

Secret Bid to Court Is Laid to Mitchell

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WASHINGTON, May 16—A former Justice Department official said yesterday that he was asked in 1969 by John N. Mitchell, then the Attorney General, to deliver secret information about Government wiretaps to the Supreme Court shortly before the Justice Department asked the Court to reconsider its decision in an important wiretapping case.

In its decision on March 10, 1969, the Court held that if a Government wiretap figuring in a prosecution had been installed illegally, the Justice Department must provide the location of the tap and the contents of overheard conversations to defense attorneys.

The former official, Jack C. Laudau, the department's director of public information at the time, said that within "a few days" of the decision, he delivered the information and Mr. Mitchell's expressions of concern over the decision to Associate Justice William J. Brennan Jr., who then took him to see Chief Justice Earl Warren.

Petition for Rehearing

Within a week of the visit by Mr. Laudau, the Justice Department filed a rare petition asking for a rehearing in the case, *Alderson v. United States*. Eventually, the petition was denied.

The Government's particular concern over the decision stemmed from its reluctance to make public the precise locations of, and the information gleaned from, national security wiretaps. Until last year, it could install such wiretaps at will against suspected domestic subversives, as well as those with foreign connections.

Mr. Mitchell denied in a statement yesterday that the events related by Mr. Laudau ever took place, saying, "I don't know what the hell he is talking about." Neither Justice Brennan nor Mr. Warren, who left the Court in June,

1969, was available for comment.

According to Mr. Landau, who now covers the high court for the Newhouse newspapers, he was summoned by Mr. Mitchell after the March 10 decision and given some oral information, from which he "took a few notes, relating to the problems" the decision created for the Justice Department.

Mr. Landau said he then passed the information to two Supreme Court Justices, whom he refused to name. The New York Times learned, however, that they were Justice Brennan and Chief Justice Warren.

Mr. Landau would not describe the information that he was directed by Mr. Mitchell to deliver to the Court, except to say that it was "classified" and dealt with "the whole problem" of national security wiretaps. But it is believed to have included the number of such wiretaps then in effect, and their locations.

Mr. Landau, who is a lawyer, said that at the time of his visit, it had been his understanding that the information was being relayed in reference to a previously decided case, and would "not in any way affect the judgment in the case."

A 'Complete Surprise'

At the time of the visit, he added, "I was not aware that the Justice Department would subsequently file a motion for rehearing, to reopen the case." The motion, filed March 19, 1969, came as a "complete surprise," he said.

Mr. Landau said that, since he had no knowledge that the Government had decided to attempt to reopen the case before he was dispatched to the Court, it was possible that Mr. Mitchell might have simply been trying to tell the Justices, "This is a terrible dilemma you've put me in," rather than trying to influence a new decision.

In a statement issued through the Committee for the Re-election of the President, Mr. Mit-

chell, who resigned as Attorney General in March, 1972, to direct Mr. Nixon's re-election campaign, said that during the three years he held that office, "my dealings with the Supreme Court were always through the Solicitor General or his office, except on one well-publicized occasion—a meeting with Chief Justice Warren on the Abe Fortas matter."

Told yesterday of Mr. Mitchell's response, Mr. Landau replied: "Is he really denying it? I can't believe it." Mr. Landau's office said today that he was on his way to Puerto Rico and would be unavailable for further comment.

Domestic Wiretaps

Until a second Supreme Court decision last year, the Justice Department could install, without seeking a court order, wiretaps on the telephone of any person believed to pose a threat to national security. At the time of the *Alderson* decision, a number of domestic political groups, as well as foreign embassies and other diplomatically sensitive targets, were subjected to such electronic surveillance.

Last June, however, the Court ruled that court orders must be obtained in all national security wiretap cases except where the persons involved had a foreign connection.

The Government had argued unsuccessfully in the *Alderson* case that, if a wiretap were determined to be illegal by a trial judge, it should be required to reveal only to him the location and substance of the wiretap, rather than to defense attorneys.

The Court's apparent intent in the *Alderson* decision was to permit the defense in a court proceeding to determine for itself whether any of the evidence introduced against it had been "tainted" by an illegal wiretap. A person cannot be convicted on the basis of evidence obtained from a wiretap placed in violation of the law.