 years before Bittman left the firm of Hogan & Hartson, and who defended Hunt with Bittman, cited an entry in his diary for Nov. 14, 1972, which said, "Confer with WOB (William O. Bittman) re Hunt position—review of memo."

He said he recalled that he had met with Bittman the day before, and "Mr. Bittman said, 'Take a look at this' . . . While not reading it from beginning to end, I recall there were some things in the document that I was looking at that were disturbing."

Asked by Asst. Special Prosecutor Jill Wine Volner if the word "clemency" had appeared in the document he had seen, Mittler said it

might have. (Actually, the word "clemency" is not used in the Hunt memo, but the word "pardons" is.)

"My recollection was that when I saw this document, I stopped before reading it from beginning to end and made some comment to Mr. Bittman like, 'Why are we receiving documents like this, why don't you ask Howard to stop sending them?'" Mittler said.

Mittler said he could not be absolutely sure the document he saw was the same as the Hunt memo which recently surfaced. If it was, his testimony is in direct conflict with Bittman's.

Appears to Conflict

Mittler and Edward McDermott, another Hogan & Hartson partner, also gave testimony about a May 31, 1973, meeting at the law firm which again conflicted materially with Bittman's testimony.

THE MEETING, all agreed, was held to discuss Bittman's representation of Hunt at the time when the Watergate cover-up was coming apart. The firm's

five-man executive committee, along with Bittman, Mittler and Herbert J. Miller Jr., engaged by Bittman as his personal attorney, were all present.

Bittman insisted Tuesday and again yesterday that all present at this meeting agreed that because Hunt had given Bittman the document as a legal client, the document was protected by the attorney-client privilege and could not be divulged. "It would have been embarrassing or detrimental to him," Bittman explained further.

Sirica asked Mittler, however, if at that May 31 meeting there was a discussion about "the so-called relationship between the attorney and client, what to do about that?"

"Your honor, I don't recall any specific discussion at that meeting regarding the privileged nature of that document," Mittler replied. He did say, however, that this topic was discussed "very soon after" the meeting between Bittman and the executive committee.

McDermott, responding to questions by Mrs. Volner, said the Hogan & Hartson partners "made no independent study" of the privilege question. He said Bittman told them it was privileged, and Miller—who now includes former President Richard M. Nixon among his clients—did not disagree, "and we just assumed it was a privileged document."

"Did anybody else tell you it was privileged?" Mrs. Volner asked.

"No, I don't believe so," McDermott replied. "The clear representation to us was that it was a privileged document."

THE FINAL witnesses were Henry Goldman, an associate of Sidney Sachs, who represented Hunt after Bittman left the case; and William A. Snyder Jr. of Baltimore, who took over Hunt's representation from Sachs.

Bittman testified that in August 1973, Hunt asked him to give back the memo, and also a file which Bittman said contained primarily personal letters.

Bittman said he photocopied the memo "for my own protection," and then, he thinks, put the memo

into the file of letters, and had them delivered to Goldman. In the "remote possibility" that he did not put the original in the letters file, he said Tuesday, he cannot say what happened to the original.

Sirica had Goldman called to the stand and immediately began asking questions himself, rather than leaving it to Ben-Veniste.

"What's your first name?" Sirica asked.

"Henry," Goldman replied.

"Okay, Henry Snyder. You're a member of the bar of Maryland and you've been admitted to practice for how long?" Sirica asked.

"Uh, your honor," Goldman said meekly, "my name is Henry Goldman."

"Oh," Sirica said. Well, he asked, "At any time did you see the original of a memorandum dated Nov. 14, 1972?"

"No, I did not," Goldman replied.

"Okay, excuse the witness," Sirica said.

Ben-Veniste interrupted, however, with a couple of questions. Had Goldman gotten, he asked, a sealed package from Bittman on Nov. 15, 1973?

"Yes, we did," Goldman said. He said in response to two further questions that he had not looked at the contents, and had delivered the package to Snyder on Dec. 4, 1973.

Ben-Veniste then called Snyder, and again Sirica took over immediately. Yes, Snyder said in answer to a rushed series of questions, he had received the envelope from Goldman Dec. 4, and had looked into the envelope, and had seen no memo.

Bittman earlier had said Snyder had revealed that he had looked through the package carefully, and "he was embarrassed to tell me and Mr. Hunt that he had sat down and read all of Mr. Hunt's personal letters."

Bittman said he had learned through Snyder that Hunt and a woman had taken the package from Snyder last January, and that they had burned it at a restaurant.

The plot appeared to have thickened, and defense attorney William S. Frates, at a time when Sirica appeared ready to forego Snyder's testimony, demanded to know, "Who's that lady?"

Frates was allowed to question Snyder, and the plot quickly thinned out again. Hunt "said it (the package) was tossed into a fireplace at a restaurant," Snyder said.

"Why?" Frates wanted to know.

Snyder, bringing down the house and effectively ending the hearing, replied, "I think the affair had run its course, and he just decided to do away with it."