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A CHICAGO RETRIAL TIED TO WIRETAPS

U.S. Must Decide Whether
to Disclose Secret Data

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By JOHN Kifner

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CHICAGO, Nov. 22 — Secret Government wiretaps and electronic surveillance appeared today to be major factors that the Justice Department would have to consider in deciding whether to seek a retrial of the Chicago conspiracy case.

The United States Court of Appeals for the Seventh Circuit reversed yesterday the conviction of five radicals charged with crossing state lines with the intent of citing a riot at the Democratic National Convention in 1968.

The ruling was based on what it termed Federal District Judge Julius J. Hoffman's "antagonistic" courtroom demeanor and on a number of procedural errors related to Judge Hoffman's controversial handling of the trial.

"The demeanor of the judge and the prosecutors would require reversal, if the other errors did not," the three-judge panel said.

The appellate court held that the evidence in the case merited the Government's asking for a retrial.

But it also ruled that the Justice Department must then disclose the contents of all wiretaps and electronic surveillance of the defendants. The Government has conceded surveillance of all eight of the original defendants except for John Froines.

Mitchell Doctrine

The surveillance was conducted under the so-called Mitchell doctrine—the assertion by former Attorney General John N. Mitchell that the Government had the right to conduct wiretaps and electronic surveillance without first seeking court orders in anything that it deems a "national security" case.

The Mitchell doctrine was ruled illegal in an unanimous Supreme Court decision earlier this year in a case involving members of a radical group in Michigan known as the White Panthers.

Government lawyers have fought to keep contents of their surveillance of radical groups secret. Since the Supreme Court decision, they have dropped several cases. The most notable was the perjury indictment of Leslie Bacon growing out of a grand jury inquiry into the Capitol bombing in the spring of 1971.

Former United States Attorney Thomas A. Foran, who, along with Judge Hoffman, was sharply rebuked by the appellate court, attacked the ruling today, saying that the judges had to have been there to comprehend the four-and-a-half month-long Chicago conspiracy trial.

The court held that numerous remarks made by the prosecutors "were not called for" and "fell below the standards applicable to a representative of the United States."

*Other clippings on this
filed Prep.