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Editorials

Mitchell's Claim To Tap Phones

ATTORNEY GENERAL MITCHELL, turning his back on a new, unequivocal and on-the-target decision of a Federal court, continues to insist on the Government's right to tap telephones without a court order.

He repeated his insistence in an address before a Bar Association meeting in Cincinnati — where the U.S. Court of Appeals two weeks earlier had directly and forcefully struck down that assumption. Though the court specifically cited the Fourth Amendment's protection against unlawful search, and though it cited Mitchell's claim as without constitutional backing, the Attorney General argued again that the right of the Government to defend itself has paramountcy that is "implicit" in the Constitution.

IF THE GOVERNMENT is investigating individuals suspected of planning its violent overthrow, or a bombing, or an assassination, he said, it cannot afford to wait for a search warrant before tapping the suspect's telephones.

This is an argument brushed aside by constitutional lawyers and various members of Congress, who describe it as "a very big umbrella, capable of covering thousands of cases."

Mitchell again denied that the FBI has tapped the phone of "any member of the House or Senate — now or in the past," but Emanuel Celler, chairman of the House Judiciary Committee, has called for a Congressional investigation of all government surveillance agencies. He expressed fear that the wiretapping policies of Mitchell may be leading to a police state, and he added that though he has no proof that his or any Congressman's telephone had been tapped, the fear of being overheard already prevails and inhibits the conversations of Congressmen.

MITCHELL'S PROMPTLY OUTSPOKEN difference with the new Federal court decision speaks plainly of an appeal to the Supreme Court. Until that tribunal confirms the constitutional implications cited by Mitchell, his wiretapping should, as the court decreed, proceed only under court order, with due protection accorded the privacy of all citizens.