

President Nixon has wisely pulled away from a constitutional confrontation with the Congressional impeachment investigators at this time, though the full extent of his readiness to cooperate is yet to be tested.

Mr. Nixon's unexpected offer yesterday to submit to questioning by members of the House Judiciary Committee, in person and under oath, raises hopes that obscurities in the Watergate cover-up can be explored more fully than seemed possible only a few days ago. White House lawyers hedged on whether such an encounter could be properly called "cross-examination," but presumably the Congressmen will not be content with a mere social interview.

When testimony and other evidence is in conflict, there can be no substitute for direct and cross-examination. The tape recordings of Presidential conversations, though bound to be revealing, are almost certainly marred by the ambiguities of informal discourse and open to differing interpretations, as Mr. Nixon himself has said. The truth is often elusive; and lawyers know that cross-examination is about the best way of reaching the truth that the legal mind has yet devised.

Less impressive is the President's willingness to provide the Judiciary Committee with all the recordings and documents that have already been turned over to the Special Watergate Prosecutor. This clears away some of the immediate legal tangles that arose last week when the grand jury asked Judge Sirica to convey evidentiary material to the Congress, but it still falls short of what the Congress can legitimately require in an impeachment proceeding.

Less than a month ago the prosecutor, Leon Jaworski, declared that the President had refused to produce recordings and documentation requested for the grand jury. Some of these unanswered requests date back to last August, Mr. Jaworski said. At issue are about forty recordings, according to White House lawyers, and uncounted documents which Mr. Nixon's attorneys have labeled "not essential" but which the prosecutor insists are "important to a complete and thorough investigation."

In any legal proceeding, it must be the court—and not any of the litigants—which decides what evidence is germane. Particularly must this be so in an impeachment proceeding where there can be no invocation of executive privilege. The House of Representatives has a right to all evidence it considers relevant to its investigation; it is up to that body, and not the President, to say what documentary material is needed.

Once again, as last fall when he finally agreed to turn over his tape recordings for judicial scrutiny, Mr. Nixon has yielded on a major point of contention just before the flashpoint. His actions yesterday raise hopes that the impeachment proceeding can proceed expeditiously after all, relieved of some of the White House delaying tactics which have slowed down so much of the Watergate investigations up to now.