

**TOP SECRET:**  
**The Battle For the Pentagon Papers**

**A PLAY IN TWO ACTS**

**by**

**Geoffrey Cowan and Leroy Aarons**

ACT ONE*Lights up.**GRAHAM steps center.*

GRAHAM

(to audience)

Hello, I'm Katharine Graham. It is now almost 30 years since these events which had such a profound impact on our newspaper, on the nation --- as well as my own life. In 1971, I was still finding my way as the publisher of the Washington Post. The Post was a daily paper that my father had bought at a bankruptcy sale in 1933, and which my husband managed for 24 years. He took his own life in 1963. Making me the first woman in America to run a major newspaper.

(beat)

June is the month for weddings. In Washington, D. C., the weather in June is glorious and the roses are in full bloom. President Nixon's daughter, Tricia, was getting married on the 12th. It was the first outdoor wedding in White House history. The Post wanted to cover it. But our editors had assigned a talented but somewhat sharp-penned reporter to cover the event. She had once compared Tricia to an ice cream cone.

(beat)

Vanilla.

(beat)

We weren't invited to the wedding. You see, when White House chief of staff Bob Haldeman called me directly barring our reporter from covering the event, I relented. At the time I was still finding my sea legs as publisher, and did everything to avoid confrontation

(then)

Instead, I went to Virginia that weekend to attend the wedding of Scotty Reston's son. Scotty was a great reporter and the former editor of the New York Times. He was also a good friend. At the reception, he dropped a bombshell.

*Lights change.*

## WEDDING RECEPTION

SCOTTY RESTON

Kay, nice to see you. You look ravishing.

GRAHAM

You still know how to flatter a girl, Scotty. Beautiful wedding.

SCOTTY RESTON

Yeah. Listen, Kay I know it's not a day to talk business so don't tell my wife, but tomorrow the shit's going to hit the fan. We're breaking a big story.

GRAHAM

I don't know what you're talking about.

SCOTTY RESTON

And you shouldn't. It's a secret. Our guys have been locked up in the New York Hilton working on it for three months. We're about to print the first installment of a top secret Defense Department study of the Viet Nam War. We're calling it the Pentagon Papers.

GRAHAM

What?!

SCOTTY RESTON

In '67 Bob McNamara commissioned a huge report chronicling the war's history, the secret history, complete with cables, memos, everything. It's amazingly detailed. It shows how the government lied to the American people as they drove us into this endless mess.

(beat)

Like I said, the shit's going to hit the fan.

*Lights change.*

GRAHAM

(to audience)

As soon as I could find a phone, I called my editor back in Washington at the Post, Ben Bradlee.

*Phone Call --*

BRADLEE

God damn it. This is a Washington story, Katharine, and we've been scooped. How the hell did the New York Times get hold of these Vietnam papers without us even knowing? And now, god damn it, we're sitting here in the dark!

GRAHAM

(to audience)

The next day: Sunday, June 13, 1971 the "you-know-what" did indeed hit the fan.

*A series of spotlights --*

TV NEWS NATIONWIDE

*Overlapping ...*

TV REPORTER 1

This morning, the New York Times printed the first installment of an explosive report on Vietnam. One White House official called it "a devastating security breach."

TV REPORTER 2

Sources say the report is 47 volumes with more than 7,000 pages of classified documents.

TV REPORTER 3

Critics of the war say the report provides fresh evidence that the United States should withdraw all troops from Vietnam immediately.

TV REPORTER 4

At the White House, officials are desperately scrambling to find a copy of the study. National Security Advisor Henry Kissinger said he has never seen it and he immediately ordered an inquiry into what it says.

*Spotlight up on --*

OVAL OFFICE

*Nixon shaking newspaper. Fuming to an unseen General Haig --*

NIXON

Goddamn New York Times! This was all written by a bunch of peaceniks in the Pentagon. Did they leak it? This is treasonable. People have got to be put to the torch! Let's start right at the top and fire some people. I mean, whatever department it came out of, fire the top guy.

*Light up on GRAHAM --*

GRAHAM

(to audience)

The following morning, Monday, the New York Times published the second installment of the Pentagon Papers. That night, Harding F. Bancroft, executive vice president of the Times, received a phone call at his office. From the Justice Department.

*Spotlight up on MARDIAN and BANCROFT, on phones --*

MARDIAN

(on phone)

Mr. Bancroft, this is Robert Mardian. Assistant Attorney General in charge of internal security. I've been authorized to tell you that the government will take you to court tomorrow morning if you print another installment of these top secret documents.

BANCROFT

(on phone)

We believe that it is in the best interest of the people of this country, Mr. Mardian, to be informed of the material contained in these articles.

MARDIAN

The Times is violating the government's highest national security laws. We are telling you to stop further publication and return the documents to the Pentagon.

BANCROFT

Kill the story? It's seven-thirty, Mr. Mardian. We are about to go to press.

MARDIAN

I suggest you move fast.

BANCROFT

And if we refuse?

MARDIAN

We will see you in court.

*Spotlight up on GRAHAM.*

GRAHAM

(to audience)

An hour later, one hour before press time, the Attorney General himself, John Mitchell, sent a telegram to the publisher of The New York Times asking the paper to halt further publication, warning that it would "cause irreparable injury to the defense interests of the United States." The Times sent a telegram back to the Attorney General saying that the paper "must respectfully decline".

(beat)

The next morning I took a plane back to DC. I had the New York Times, with the third installment of the papers, in my lap. At noon, the Justice Department hauled the New York Times into court.

Meanwhile, at the Post, we continued to play catch-up. Ben Bradlee was there to greet me at the office.

*Lights change.*

WASHINGTON POST OFFICE

BRADLEE

(fuming)

We're never going to be a major player, Katharine, if the best we can do is rewrite the New York Times! And now, with the White House trying to shut them down in court, this has gone from a war issue to a First Amendment issue! And all the while we're sitting on the sidelines!

GRAHAM

Why does Nixon care so much? The Pentagon Papers have nothing to do with him. The events in the study all took place years before he took office. It hurts the Democrats – it's all about Kennedy and Johnson. Why is Nixon so apoplectic?

*Spotlight on GRAHAM --*

GRAHAM (CONT'D)

(to audience)

That night June 15th, the President met in the Oval Office with Attorney-General John Mitchell and White House Chief of Staff Bob Haldeman.

*Lights change.*

THE OVAL OFFICE OF THE WHITE HOUSE

NIXON

I don't care how you feel about the war, whether they're for it or against it. Printing this study is an attack on the integrity of government.

(accusingly)

John, you warned them not to print.

MITCHEL

I did Mr. President. But they gave us the finger.

NIXON

My god, I'm going to fight that son of a bitch paper. They don't know what's going to hit them. They have no idea how this could screw things up.

*Nixon presses the intercom.*

NIXON (CONT'D)

Rosemary, get me Henry Kissinger. I need to meet with him. Privately.

VOICE

"Yes, Mr. President."

NIXON

Now, what are we going to do about the Times?

MITCHEL

We're waiting for the judge's decision in New York on our request for a federal injunction. If that works, we'll start looking at criminal action. We've got to stop these goddamn leaks.

NIXON

It's treasonable. If I were publisher of a great newspaper, I wouldn't print this stuff. I don't give a damn about the information in the Vietnam papers; that all happened under the Democrats. Politically, it might even be a plus. But, it makes my blood boil to have those goddamn newspapers printing stolen government documents.

HALDEMAN

Why the hell do we classify anything if a newspaper feels no compunctions about printing it?

MITCHEL

It's an outrage.

HALDEMAN

Don Rumsfeld was making that point this morning. For the ordinary guy, all of this is a bunch of gobbledygook. But out of the gobbledygook comes a very clear thing, which is: You can't trust the government, you can't believe what they say and you can't rely on their judgment. And as a result, people start to doubt the infallibility of presidents. It undermines the nation.

NIXON

You're right! And we've got to ferret out the leakers, too. They're the lowest vermin. Let's get the guy who leaked this Pentagon material --- and tell Ziegler to freeze out the Times completely.

*Enter RON ZIEGLER.*

NIXON (CONT'D)

Oh, here he is now ... Ron, we were just talking about you.

ZIEGLER

Mr. President, I thought you'd like to know that the Judge just slapped a restraining order on the New York Times barring them from printing any more of the Vietnam papers, pending a hearing.

NIXON

Good for him!

MITCHEL

I told you that judge was a good man.

NIXON

Great! Now we can move.

MITCHELL

I'll get a grand jury convened to seek criminal indictments.

*Starts to exit.*

NIXON

Ron, the New York Times is finished in the White House. You hear me! Don't give them anything.

*Kissinger enters.*

KISSINGER

Mr. President, you wanted to see me.

NIXON

Oh,...yes...Henry. Thank you for coming. We were discussing these Pentagon Papers.

(to the others)

Gentlemen, if you don't mind. Henry and I have something to talk about privately.

*Mitchell, Zeigler and Haldeman get up to leave.*

(parting shot to Mitchell)

Remember, no one but you and me talks to any of those Times' bastards.

(to Kissinger, alone)

Henry, this could kill the China initiative. We haven't even told the Secretary of State what we're doing. If Mao and Zhou Enlai think we can't keep a secret, they could cancel your trip. And God knows what the anti-China lobby in Washington would say if they caught wind of this.

KISSINGER

Right, Mr. President. We have to stop them.

*Lights change.*

*Up on Graham.*

GRAHAM

(to audience)

Before the Nixon administration, there had never been a federal injunction against a media company in the history of the United States.

Now with the presses stopped at the New York Times, Ben Bradlee was determined to track down a copy of the Pentagon Papers and continue printing under the banner of the Washington Post.

The Post was not covered by the court's injunction. But Ben knew that if the government found out that we planned to pick up where the Times left off, they would come after us with guns blazing. The only problems was we didn't have the Papers - yet.

On Tuesday night, the Posts' Assistant Managing Editor, Ben Bagdikian got a phone call.

