

JUDGE TO REVIEW PLEA OF RADICALS

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Scores U.S. on Its Denial of
Charges by Weathermen
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DETROIT, July 9—A United States District Court judge ruled today that the Government's categorical denial of burglary, illegal wiretapping or other misconduct while investigating Weathermen radicals, issued two weeks ago, was inadequate.

Calling the denial a "perfunctory" response that "failed to go to the crux of the matter," Judge Damon J. Keith set a full hearing on the question for Sept. 24 to determine whether any of the evidence against the Weathermen, now on trial in his court, was tainted by illegal activity.

The judge ordered an interim disclosure, by Sept. 3, of any illegal activities that may have been conducted in the case by a wide range of government agencies and officials — up to and including the White House.

Whether any Federal officials will actually be subpoenaed to testify on Sept. 24 was uncertain. That will depend, defense attorneys said, on what is contained in the affidavits that Judge Keith ordered the Government to file by Sept. 3.

Watergate Report Cited

Judge Keith's action was in response to a motion by attorneys for 15 alleged Weathermen charged here with plotting a campaign of bombing and terrorism in December, 1969. Eleven of the defendants are still at large. Four are on trial.

As part of the basis for their motion, the defense attorneys cited reports, made in connection with the Watergate scandal that the White House in 1970 approved and expanded "domestic intelligence" plan. The plan was said to involve burglary and the interception of mail, and to be aimed specifically at such groups as the Weathermen and the Black Panthers.

In this connection, the defense attorneys, led by Gerald Lefcourt of New York, alleged that the national headquarters of the Students for a Democratic Society, parent group of the Weathermen, had been the subject of an illegal wiretap for eight months in 1970, that the offices of some of the Weathermen's lawyers had been burglarized and that the home telephone of one lawyer had been tapped.

Also, in an affidavit filed with Judge Keith today, they presented circumstantial evidence that a letter written by the parents of one of the defendants now at large, Mark Rudd, had been intercepted and opened by the Government.

Among the groups named by Judge Keith as subjects for the Sept. 3 disclosure were "agents and employes of the White House," including its Intelligence Evaluation Committee. This group was formed to carry out the 1970 domestic intelligence plan, according to the testimony of John W. Dean 3d, former Presidential counsel, before the Senate Watergate committee.

Also named in the judge's order were the White House special investigation unit known as "the plumbers," the Central Intelligence Agency, the National Security Agency and the Departments of Justice, Treasury and Defense.

Reply to Earlier Order

Actually, Judge Keith was reinforcing an earlier, identical order issued by him on June 5. The Government replied to that order on June 25 by filing an affidavit asserting that the Federal Bureau of Investigation had engaged in no illegal activities while investigating the case.

William Ivershof, a Government attorney, argued then, and again today, that the F.B.I. was the only agency investigating the case on trial here, that no illegally obtained evidence had been provided by the F.B.I. to Government prosecutors and that to extend the inquiry to other Government agencies would be "putting the Government on trial" in an inappropriate form.

Mr. Ivershof said today that the special Watergate prosecutor, Archibald Cox, was aware of the matter.

William Bender, a defense attorney, asked Judge Keith to order the surrender of eight months' worth of taped recording allegedly obtained by the Government by wiretapping national S.D.S. headquarters.

Government attorneys said that the tapes had probably been destroyed. Mr. Bender countered that such tapes must be kept for 10 years and suggested that the defense would move for a dismissal of charges if they were not produced. Judge Keith took the Bender request under advisement.