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That Missing Paragraph

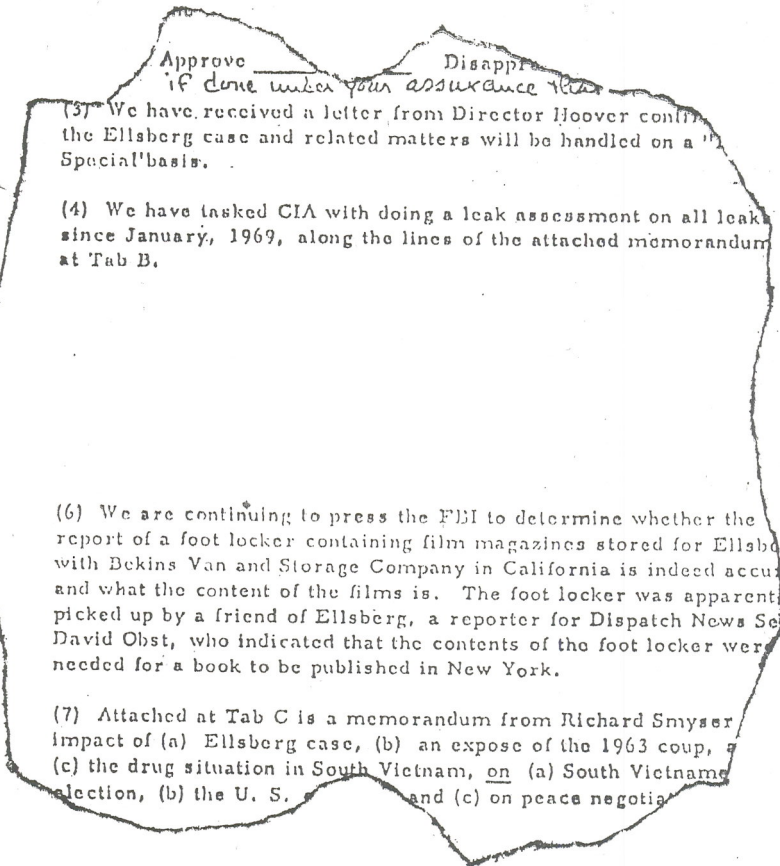
(5) Howard Hunt has suggested, and we concur, that we have the FBI, through its London Legal Attache, request MI-5 to review their telephone taps on Soviet KGB personnel in England for the years 1952-53 (while Ellsberg was a student at Cambridge) to see if Ellsberg was overheard.

That is the full text of a paragraph which was carefully kept out of the public record of the Senate Watergate investigation and has been widely believed to contain something so sensational and so potentially damaging to national security that it could never be allowed to see the light of day. Sens. Sam J. Ervin and Howard H. Baker were said to have taken one horrified look at it and instantly agreed that it should be suppressed.

The writer is on the editorial page staff of The Post.

It is paragraph 5 of the Aug. 11, 1971, memo to John Ehrlichman from the chief "plumbers," Egil Krogh Jr. and David R. Young Jr.—the famous memo that launched the "covert operation" to get records from the office of Daniel Ellsberg's psychiatrist.

The real story of paragraph 5—how it was deleted, dramatized, distorted and eventually disclosed—is more than a Watergate footnote. The tale shows how, in a superheated and suspicious



Ehrlichman testimony, Hearings,
Book 7, p. 2702 et seq.

For other refs, see Chronology,
29 Jul 73, AMP-A.

time, the invocation of national security, plus deceptive statements and imprecise news coverage, can turn a minor detail into a major mystery.

Paragraph 5 became a secret in a singular way. The Aug. 11 memo was never classified, and David Young gave its full text to the prosecutors in May 1973. But when the Senate committee subpoenaed Young that summer, Young's attorney, Anthony Lapham, had doubts about disclosing what might be a sensitive reference to British intelligence and the 20-year-old surveillance of the KGB.

Lapham's solution was simple: "I took it out." As he recalled recently, he explained his uncertainty, but not the contents of the paragraph, to the committee staff. "I was not pressed on it," he said.

The Aug. 11 memo, with a blank between paragraphs 4 and 6, was released in a context that virtually guaranteed that melodrama would result. It was the most tumultuous week of the Watergate hearings, the week of Ehrlichman's pugnacious testimony and President Nixon's first refusal to turn over the tapes.