BAGDIKIAN'S OFFICE

*Two spotlights -- Phone call.*



ELLSBERG

(on phone)

Bagdikian.

BAGDIKIAN

(on phone)

Yes?

ELLSBERG

I'm not going to use my name on the phone.

BAGDIKIAN

All right.

ELLSBERG

So don't ask. But you know who this is.

BAGDIKIAN

Of course.

ELLSBERG

What I need to know is ... if I get you a copy of the Pentagon Papers, will you print them?

(silence)

Will you promise to print them?

*A moment. Then --*

BAGDIKIAN

Damn right we'll print them.

*Light up on Graham.*

GRAHAM

(to audience)

So, on June 16, Ben Bagdikian caught a plane and disappeared into the night.

The next day, Bradlee secretly summoned a group of his top reporters to his townhouse in Georgetown, where they waited for Bagdikian to arrive with the documents. No one else on the Post staff knew what was happening -- except our Managing Editor, Gene Patterson, who kept calling Bradlee.

*Phone Rings, as Lights change --*

BRADLEE'S LIVING ROOM

*Two spotlights -- phone call.*

PATTERSON

Ben, I need to alert the composing room crew down here. Are we really going to be ready to go with it tonight? For tomorrow?

BRADLEE

(on phone)

You're goddamn right we will! Soon as Bagdikian gets here --

PATTERSON

Who's gonna write it?

BRADLEE

Roberts, Marder, and Wilson. They're on their way. I told them to come to my house. I'm not taking any chances with the Feds finding out.

PATTERSON

I heard the Times got the stuff from a guy named Ellsberg. Is he our source?

BRADLEE

Damned if I know. Bagdikian shot out of town yesterday. Next thing, he calls me at some God-awful hour last night and says he's on his way back with the goods. I hope he didn't get hijacked.

*Doorbell rings.*

This may be him. I'll call you back.

*Hangs up, as --*

*Enter Bagdikian with boxes.*

BRADLEE (CONT'D)

Bagdikian, you son of a bitch! You made it. Christ, there must be thousands of pages in that carton.

BAGDIKIAN

Four thousand, four hundred and fifteen, to be exact. And he didn't give me everything he had. There are more cartons on the stoop. Give me a hand.

*They carry more cartons into the middle of the room and close the door.*

*The men kneel down and start examining the cartons.*

*Suddenly --*

*Doorbell.*

*They freeze.*

BRADLEE

(startled)

Anyone follow you? Jesus. It gets more like a spy movie every minute.

*Walk to the door. Looks through the peep hole.*

BRADLEE (CONT'D)

It's the guys.

*Enter ROBERTS, MARDER, WILSON.*

*Ad lib greetings. The men immediately start dealing with the papers.*

ROBERTS

(looking at the papers)

Damn, it's good to get my hands on the originals. You did good, Bagdikian.

BAGDIKIAN

Thanks. I haven't slept in two days. Have you got some coffee, Ben?

BRADLEE

Coming up.

*Looking over the papers.*

MARDER

This is a mess. Some of it isn't even numbered.

WILSON

And it's out of chronological order. It's going to take us days just to sort it out.

BRADLEE

Days, my ass. This is our shot. The biggest story of government deception in decades. I want a story for tomorrow's paper.

*All voice protest.*

MARDER

Tomorrow! That's totally unrealistic.

BRADLEE

Tomorrow!

ROBERTS

The Times had three months to consider this stuff.

WILSON

You expect us to sort it, read it, understand it, and write it in seven hours.

MARDER

I don't mind going to jail for publishing a leaked document, but I am not going to go to jail for stupidity!

BAGDIKIAN

(voice of reason)

Gentlemen, the Washington Post is a daily newspaper and this is a breaking story. I suggest we treat it as such. So, let's calm down and do our best. Okay?

*Reluctant agreement.*

ROBERTS

Where to?

BRADLEE

Everything you need is set up in the den.

*As they exit, lugging cartons --*

MARDER

George, give me a hand with this box.

WILSON

God, this mother is heavy ...

ROBERTS

How are we going to divvy this thing up? By chronology, or subject?

WILSON

How about by weight?

*Bradlee and Bagdikian now alone.*

BRADLEE

I'm going to get myself a drink before the lawyer shows up.

BAGDIKIAN

Lawyer?

BRADLEE

Yeah. Our usual guy is handling a big case in Chicago, so the law firm is sending down some heavy hitter from New York. Name's Kelly. We gotta run this past him.

BAGDIKIAN

I don't expect him to be too thrilled.

BRADLEE

(laughing)

Who knows, maybe he'll love it.

BAGDIKIAN

I doubt it. The Secretary of State used to be the head of their firm. Ben, you said these papers get printed or the Post will be looking for a new executive editor.

BRADLEE

And I meant it, goddamnit! This puts us on the map. It makes the Post a national paper. What can I fix you?

BAGDIKIAN

Coffee, remember?

*Bradlee pours himself a drink.*

BRADLEE

Don't you think it's odd that McNamara ordered the study? It could only make him look bad. He was the Secretary of Defense during the whole thing.

BAGDIKIAN

My guess is that he wanted a historic record of the whole bloody mess, to learn from our experience. What he got was probably more than he bargained for: a detailed account of all the manipulations, the lies, the self delusions...

BRADLEE

So how did you engineer getting this thing?

BAGDIKIAN

I can't say too much, even to you. But when the story broke in the Times, I began calling all over the country trying to find a copy of the Papers. Two nights ago, after the Times was ordered to stop publishing, I struck oil. I got a call from a source. He had lots of worries, but mostly I had to promise we'd use the stuff.

BRADLEE

Every news report in the country is saying the source is Ellsberg.

BAGDIKIAN

They're saying who they think the Times' source is. I'm not saying who my source is. Where's my coffee?

BRADLEE

Screw the coffee. Keep going.

BAGDIKIAN

After the phone call I headed for Boston.

BRADLEE

Boston? I thought you went to Los Angeles.

BAGDIKIAN

My guy was in a motel in Boston. Talk about spy movies! I was directed from one phone booth to another and from one checkpoint to another, until the drop was finally made. At 2:30 in the morning I get the Papers and grab a cab to the hotel. By this time I'm paranoid, convinced I'm being tailed.

BRADLEE

I wouldn't doubt it.

BAGDIKIAN

This morning, after a few hours sleep, I began looking for some twine to tie the cartons so I could carry them on the plane. Naturally there was no rope to be found anywhere in the hotel at 6 a.m. I found a leash outside tied to a fence. Let history record that it took a dog leash to transport the Pentagon Papers.

*Lights crossfade to --*

BRADLEE'S DEN

*Table, chairs, cartons. As the men sort.*

ROBERTS

(Taking off his shirt)

Ahh. That's better.

WILSON

Jesus, Chal, first you take your jacket off, then your tie, and now your shirt. You planning to audition for the Cosmo centerfold?

ROBERTS

Huh? It's goddamn hot in here.

WILSON

Hot? That air conditioning is so cold my fingertips are developing icicles. Chal's trying to get us enjoined for indecent exposure.

MARDER

Listen to this. You remember Pleiku in early 1965? The North Vietnamese attacked the big air base there and killed a bunch of our soldiers?

WILSON

That's why we started bombing North Vietnam.

MARDER

So we were told. Our old pal MacBundy was in Vietnam at the time, assessing for LBJ. He was so angry he recommended a massive escalation of the war.

ROBERTS

So, get to the point.

MARDER

The point is, it was all a lie. These papers show that Bundy and LBJ had already decided to bomb the North long before McBundy's visit. They were just looking for an excuse, and Pleiku gave them what they needed. Bundy says right here, "Pleikus are like streetcars. You catch them as one comes along." In other words, his outrage was just a ruse to fool the public.

WILSON

That shouldn't shock you, of all people. You're the guy who invented the term 'credibility gap!'

MARDER

Well, I certainly had my suspicions, but I could never prove it. And I wasn't quite sure the Post would print it if we could prove it.

(whispering)

Much as I admire Bradlee and Mrs. Graham, they always seemed a bit too cozy with the administration. You did, too, Chal. You used to have those elaborate parties with all your pals from the State Department. They all looked like Ambassadors - straight from central casting

ROBERTS

Except you. You looked like Peter Falk in Columbo. Always sure that someone in the room had committed a crime. It's still hard for me to believe all of this. In those days I just couldn't imagine that the government and the President would lie to us.

WILSON

Well, now things are simpler. We just assume they're lying to us.

*BAGDIKIAN enters.*

ROBERTS

Bagdikian, welcome to our cell.

BAGDIKIAN

What've you got?

WILSON

I've been sorting out what was printed before and what's new. I remember seeing a lot of this material in other forms: in magazines, official public documents.

ROBERTS

The most concise sequence, the easiest to grab hold of, goes back to the Eisenhower Administration, the French period in Indochina. It's not the sexiest stuff in the world, but there're some important revelations. Like Ike actually tried to stall an election in Vietnam in 1954 because Dulles warned it might go to the Communists. That, combined with the surprise that the Post now has the Pentagon papers, should make a hell of a good opening story for tomorrow.

BAGDIKIAN

Fine. That'll be our lead, but I'd like everybody to keep working as if they were writing for tonight's deadline. We need finished copy no later than 5 p.m. It's nearly noon. Any questions?

MARDER

Did I hear Meg Greenfield in the living room?

BAGDIKIAN

She's looking to do an editorial. And there's a lawyer named Kelly, who flew down from New York. To protect us from any legal bloopers. You guys need anything?

WILSON

How about a scotch?

MARDER

A double.

ROBERTS

Tell'em to turn up the air conditioning.

BAGKIKIAN

You got it.

*After Bagkikian exits.*

MARDER

I told you they'd get cold feet. It's Marder's rule: never trust the lawyers.

*As they continue working, light up on  
Graham --*

GRAHAM

(to the audience)

While the reporters were in the den, intoxicated by the aroma of a great story, a top-flight attorney from New York, a man named Brian Kelly, had arrived at Ben's house. As it happened, I had never met him, but he had a



reputation as a great litigator. Kelly was in the living room, delivering a sermon on the law to Bradlee, Bagdikian, and my good friend Meg Greenfield, one of our finest Editorial Page editors.

