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**PROSECUTOR SAYS
HIS WITNESS HID
A KEY HUNT MEMO**

**1972 Document on Cover-Up
Deal, Withheld by Bittman,
Affects All 5 Defendants**

By LESLEY OELSNER

Special to The New York Times

WASHINGTON, Nov. 4—The chief prosecutor in the Watergate cover-up trial disclosed today that a government witness had withheld until last weekend a "bombshell document" that affected all five defendants.

The document is a memorandum written in November of 1972 by one of the original

*Text of Hunt's memorandum
is printed on Page 26.*

seven Watergate defendants, E. Howard Hunt Jr., reminding Nixon re-election campaign and White House officials of their alleged "commitments" of money and pardons in return for the defendants' silence about the facts of the Watergate break-in at Democratic National Committee headquarters on June 17, 1972.

The prosecutor, James F. Neal, conceded that the document caused a "difficult problem" for one defendant in particular, Kenneth Wells Parkinson, and said that he sympathized with the Parkinson defense.

Decisions Affected

He added that the government's initial "prosecutorial decisions" in the case had been affected by the original contentions of the man who acknowledged withholding the document, a former Justice Department attorney named William O. Bittman.

Mr. Neal said that the government and the defense had been misled by Mr. Bittman and called it a "sad affair."

"This has no precedent this case," he said.

The prosecution's announcement drew an immediate request for a severance and a mistrial from Mr. Parkinson's attorney, Jacob A. Stein, who said he felt he was now confronted with a "cover-up within a cover-up." Mr. Parkinson was hired by the Committee for the

Re-election of the President to handle legal problems arising from the break-in.

Judge John J. Sirica postponed a decision in United States District Court on how to deal with the development until at least the end of the week to give defense and prosecution lawyers time to submit written memorandums.

"I'm not going to be in a

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hurry," Judge Sirica said.

The judge denied a mistrial motion by John J. Wilson, one of the lawyers for H. R. Halderman, the former White House chief of staff, following the prosecution's disclosures this morning. He made it clear that Mr. Wilson and the other attorneys would be able to argue the matter fully in their written motions.

The Hunt memorandum was read aloud in court out of the presence of the jury.

In Mr. Hunt's testimony last week, he said that he had given the memorandum to his attorney, Mr. Bittman, to take to Mr. Parkinson.

Mr. Hunt testified that Mr. Bittman told him that he had read the memorandum to Mr. Parkinson and that Mr. Parkinson had said "he would see what could be done about it."

But last week, Mr. Stein, Mr. Parkinson's attorney, brought out that Mr. Bittman had denied to the grand jury that he had ever received such a document, and that Mr. Parkinson had also denied ever seeing or hearing of it.

The prosecution said last week that it did not know if the document existed but contended that Mr. Parkinson had heard of it.

The document—and the manner in which it was disclosed—is important for several reasons.

First, an essential element of the conspiracy charge against the five defendants is the contention that they sought to obstruct justice in the investigation of the Watergate break-in by offering money and assurances to the seven men originally indicted for the burglary.

The purpose of the assurances, according to the indictment, was to persuade the seven men to remain silent about the facts of the break-in, such as involvement of campaign and White House officials.

'Items for Consideration'

The document, which Mr. Hunt purportedly wrote on behalf of all seven defendants, lists a variety of "items for consideration."

Among them is the contention that former Attorney General John N. Mitchell, a defendant in the cover-up case, may have committed perjury and the fact that the Watergate break-in was "only one of a number of highly illegal con-

spiracies engaged in by one or more of the defendants at the behest of senior White House officials."

It says that the defendants kept "their part of the bargain by maintaining silence" but "the Administration, however, remains deficient in living up to its commitments."

The document represents a significant piece of evidence to back the prosecution's basic contention.

Mr. Hunt recounted his recollection of the document at length last week. The document is as he described it. Thus, his testimony is substantiated, and the jury could decide that he is a truthful witness.

The disclosure at this point in the proceedings is significant, as Mr. Stein pointed out and Mr. Neal conceded, because Mr. Stein based his cross-examination of Mr. Hunt last week on the assumption that Mr. Bittman had been telling the truth about never having seen the document.

"I'm now stuck with a cross-examination that is harmful to my client," Mr. Stein said. "I have now a cover-up within a cover-up. I'm caught between the blades of a scissors, in a play within a play."

The disclosure has serious implications for Mr. Bittman, one of the various unindicted alleged co-conspirators in the case. By admitting that he had the Hunt memorandum, he was admitting, in effect, that he had committed perjury before the grand jury.

Mr. Bittman's secretary said that the attorney would have no comment because Judge Sirica had told him not to answer any questions.

Mr. Neal, in a statement to the court at the start of the day's proceedings, gave this account of how the document

was turned over to the prosecution:

He received a call last Friday from a member of the Washington law firm of Hogan & Hartson, of which Mr. Bittman was once a member, asking for a meeting.

He met with members of the firm at noon. They told him that Mr. Bittman had informed them in April of 1973 that he received the Hunt memorandum the previous November. They said that Mr. Bittman had added that he would either keep it or forward it to Charles W. Colson, once a special White House counsel who had brought Mr. Hunt, a former agent for the Central Intelligence Agency, to work at the White House.

The following summer, they said, as a result of a subpoena from the Senate Watergate committee, they prepared an inventory of the Bittman files on Mr. Hunt. The Hunt memorandum was placed in a file of privileged attorney-client communications and marked on the inventory as No. 19. A few members of the firm read the document.

