

## Nixon and Watergate: Crimes Against the Constitution

Henry Shaw  
11<sup>th</sup> Grade

### National Standard

**Era 10: Contemporary United States (1968 to the present) / Standard 1**

*Standard 1: Recent developments in foreign and domestic politics*

### Washington State Standards (EALRs)

*EALR 1: Civics - The student understands and applies knowledge of government, law, politics, and the nation's fundamental documents to make decisions about local, national, and international issues and to demonstrate thoughtful, participatory citizenship.*

*1.1: The student understands key ideals and principles of the United States, including those in the Declaration of Independence, the Constitution, and other fundamental documents*

*1.2: The student understands the purposes, organization, and function of governments, laws, and political systems.*

*1.4: The student understands civic involvement.*

*EALR 4: History - The student understands and applies knowledge of historical thinking, chronology, eras, turning points, major ideas, individuals, and themes of local, Washington State, tribal, United States, and world history in order to evaluate how history shapes the present and future.*

*4.1: The student understands historical chronology.*

*4.2: The student understands and analyzes causal factors that have shaped major events in history.*

*EALR 5: Social Studies Skills - The student understands and applies reasoning skills to conduct research, deliberate, form, and evaluate positions through the processes of reading, writing, and communicating.*

*5.1: The student uses critical reasoning skills to analyze and evaluate positions.*

*5.2: The student uses inquiry-based research.*

### BACKGROUND

"When Richard Nixon resigned in 1974 in the wake of the Watergate scandal, it was only the second time in our history that impeachment of a President had been considered. Nearly every action taken with regard to the case had some constitutional significance. The document shown here [The National Archives website] deals with a specific question: Should the Watergate Special Prosecutor seek an indictment of the former President?

It is two pages of a three-page memorandum written for the Watergate Special Prosecutor in August 1974, after Richard Nixon resigned the Presidency and before President Ford pardoned him. (The third page adds one more item to the pro-indictment list and adds another category," delay decision.")

The Office of the Special Prosecutor was created by Executive Order in May 1973 and twice faced the question of whether to seek an indictment of Richard Nixon. The first time was in March 1974 when the grand jury handed down indictments of seven White House aides for perjury and obstruction of justice.

President Nixon was named an 'unindicted coconspirator' at that time because the Watergate Special Prosecutor Leon Jaworski advised the grand jury that in his opinion a sitting President could not be indicted. In his view, the House Judiciary Committee was the appropriate body under the Constitution for examining evidence relating to the President.

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The House Judiciary Committee pursued its constitutional mandate and drew up five articles of impeachment, three of which they approved in the summer of 1974. When the President was forced by the Supreme Court in August 1974 to surrender tape recordings that revealed his knowledge of the cover-up, even his staunchest supporters in the House admitted that they would have to vote in favor of impeachment. On August 9, 1974, President Richard Nixon resigned the Presidency and became citizen Richard Nixon.

Thus, for the second time the Watergate Special Prosecutor's Office faced the question of whether or not to seek an indictment. Article I, section 3, clause 7 of the Constitution provides that a person removed from office by impeachment and conviction 'shall nevertheless be liable to Indictment, Trial, Judgment and Punishment, according to the Law.' But there are no guidelines in the Constitution about a President who has resigned."

"Teaching with Documents: Constitutional Issues - Watergate and the Constitution" from Gray, Leslie and Wynell Burroughs Schamel. "Constitutional Issues: Watergate and the Constitution." *Social Education* 51, 2 (February 1987): 88-90. [The National Archives](http://www.archives.gov/education/lessons/watergate-constitution/index.html). 2010. College Park, MD. 22 November 22 2010 <<http://www.archives.gov/education/lessons/watergate-constitution/index.html>>.

#### PROBLEM (FOR TEACHERS' EYES ONLY)

Subsequent to Nixon's resignation, should he be tried for obstruction of justice in the Special Prosecutor's investigation of the Watergate break in?

#### SCENARIO

You work in the US Department of Justice as an advisor for Eric Holder, the US Attorney General. He is the country's top law enforcement official. You have a very important and highly-paid job, which you received partly due to your high qualifications earned at Meadowdale High School.

Attorney General Holder has asked you to make a recommendation on the above question. Yes, Nixon is dead, but the Department of Justice is willing to have a posthumous trial for Nixon IF you recommend that the Department of Justice file charges against him.

#### TASKS

This activity fits within a unit on America in the 1970's or can be used to close a unit on domestic politics of the 1960's.

To begin, students should be provided background information on Nixon, the Watergate break-in, the subsequent investigation, and impeachment.

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The following websites:

- <http://www.archives.gov/education/lessons/watergate-constitution/index.html>
- <http://watergate.info>

provide excellent timelines and background information for students and teachers alike.

The Watergate story has a number of twists and turns; consequently, having students create or study a timeline of the events will help students understand the narrative of the scandal.

Although not specifically related to the “problem,” I recommend that teachers examine the section of transcribed White House audio recording wherein Nixon incriminates himself in the cover-up of Watergate. It can be found at:

- [http://watergate.info/tapes/72-06-23\\_smoking-gun.shtml](http://watergate.info/tapes/72-06-23_smoking-gun.shtml).