*Lights crossfade up on --*

#### BRADLEE'S LIVING ROOM

KELLY

I know how you feel. You're newspapermen.

(a nod to Greenfield)

And women. It's your job to print news without making any judgments as to --

GREENFIELD

(Interrupting)

C'mon, Mr. Kelly, give us a little more credit than that.

KELLY

-- Let me finish my point. And please call me Brian. I'm simply trying to put this whole thing in some perspective.

(then)

Back in 1931, in a case called Near versus Minnesota, the Supreme Court said that the government has the right to prevent publication of material that could endanger human lives: like naming the sailing dates of transports, or the number and location of troops. Now you guys have got a thousand pages.

BAGDIKIAN

Four thousand.

KELLY

Four thousand pages of Top Secret war-related material, and inside of eight hours you plan to dump it on the public without a careful, responsible analysis of what's in it.

BRADLEE

That's ridiculous. The Washington Post has no intention of publishing troop movements or anything else we regard as sensitive material.

KELLY

But how do you know that? You rush into print with something that on the face of it looks innocent. But what if, as a result, some agent or operative in Vietnam gets executed? How would the Post look?

BAGDIKIAN

My soapbox may be showing, but I'm convinced that by printing the Pentagon Papers, the Washington Post will save lives, not cost lives. And the families of tens of thousands of Americans killed in this damned war, not to mention the Vietnamese, may even want to know why the Papers weren't printed earlier.

KELLY

Well said. But this is not an anti-war demonstration. I still have to prove it in a court of law.

BAGDIKIAN

Wait a second, Brian. I resent the suggestion that we're staging some kind of street-corner demonstration here. The three men we have in that room are the best. Chal Roberts, the senior Washington correspondent of this newspaper, has 38 years of government reporting. George Wilson is the most trusted defense department expert in the business. And Murray Marder knows more about the State Department than the damn Secretary of State.

KELLY

I'm not questioning anybody's credentials.

BAGDIKIAN

No, you're questioning their judgment. We're not playing newspaper. We make these kinds of decisions every day.

KELLY

(backing down)

We're all on the same side. OK? OK?

(beat)

My job is to lay out the legal options. The government went into federal court yesterday and said that continuing publication of the Pentagon Papers by the New York Times would do irreparable damage to the security of the United States. The court accepted that argument, at least to the extent that it ordered the Times to cease publishing until the facts can be determined in a formal hearing. The presumption, it seems to me, is that the court intends that the issue be aired in the courtroom, not in the press. If the Washington Post goes ahead and prints, isn't it in effect flouting the court's injunction?

BRADLEE

It's a hell of a good argument. Let's publish and find out.

GREENFIELD

(jumping in)

I confess I have trouble following the logic that suggests that because the government declares something off limits, all newspapers should fall in line like a bunch of Marines. That's one hell of a precedent.

BAGDIKIAN

Besides, the way our first story is lining up, the events we're writing about all took place in the '50's. Nothing sensitive about that.

KELLY

If it's not sensitive, why has the U. S. Government chosen to keep it secret for years?

GREENFIELD

Brian, that's positively naive. The government labels practically everything Top Secret, including the menu of the Pentagon cafeteria, and then it leaks things selectively when it serves its purposes. Without leaks, both the government and the press might as well close up shop. It's an intimate, symbiotic relationship.

BRADLEE

(pressing the point)

Brian, let me relate a personal experience. I covered Jack Kennedy in the '60's. Do you remember his big summit with Khrushchev? Well, it was a disaster, and as a result the administration labeled everything connected with the summit Top Secret. Off limits. However, Kennedy was interested in getting out the fact that Khrushchev had agreed to relax some restrictions on mutual arms inspections, a victory of sorts. So, he arranged for me to get hold of the file for that part of the discussion, and, of course, I went with it. A scoop for me, a propaganda coup for him.

KELLY

That's a totally different situation. That was the President exercising his right to declassify a document.

BAGDIKIAN

It doesn't matter whether it's the President or the director of federal fisheries! The point is that this tacit arrangement between the press and government in Washington has gone on for a long time. Most of it produces pabulum. But once in a while, a journalist manages to ferret out something really meaningful. Sure, it might embarrass a federal official, or an entire administration. But do we have a right to suppress it, or to give the government that power?

KELLY

Who's talking about suppression? I'm not arguing against publication. I'm arguing against rushing into publication. What is the rush?

BRADLEE

I'll tell you what the rush is, Brian. For three days the Times beat the living bejesus out of us, and I'll be goddamned if I'm going to let the story slip away now.

KELLY

In short, a scoop at any cost!

BRADLEE

No. Calculate the cost as best you can. Then go for the scoop.

*Lights crossfade back to --*

BRADLEE'S DEN

*The men sorting, typing.*

ROBERTS

Hey, listen to this. I've found an incredible passage about Diem's assassination. It seems the Kennedy administration was involved in the 1963 coup all the way up to its eyeballs.

WILSON

I thought JFK liked Diem.

ROBERTS

So he did. So did my friends at the State Department. And so did some of our most important military brass. General Harkin, our top field general at the time, fired off a telegram to Washington saying, "rightly or wrongly, we have backed Diem for eight long, hard years. It seems incongruous now to get him down, kick him around, and get rid of him." October 30, 1963.

WILSON

Thursday. The day before the coup.

MARDER

How the hell do you always remember that kind of shit?

ROBERTS

Listen to this. It seems that our Ambassador, and probably the rest of the administration, were helping the plotters. Here's a telegram from McGeorge Bundy in the White House to Ambassador Lodge in Saigon. "Once a coup under responsible leadership has begun, it is in the interest of the U. S. Government that it should succeed."

MARDER

Ah, hah! All these years I have been telling you to be more skeptical of what you hear from your friends in government. So Jack Kennedy actually helped overthrow Diem?

ROBERTS

It seems he sure as hell didn't try to stop it.

*Lights crossfade back over to --*

BRADLEE'S LIVING ROOM

*BEEBE enters.*

BEEBE

Sorry I'm late.

BRADLEE

Fritz, how was your flight?

BEEBE

The usual Eastern Shuttle luxury.

BRADLEE

Brian, you know Fritz Beebe, of course, Chairman of the Post Company.

*Ad-lib introductions.*

BRADLEE

Can I fix you a drink, Fritz. You may need it. Brian is urging us not to print.

KELLY

I didn't say.

BRADLEE

Ok. Not to print tomorrow.

KELLY

There's another issue to consider.

(beat)

Espionage.

BRADLEE

Espionage!?

KELLY

Look, even if the court lets us go ahead and print, the government might still bring criminal charges against the Post under the Federal Espionage Act.

BRADLEE

Which says what?

*Kelly opens a marked volume.*

KELLY

It's part of the Criminal Code. (He picks up a marked volume.) section 793(e) ... Here it is. Let me read it to you: "Whoever has unauthorized possession of information relating to the national defense, which information the possessor has reason to believe could be used to injure the

United States and who willfully communicates that information to anyone not entitled to receive it shall be fined not more than \$10,000, or imprisoned not more than ten years, or both."

BRADLEE

No problem. One, the Post has no reason to believe it has harmful information. And, two, if we did, and it was really harmful, we wouldn't print it.

KELLY

Ben, the truth is you don't know what you've got. And you skipped point three: unauthorized possession. The news accounts say the papers were stolen.

BRADLEE

It's an old newspaper tradition -- we never discuss our sources.

KELLY

I know that. But I'm convinced the government can make a substantial criminal case against you if something damaging slips into the newspaper. They've already waved the espionage flag at the Times.

BRADLEE

So, who goes to jail?

KELLY

Maybe you, for starters.

BRADLEE

Well, if that's espionage, then every top official in this administration and every top reporter and editor in the country will be there with me for divulging this kind of thing all the time.

(beat)

Listen, why don't you guys get some lunch? There're sandwiches in the kitchen. I need to chat with Fritz for a few minutes.

BAGDIKIAN

Good idea, I haven't had anything to eat for two days.

*BAGDIKIAN and KELLY exit.  
GREENFIELD stays behind. BEEBE out  
of earshot.*

GREENFIELD

Ben, you're not taking what Kelly's saying seriously, are you?

BRADLEE

At the rate we're paying this guy, I'm at least going to listen to what he has to say.

GREENFIELD

But it's insane. He has no idea how the system works.

BRADLEE

I know. But he's not the key. Beebe is. Let me talk to him.

*Greenfield exits. Bradlee approaches Beebe.*

BRADLEE (CONT'D)

Fritz, we really need this one. When Katharine made me editor six years ago, I told her this paper could go two ways: toward greatness or towards mediocrity. I have no intention of presiding over the latter.

BEEBE

Ben, you know my blood has more ink in it than it has profit-and-loss ledgers. Just the thought of a story like this makes me light-headed. But, I'm also a businessman, and when I look through the lens of the Chairman of the Board of the Washington Post Company, I get nervous.

BRADLEE

What about?

BEEBE

The survival and economic health of this company. Look what's on the table if we end up facing criminal charges. The Post stock went public only two days ago. We've got a million three hundred thousand shares outstanding. Our deal doesn't firm up until next week, and it includes a clause that says the entire stock issue could be cancelled by a, quote, catastrophic event. To my mind, a criminal indictment for violating espionage laws adds up to a catastrophic event.

BRADLEE

Fritz, there isn't going to be a criminal action. I've been around this town 30 years, and no President has been dumb enough to take on the press in that manner. Sure, Nixon hates our guts and he'd love to stick it to us. But he doesn't have the balls to go the criminal route.

BEEBE

What makes you think they don't have something? There's such a thing as real secrets, after all. In World War II, we almost lost the battle of Midway when the Chicago Tribune printed the fact that the U. S. had cracked the Japanese code.

