

Nixon Wins A Ruling On Tapes

Washington

Chief U.S. District Judge John J. Sirica yesterday blocked the Senate Watergate committee's access to the Watergate tapes by dismissing the committee's lawsuit against President Nixon.

In an 18-page opinion, Sirica never reached the underlying questions of whether the committee is entitled to the tapes because he said the federal courts have no power to entertain the lawsuit.

To support his decision, Sirica relied heavily on the cases and statutes cited by Mr. Nixon's attorneys in their briefs and oral arguments.

Like Sirica, they had focused their arguments on the court's lack of jurisdiction.

Yesterday's ruling was the first victory for the White House in its dispute with the Senate committee and special prosecutor Archibald Cox over the tapes.

RULING

Only last Friday, the U.S. Court of Appeals ruled that Mr. Nixon must surrender nine of the tapes — including the five sought by the committee — to Sirica and let the judge determine which can be given to Cox and the grand jury investigating Watergate crimes.

The White House has until tomorrow to decide whether

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to appeal that ruling to the Supreme Court.

In his opinion yesterday, Sirica took pains to distinguish the Cox litigation from the committee's suit. The Cox subpoena was issued by a grand jury and demanded evidence needed for a criminal investigation, he said, while "this present case, by contrast, is a civil complaint."

The Senate Committee's lawyers had anticipated jurisdictional problems from the beginning in their efforts to obtain five tape recordings of White House conversations related to Watergate.

In their briefs, the committee counsel relied on four different statutes and a 1928 Senate resolution to establish their rights to sue in the federal courts. But, according to Sirica, nothing they offered was enough to sustain the suit.

"No jurisdictional statute known to the court, including the four which plaintiffs name, warrants an assumption of jurisdiction, and the court is therefore left with no alternative here but to dismiss the action," Sirica wrote.

A spokesman for the committee said he expects that the seven senators who make up the special panel will vote to appeal to the U.S. Court of Appeals here.

Los Angeles Times