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A Case for the Courts

The constitutional impasse created by President Nixon's rejection of subpoenas, from Congress and from the Government's special prosecutor, for Watergate-related tape recordings and documents has quite properly been referred to the Federal courts.

While the long-range implications of this unique case certainly demand careful deliberation at each stage of the judicial process, it is essential that the proceedings be expedited in every possible way. As the President's own lawyer, Charles A. Wright, has observed: "The sooner we can get to the bottom of Watergate the better off the country will be."

This being so, it is most unfortunate that Mr. Nixon has chosen to force the constitutional issue. He would have been on much firmer moral and political grounds if he had voluntarily submitted to the investigators all material in his possession "concerning possible criminal conduct or discussions of possible criminal conduct" as he once indicated he would do. Instead of helping "to preserve the institution of the Presidency" by his defiance, as John D. Ehrlichman has suggested, Mr. Nixon is only deepening the shadows over his own incumbency.

Even if the Supreme Court ultimately upholds the President's position, as it well may, those shadows will remain. At the same time it must be recognized that disclosure of the tapes and other documents—voluntarily or under court orders—may very well neither confirm the innocence nor prove the guilt of anyone, including the President. They are only a part—pertinent but not necessarily decisive—of a continuing investigation which this week is unveiling new vistas of Executive arrogance in the testimony of John D. Ehrlichman, the former Presidential adviser who seems to be arguing that virtually any Executive act can be justified in the name of "national security." That way lies authoritarianism.