BRADLEE

Yeah, I remember. I was in the navy. Thank God the Japanese didn't read the Chicago Tribune.

BEEBE

But you can be damn sure that Hanoi is reading the Washington Post. All Nixon needs is an indictment. Don't forget, we've also got TV and radio licenses. If we get involved in a felony case, his FCC will pull our licenses faster than you can pronounce the call letters. What we're talking about here is a \$193-million corporation on the line.

*A look between them.*

BRADLEE

That's quite a scenario, Fritz. If I didn't know you better, I'd call it a cheap shot. I'm not only a newspaperman, but a member of the Board of the company --

BEEBE

Ben, don't get paranoid. I'm dealing with you straight. I'm not here to play games. I'm here to protect Kay Graham and her newspaper.

BRADLEE

I know, Fritz, and I respect that. You're her best friend, her lawyer, her biggest shoulder, and, I may add, her smartest adviser.

BEEBE

Thanks, you're overly kind.

BRADLEE

But I need to know the bottom line ... what if you had to decide this minute?

*Beat.*

BEEBE

I'd have to say I'm leaning against.

BRADLEE

And where thou leanest, so leanest the Lady Graham.

*Lights crossfade back to --*

BRADLEE'S DEN

*Marder chuckles as he scans a document.*

MARDER

Ha! They missed it.

WILSON

Missed what?



MARDER

They haven't got the story of the Vietnamese general and his mistress.

WILSON

What story is that?

MARDER

One of the generals had his mistress at the Paris Peace Talks all through 1968. She was listed as a secretary.

ROBERTS

So?

MARDER

So, he jilted her. She got mad, and defected. The CIA debriefed her for 80 hours straight.

WILSON

Yeah, what'd they get?

MARDER

Not much. This particular secretary could neither read nor write.

*Laughter (except Roberts)*

ROBERTS

Jesus Christ, can you guys get serious? We're damn close to deadline and I've got at least three more pages.

WILSON

Relax, Chal. In a few hours you'll be famous.

*Lights crossfade back over to --*

BRADLEE'S LIVING ROOM

KELLY

Okay. Let me be precise about what I'm proposing. What we do is postpone publication one day, notify the government we have the Papers and give it the opportunity to tell us which portions it finds objectionable. We still plan to go ahead and publish, but this way we're not spitting in the face of the government or the court.

BAGDIKIAN

I don't get it. By announcing we have the Papers, aren't we inviting the government to come in and try to stop us from publishing entirely?

KELLY

Sure, it's a risk --- but by showing an attempt to be responsible, we're in a far stronger position to assert the right to publish

BAGDIKIAN

I always thought the way to assert the right to publish is to publish.

KELLY

What do you think, Ben?

BRADLEE

Maybe. Meg?

GREENFIELD

Frankly, I'm confused.

BRADLEE

Fritz?

BEEBE

It's got possibilities.

*Lights crossfade back to --*

*BRADLEE'S DEN*

ROBERTS

Two more lines to go!

WILSON

Can you believe this? August, 1964. Our glorious leaders are secretly planning to bomb the crap out of North Vietnam while LBJ is campaigning as the peace candidate against Barry Goldwater

MARDER

Oh, yeah. I remember the speech Lyndon made at a Texas barbecue. (He breaks into an LBJ-Texas drawl) Ah will not commit a good many Amurican boys to fightin' a war that ought to be fought bah the boys of Asia.... We have lost 200 men ... we think it is better to lose 200 than 200,000"

ROBERTS

(Ripping the paper from the typewriter)

Finished!

WILSON

Great!

*BAGDIKIAN appears*

BAGDIKIAN

FELLAS!! The story is in trouble.

ROBERTS

What do you mean?

BAGDIKIAN

I mean I think we're losing it to the lawyers.

WILSON

What are you talking about?

MARDER

Let's get out there.

*REPORTERS charge across stage, as we  
Crossfade back over to --*

BRADLEE'S LIVING ROOM

*As they enter --*

ROBERTS

What's going on?

BRADLEE

(clearly uncomfortable)

Sit down. There's a proposal on the floor, just a proposal, mind you.

(beat)

Our lawyer, Brian Kelly here, is concerned we may be inviting criminal charges if we go ahead without letting the government know we've got the Papers. He suggests we wait a day to inform the Attorney-General before we publish.

*The reporters erupt.*

WILSON

(Stunned) That's the shittiest idea I've ever heard!

ROBERTS

Wait a minute. Are you suggesting that after all this, we crawl on our bellies to John Mitchell and ask his permission to publish?

KELLY

No, you misunderstand .

BRADLEE

Just hold it, Brian.

ROBERTS

I can't believe I'm hearing this.

MARDER

Ben, if we do this, everyone and his mother'll know that the Washington Post ran for cover on a monumental First Amendment issue. We'll never recover from it.

ROBERTS

Ben, you can go ahead and kill this story if you want, it's your right. But it's my right to resign from this newspaper and make a public statement explaining why.

*Phone rings.*

BAGDIKIAN

(to Bradlee - sotto)

Ben, you're going to have a revolt on your hands.

GREENFIELD

(on phone)

Yes, just a minute, Gene.

(then)

Ben, it's Gene Patterson. He says we need a decision now on the first edition. He can't hold the presses much longer.

BRADLEE

Tell him to forget it for the First Edition. To fill in with house ads we can kill later.

GREENFIELD

What about the Late City?

BRADLEE

I don't know. We'll call him as soon as we have something definite.

GREENFIELD

(into phone)

We'll call you as soon as we know, Gene.

BRADLEE

(to all)

It's got to go to Katharine.

BAGDIKIAN

I agree.

BEEBE

So do I. Problem is she's in the midst of a big lawn party at her home right now. A farewell bash for the circulation manager. I'll give it a try.

*BEEBE dials. There is an expectant silence.*

BEEBE (CONT'D)

Mrs. Graham, please. Fritz Beebe calling Yes, I know. Tell her it's urgent. No, do not wait please. Tell her it's urgent.

(To the others)

She's in the middle of her speech to Harry Gladstein.

*Silence.*

*Spotlight added up on --*

GARDEN PARTY

*Graham and Beebe. Both in spotlights, on phones.*

GRAHAM

(on phone)

Hello?

BEEBE

(on phone)

Kay? Sorry for the interruption, but I'm afraid we're at a stalemate on the matter we've been dealing with. We're on deadline and it needs a decision at the top.

GRAHAM

Isn't this a news decision, Fritz? I try to stay out of those.

BEEBE

I wish you could, but this is more than a news decision. The legal advice we're getting is that publishing the Pentagon Papers tomorrow could expose the company to grave consequences.

GRAHAM

Like what?

BEEBE

Possible criminal indictment, charges of espionage.

GRAHAM

Espionage! Who's giving us this advice?

BEEBE

Brian Kelly, the lawyer from the New York office of our law firm.

GRAHAM

Do you agree?

BEEBE

I'm concerned.

GRAHAM

Fritz, you're asking me to decide something over the phone that it took the New York Times three months to do.

(A long beat.)

All right, is the lawyer there with you?

BEEBE

Yes, I'll ask him to get on the line.

*Light up on Bradlee, picking up another line --*

BRADLEE

(on phone)

Katharine, it's Ben. I'm on the other extension. Look, if we fail to publish, we're coming down on the government's side against the Times. It's going to look like the Washington Post is endorsing prior restraint as a legitimate weapon against the press... Wait, here's Mr. Kelly. I'm going to pick up on the other line.

*Hands phone to Kelly. Bradlee goes to second phone.*

KELLY

(on first phone)

Mrs. Graham, this is Brian Kelly. What I have been arguing is that by immediately publishing secret documents the reporters have hardly had time to examine, the Post could inadvertently reveal sensitive and damaging material. The paper could be accused of endangering lives in wartime.

BRADLEE

(on second phone)

The government can accuse us of a lot of things. The question is, would any of it stick? This is not about national security, and it's not about espionage. It's about politics. It's about control, about embarrassment. They don't want us to expose their cover-ups and their lies. To Nixon, we're the enemy, and if they think they can get away with it, they'll use all kinds of threats to intimidate us.

KELLY

(phone)

Mrs. Graham, this is an unprecedented situation. We can't predict what the government might resort to in this case.

BRADLEE

(phone)

I'm convinced it's a game of chicken.

GRAHAM

(phone)

But Ben, if Mr. Kelly and Fritz are right, it could destroy our newspaper.

BRADLEE

I understand what Fritz is saying, but there's more than one way to destroy a newspaper.

*The room has grown very tense.*

GRAHAM

All right everybody, hold on a second.

(then)

Mr. Kelly, I'm not all together clear why you feel our reporters aren't able to distinguish between so-called good and bad information.

KELLY

I have great respect for the Post's magnificent staff, Mrs. Graham. But unlike the New York Times, we haven't had three months to study this material and we're staring in the face of an injunction that was handed down by the court in New York. However, I think maybe we could cure this by holding off for a single day.

BRADLEE

Yeah. A day in which we let the government know we have the papers.

GRAHAM

Is that what's being proposed?

*BEEBE is now sharing BRADLEE'S phone.*

BEEBE

(on phone)

Brian is suggesting we give the government a chance to tell us what sections of the papers they consider most sensitive.

BRADLEE

Chal and Murray and George have gone through the stuff, and they agree there's nothing in it that threatens the security of the country. I'll stake my reputation on it.

KELLY

Mrs. Graham, I'm sure Fritz Beebe can tell you better than I that there's a lot more than reputation at stake.

BRADLEE

(Angry, playing his hole card.)

I'll tell you this: if the Post caves on this issue, Katherine, you're gonna lose some of your top reporters, and maybe an editor or two.

GRAHAM

Just who are you talking about?

BRADLEE

Chal just threatened to publicly resign if we don't print tomorrow.

GRAHAM

My God, Ben, he can't be serious.

BRADLEE

I'm afraid he is. Look, we all feel the Post has vital information about what really happened in Vietnam which our government is trying to suppress. These documents show that the government has been lying to us, all along playing us for dupes. If we back off the Washington Post might as well become a shopping mall giveaway.

