

# *The Legacy of John Adams*

## *The Pentagon Papers Case*

In 1967 Secretary of Defense Robert McNamara commissioned a study of the history of US decision-making of policies involving Indochina, specifically Vietnam. The resulting documents became known as the Pentagon Papers. In 1971, Daniel Ellsberg, a government researcher, gave copies of the documents to the press.



A scanned image of The New York Times front page of May, 1973.

On June 13, 1971, the *New York Times* began publishing articles about the documents and the *Washington Post* published information later that same week. On June 15 the government went to a New York federal district court seeking an injunction prohibiting the Times from publishing articles about the Pentagon Papers.

The government pursued similar action against the *Post* in the District of Columbia. The 2nd Circuit Court of Appeals, reversing the New York district court who had refused to grant an injunction, granted an injunction as to the *Times*, who immediately appealed. The District of Columbia court refused to grant an injunction as to the *Post* and the government appealed.

The two cases were consolidated for hearing and the U.S. Supreme Court heard arguments on June 26, 1971. The government argued that prior restraint (prohibiting information from being published) was necessary to protect national security; however, on June 30, a divided Court refused to stop publication of the Pentagon Papers because the government failed to meet the burden to justify prior restraint.

*New York Times Co. v United States* became an important precedent in support of the First Amendment's freedom of the press.

During interviews about the events involving the Pentagon Papers publication, Daniel Ellsberg was quoted as saying, "I felt that as an American citizen, as a responsible citizen, I could no longer cooperate in concealing this information from the American public. I did this clearly at my own jeopardy and I am prepared to answer to all the consequences of this decision."

### **Newspaper Activities:**

- ◆ Look through editions of the newspaper for examples of the free press holding the government or elected officials responsible for their actions (or in some cases, inaction). Imagine you are an elected official; briefly write how you would work to resolve this issue.
- ◆ See if you can find an example of a citizen acting as a "whistleblower" - someone who calls attention to corruption or exposes wrongdoing in the hope of stopping it. Briefly write what you might do in a similar situation.

## The Legacy of John Adams: The Pentagon Papers Case

Our nation's founders realized someone needed to hold the government accountable for its actions. The First Amendment, freedom of the press, ensures that newspapers and other media continue to serve as the "public's watchdog." Publishing information and commentary on controversial topics are two ways newspapers exercise this responsibility.

- ♦ Look through editions of the newspaper for examples of the newspaper holding the government or elected officials responsible for their actions (or in some cases, inaction). Imagine you are an elected official; briefly write how you would work to resolve this issue.

Issue	Your solution

**Follow up:** Conduct research on the reasons how and why government might succeed in halting publication of documents, such as the Pentagon Papers. What's the "heavy burden?" Also, compare the release of the Pentagon Papers with the recent publication of some classified material on the website WikiLeaks. Use newspaper archives to gather information.