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Executive Arrogance

Attorney General Mitchell appears obsessed with the belief that only his right to tap wires without court warrant can protect this nation from subversion. As the country's chief legal officer he has placed himself into a curious position vis-à-vis the law. The powers on which he insists have been held in violation of the Constitution, and a lower court's ruling to that effect has been upheld by the Court of Appeals for the Sixth Circuit in Cincinnati. Mr. Mitchell is now taking his case to the Supreme Court.

The concept of "inherent" Presidential powers to set aside constitutional protections of American citizens is a fundamental challenge to the theory of government by law. When these "inherent" powers are exercised against such loosely defined targets as "dangerous" groups and for such vague purposes as "to protect the nation from attempts of domestic organizations to attack and subvert the existing structure of government," the judgment of Government officials is made to appear virtually infallible.

This claim to infallibility marks Mr. Mitchell's argument that there is no danger in his demands because nobody is allowed to use electronic surveillance without his personal approval. This would be a slender safeguard even without the growing evidence that there is far more domestic spying than has been authorized by the Attorney General.

There is no reason to believe that the Attorney General would encounter the slightest difficulty in obtaining court warrants to tap the wires of suspected saboteurs or bombers. By making so grave an issue of his right to do so without asking the courts, he suggests the Government's intention to use surveillance too broadly to be sanctioned by the courts. It is the purpose of the Constitution and the function of the courts to protect Americans against such executive arrogance.