GRAHAM

Okay. Okay! I've got your arguments. Let me talk to Fritz alone.

*KELLY and BRADLEE hang up, leaving it to BEEBE.*

GREENFIELD

(Aside to Bradlee)

Ben, what's happening?

BRADLEE

She's tossing it to Fritz.

GRAHAM

Well, Fritz. What do you think?

BEEBE

What do I think? Well, you're aware of the stock issue, of course, and the FCC licenses. From a purely fiscal viewpoint, I have to advise you that we could be very vulnerable. Naturally, that has to be weighed against the journalistic consequences. On balance I think I wouldn't.

BAGDIKIAN

(Groaning, hand to head.)

That's the ball game!

BEEBE

But ultimately it's up to you.



*Everyone in the Bradlee living room is staring at Beebe.*

*Graham is alone. Very alone.*

GRAHAM

(Long pause)

Go ahead. Go ahead. Go ahead. Let's go. Let's publish.

BEEBE

All right. Thanks, Kay. Goodbye.

*He hangs up. Turns to the group.*

*Everyone is looking at him.*

We publish.

*Outburst of cheers and applause. The Reporters join the excitement.)*

ROBERTS

(Handing Bradlee the rest of his story.)

Here's the finish.

BRADLEE

Great.

(To BAGDIKIAN.)

Hey, Bagdikian ... let's get this down to the paper right now. We've got less than half an hour to make the Late City Edition

GREENFIELD

(To Bagdikian.) I'll drive you down.

BEEBE

I can't say I'm sorry it turned out this way, Ben.

BRADLEE

Mother Graham is a gutsy broad, I gotta say that for her.

BEEBE

Yep, and she's now got a big fight on her hands. I'll be at the Mayflower if you need me.

*He exits.*

KELLY

Ben, we're diving blindfolded into a pool of sharks. We know for sure the government is going to haul us into court on a civil injunction, just like the Times. If we can win there big, I don't think we have to worry about criminal charges. But, it's a big "if."

*As the REPORTERS head back over to the  
DEN --*

BRADLEE

Hey, George!

WILSON

Yeah, chief?

BRADLEE

Mr. Kelly here says we're probably going to be socked with a court action for blowing defense secrets. That's your territory. I want you to give him a hand.

WILSON

Great! When do we start?

KELLY

Right now! We got just a few hours before the Post hits the streets -- and the shit hits the fan.

*Lights start to dim, and --*

*Sound montage of --*

*Teletype machines rattling! Bell sounding!*

*Newspaper Presses running!*

*Broadcast News Reports, as --*

*Lights Black Out.*

END OF ACT ONE

**ACT TWO****GRAHAM**

Why did I do it? Why did I decide to publish? I knew the risks of publishing were incalculable. That we were possibly provoking a disastrous confrontation with a president who would like nothing better than to destroy us.

When Fritz and Ben called in the middle of my farewell party to Harry, I was surrounded by dozens of my best Post employees. It was a beautiful June day. The party had spilled out of the house and onto the terrace and lawn.

Fritz said on the phone that ultimately the decision to publish was mine. I looked out at the terrace, at those men and women at the party who had given their professional lives to my newspaper. I knew what my decision had to be.

*Lights Change.*

**THE OVAL OFFICE****KISSINGER**

*(Exploding.)* There can be no foreign policy in this government. No foreign policy, I tell you! We might as well just turn it all over to the Soviets and get it over with. These leaks are slowly and systematically destroying us.

**NIXON**

You're right, Henry, damn right. What if someone blows the news about your secret meetings with China next month? If that meeting goes as we hope, it could dramatically improve our prospects for peace.

KISSINGER

The Chinese would never meet with me again. If they don't think we can keep secrets, we would probably have to eliminate the entire operation.

NIXON

We'll take care of the press in the courts, but it's not enough. We've got to turn this around from the PR angle, use it against the Democrats! After all, they're the ones who screwed up the damn war. What about this guy Ellsberg?

KISSINGER

He is a nut; he is the most dangerous man in America. He was once a student of mine, a genius, but mad. Mr. President, he must be stopped. He has access to very critical defense secrets of current validity, such as nuclear deterrent targeting.

NIXON

Well, why can't we find him? Let's get on it. This guy should be locked up. And it's not only him. There's a whole gang of them out there, in cahoots with the Democrats, trying to pry loose government secrets for political reasons. We need to counterattack. What about the Diem study? Is that in the Pentagon Papers? I gave orders a year ago to get that damn study! It shows that Kennedy ordered Diem's assassination. I think Howard Hunt is working on that.

KISSINGER

*(Trying to excuse himself.)* Very good. Now if you'll excuse me, Mr. President.

NIXON

We'll get them on several fronts. That goddamn Washington Post. Don't they have a couple of TV licenses? Let's see what we can do about those.

KISSINGER

*(Somewhat impatiently.)* Yes, Mr. President.

NIXON

And we'll get Agnew on it. Turn him loose on the Post. I'm going to order a full court press.

*Light up on Graham.*

GRAHAM

It was now our day in court. The judge who was assigned to our case ordered the government to provide him with a list of the most dangerous secrets in the Pentagon Papers. National security experts prepared several sworn statements, but the administration refused to let the Post or our lawyers see any of them. Brian Kelly alerted the judge, who was furious. He ordered the government to let our lawyers see the documents so that we could prepare for trial.

Reluctantly, they agreed to admit Brian Kelly, accompanied by George Wilson, to a cramped conference room in the Justice Department. There they examined the affidavits at a small wooden table. It was very early Monday morning, June 21. At around 1:50 a.m., Wilson left the room for a few minutes, and Kelly tried to strike up a conversation with the sergeant who was standing guard.

*Lights Change to –*

JUSTICE DEPT ROOM

KELLY

Young man. Sergeant. It's nearly 2:00 a.m. Can't you relax? Take a seat. At least go "at ease".

SOLDIER

Thank you sir, but no sir. I'm being relieved in ten minutes, sir.

KELLY

Look, I know you're sworn to protect the sanctity of these so-called secret documents with your life, but if we try to run off with them, you can just as easily shoot us from a sitting position.

SOLDIER

Sorry, sir. Assistant Attorney General Mardian's orders, sir. He says this is a maximum-security situation, sir. Like a night watch in Nam.

KELLY

You're joking. (*He waits a moment*) No, of course you're not. Have you been over there?

SOLDIER

Twenty-seven months, sir. Re-upped for a second tour.

KELLY

Brave lad. I was in the Pacific Theater myself. In World War II. Marines. But my son --- he's part of the "make love, not war" brigade.

SOLDIER

Yes, sir.

*GEORGE WILSON enters.*

WILSON

Jesus. They even followed me into the men's room!

KELLY

Really? Did they spot the microfilm camera taped to your balls?  
(*Then*) Only kidding, Sergeant.

I hate to say it, George, but the more documents I look at, the more scared I get. My guess is that the government wins this thing if they can show the court that any document in this pile will endanger our national security. You're the military expert. How do we deal with this one?

*He throws a document across the table to WILSON.*

WILSON

What's in it?

KELLY

It's about a Canadian diplomat who's posing as a neutral member of the International Control Commission, while actually serving as our agent. I wouldn't want to be in his shoes when we blow his cover.

WILSON

I could swear that I've heard about this guy before. Maybe it's in someone's memoirs.

KELLY

Well, you've got less than six hours to find out--- and to prove that each of these other documents is either innocuous or already public.

*(He tosses a yellow note pad across the table.)*

Remember, we've got to convince Judge Martin Peel that the Founding Fathers would have allowed us to print a bunch of Top Secret --- and possibly even stolen documents.

*ROBERT MARDIAN enters.*

MARDIAN

What the hell do you guys think you're doing?

WILSON

Oh, shit. Mr. Mardian. We were just ---

MARDIAN

Not you, Wilson. Kelly, what have you got written on that yellow pad?

KELLY

Just some notes.

MARDIAN

You know damned well you can't take notes in here.

KELLY

What do you mean I can't take notes?

MARDIAN

This stuff is all Top Secret. You're not allowed ---

KELLY

Not allowed! We've got to be able to respond to each of these documents in court today. I haven't got total recall, for Christ's sakes.

MARDIAN

*(Angrily.)* Look, Kelly, you better put your pencil away right now before we break it for you.

KELLY

You want to break a pencil! I'll break a pencil.

*(He breaks the pencil.)*

Now let me tell you this. I'm going to start walking out of here with my notes in hand. I know damned well that young soldier is going to try to take them away. I promise I'll give him one hell of a fight and when I go into court today battered and bandaged, I'm going to say I got beat up on your orders.

MARDIAN

Oh, to hell with it. At ease, soldier. We'll squash them in court.

*Light Up on Graham --*

GRAHAM

Later that morning, Ben Bradlee and I went to the courthouse together. As we arrived, we were surrounded by reporters shouting questions.

*Lights Change to --*



## THE COURTHOUSE

*GRAHAM and BRADLEE surrounded by  
a group of REPORTERS.*

## REPORTER 1

Mrs. Graham, will you testify in there?

## REPORTER 2

Mrs. Graham, is it true that the Post considered not publishing the Papers?

## REPORTER 3

Mrs. Graham, are you prepared to go to jail to protect your principles?

## GRAHAM

We're prepared to do what we can to get the presses rolling again. Please excuse us; we're running late.

## BRADLEE

Okay, fellas, we'll have plenty to say after the hearing.

*They press their way through the crowd.*

## GRAHAM

God, I was terrified. Why is it my knees turn to rubber every time I see a microphone or camera?

## BRADLEE

Don't worry about it. Your reputation is secure.

## GRAHAM

I want you and Fritz to run interference with the press from now on. I'll stay in the background. Way back.

*Lights change to --*

THE COURTROOM

*The buzz of voices.*

CLERK-BAILIFF

*(In a loud voice.)*

All rise.

*(They stand.)*

The U. S. Court for the District of Columbia is now in session, the Honorable Martin Peel presiding.

