

U.S. Judge Delays Wiretap Ruling in Chicago Riots

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CHICAGO, July 21—A Federal judge today put off ruling on the legality of the Government wire taps in the case of eight persons charged with conspiring to incite riots at the Democratic convention last year.

In delaying his decision until the trial is over, United States District Court Judge Julius J. Hoffman avoided immediate decision on Attorney General John N. Mitchell's controversial dictum that the Justice Department has the legal power to eavesdrop without court approval on organizations it believes to be seeking to "attack and subvert the Government."

Mr. Mitchell made the contention in court papers filed in the case, which disclosed that the Government had used wiretapping and bugging to eavesdrop on five of the defendants. It was the first time that the Justice Department said that it had the power to eavesdrop on domestic groups, free of court supervision and without regard to the Fourth Amendment.

Hearing After Conviction

If some or all of the defendants were convicted, Judge Hoffman said, he would then hold a hearing to determine whether the Government's evidence was "tainted" by illegal electronic surveillance.

Such a finding would be ground for a reversal of the decision.

Judge Hoffman said that if the defendants were acquitted, there would be no need for a hearing on the wiretap evidence. Thus, there would be no ruling on the Justice Department's position.

"I have determined that the most appropriate method of

procedure would be to conduct a hearing after the jury trial," Judge Hoffman said, adding that he would then be more familiar with the evidence and better able to determine what pieces of evidence grew out of electronic surveillance.

But the judge upheld the Government's position in refusing to turn over the logs of wire taps on five of the defendants on the ground that it would be a breach of "national security."

The logs are of conversations by five of the defendants: David Dellinger, Rennard C. Davis,

Thomas E. Hayden, Jerry C. Rubin and Bobby G. Seale.

The three other defendants in the trial, which is scheduled to begin on Sept. 24, are Abbot H. Hoffman, Lee Weiner and John R. Froines.

Judge Hoffman said, in refusing to turn over the five logs to the defense, that he would "keep them under lock and key and no one will be permitted to inspect them."

The defense has sought disclosure of the logs, and a full public hearing on their legality before the trial.

Judge Hoffman also turned down a defense motion that the

indictment be dismissed because the evidence before the grand jury included illegal wire taps.

The American Civil Liberties Union has filed suit against the Justice Department, seeking to ban electronic surveillance of political dissenters and asking for criminal prosecution of the Attorney General and J. Edgar Hoover, director of the Federal Bureau of Investigation.

The suit was filed in Federal District Court in Washington in an attempt to fight the Justice Department's new eavesdropping doctrine.