

U.S. Wiretaps of Yippie Ruled Illegal

By Philip A. McCombs
Washington Post Staff Writer

U.S. District Judge John Lewis Smith Jr. has declared illegal four wiretaps by the government of telephone conversations involving Yippie leader Abbie Hoffman.

The wiretaps, described by the government as national security wiretaps authorized by Attorney General John N. Mitchell at the request of FBI Director J. Edgar Hoover, were used by the government to obtain an indictment against Hoffman for allegedly assaulting a police officer and inciting a riot during the Mayday antiwar demonstrations here this year.

Smith found that the wiretaps, for which no judicial warrant had been obtained by the government, violated Hoffman's Fourth Amendment rights against unreasonable searches and seizures.

The result of Smith's finding is that Hoffman must be allowed to see transcripts of the conversations two days before his trial here on the charges in the indictment.

The central wiretap issue, however—whether the Nixon administration can, as it claims, legally make wiretaps on domestic radicals without a court order on national security grounds—remains to be decided in a case before the Supreme Court.

"The government has apparently chosen to deal with dis-

sident domestic organizations in the same manner as it does with hostile foreign powers," wrote Smith in his 10-page opinion issued Tuesday.

Smith said he found "not compelling" the government argument that "foreign and domestic affairs are inextricably intertwined and that any attempt to legally distinguish the impact of foreign affairs from the matter of internal subversive activities is an exercise in futility."

Smith examined the four

wiretap transcripts and one other in the privacy of his chambers and then returned them to Mitchell in a sealed envelope. He made a clear distinction between, on the one hand, the four wiretaps of domestic organizations for information about their activities and, on the other hand, a fifth wiretap done for the purpose of gathering foreign intelligence information which was deemed necessary in the conduct of foreign affairs.

Smith said the fifth wiretap, also relating to Hoffman, was legal and did not have to be revealed to Hoffman.

However, of the other four, the judge wrote, "There is no constitutional provision authorizing the President to conduct warrantless searches in domestic situations..."

He added, "Claims of inherent Presidential powers where such powers have been constitutionally protected individual rights have been rejected by the Supreme Court."