Sen. Baker first made an issue of the missing paragraph on July 26 when he began pressing Ehrlichman about Nixon's claim that the Watergate probes should be limited to protect unrelated national security matters involving the plumbers and CIA.

Was paragraph 5 such a matter? Ehrlichman said it was. "It deals with an extremely sensitive subject related to another country," he said, also describing it as a "collateral" matter that would be "interesting and titillating and whatnot," but could cause "mischief" if disclosed.

Baker then asked what the plumbers had probed besides Ellsberg's activities, a leak about the SALT talks and a leak involving Russia and India. There was a fourth operation, Ehrlichman said, but the President had formally ordered him not to discuss it on national security grounds. 2-7 JUL 73/

Baker's persistent questions led to a well-publicized private briefing at which White House lawyers told Ervin, Baker and top committee staff about

the sensitive subject they wanted to protect. This turned out to be the 1970-71 leaking of National Security Council documents to the Joint Chiefs of Staff, an affair which the plumbers had discovered while probing leaks to columnist Jack Anderson about the India-Pakistan war.

During that briefing, paragraph 5 was not specifically discussed, according to the committee's chief counsel, Samuel Dash. The White House lawyers, Dash said last week, let the Senate group assume that the deletion was related to the JCS affair. And so Ervin and Baker emerged from the briefing to announce that the secret they now shared was indeed sensitive and would not be pursued.

After that, Dash said, "the paragraph had no more life for us." But it had been enlivened for everyone else, especially since most reporters quickly forgot that two separate secrets had originally been at issue. On CBS-TV's "Face the Nation" that Sunday, for instance, reporter Daniel Schorr asked Baker if the White House was justified in withholding "the dread secret" in "the missing paragraph 5." Baker, after noting correctly that other things had "caught my eye as well," said he had not fully made up his mind. Schorr then remarked that from Baker's reply "on paragraph five," it seemed "that must have been a pretty horrendous thing they did if you are even considering not having it come out."

During the next feverish months, the tantalizing rumors blossomed all over town: the CIA had eavesdropped on Soviet leaders' mobile phones . . . The plumbers had been trying to protect code-breaking techniques, or a U.S. agent high in the Kremlin or the KGB . . . Several embassies had been burglarized or bugged . . . The plumbers had done something incredibly stupid, and Ervin and Baker had been conned into helping to cover it up.

Of course the speculation had many spurs, of which the most important was Nixon's dogged maintenance of his "national security defense." But the suppression of paragraph 5, approved by two key senators, seemed to con-

firm that something big—either awesome or quite embarrassing—remained to be revealed.

The first public description of paragraph 5 came on Dec. 9, 1973, in a massive report on the plumbers by Seymour M. Hersh in the New York Times. Hersh's story, a full page long, laid out some of the more fantastic theories about Nixon's national security concerns. Midway in a list of lesser revelations, Hersh accurately paraphrased paragraph 5 and added, "Government investigators believe the request [to MI-5] was approved but no derogatory evidence about Dr. Ellsberg was obtained."

Perhaps this disclosure was buried, or perhaps it seemed too trifling to be plausible. In any case it had no impact on the myth that had grown up about paragraph 5. Nor was the myth deflated some weeks later when the JCS-Kissinger affair became generally known. Baker, for instance, did acknowledge that this had been the subject of the dramatic briefing in July. But then the senator began to talk about "animals crashing around in the forest" and new mysteries that he wanted to explore. On "Face the Nation" on March 24, 1974, Baker both clarified and compounded the myth by saying that paragraph 5 dealt not with the JCS matter but with other things that were "legitimately sensitive" and should be classified.

In fact paragraph 5 was never classified and does not deal with current security matters at all. And so the special prosecution force, which had gotten the full Aug. 11 memo from David Young, had no compunctions about introducing it in open court last summer as government exhibit 13 in the plumbers' trial.

Very few people noticed that; events were piling up too fast. And few people have gone back to the mountainous record of Watergate to see which blanks can be filled in with facts. Even now, most Watergate buffs still think paragraph 5 is missing and mysterious. The biggest secret about the paragraph is that it isn't a secret anymore. And now not even that is a secret.