Your classroom textbook may provide good supporting photographs.

#### **STEP ONE:**

Teach the national and/or international politics of the US in the late 1960's and early 70's. Include teaching the context and chronology of the Watergate scandal.

#### **STEP TWO:**

Give HANDOUT ONE to students.

#### **STEP THREE:**

Have students complete HANDOUT TWO. After completion, review the answers to remind students of the basic cause and effect chronology of the Watergate scandal.

#### **STEP FOUR:**

Carefully review the three Articles of Impeachment that were approved by the House Judiciary Committee with students. They can be found at:

- <http://watergate.info/impeachment/impeachment-articles.shtml>.

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#### STEP FIVE:

Handout copies of the US Constitution. Working in groups of two or three, ask students to explain how each of the following sections of the Constitution relate to Watergate:

- Article I, section 2, clause 5
- Article I, section 3, clause 6
- Article I, section 3, clause 7
- Article II, section 1, clause 8
- Article II, section 2, clause 4
- Amendment I

**STEP SIX:** Have students dial up the following URL:

- <<http://www.archives.gov/education/lessons/watergate-constitution/index.html>>.

They should read the introductory text first. Next, they should read page one and two of the "Justice Department Memorandum Considering Indictment of Richard M. Nixon," which can be found at the bottom of the web page. That document should be used to help students complete the prompt from HANDOUT ONE.

Finally, students are ready to start the prompt. When students submit their written recommendations, allow each to share their recommendation along with their best supporting reason with the class.

#### RESOURCES

##### Documents

The US Constitution:

- Article I, section 2, clause 5
- Article I, section 3, clause 6
- Article I, section 3, clause 7
- Article II, section 1, clause 8
- Article II, section 2, clause 4
- Amendment I

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### Internet

"Articles of Impeachment Adopted by the Committee on the Judiciary." 27 July 1974. Watergate.Info. ©1995 - 2010. Melbourne, Australia. 22 November 2010 <<http://watergate.info/impeachment/impeachment-articles.shtml>>.

"Remembering Walter Cronkite." 18 July 2009. Watergate.Info. ©1995 - 2010. Melbourne, Australia. 22 November 2010 <<http://watergate.info/>>.  
(This vast site includes a great video of Walter Cronkite reporting on the scandal and a number of links to quality primary and secondary sources).

"The Smoking Gun Tape.." 23 June 1972. Watergate.Info. ©1995 - 2010. Melbourne, Australia. 22 November 2010 <[http://watergate.info/tapes/72-06-23\\_smoking-gun.shtml](http://watergate.info/tapes/72-06-23_smoking-gun.shtml)>.

"Teaching with Documents: Constitutional Issues - Watergate and the Constitution" from Gray, Leslie and Wynell Burroughs Schamel. "Constitutional Issues: Watergate and the Constitution." *Social Education* 51, 2 (February 1987): 88-90. The National Archives. 2010. College Park, MD. 22 November 22 2010 <<http://www.archives.gov/education/lessons/watergate-constitution/index.html>>.  
(This site includes a valuable document: *Justice Department Memorandum Considering Indictment of Richard M. Nixon.*)

### Movie

Boorstin, Jon, Britton, Michael, and Coblenz, Walter, Producers. Alan J. Pakula, Director. 1976. *All the President's Men*. United States. Warner Brothers.  
(This movie is a factual account of investigative journalists Bob Woodward and Carl Bernstein of the Washington Post whose reporting of the Watergate break-in eventually led to the resignation of Richard Nixon, 37th President of the United States. The film focuses on the period from the break-in on June 17, 1972 to Nixon's re-election in November later that year. Their research revealed that the break-in at the Watergate office complex was only one small part of a much larger network of intelligence gathering activities, many of which were illegal. The story also focuses on the role of Woodward's now legendary secret source dubbed Deep Throat.)

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#### HANDOUT ONE:

Teacher: \_\_\_\_\_

US History

LBJ, Nixon, and the End of American Innocence

Nixon and Watergate: Crimes against the Constitution

As you know, Nixon was pardoned of all wrongdoing by President Gerald Ford. However, many feel that he should have been tried for obstruction of justice after his resignation. In our quest to know more, we will examine the question:

#### **Subsequent to Nixon's resignation, should he be tried for obstruction of justice?**

You work in the US Department of Justice as an advisor for Eric Holder, the US Attorney General. He is the country's top law enforcement official. You have a very important and highly-paid job, which you received partly due to your high qualifications earned at Meadowdale High School.

Attorney General Holder has asked you to make a recommendation on the above question. Yes, Nixon is dead, but the Department of Justice is willing to have a posthumous trial for Nixon IF you recommend that the Department of Justice file charges against him.

