

FBI Letter**An Indication of
Wounded Knee
Illegal Wiretaps****St. Paul**

U.S. district Judge Fred J. Nichol yesterday agreed to allow Wounded Knee defense attorneys to summon former high-ranking Justice Department officials to learn if FBI agents used illegal means to investigate the takeover of Wounded Knee by dissident Indians last year.

The judge acted after defense attorneys were given a photocopy of a letter dated March 20, 1973, in which FBI executives said they thought agents had illegally monitored telephone calls from Wounded Knee during the 71 days that the Indians held the small South Dakota village.

Attorneys for Dennis J. Banks and Russell C. Means, leaders of the takeover, said that Nichol had agreed to allow them to subpoena Henry Petersen, the assistant attorney general in charge of the criminal division of the Justice Department; W. Mark Felt, a retired FBI assistant director, former Acting FBI Director L. Patrick Gray and several FBI agents who had been at Wounded Knee.

The defense has alleged that the government used illegal means to gather evi-

dence against Banks and Means and has asked that the ten felony charges against them be dismissed. A dismissal of these charges could also affect charges against 100 other persons who were indicted after the Wounded Knee takeover.

Nichol originally said he would rule Wednesday on whether to dismiss these charges as requested by defense attorneys William Kunstler and Mark Lane of New York City.

But after the government produced the letter from Felt to Petersen, indicating there was concern within the Justice Department about possibly illegal wiretaps, Nichol agreed to take further testimony.

The Wounded Knee trial will begin its 14th week today.

Two weeks of hearings on the defense motion for dismissal ended Friday after Joseph Trimbach, the FBI agent in charge of Minnesota, North Dakota, and South Dakota, conceded he was in error when he testified earlier that he had not signed an affidavit requesting a wiretap at Wounded Knee.

In that earlier testimony, Trimbach said he had not signed such a request for Justice Department permission to wiretap and had not even seen a request.

The bureau turned over to the court photocopies of a number of documents for use by the defense. Last week it was discovered that one of these was the second page of a three-page affidavit requesting Justice Department permission to wiretap at Wounded Knee. The request had been signed by Trimbach.

Trimbach testified Friday that his signature was on the affidavit but that he did not recall signing it.

The bureau could not explain in court why only the second page of the affidavit had been turned over to the defense. That page did not bear Trimbach's signature, although the first and third pages, when they were ultimately produced, did bear it.

Philip Enlow, Trimbach's assistant, testified that it may have been a clerical error.

Nichol rejected a motion by William M. Kunstler and Mark Lane, two New York City lawyers who are heading the defense, that Trimbach be charged with perjury. The judge said he lacked jurisdiction.

A motion that Trimbach be cited for contempt of court will be ruled on this week, Nichol said.

The request for a wiretap signed by Trimbach was never submitted to the Justice Department because it was ruled to be inadequate. Another request was made but was rejected, FBI agents testified.

New York Times