

See also Surveillance

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The Law on

Wiretap Is

Ruled Out

SFO Chronicle

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Philadelphia

The 1968 federal law allowing wiretapping was ruled unconstitutional yesterday by a United States District judge.

Judge Joseph S. Lord III said the law was "unconstitutional on its face" because it violated the Fourth Amendment to the U.S. Constitution, which guarantees citizens privacy against illegal searches and intrusions.

"The privacy of every citizen is in jeopardy if we become a nation which sanctions the indiscriminate use of secret electronic searches by the government," the judge said in his ruling.

The judge approved a motion by seven gambling case defendants who asked him to suppress evidence that had been gathered by electronic surveillance.

A wire tap had been placed on the phone of Matthew F. Whitaker, who has been described by police as the gambling czar of Schuylkill county in eastern Pennsylvania.

The tap was authorized by the late U. S. District Judge John W. Lord Sr., then chief judge, under Title 3 of the Omnibus Crime Control and

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Safe Streets Act of 1968.

The two judges are not related.

The statute, according to yesterday's ruling, "conveys the simple impression that effective controls required by the Fourth Amendment have been placed on the government in its pursuit of evidence through the use of electronic listening devices.

"On closer scrutiny, however, we are convinced that the protections afforded the citizen against unreasonable governmental intrusions are largely illusory," Judge Lord wrote.

ATTORNEY

U.S. Attorney Carl J. Melone said he would consult with the Justice Department before determining whether to appeal the ruling.

The 1968 law has not yet been tested by the U.S. Supreme Court, but the court has ruled in several earlier cases that wiretaps are constitutional if authorized by a warrant.

The 1968 law requires that the U.S. Attorney General first determine that a wiretap is needed in a case and personally authorize agents to request a warrant from a judge.