Files Microfilmed

When Mr. Hunt changed law-

yers, the files were microfilmed so that the law firm would have a record of them after sending them to the new attorney. Mr. Neal's statement continued:

The lawyer who spoke to him Friday said that members of the firm had read of the Hunt testimony at the Watergate cover-up trial and became concerned. They obtained the court reporter's transcript of the testimony. That "jogged their recollections," and they went back to check the microfilm. No. 19 was missing from the microfilm.

The firm apparently got in touch with Mr. Bittman, now with the firm Pearson, Ball Dowd.

Mr. Neal got a message from Mr. Bittman on Friday, requesting a meeting. It was held Saturday, at which time Mr. Bittman said he had received the memorandum from Mr. Hunt.

He said that he had sent the original to a subsequent Hunt attorney and kept a copy. He gave the prosecutors his copy.

Mr. Neal said that he told Mr. Stein and Mr. Parkinson immediately.

Mr. Neal appeared depressed as he gave his account, saying that "I cannot explain Mr. Bittman's statements to me in view of his knowledge of the document." Mr. Bittman was once a United States Attorney in Chicago.

Mr. Neal said that the prosecution would not call Mr. Bittman as a witness, as it had intended. When Mr. Stein suggested that the prosecution might have indicted Mr. Bittman rather than Mr. Parkinson if it knew then what it knew now, Mr. Neal replied:

"There is no doubt that the clash between what we thought were two leading members of the bar had some influence on prosecutorial decisions."

The prosecution did not disavow Mr. Bittman altogether. Richard Ben-Venista, an assistant prosecutor, said that Mr. Bittman had told the prosecution he had given "accountings" to Mr. Parkinson, presumably of the money that Mr. Hunt and others were demanding and receiving in the months following the Watergate break-in. The prosecution is standing by this.

Mr. Bittman did not recant all his earlier statements. He is still contending, according to the prosecution and Mr. Stein, who talked to him Sunday, that he never transmitted the Hunt memo to Mr. Parkinson.

Mr. Neal said that he wanted to call Mr. Hunt back to the stand to identify the memorandum so that it could be submitted to the jury. He suggested that the Parkinson defense could ask the court to call Mr. Bittman as a court witness.

In other developments today, Jeb Stuart Magruder, once the deputy director of the Nixon re-election campaign and now a Federal prison inmate as a result of his confessed involvement in Watergate, finished his testimony.

Under cross-examination by



Associated Press

E. Howard Hunt Jr. arriving for Watergate trial.

Thomas C. Green, representing former Assistant Attorney General Robert C. Mardian, Mr.

Magruder insisted that he had no recollection of the events Mr. Green asked about.

Mr. Magruder did give testimony that could be harmful to Mr. Mardian, however. He said that when he told Mr. Mardian on June 17, 1972, of the bungling that had led to the arrest of the Watergate burglars, Mr. Mardian said that "if he had been in charge there wouldn't have been this kind of amateurism."

Mr. Magruder also repeated his contention that Mr. Parkinson, Mr. Mardian and Mr. Mitchell had sought to make him a "scapegoat" for Watergate. The other defendant in the trial is John D. Ehrlichman, the White House adviser on domestic matters.

Later this afternoon, Mr. Neal read to the jury the testimony that Mr. Parkinson had given before the grand jury about shredding the notes he made of a conversation on July 13, 1972, with Mr. Magruder. In that conversation, Mr. Magruder told him what he contended was the true story of Watergate, implicating himself and Mr. Mitchell.

In his testimony to the grand jury, as read by Mr. Neal, Mr. Parkinson explained that he shredded the notes after being

told by Mr. Mitchell that the Magruder account was untrue.

He did so, he said, for various reasons: He was concerned about security; he thought the newspapers might search through his garbage and find the notes; the Magruder account implicated people he thought were innocent; publication of the account might hurt innocent people, Richard M. Nixon's re-election campaign might be damaged.

Also, he said, he did not want Mr. Magruder to think he was holding onto the document so that he could blackmail Mr. Magruder.

The transcript that Mr. Neal read of the Parkinson testimony shows the prosecution taking a clearly dubious stance.

"You think you'd succumb to blackmail?" Mr. Neal asked Mr. Parkinson, according to the transcript. Mr. Parkinson replied that he did not.

The prosecution expressed doubt on whether Mr. Parkinson believed that the Magruder account of July 13 was false.

Had not G. Gordon Liddy, another of the original Watergate burglars, told him some of the same things, the prosecution asked. Mr. Parkinson said he had checked the Magruder story with such persons as Mr. Mitchell, who has rebutted it.

Shredding Account

At Mr. Stein's request, Mr. Neal also read the portion of the transcripts that records Mr. Parkinson saying his shredding was absolutely not an attempt to cover up the story. Also at Mr. Stein's request, he told the jury that Mr. Parkinson had testified voluntarily.

Mr. Parkinson is not required to testify at the trial, under the Fifth Amendment guarantee against self-incrimination. He is expected to take the stand, however.

The jury also heard testimony today from Robert A. F. Reisner, now the director of policy development at the Department of Housing and Urban Development and formerly an administrative assistant to Mr. Magruder at the election committee.

Mr. Reisner provided some corroboration of Mr. Magruder's testimony regarding the manner in which Mr. Reisner helped Mr. Magruder prepare files for Mr. Magruder's daily meeting with Mr. Mitchell at the committee. He said copies were sent as a matter of course to Mr. Haldeman.

However, Mr. Reisner agreed under cross-examination by Mr. Green, Mr. Wilson and William G. Hundley, one of Mr. Mitchell's attorneys, that he did not know what was in the files, that his recollection of was not precise, and that he had never personally given any of the copies to Mr. Haldeman.

The trial resumes at 10 A.M. tomorrow, a half-hour later than usual so that lawyers may vote. The jurors, one of whom, Marjorie Milbourne, was on crutches today after falling off a bus yesterday, have voted by absentee ballots.