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## 'Implicit' Law

# Mitchell Defends His Right to Bug 'Subversives'

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Washington

In a vigorous defense of the Nixon administration's use of wiretapping, Attorney General John N. Mitchell insisted yesterday that the government's right to defend itself against violent attack must prevail over individuals' right to privacy.

This assertion, which has not been made publicly by any previous attorney general, was successfully challenged earlier this month by the United States Court of Appeals in Cincinnati, and the justice department is expected to appeal to the Supreme Court.

Taking a law-and-order approach to the current surveillance controversy, Mitchell gave every indication that the Nixon Administration was prepared to accept the political challenge of Democrats, who have charged that heavy-handed investigations into the affairs of dissenters is posing a threat to individual freedom.

### TWIST

Mitchell charged that Senator Edmund S. Muskie (Dem.-Me.) 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. Mitchell said that the FBI agents were merely there to watch violence-prone militants.

Representative Hale Boggs (Dem.-La.) was a victim of "a new type of paranoia — called tappanoia — when he accused the FBI of tapping his home telephone, Mitchell said, adding that Boggs had failed to produce "one iota of

proof of the reckless charges" in his speech Thursday in the House.

Boggs said that an unnamed telephone company investigator told him that his line had been tapped but that the telephone company denied it because it has a policy of always denying that wires have been tapped by the FBI.

"The FBI has not tapped the telephone of any member

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of the House or Senate — now or in the past," and the two Democrats owed an apology to the FBI and to its director, J. Edgar Hoover, Mitchell said.

His statements were made in a speech before a lawyers' group in Cincinnati.

Most of the speech was devoted to a justification of Mitchell's assertion that he has the legal power to wiretap "dangerous" radical groups without court approval.

In his speech he argued that the fourth amendment's prohibition against unreasonable searches must be balanced against "the right of the public to protect itself," which he said is implicit in the Constitution.

### EXAMPLES

As examples of those threats that are serious enough to justify wiretapping without a court warrant, 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 if the Government waited until it had enough evidence to get a wiretap warrant in such cases, it might be too late.

Some sources have suggested that wiretapping might be properly used against suspected foreign spies or saboteurs, but that the Constitution shields citizens from unregulated Governmental eavesdropping. Mitchell replied that it is impossible to separate foreign and domestic subversion, and that experience has shown greater danger from the so-called domestic variety.

Elaborating on his remarks to a group of student journalists in Washington earlier yesterday, 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 against police searches.