*The JUDGE enters. Takes his seat. As he does, all sit.*

CLERK-BAILIFF

Civil Action number 1235-71, United States of America versus the Washington Post Company, et al.

THE COURT

The Court wishes at the beginning of these hearings to thank counsel for supplying several extremely helpful documents. These affidavits from Washington Post reporters and editors contend that government officials use the secrecy stamp for political purposes, and that secret documents are given to reporters by top officials on a regular basis. The government's affidavit identifies several documents that it says, if published, will injure the United States. That affidavit is stamped "Top Secret". It will be discussed, but only in a special *in-camera* session that session will be closed to the press and public. Mr. Kelly, are your clients present in the courtroom?

KELLY

*(Rising.)* They are, your honor. Mrs. Katharine Graham, Publisher of the Washington Post. Mr. Benjamin Bradlee, Executive Editor of the Washington Post. Mr. Frederick Beebe, Chairman of the Washington Post Company. And the Post's eminent Defense Department correspondent, George Wilson, who will be joining me at the counsel table.

THE COURT

Thank you, Mr. Kelly. Mr. Vanderhall, could you please introduce the gentlemen at your table.

VANDERHALL

Yes, your honor. The man sitting to my left is Robert Mardian, Assistant Attorney-general for Internal Security.

THE COURT

All right. Now Mr. Vanderhall, as counsel for the government you have the burden of proof. Are you ready to present your case?

VANDERHALL

Yes, your honor --

KELLY

*(on his feet)*

Your honor, I move that this case be dismissed. In its case against the New York Times last week, the government predicted grave danger to national security if another word of the Pentagon Papers got printed. Since then the Post has printed several more excerpts, and the Republic still stands.

*(There is some laughter in THE COURT room.)*

THE COURT

*(Gaveling for order.)* Frankly, I don't see anything funny about the fact that the Republic still stands.

KELLY

Nor do I, your honor.

THE COURT

Mr. Kelly, I don't understand why a free and independent press can't, as a matter of simple patriotism, sit down with the Justice Department and screen the documents --not to censor them in any way, except from a limited security point of view. I wish you would explain that, because it is troubling me.

KELLY

*(Uncomfortable.)* At first blush that might sound like the decent thing for us to do, your honor, but we can't go along with a prior restraint. My clients are convinced that it would be utterly inconsistent with the First Amendment.

THE COURT

Are you claiming an absolute privilege under the First Amendment? What about secret codes? What about troop movements?

KELLY

Your honor. I was referring to this case. I concede that in time of war, the government could stop a paper from publishing the departure date of a troop ship leaving New York harbor, if the story would inevitably lead to the destruction of the ship and crew.

THE COURT

Well, suppose in this hearing I find something that would lead to the death of a hundred young men whose only offense was that they were 19 years old and had low draft numbers. What should I do?

KELLY

We do not believe that your honor will find such a document.

THE COURT

Yes, but suppose I do. Would you say that the Constitution requires that

I let it be published? That I let those men die? Is that what you would do?

KELLY

No. I'm afraid that in that case, my concern for human life would overcome my somewhat more abstract devotion to the First Amendment. I would find it almost impossible to resist the inclination to prevent publication of the information.

THE COURT

In plain English, Mr. Kelly, I interpret that to mean you concede that there might indeed be instances where even free speech must be curbed to save lives. I'm denying your motion to dismiss. Mr. Vanderhall, you may proceed with your witness.

VANDERHALL

Yes, your honor. At this time we would like to call to the stand Mr. Dennis Doolin.

CLERK-BAILIFF

Please raise your right hand. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

DOOLIN

I do.

VANDERHALL

Very well, Mr. Doolin. As assistant Secretary of Defense for security affairs, did you have cause to examine the security classification of the Pentagon Papers study?

DOOLIN

Yes, I did.

VANDERHALL

What was that cause?

DOOLIN

Senator Fulbright, chairman of the Senate Foreign Relations Committee, asked for a copy of the entire study. After reviewing the 47 volumes, we determined it was too sensitive to be transmitted outside the executive branch.

VANDERHALL

So sensitive that it must be declared off limits even to a distinguished U. S. Senator?

DOOLIN

Yes.

VANDERHALL

What specifically was in those documents to lead you to that conclusion?

DOOLIN

Well candid messages between heads of state, eyes-only messages from ambassadors to the Secretary of State, and in some instances to the President. They dealt with operational plans. They dealt with troop movements. They revealed information about our codes, about our ability to break the codes of other countries.

VANDERHALL

Thank you. To your knowledge, what is the security classification of these materials at present?

DOOLIN

Still Top Secret sensitive

VANDERHALL

No further questions.

KELLY

Mr. Doolin, how many pages are there in the 47 volumes?

DOOLIN

Approximately 7,000 pages.

KELLY

Did you actually read each of those 7,000 pages?

DOOLIN

No, I did not.

KELLY

I thought you examined the entire study for sensitivity.

DOOLIN

Not every page. We were looking at the totality of the study.

KELLY

Isn't there considerable material in the study drawn from unclassified sources ---newspaper clippings, for example?

DOOLIN

Correct.

KELLY

Why shouldn't the Post be free to publish the unclassified material in this study, the material that has already appeared in print.

DOOLIN

I suppose you could, but what would be the purpose?

*(Turning to the JUDGE.)*

Your honor, they can find the unclassified material in any public library.

KELLY

Mr. Doolin, you mentioned earlier that the study contains operational plans. Do you recall that statement?

DOOLIN

Correct.

KELLY

And you said it concerns the movement of troops.

DOOLIN

Yes.

KELLY

Were any of these current operation plans?

DOOLIN

They were. They are.

KELLY

Are you stating that these papers contain information relating to current troop movements?

DOOLIN

I am.

KELLY

Could you be more specific?

DOOLIN

Certainly, but --

VANDERHALL

*(Angrily interrupting.)* Objection, your honor, this is precisely the kind of material that your honor ruled should be dealt with in a closed session.

THE COURT

Sustained.

KELLY

In that case, we have nothing further of the witness in the public session, your honor.

VANDERHALL

We have nothing further.

THE COURT

Very well. The court will at this time take a brief recess and exclude from further proceedings all persons except counsel, the defendants, the witness, and Mr. Wilson.

CLERK-BAILIFF

All rise.

*During recess, BRADLEE, GRAHAM  
and BEEBE confer.*

GRAHAM

*(To BRADLEE.)* Ben, why in the world did Kelly admit that the



government should ever be allowed to stop us from publishing? Whose side is he on?

BRADLEE

Damned if I know. I think he read the First Amendment for the first time coming down here on the shuttle.

GRAHAM

Frankly, I'm getting worried. The New York Times is represented by a constitutional law professor from Yale, and we've got a guy who sounds like he specializes in parking violations. (*To Beebe, who has now joined them.*) What do you think, Fritz?

BEEBE

They say he's their best litigator, but he doesn't seem to be winning Judge Peel's heart and mind.

GRAHAM

He may be a perfectly nice man, but he doesn't seem to have a clue about how this town operates.

BRADLEE

Or how newspapers function.

*Wilson joins them.*

WILSON

Hey, look. I worked with this guy all weekend. Don't count him out yet; he's no dope.

GRAHAM

Maybe I'd better go into the hallway and buck him up a little.

*Lights Crossfade to --*

COURTHOUSE HALLWAY

GRAHAM

(*To KELLY*) Hi. I'm Kay Graham. We're terribly pleased that you came down here to handle this. Fritz says that you're the best litigator in the firm.

KELLY

Thank you, Mrs. Graham. That's very gracious.

GRAHAM

Tell me, Brian, truthfully, how do you think it looks? I got very uneasy when we decided to retreat so quickly on the First Amendment. I agree, there are things the paper shouldn't publish, but don't you think the paper should make those decisions?

KELLY

Mrs. Graham, we're not going to win this on the First Amendment. We've got to strip away the veneer of secrecy --- the idea that these are dangerous documents that belong in a spy novel. We've got to prove that those volumes just contain a lot of papers that happen to be stamped "Top Secret."

GRAHAM.

That would be a pretty narrow victory, wouldn't it?

KELLY

It's our best shot. As you said earlier, we want to get the presses rolling again. You heard the judge. An absolute first amendment stance won't have a chance.

GRAHAM

What about the testimony about current troop movements? They scored some points on that, don't you think?

KELLY

I've got to admit that was a surprise. But George and I have some surprises of our own. I hope to God it's enough to keep the Post publishing, and its editors out of jail.

*Lights Crossfade back to –*

THE COURTROOM

*All return to their seats, as –*

CLERK-BAILIFF

*(Calling out)*

The Court is now in session. Judge Martin Peel presiding.

## THE COURT

Bailiff, I want those doors closed and locked.

*(Sound of doors being locked.)*

Thank you. We just found a tape recorder that someone had concealed in here. I didn't know it until after it happened, or I would have had the people arrested and locked up. I gather they got away. The Court will now make the following order: No one attending this *in-camera* hearing shall reveal anything divulged herein to anyone outside the hearing. All notes or other writings made by the defendants, or witnesses or counsel shall be surrendered at the close of the hearing.

Now, Mr. Vanderhall, you may proceed with your case.

## VANDERHALL

Your honor, at this time the government wishes to introduce in evidence the top secret affidavit by Dennis J. Doolin, who previously testified. I suggest that it be marked as United States Exhibit Number 2.

## THE COURT

It will be so identified.

## KELLY

Your honor, I would like to ask Mr. Doolin to resume the stand.

## THE COURT

You are still under the same oath, Mr. Doolin.

## DOOLIN

Yes, sir.

## KELLY

Mr. Doolin, the affidavit that you have presented to the court lists several parts of the Pentagon Papers study which you say would have dire consequences for our national safety if made public. The first item says that press leaks will endanger our peace negotiations with the North Vietnamese. You specifically refer to a peace overture by an Italian

diplomat named LaPira. Do you regard the LaPira peace feeler as a "top secret" matter?

