

## **SAMPLE ANSWERS: Right vs. Right: The Pentagon Papers Case, 1971**

<i><b>New York Times Company v. United States (1971)</b></i>	<i><b>Argument of the New York Times - Freedom of the Press</b></i>	<i><b>Argument of the U.S. Government - National Security</b></i>
<p>In 1971, the New York Times and the Washington Post published illegally obtained classified documents that exposed questionable decisions made by the U.S. government during the Vietnam war. The publication of these papers initiated a legal battle and pitted the right of the free press against the country's national security interests. The leaker of the papers, Daniel Ellsberg, was a researcher for the Department of Defense, who secretly copied 7,000 pages of information detailing the actions taken by the government during its time in Vietnam. Some of the information exposed the cost of the war in lives lost, as well as the escalating concern by high-ranking government officials that a U.S. victory in Vietnam was highly unlikely, despite what was being reported to the American people. Ellsberg shared these documents with his contacts at the New York Times and the Washington Post who published their findings. To prevent further publication of additional papers, the government issued a prior restraint order, claiming national security interests as the reason. Prior restraint is used by the government when it seeks to prohibit speech or expression before it happens. Here, the government wanted to prevent the two newspapers from further publishing the classified documents because they believed continuing to do so would jeopardize its national security interests. However, as a constitutional matter, use of prior restraint conflicts with the Constitution's guarantee of freedom of the press. Consequently, the New York Times and the Washington Post sued the United States Government. Due to the nature of the case, it went immediately to the United States Supreme Court, where the justices were asked to consider whether the government's national security interests should trump the Constitution's guarantee of freedom of the press. Which "right" would remain supreme?</p>	<p>Students will argue the freedom of the press is essential and part of the first amendment, it's 1st! Free Speech and Popular Sovereignty go hand in hand. The transparency of institutions must be upheld and the government should never operate behind closed doors.</p>	<p>Students may argue that national security is promoted through decisions made by the government, elected by citizens, on our behalf to keep us safe. War powers of the congress and president are enumerated to resolve conflict without taking the time to obtain the consent of the governed. This is stated first in the Preamble of the Constitution as a reason for strengthening the national government.</p>

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**Did the government's attempt to censor the press violate the First Amendment? Why, or why not?**

Students may choose and use text evidence. They must also reason further using prior knowledge in their own voice, negating text dependency.

<b>The Supreme Court's Opinion</b>	<b><u>Interpret:</u></b> <b>Prove your understanding and improve your authorship by explaining these quotes in your own words</b>
<i>"Only a free and unrestrained press can effectively expose deception in government..."</i>	Answers will vary... the press should be free to report on government actions without restraint. This is in clear defense against arbitrary and abusive acts committed behind closed doors.
<i>"In revealing the workings of government that led to the Vietnam War, the newspapers nobly did that which the Founders hoped and trusted they would do"</i>	Answers will vary... News reports should not be ashamed or scared to print the facts they unveil. This was a key rationalization for including the freedom of the press in the 1st Amendment of the Constitution.
<i>"The word 'security' is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment"</i>	Answers will vary... security? Who is being protected? The government, the citizens at home, the troops who were no longer in conflict overseas? Did they use the term security to justify actions that would protect Americans, or simply to promote American ideals overseas?

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