

Mitchell Backs U.S. Right To Wiretap for Security

Says Individual's Privacy Must Sometimes Yield to Nation's Welfare

APR 24 1971

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Special to The New York Times

WASHINGTON, April 23—In a vigorous defense of the Nixon Administration's use of wiretapping, Attorney General John N. Mitchell insisted today that the Government's right to defend itself against violent attack must prevail over some individuals' right of privacy.

In his approach to the current surveillance controversy, Mr. Mitchell gave every indication that the Nixon Administration was prepared to accept the political challenge of Democrats who have alleged that investigations of dissenters is posing a threat to individual freedom.

Mr. Mitchell charged that Senator Edmund S. Muskie of Maine, had deliberately "twisted the facts to make a political headline" when he accused the Federal Bureau of Investigation of political surveillance at Earth Day ceremonies last spring. Mr. Mitchell said that the F.B.I. agents were there to watch violence-prone militants.

The Attorney General said that Representative Hale Boggs of Louisiana was a victim of "a new type of paranoia—called Tappanoia"—when he accused the F.B.I. of tapping his home telephone. He said that



United Press International
Attorney General Mitchell

the Democrat had failed to produce "one iota of proof of the reckless charges" in a speech yesterday in the House of Representatives.

Mr. Boggs had said that an unnamed telephone company investigator had told him that his line had been tapped but that the telephone company denied it because it had a policy of denying that wires were tapped by the F.B.I.

"The F.B.I. has not tapped the telephone of any member of the House or Senate—now or in the past," Mr. Mitchell

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said. He asserted that both Democrats owed an apology to the F.B.I. and to its director, J. Edgar Hoover.

His statements were made in a speech he had prepared for delivery tonight before the Kentucky State Bar Association, which is meeting in Cincinnati. A copy of the speech was made available in Washington.

Most of the speech was devoted to a justification of Mr. Mitchell's assertion that he had the legal power to wiretap "dangerous" radical groups without court approval. This assertion, which has not been made publicly by any previous Attorney General, was rejected earlier this month by the United States Court of Appeals for the Sixth Circuit in Cincinnati. The Justice Department is expected to appeal to the Supreme Court.

He argued that the Fourth Amendment's prohibition of unreasonable searches must be balanced against "the right of the public to protect itself," which he said was implicit in the Constitution.

As examples of those threats that are serious enough to justify warrantless wiretapping, he mentioned individuals who are suspected of planning "a violent attack on the existing structure of the Government" or a bombing or assassination. He said that, if the Government waited until it had enough evidence to get a wiretap warrant in such cases, it might be too late.

Some have suggested that warrantless wiretapping might be properly used against suspected foreign spies or saboteurs, but that the Constitution shields citizens from unregulated governmental eavesdropping. Mr. Mitchell replied in his speech that it was impossible to separate foreign and domestic subversion, and that "experience has shown greater danger from the so-called domestic variety."

In a speech to a group of student journalists in Washington earlier today, Mr. Mitchell said that "nobody in this Government who is using electronic surveillance" may do so without his personal approval. The result, he said, is that citizens have more safeguards against wiretaps than police searches.