DOOLIN

I don't recall specifically, but I would say in my judgment, yes, it would still be secret, if not top secret.

KELLY

Still secret?

DOOLIN

Yes, it would compromise our intelligence operations.

KELLY

In what respect?

DOOLIN

We have used, and are using, third countries to convey messages to Hanoi and to receive messages from Hanoi. Those channels may well dry up if material keeps getting in the press.

KELLY

But Mr. Doolin, hasn't the story of the LaPira peace feeler already been well publicized?

DOOLIN

I don't know, sir.

KELLY

If that were the fact, would it change your opinion?

DOOLIN

I would still maintain that the principle of confidentiality is in jeopardy.

KELLY

*(Whispering to WILSON.)* Which book is that, George?

WILSON

It's the one by Kraslow and Lurie. *(Finding it.)* Here it is. And here's the Cooper book.

KELLY

Thanks. *(To DOOLIN.)* Mr. Doolin, have you ever seen a book called "The Secret Search for Peace in Vietnam"? It came out in 1969.

DOOLIN

I'm not familiar with it.

KELLY

You're not? Well, let me show it to you. (*Hands book to DOOLIN.*)

Please take a look at pages 129-131. Those pages discuss, do they not, the background and substance of the LaPira peace feeler?

DOOLIN

(*After reading for a moment.*) I am not quite clear from the book what the feeler was.

KELLY

You mention it in your affidavit. Don't you know what the LaPira peace feeler was?

DOOLIN

No, I don't.

KELLY

Well, how did you reach a judgment that this might endanger the United States, if you didn't know what the LaPira peace feeler was?

DOOLIN

Well, counsel, if you will read what I said in my affidavit, I wasn't addressing the contents of the peace feeler itself. My concern is with confidential diplomacy. The people who can help us most will not deal with us if these confidential discussions are going to appear in the papers. This is for real. For example, relations between the Peoples Republic of China and the United States are going to warm up. It didn't start with the ping-pong teams, and it isn't going to end there. But we are not going to make progress if diplomats from other countries lack confidence in our ability to keep a secret.

KELLY

Mr. Doolin, please answer my question. Would the LaPira overture ---

already public --- create a danger if it showed up in the Washington Post?

DOOLIN

I stand by my original assessment.

KELLY

All right, let's turn to the next item. You identify a document that indicates that a Canadian diplomat was acting as an American agent. His name is J. Blair Seaborn. Do you contend that Mr. Seaborn's mission is still secret?

DOOLIN

To the best of my knowledge.

KELLY

Still secret. Are you aware of a book entitled "The Lost Crusade" by Chester Cooper?

DOOLIN

I've heard of it. I've never read it.

KELLY

When you prepared your affidavit, were you aware that this book describes Mr. Seaborn's mission?

DOOLIN

I answered that. I said I never read the book.

KELLY

You were not aware that on pages 325 to 327 this book tells how America "borrowed" a Canadian diplomat named Blair Seaborn to present its views to officials in Hanoi?

DOOLIN

No. I have not read the book.

KELLY

You're not aware that this book states that the Canadian Prime Minister approved of Mr. Seaborn's mission?

DOOLIN

I told you, I haven't read the book.

VANDERHALL

Your honor --

KELLY

*(Driving his point home.)* The truth is, is it not Mr. Doolin, that you could find this so-called "classified" material in any public library.

VANDERHALL

*(Persisting.)* Your honor, he's badgering the witness.

KELLY

Not true. It's the facts that are badgering him.

THE COURT

Mr. Kelly --

KELLY

Excuse me, your honor. Now, Mr. Doolin, let me direct your attention to the next item. You say that disclosure of some of these documents will damage our efforts to release the prisoners of war ...

THE COURT

May I interrupt?

KELLY

Certainly.

THE COURT

I am more interested in another statement in your affidavit. You say that if these documents are published, prisoners of war are going to be killed in the prison camps.

DOOLIN

I didn't say "killed," sir.

THE COURT

All right, I am looking at the text of your affidavit. You said that they

will "die."

DOOLIN

I said that they "may die".

THE COURT

In either event, are you saying that prisoners are likely to die if the Post publishes the fact that certain countries are helping us with our efforts to get the POW's released?

DOOLIN

I said that they "may" die. I stand by that statement.

THE COURT

Will you explain it to me?

DOOLIN

Some of these governments require guarantees of secrecy and confidentiality. If we can't guarantee that, then they won't help us. The more channels we lose, the longer those men will be kept in North Vietnam --- and the more of them will die.

KELLY

But Mr. Doolin, is it not a well-known fact that other governments have been attempting to serve as a channel of communications with Hanoi?

DOOLIN

Some yes, some no.

KELLY

How about the British?

DOOLIN

On the prisoner issue? I don't believe so.

KELLY

*(Holding up the copy of Life Magazine.)* Are you aware of the description in Prime Minister Wilson's memoirs, published by Life Magazine?



DOOLIN

No.

THE COURT

*(Exasperated.)* Gentlemen, this is simply becoming a policy discussion. Mr. Doolin, you say it would be better for the United States to conduct our affairs in private. That well may be. But counsel for the Post has books and articles that seem to show that all of the facts you are upset about are already public.

DOOLIN

Your honor, it is one thing for some of these contacts to be mentioned in a book. It is quite another matter to have the precise text of our cablegrams and memos printed in a newspaper. The impact on foreign governments is much greater.

THE COURT

But what does that have to do with this proceeding? Your real problem seems to be that your own internal security controls which aren't adequate.

VANDERHALL

*(Jumping in.)* I submit, your honor, that the only mistake the government made was that we were betrayed by a person who had proper access.

THE COURT

I don't know that. I don't know how the Post got these documents. I have affidavits from ten to fifteen Washington Post reporters who say that they constantly got top secret documents from government officials. When we met over the weekend, I directed the government to particularize the matters that were of greatest concern. Here we get to three or four of them, and up to now they all appear to be in the public domain. All right, you may proceed, Mr. Kelly.

KELLY

Mr. Doolin, The last item in your affidavit refers to a document about SEATO Operation Plan Number 5.

THE COURT

Is that what you were talking about to when you said that these documents referred to troop movements?

DOOLIN

This particular one? I don't know whether this one does or not.

THE COURT

Well, what were you referring to?

DOOLIN

To the buildup in Viet Nam.

THE COURT

*(Showing some anger.)* Now wait a minute, that was years ago. Mr. Doolin, the clear impression you gave me this morning was that the disclosures involved current troop movements.

DOOLIN

I'm sorry. I didn't mean to give you that impression.

THE COURT

You were talking about past troop movements?

DOOLIN

I was talking about past troop movements, about the strategy of the buildup and so forth.

KELLY

In any event, Mr. Doolin, you are stating now that the document does not contain any references to current troop movements.

DOOLIN

No. I'm sorry that I left that impression.

KELLY

Your honor, I admire your patience, but how long must we go on with this charade? Each hour brings us closer to another day of suppressed publication, and the government has failed to come up with a scrap of

evidence, a single document that even remotely endangers this nation's security.

VANDERHALL

*(Jumping to his feet.)* Your honor, we have just such a document but we have been reluctant up to now to bring it to The Court's attention because of its extreme sensitivity. Therefore, I move that your honor examine the document in chambers, in the absence of any of the parties.

THE COURT

The answer to that is a flat no. I've never excluded counsel for people who are being accused, and I'm not about to start now. It's foreign to my make-up. Mr. Mardian, you have something to say?

MARDIAN.

*(Rising to address THE COURT for the first time.)* Up to now, your honor, we have had our hands tied behind our back. We want to show you something, but we are most reluctant even to bring it into this courtroom. Nevertheless, we will agree to have counsel for the Post present, but all of the other representatives of the defendants must be excused from the room. This is an extraordinarily sensitive document.

THE COURT

*(To KELLY)* Is that acceptable to the Post?

BEEBE

*(Whispering.)* Just a moment, Brian.

KELLY

May we have a moment, your honor.?

THE COURT

Of course.

KELLY

Do you have a problem with that, Fritz?

BEEBE

*(Slightly indignant.)* Hell, yes! What about George Wilson?

KELLY

But Wilson's not a lawyer.

BEEBE

Look, they're about to bring in their ICBM's, and we can't afford to scuttle our fail-safe system. When they bring that new material, we'll need George's expertise more than ever.

KELLY

You're right. *(To THE COURT.)* Your honor, a more secure session is agreeable to us if Mr. Beebe is included as a lawyer, and if we can also have our national security advisor, Mr. Wilson, present to assist me.

MARDIAN

We insist that it be limited to the lawyers.

THE COURT

No, I think the Post's request is reasonable. I'm prepared to close the hearing further on that basis.

MARDIAN

*(Reluctantly.)* Very well, your honor.

THE COURT

All right. We will clear the room. Thank you Mrs. Graham, Mr. Bradlee, Mr. Doolin, you will have to be excused.

*They exit. Sound of doors opening and closing.*

All right, Mr. Mardian, Mr. Vanderhall, you may proceed.

VANDERHALL

The affidavit that we propose to introduce is from Vice-Admiral Noel

Gayler, Director of the National Security Agency. It is in the safekeeping of his top aid, Lieutenant Darryl Cox.

THE COURT

Lieutenant Cox, please come over to the witness stand.

CLERK-BAILIFF

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

COX

I do.

*He sits.*

VANDERHALL

Would you please state your full name for the record.

COX

Darryl William Cox.

VANDERHALL

Where are you presently employed?

COX

I am a Lieutenant in the Navy, attached to the National Security Agency as an aid to Vice-Admiral Noel Gayler.

THE COURT

Could I ask --- just what is the National Security Agency?

COX

It is the government agency responsible for all cryptographic work.

VANDERHALL

Simply put, you break and decipher codes, is that correct?

COX

Among other things. Yes sir.

VANDERHALL

Do you have with you an affidavit from Vice Admiral Gayler?

COX

I do.

VANDERHALL

Could you please give it to Judge Peel.

