Court Rules Spy Suspects Can See Files on Bugging

By FRED P. GRAHAM Special to The New York Time

WASHINGTON, March 10-The Supreme Court placed heavy penalties on illegal governmental cavesdropping today by ruling that espionage and racketeering defendants can

search through the Governsurveillance tranment's scripts to see if their rights were violated.

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The ruling is expected to discourage the Government from prosecuting some spy suspects. Solicitor General Erwin N Griswold had argued before the Court that the Government might have to drop some espionage prosecutions because it could not afford to let foreign powers know how much United States counterspy units had learned through eavesdropping. However, the Court said in an opinion by Justice Byron R. White that no distinction should be made between defendants in ordinary criminal cases and those in spy trials when the Government was accused of illegal surveillance. Complicated Issues

In the 5-to-3 ruling, the Court dealt with the complicated problems raised by Federal agents who used wiretapping and bugging in investigations before Congress passed the 1968 law that made courtapproved surveillance legal. The Justice Department had disclosed a number of instances in which United States agents have eavesdropped on accused

or convicted persons. Because material from illegal eavesdropping is not admitted in evidence against the person whose rights were violated, the

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no tainted evidence was used seemed arguably relevant to the against him at his trial.

On the first question, the Court adhered today to its tra-thitonal position that a person that if the hearings to deter-has "standing" to demand that mine whether the defendants" his conversations.

could not object to the use of Government used tainted inforevidence against them gained mation to make its case. by eavesdropping. This could embarrass the

Continued From Page 1, Col. 5 Court rejected the Justice De-Continued From Page 1, Col. 5 Court rejected the Justice de-partment's argument that de-fendants' rights would be ade-quately protected if trial judges and how he can be certain that to tainted evidence was used cosed to the defense any that trial.

Sensitive Cases

any evidence be excluded from rights were violated "are to be his trial if it was obtained by more than a formality and peti-eavesdropping on his private tioners not left entirely to reli-premises or by surveillance of ance on Government testimony." the defendant and his lawyer It held that persons who must be allowed to read the were not overheard or whose eavesdropping transcripts and premises were not compromised see for themselves whether the

by eavesdropping. This could embarrass the On the second question, the Government in a number of

in the conspiracy case involving

The Government gave its as-surance that these conversa-tions did not taint these trials, but today's ruling gives the de-fendants the right to demand to see the transcripts of their conversations. This will dis-close whom the Government was overhearing — disclosures was overhearing and the second concerned the to collect a debt. The second concerned the conviction of John W. Butenko, an American engineer, and Igor conversations. This will dis-the government was overhearing — disclosures that could cause the Govern man Alderice and Inconwas overhearing -- disclosures Washington argued for Alder-that could cause the Govern-man, Alderisio and Ivanov. ment acute discomfort. The dissenters on the ruling gued for Butenko.

sensitive cases. The Justice De-were Justices Hugo L. Black, partment has disclosed in its John M. Harlan and Abe Fortas. Selective Service case against Justice Thurgood Marshall, who helped frame the Justice Deweight boxing champion, and policy when he was solicitor

The Government gave its as-surance that these conversa-the decision was given in the decision was given in two cases. One involved the extoption conviction of Willie feindants were overheard by I. Alderman of Las Vegas and were being used in surveillance of other persons. The Government gave its as-to collect a debt.

Charles Danzig of Newark ar-