Your official recommendation should include the following:

- The first paragraph will include a review (summary) of each of the three articles of impeachment.
- The second paragraph will describe two or three of the most powerful reasons AGAINST your recommendation.
- The third paragraph will argue three or four best reasons to SUPPORT your recommendation. This paragraph and the reasons you provide should refute the reasons against your position that you gave in the second paragraph. Include a clear and convincing explanation of your supporting reasons.
- Your last paragraph will give Mr. Holder a clear connection between the Watergate scandal and America today. What are lessons from Watergate that can be applied today? Or, what has happened recently (within the last four years) that is similar to Watergate? Make sure that you state and explain the lessons or connections clearly.

Top government officials rely on advisors like you to do their job well. It is essential that you use analysis, reason, and clarity in your recommendation. Mr. Holder and the American people look forward to your valuable work.

Date due:

Points:

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**HANDOUT TWO:**

Teacher: \_\_\_\_\_

US

LBJ, Nixon, and the End of American Innocence

Nixon and Watergate: Three Branches of Government

Directions: Based on your knowledge of the Watergate investigation, match the government agency listed at the top with the action from the Watergate investigation listed at the bottom.

**The Legislative Branch**

- \_\_\_\_\_ 1. Senate Select Committee on Presidential Campaign Activities
- \_\_\_\_\_ 2. House Judiciary Committee

**The Executive Branch**

- \_\_\_\_\_ 3. President
- \_\_\_\_\_ 4. Office of the Watergate Special Prosecutor

**The Judicial Branch**

- \_\_\_\_\_ 5. U.S. Supreme Court
- \_\_\_\_\_ 6. U.S. District Court of the District of Columbia

- 
- a. imposed heavy sentences on the Watergate burglars, hoping they would talk
  - b. claimed executive privilege
  - c. investigations here revealed existence of White House taping system
  - d. requested a trial subpoena for 64 White House tapes for evidence in the Watergate cover-up trial
  - e. adopted three articles of impeachment
  - f. ruled that executive privilege does not extend to criminal proceedings and that the President must turn over the tapes

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### ASSESSMENT

Teacher: \_\_\_\_\_

US History

LBJ, Nixon, and the End of American Innocence

Nixon and Watergate: Crimes against the Constitution

### Scoring Guide Rubric

First paragraph will include an accurate and thorough review (summary) of each of the three articles of impeachment.	1-10 points
Second paragraph describes two or more of the most powerful reasons AGAINST your recommendation with clarity and logic.	1-10
The third paragraph argues three or more of the best reasons to SUPPORT your recommendation. This paragraph and the reasons you provide should refute at least TWO of the reasons against your position that you gave in the second paragraph with clarity and logic.	1-12
Fourth paragraph offers a logical and significant connection between Watergate and today (within the last four years).	1-8
Writing is 12 font with standard 1" margins. It is free of errors in spelling and grammar.	1-10

TOTAL POINTS:



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#### REFERENCES/CITATIONS

- "History Standards for Grades 5-12 United States." UCLA National Center for History in the Schools. 2005. Los Angeles, CA. 12 July 2010 <<http://nchs.ucla.edu/standards/us-standards5-12.html>>.
- OSPI. "Social Studies Essential Learning Requirements: Recommended Grade-by-Grade Sequence for Grade Level Expectations – K-12." Office of Superintendent of Public Instruction. 2010. Olympia, WA. 28 October 2010 <<http://standards.ospi.k12.wa.us/ComponentListByGrade.aspx?subject=6,GLE&gl=6>>.
- Shaw, Henry. "Handout One." NWESD Organization. 2008. Anacortes, WA. 12 July 2010 <[http://www.nwesd.org/1510101216191755740/lib/1510101216191755740/10.1\\_Nixon.Watergate.Shaw.11.pdf](http://www.nwesd.org/1510101216191755740/lib/1510101216191755740/10.1_Nixon.Watergate.Shaw.11.pdf)>.
- Shaw, Henry. "Handout Two." NWESD Organization. 2008. Anacortes, WA. 12 July 2010 <[http://www.nwesd.org/1510101216191755740/lib/1510101216191755740/10.1\\_Nixon.Watergate.Shaw.11.pdf](http://www.nwesd.org/1510101216191755740/lib/1510101216191755740/10.1_Nixon.Watergate.Shaw.11.pdf)>.
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- Shaw, Henry. "Scoring Guide Rubric." NWESD Organization. 2008. Anacortes, WA. 12 July 2010 <[http://www.nwesd.org/1510101216191755740/lib/1510101216191755740/10.1\\_Nixon.Watergate.Shaw.11.pdf](http://www.nwesd.org/1510101216191755740/lib/1510101216191755740/10.1_Nixon.Watergate.Shaw.11.pdf)>.
- "Teaching with Documents: Constitutional Issues - Watergate and the Constitution" from Gray, Leslie and Wynnell Burroughs Schamel. "Constitutional Issues: Watergate and the Constitution." *Social Education* 51, 2 (February 1987): 88-90. The National Archives. 2010. College Park, MD. 22 November 22 2010 <<http://www.archives.gov/education/lessons/watergate-constitution/index.html>>.
- "The United States Constitution." 20 September 2004. United States House of Representatives. 2010. Washington, DC. 22 November 2010 <<http://www.house.gov/house/Constitution/Constitution.html>>.