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**No Blank Check for Government**

The United States Court of Appeals for the Sixth Circuit in Cincinnati has upheld a lower court's opinion that the Justice Department is violating the Constitution by using wiretaps without court authorization. The ruling challenges Attorney General Mitchell's view that the eavesdropping powers of the executive branch in defense against "dangerous" groups are virtually unlimited.

The question, which will doubtless be brought to the Supreme Court, is central to the maintenance of constitutional restraints on government. Mr. Mitchell gives top priority to the principle of "inherent" Presidential powers. He asserts that his authority, representing the White House, should alone determine the need "to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of government."

This would be a sweeping mandate. Mr. Mitchell's insistence on these powers, unhampered by easily obtainable court warrants, is made more ominous by his department's bluntly stated view that "self-discipline on the part of the executive branch" is sufficient to guard against excesses.

Such a philosophy of executive prerogative stands in direct contradiction to the principles of constitutional government and the doctrine of checks and balances. The history of the relationship between governments and the governed teaches that a blank check of official powers is the prelude to their abuse.

Judge George C. Edwards Jr., a former police chief who thus is familiar with the temptations inherent in the governmental police function, wrote in the majority opinion that it is the "historic role of the judiciary to see that in periods of crisis, when the challenge to constitutional freedoms is greatest, the Constitution of the United States remains the supreme law of the land."

The Government, in seeking what it conceded was an "awesome power" pledged that the Attorney General would always use it "with discretion." The power is indeed awesome; to ask for it is arrogant. And, as Judge Edwards added, the Government's discretion in the use of such powers has, regrettably, become a matter of serious doubt.