

Give Wiretaps to Defense, U.S. Ordered

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A D.C. Superior Court judge ordered the federal government yesterday to give the defense wiretap transcripts in the trial of peace activist Bradford Lyttle.

The order, by Judge Theodore R. Newman, was believed to be the first such action since the Supreme Court rejected on June 19 the Nixon administration's contention that it could tap in domestic security cases without court permission.

That decision forces the government to choose between providing transcripts or abandoning prosecution when the defendant is the victim of electronic surveillance without a warrant.

Judge Newman scheduled a special hearing for Thursday

at 4 p.m., at which time the government will be required to announce its decision.

Lyttle is charged with assaulting a police officer with a bullhorn outside the Justice Department on May 6, 1971, during the Mayday protests. Lyttle then was co-chairman of the Peoples Coalition for Peace and Justice, a cosponsor of the protest against the Vietnam War.

The Justice Department acknowledged last December that it had taped Lyttle's phone but said it was in connection with a national security investigation, not his Mayday arrest.

Gene Johnson, Justice Department special prosecutor, suggested yesterday in Superior Court that the high court opinion required only that

wiretaps pertaining to internal security be turned over. Judge Newman rejected this notion with the remark, "Foolish consistency is a hobgoblin of little minds."

The judge ordered the government to "turn over all tapes to the defense" including "all conversations on (Lyt-

tle's) premises, on the indictment will have to be dismissed."

In the wake of the Supreme Court ruling, Judge Newman also vacated last January's order by Superior Court Judge William S. Thompson upholding the government view of its wiretapping powers.