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Court Puts Curb On Wiretapping

WASHINGTON (UPI) — In a direct constitutional rebuff to the administration, the Supreme Court unanimously barred the government Monday from wiretapping domestic radical groups in national security cases without first getting consent from a judge.

The 8-0 decision declared the practice was an unconstitutional violation of the 4th Amendment guarantee against unreasonable search and seizure.

President Nixon's former attorney general, John N. Mitchell, and other administration authorities had claimed the Justice Department had an "inherent right" to conduct wiretapping without court approval in domestic subversion cases as well as those involving foreign governments.

JUSTICE LEWIS F. Powell Jr., appointed to the court by Nixon, delivered the majority opinion striking down the practice.

"We recognize, as we have before, the constitutional basis of the president's domestic security role but we think it must be exercised in a manner compatible with the 4th Amendment," Powell wrote.

Justice William H. Rehnquist, who

as a Justice Department official under Mitchell helped formulate the wiretapping policy, did not participate in the ruling.

The decision does not impede the government's right to eavesdrop without court permission in cases involving foreign threats to U.S. security nor the right provided in the 1968 Safe Streets Law to wiretap in serious federal crimes—such as kidnaping, sabotage, counterfeiting, narcotics violations or gambling—with a court order.

"The danger to political dissent is acute where the government attempts to act under so vague a concept as the power to protect 'domestic security,'" the court said.

"THE PRICE of lawful public dissent must not be a dread of subjection to an unchecked surveillance power. Nor must the fear of unauthorized official eavesdropping deter vigorous citizen dissent and discussion of government action in private conversation," it added.

"For private dissent, no less than open public discourse, is essential to our free society," Powell wrote.

The decision was quickly praised by the American Civil Liberties Union.