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Supreme Court to Weigh Mitchell's Wiretap View

By ROBERT M. SMITH
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WASHINGTON, June 21—The Supreme Court agreed today to decide whether the Government may engage in electronic surveillance of people and groups it suspects of being subversive without first getting the approval of the courts.

The issue is crucial to both the Administration and political dissidents.

Attorney General John N. Mitchell has argued that denying the Government the right to spy electronically on these groups would make the Constitution "a suicide pact." He contends that "never in our history has this country been confronted with so many revolutionary elements."

Civil libertarians have argued, on the other hand, that giving the Government a free hand to engage in such surveillance — unrestrained by the courts—would violate the Fourth Amendment's injunction against "unreasonable searches and seizures."

In their brief to the Court, the lawyers arguing against the Government asserted that they saw "unmistakable indicia of a nation in the beginning throes of a catastrophic transition from freedom to bondage."

White Panther Case

In the case the Court agreed to hear today, Federal District Judge Damon J. Keith of the Eastern District of Michigan ordered the Justice Department to turn wiretap transcripts over to Lawrence R. Plamondon.

Mr. Plamondon is a member of the White Panther party who has been accused of conspiracy in the bombing of a Central Intelligence Agency office in Ann Arbor, Mich.

The judge made his ruling on the ground that the conversations of Mr. Plamondon had illegally been intercepted. The United States Court of Appeals for the Sixth Circuit upheld that ruling, asserting that "disclosure may well prove to be the only effective protection against illegal wiretapping available to defend the Fourth Amendment rights of the American public."

Solicitor General Erwin N. Griswold appealed in behalf of the Government. The Supreme Court's action today means it will hear the case this fall and probably render a decision during its next term, which ends a year from now.

Electronic surveillance is a term that includes both the tapping of telephones and the placing of "bugs" or microphones in homes and offices.

The Attorney General has argued that the President must have the authority to order that suspected domestic subversives be placed under surveillance, just as he may eavesdrop on foreign spies, because the first are "ideologically and in many instances directly, connected with foreign interests."

"If the two could be separated," Mr. Mitchell has said, "history has shown greater danger from the domestic variety."

Mr. Mitchell has said that such surveillance is not affected by a 1967 Supreme Court decision, Katz v. United States. That decision held that wiretapping was covered by the Fourth Amendment and that the police must obtain wiretap warrants from judges before using eavesdropping devices.

The Appeals Court in the Plamonden case held that "the Government has not pointed to, and we do not find, one written phrase in the Constitution, in the statutory law, or in the case law of the United States which exempts the President, the Attorney General or Federal law enforcement from the restrictions of the Fourth Amendment."

See NYTimes 9 Apr 71, this file.

See NYT 20 Jun 72 (Supreme Court ruling, 8-0, against Justice Department), this file.