A Presidential-Size Scandal

No president wants to serve only one term. But President Richard Nixon was especially determined to win re-election in 1972—so determined that his campaign launched spy operations against the Democratic presidential candidate, Nixon’s opponent. At 2:30 a.m. one night in 1972, five men were caught planting a wiretap inside the Democratic National Committee office at the Watergate office complex in Washington, D.C.

President Nixon denied knowing anything about the break-in. Later, however, it came out that secretly recorded conversations from the White House would prove that Nixon was involved in covering up the Watergate break-in. Amid the massive scandal, several men were charged with serious crimes. Nixon himself was identified as a co-conspirator, but he was not charged. A court ordered the White House tapes to be turned over as evidence for the trial against the men. Nixon refused to hand over the tapes.

The Argument

Nixon argued that because he was the president, his recordings were confidential, or private. First, Nixon argued that a president’s communications with his advisors must be kept private in order for them to properly do their jobs. Second, Nixon argued that the executive branch of government is independent from the judicial branch. Therefore, even though the court had a right to force regular people to turn over evidence in a criminal case, the court could not demand his presidential recordings.

The Decision

The Supreme Court disagreed. In some cases, the Court said, a president’s communications must be kept private. That’s because some presidential communications include sensitive information such as military secrets. Making this kind of communication public could put the nation’s safety at risk. But Nixon did not claim that his recordings contained any sensitive information.

The Court explained that the American criminal justice system cannot work if the court does not have all the evidence available. Given this, the Court weighed Nixon’s desire to keep every recording private against the justice system’s need to conduct fair trials. The Court reasoned that it is rare for a president’s communications to be needed as evidence. Therefore, a president won’t feel uncomfortable talking with his advisors just because of this possibility. On the other hand, the basic function of the criminal justice system could be seriously hurt if a president’s communications could never be used.

So What?

This case shows that in the United States, the president is not above the law. This is different from some countries, where the leader has absolute authority. But in the U.S., the requirements of the Constitution can come before even the president’s wishes.
**A. Watergate Timeline.** Learn more about the Watergate scandal by writing the letter of each event where it should go on the timeline. Some are already filled in to help you get started.

A. The first articles of impeachment are passed against Nixon.

B. The Supreme Court rules Nixon must turn over the tapes of his conversations.

C. Nixon refuses to turn over the tapes he has recorded in his office.

D. A former Nixon secretary tells the Senate that Nixon has taped all conversations in his office since 1971.

E. Realizing he will probably be removed from office, Nixon resigns from the presidency.

F. Evidence emerges that the break-in was related to Nixon’s re-election campaign.

G. The Senate begins hearings about the scandal that are broadcast on national television.

H. Evidence is discovered that Nixon was involved in covering up the Watergate break-in.

**B. Privileged Communication.** In its decision, the Court was careful to point out that the president is not just like everyone else. Could a president do the job effectively if every word was made public? Follow the directions below to think about this.

**Checklist A**
Check everything a president probably wants to AVOID when speaking in public:
- Being misinterpreted or misunderstood.
- Being seen as thoughtful and careful.
- Being quoted by the news in a way that’s misleading.
- Being criticized by a rival political party.
- Angering voters.
- Saying something that most people will agree with.
- Offending leaders of another country.
- Being seen as too weak (or too bold).
- Saying something that has been proven to be true.

**Checklist B**
Check everything we hope a president will do when making an important decision:
- Consider all sides of the issue.
- Ask a question if something is hard to understand.
- Talk only to people who share the same views.
- Think about the best decision for the country, even if that decision might be unpopular.
- Reject ideas before hearing them out.
- Look at the facts, even if the facts are unpleasant.
- Listen only to people from the same political party.
- Listen to experts.
- Weigh every option even if it seems crazy at first.

Now circle one worry you marked in Checklist A and one behavior you marked in Checklist B. Explain how the worry from Checklist A would make the behavior in Checklist B difficult for the president:
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If the president was worried about _______________ [a correctly checked item from Checklist A], it might be difficult to _______________ [a correctly checked item from Checklist B] because _______________ [Answers will vary, but students should explain how the first thing would make the second thing difficult. For example, if the president was worried about angering voters, it might be difficult to think about an unpopular decision because people might vote for someone else.]