

Nixon Papers Access Suit Is Dismissed

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A lawsuit seeking access to the vice presidential papers of President Nixon has been dismissed in U.S. District Court here.

Judge Joseph C. Waddy issued a brief order throwing out the complaint by Robert M. Brandon, director of the Tax Reform Research Group, under the 1966 Freedom of Information Act.

Brandon contended that the papers never were Mr. Nixon's personal property but that even if they were, he could not withhold them from the public domain while taking a \$576,000 tax deduction on them.

The suit's attack on the validity of the gift of the papers was similar to the criticism that resulted in Wednesday's report by a congressional staff and Mr. Nixon's \$467,000 settlement with the Internal Revenue Service over tax deductions for the papers and other items.

The staff of the Joint Congressional Committee on Taxation held that the restrictions on the use of the papers was an inseparable part of the alleged gift and that the terms of the gift were conveyed after July, 1969, too late to qualify for the charitable deduction allowed by law.

In addition, the staff said the restrictions made the gift a "future interest" rather than an outright gift and thus not eligible for a current deduction. The staff ruling did not affect Brandon's suit because the staff did not question the current validity of the gift for any purposes other than taxation.

Judge Waddy did not write a memorandum explaining his decision but cited two court cases in which courts refused to compel access to archives or government documents.

The decisions, which had been cited in the Justice Department's brief on behalf of the National Archives, indicated that the Nixon documents were not government "records" covered by the information act or were specifically exempt from disclosure by some other provision of law.

The congressional staff report accepted the proposition, disputed by Brandon and others, that a President has the right to give away or sell certain official papers as if he owned them.

Lawrence Ellsworth, attorney for Brandon, said the case will now be taken to the U.S. Court of Appeals.