COX

*(He stands up.)* Your honor, my instructions are to give you the briefcase and these keys. The affidavit is in the briefcase.

THE COURT

Why don't you proceed with your testimony while I open these locks?

COX

The briefcase contains an affidavit from Admiral Gayler describing a specific document that we believe to be in the Post's possession. The document is an August, 1964 Defense Department cable that quotes from a radio intercept made by our agency during the Gulf of Tonkin crisis. If the text of the cable is published by the Post, the security of our code-breaking capability will be seriously threatened.

THE COURT

Young man, there's a sealed envelope inside the briefcase. I take it that I am to open this as well.

COX

Yes, sir.

THE COURT

*(Inside, there is a smaller envelope.)*

And another one inside that?

COX

Yes sir, that one as well.

THE COURT

*(The JUDGE opens the second envelope.)*

All right. Here it is.

*(The document is a single page. The JUDGE reads it quickly.)*

Give me a moment to read it.

VANDERHALL

We request that this document be marked for identification as United States Exhibit Number 3.

THE COURT

It will be so marked.

*(He hands it to the CLERK, who marks it.)*

Please give it to Mr. Kelly to read.

*KELLY reads it and hands it to BEEBE,  
who then gives it to WILSON.*

KELLY

*(To THE COURT.)* Won't you please give us a moment to review it?  
Obviously we are seeing this for the first time.

*WILSON and KELLY step aside, private.*

KELLY

Jesus Christ, George. Those bastards never warned us about this one. This is it. This is a red-hot piece of intelligence. Peel isn't about to let the Washington Post tell the Viet Cong that we've broken their codes.

WILSON

Can you stall for a little time? I could swear that I've read this somewhere before.

KELLY

For Christ's sake, don't fake it, George.

WILSON

I'm not. Just get me a few minutes so I can look this thing up.

KELLY

*(To WILSON.)*

I'll try.

*(To THE COURT.)*

Your honor, in all fairness, this is our first viewing of this document. A minimal recess is in order.

*As KELLY talks, WILSON is frantically rifling through papers and documents.*

VANDERHALL

What are you trying to do, Kelly, put Wilson up against the National Security Agency?

THE COURT

Mr. Kelly, wasn't it you who said just a moment ago that every minute is precious?

KELLY

Indeed, but...

THE COURT

Well, you've got the document here, and you've got your own expert. Go ahead and question the witness. That seems the appropriate procedure.

KELLY

Very well. Lieutenant Cox. This is a document from 1964. Is the code still in effect?

COX

To the best of my knowledge, yes sir.

KELLY



Don't governments change their codes on a regular basis?

VANDERHALL

They certainly will if your stories are published.

KELLY

So ...

WILSON

*(Excitedly interrupting in a loud whisper.)*

Brian!

*He shoves an open book at KELLY.*

KELLY

Your honor, could you excuse us for a moment?

WILSON

Here it is! I found it in the open literature.

KELLY

*(Quickly scans the page.)*

Incredible.

*(Then)*

Your honor, this may be a sensitive document. Maybe it should even be a secret document. But it's not a secret, despite the Academy Award-winning performances we have witnessed here this afternoon. The government gave this precise document to the Senate in 1968. It was cleared by the Pentagon. Congress published it in a Hearing Report later that year.

*(He hands the report up to the JUDGE.)*

This is the Report of the Senate Foreign Relations Committee. I call your attention to page 34. This so-called "secret" document has been available to the public --- and, need I add, to our enemies --- for more than three years!

*The JUDGE, feeling somewhat used,  
reads the document hastily and hands it  
to the government's lawyers.*

THE COURT

It sure looks the same to me. What do you have to say, Mr. Vanderhall?

*VANDERHALL and MARDIAN are as  
surprised as the JUDGE and KELLY.  
They look at the document and caucus  
for a moment.*

MARDIAN

Your honor, in light of the fact that this is new material, the government requests a short recess.

THE COURT

I'm going to deny your request Mr. Mardian. This was your document. This is your proceeding. You had the burden of proof. I will issue a formal written opinion, but gentlemen, I can tell you right now that I intend to deny the government's request for an injunction, and allow the Post to resume publication of these papers. This hearing is adjourned.

*Pounds his gavel!*

BEEBE

*(Rushing up to Wilson.)*

Scoop Wilson! Scoop Wilson saved the day!

*BEEBE hugs WILSON, as –  
Lights Change, and --*

*We hear the sounds of "Hip, Hip  
Hooray," the clicking of glasses and the  
buzz of VOICES, and –*

*Spotlight on GRAHAM --*

GRAHAM

*(to audience)*

Late that evening, we had a victory party at the Post.

*Lights Up on –*

VICTORY PARTY

*All gathered, glasses in hand. Calling  
out "Speech! Speech!" to Graham, as --*

GRAHAM

*(To the men)*

Yesterday I saw a bumper sticker. It said: "Free the Pentagon Papers."  
Well, today we liberated them! I'm so damned proud of all of you.

*They cheer.*

BRADLEE

Katharine, You've won your stripes on this one. To Katharine!

*(All toast "To Katherine!" Their glasses clink.)*

You must be feeling very good.

GRAHAM

I am. I feel as if I made a three-point landing on my first solo flight.

BRADLEE

More than that. You showed world-class courage.

GRAHAM

Careful, Ben. It only takes one sloppy sentiment to ruin a fellow's reputation.

*(They laugh.)*

You know, I have a feeling we haven't heard the last of this.

*They call for WILSON to make a speech.*

*"Scoop!" "Scoop Wilson!" "Speech!"*

WILSON

One thing has become clear to me. It's easy for the Washington Post and the New York Times to take on the U. S. government. We had the resources. We could pay the lawyers. But we didn't wage this battle just for the giants of journalism. We waged it for the little guys, the poor guy out there covering some zoning committee, for some paper you never heard of. There're city councils all over the country that would love to have a precedent that would give them the power to cover something up, or freeze out the local reporter. It's hard for some little guy in a one-horse town to take on the city council. So, if for no other reason, we had to do it for him. And that's what this case was all about. You had to take them on at the top, and win. You had to win.

*A moment of silence.*

GRAHAM

Good night, Gentleman.... And thank you...See you all bright and early.

BRADLEE

Goodnight Katherine.

*GRAHAM exits.*

*The others start to head out ...*

BAGDIKIAN

It looks like the party's breaking up.

*Ad lib goodnights.*

BRADLEE

Nobody's left but the three B's: Bradlee, Bagdikian and Beebe.

*The three men toast each other and laugh, as –  
KELLY enters.*

BRADLEE

Brian, I didn't know anybody else was still here. Come join us.

KELLY

Sorry, I just finished filing with the court. You're sure I'm not interrupting?

BEEBE

Not at all. Have a drink.

*KELLY'S presence changes the tone in  
the room.*

KELLY

Thanks. I could use one. I feel like I have just lost my virginity - and I don't know whether to celebrate or cry.

BRADLEE

When in doubt, celebrate.

KELLY

No, I mean it. I learned a lot. I learned some things about government that shocked the shit out of me. I thought the government was concerned about national security. I still don't understand it. What were they afraid of? My kid's out there on the streets getting his head busted for

exercising his constitutional right to protest, and it seems the servants of the people are mainly concerned about protecting the government's right to lie.

BRADLEE

That's why God created the Pulitzer Prize.

KELLY

I keep thinking how lucky we were. What if there had been some real secrets somewhere in that mass of documents.

BRADLEE

That wasn't luck. That was George Wilson.

KELLY

But what if that cable about the code hadn't been printed in the Senate record? You couldn't know that in advance. Or what if a batch of real secrets fell into the hands of some kid reporter at the Village Voice? We are fighting for a court decision that will apply to activist weeklies as well as professional dailies. What kind of precedent are we setting? Have you asked yourselves that?

BRADLEE

You do know we won this case! Because if this is how you celebrate a victory, then I'd hate what a defeat looks like.

KELLY

This decision protects your right to publish. But what about your responsibility to keep some things secret? I admire your competitive spirit, Ben, and you proved that the Post has the guts to say "yes". But when your competitive juices flow will you have the guts to say "no"? At what point do we draw the line on stolen documents? Do we sanction stealing? How

far will we go with anonymous sources? Do we ask? Do we want to know?

BRADLEE

Of course we do. But right now I just want to know what you're having to drink.

KELLY

Oh, hell, you're right, Ben, this is a victory party, not a wake. Here's to the freedom to publish, long may it wave. Now how about some scotch?

BRADLEE

You're on. I'll open the good stuff.

*They cheer, as –  
Lights Change.  
Spotlight up on Graham.*

GRAHAM

Although the Post won its case in District Court, the battle continued for another week. The Justice Department immediately filed an appeal, blocking publication of the Pentagon Papers while the case made its way to the United States Supreme Court. On June 30, 1971 in his last decision from the Supreme Court bench, Hugo Black wrote that the Times and Post "should be commended for serving the purpose that the Founding Fathers saw so clearly." In a landmark ruling, the Supreme Court allowed both newspapers to resume publication of the documents. That decision has become the most important first amendment case against government encroachment in our nation's history.

Years later, Erwin Griswold, who was Nixon's Solicitor-General, described what he called "massive over-classification" by the government. Griswold said that the real concern of the classifiers is almost always to

prevent government embarrassment, rather than to protect national security.

We also learned that almost all of the secrets identified by the government as most damaging had never been given to the Times or the Post. Despite his image as a wild-eyed zealot—Daniel Ellsberg had held back almost 3,000 pages that he deemed too sensitive to publish.

What we didn't yet know was that this series of events would help lead to the exposure of an even larger pattern of lying and deception by our government. The door was now open for the Watergate revelations by our great reporters Bob Woodward and Carl Bernstein. Revelations that ultimately would bring about the resignation of President Nixon.

And finally, we could not yet know that the publication of the Pentagon Papers – by creating a more informed public and a more skeptical press - would actually play an important role in bringing the divisive and painful war in Vietnam to an end.

**END OF PLAY**