

# The News 'Leak': A Washington Necessity

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WASHINGTON, Oct. 7—It is the meat and drink and even the after-dinner liqueur. It labels a cocktail party success or failure. It is the blood of Washington journalism, the drop of oil in the machinery of government. It is also the elbow in the stomach, the blade of combat.

It is the news "leak," that most cherished Washington necessity, and now—suddenly—it has become a major constitutional issue.

Vice President Agnew's lawyers have won from a Federal judge the right to conduct their own investigations, with subpoena power, into alleged Justice Department leaks against Mr. Agnew.

Of course, part of the world of news leaks is confusion.

In the Agnew case, for instance, some sectors of the news media believe that the Vice President's own attorneys and not the Justice Department were doing the leaking—as a legal tactic to allow Mr. Agnew to make the defense he is now apparently making. This is that his constitutional rights have been denied by the leaks.

Still others believe that some of the other figures involved in the Agnew investigation were doing the leaking to bring pressure on the Vice President to protect them.

In any event, the feeling among both Washington officials and journalists is that the flow of leaks is not likely to stop in a capital city so clogged with sensitive information. And indeed, for one reason or another, the leaking of information has a long and varied history.

## A Master of the Art

The great Talleyrand, for instance, was a master of the art, and when the upstart Napoleon blew his top and called his aristocratic minister "a silk stocking full of dung," Talleyrand immediately scurried off to the most talkative boudoir in Paris to spread the word on how cool he had remained before the raucous Emperor.

Perhaps then was born the most common sort of leak, the self-serving leak, for Talleyrand considered it important that everyone in French society knew that he was calm and controlled, even when his chief was not.

There are, finally, as many kinds of leaks as there are persons who have information to give and also as many reasons for leaking information.

The most important kind of leak here is the one that is used to affect Government policy, so for the most part what is called a leak in Washington is the spread of information that the President, or someone close to him, does not want made public — although in the Agnew

case there is considerable debate here over whether the Administration really wants to halt the anti-Agnew leaks.

Most often leaks involve information of legitimate public concern, and mostly reporters use the leak, unless it comes from a tested source, only as a starting point for further investigation.

A classic example of the sort of leak used to affect Government policy, and concerning information a President did not want made public, appeared in The New York Times in March, 1968, with a report that the Joint Chiefs of Staff had recommended that President Johnson send 206,000 more American troops to Vietnam.

The leak was first made to a Times reporter at a cocktail party. He, in turn, passed it on to two other Times reporters, who, using their own sources, verified the news. When it appeared in the paper the public outcry was so great that the President decided not to send more troops to Vietnam at that time, and thus the effect on Government policy was profound.

## Seldom Much Romance

Seldom is there much romance involved in a leak. One Washington reporter, to protect his source, had to stuff himself in the closet of a Watergate committee staffer to copy in longhand the summary of the testimony that John W. Dean 3d was scheduled to give in public. That leak, like many others, begot another leak, for using the information obtained the newspaper was able to persuade a high Republican to give it, in advance, the White House reply to the expected Dean testimony.

There are, of course, other categories of leaks. There is, for instance, the angry leak, often used by frustrated people within the Government who find no other method available to right what they consider to be wrongs.

Thus the leak involving Representative Mario Biaggi, the Bronx Democrat. It revealed, at the very time he was running for Mayor of New York, that he had appeared before a grand jury and had taken the Fifth Amendment.

That leak occurred after employees and officials of the Naturalization and Immigration Service became concerned over the profusion of private bills in Congress allowing people to immigrate into the United States.

The disgruntled members of the service tried to correct this through the normal channels of Government, but when they failed they leaked to The Times the information that Mr. Biaggi, whom they considered the chief offender, had appeared before the grand jury. Further investigation disclosed

that he had pleaded the Fifth Amendment.

Every Washington reporter knows about the so-called "threat" leak, which surfaces when the Pentagon is trying to get its budget past Congress. It is the annual leak by the Pentagon that the Soviet Union is on the march, generally with military hardware, and most particularly is deploying its submarines in the Mediterranean. A former official of the Pentagon said, "It usually fools Congress because they [Congressmen] like to believe that the civilians in the Pentagon are sitting on the military."

And the former Pentagon official said, there is "the one military service against the other leak. There will be a report that a particular Army missile isn't working properly. This is usually a Navy leak because the Navy wants more money for its missiles."

"If you want to find out what's wrong with aircraft carriers, talk to someone in the Air Force; he'll leak all the secret data to you," he added.

## 'Just Gets a Kick'

There are two other categories of leak. There is the social leak by persons, often Congressmen, who want to be on friendly terms with reporters, and there is the "thrill" leak.

Few reporters receive thrill leaks. But Les Whitten, who works for Jack Anderson, the columnist, said that his office received hundreds of them a month. "It comes from a guy who drops something over the transom, so to speak, and then if we use it, he calls up and says, 'that's some story—I'm the one who gave it to you.' The guy just gets a kick out of dropping a bombshell. He's not an ideologist with a point of view like so many leakers are."

Besides the regular leak, there is the trial balloon, usually at the behest of a high official, the President or the Secretary of State, for instance. The trial balloon is an official part of policy-making by a President who unofficially wants to get out information to test his policies and the reaction to them.

In a trial balloon, the President usually picks, with his advisers, the journalists who will be used to do the floating. The Nixon Administration used the trial balloon most often in planning its "peace with honor" endings for the war in Vietnam.

## To 'Test the Water'

Usually, a selected handful of reporters would be summoned into Henry A. Kissinger's office — Dr. Kissinger, at the time was head of the National Security Council — and would be told, not for attribution, the Administration's latest basis for ending the war.

After this the President and Dr. Kissinger would await the public reaction to their plans, would "test the water."

given information on proposed changes in Government policy, or are told what the President is thinking, or even how the President is feeling. Dean Rusk, when he was Secretary of State, used to have a backgrounder every Friday night over drinks. In a backgrounder the reporter is not allowed to attribute the information to the official, but must use such language as "sources close to" and the like.

## Difficult Questions

Dr. Kissinger is particularly expert at the backgrounder, most Washington reporters say. "He would use it to imply some differences between his personal view and the policy of the Government," said an old Kissinger hand.

"He never said outright, 'I disagree,' but rather hinted that he had some differences with the President over Vietnam policy. It was his way of trying to keep up his creditability with the antiwar, intellectual community," the man said.

All of this—the leaks, the trial balloons, the backgrounders—raises some difficult questions for journalists. Since leaks often start from tips or from bits of conversation picked up at parties, there is usually a good deal of investigative work between the leak and the printing of the article. By the time it appears in print the question of whether a particular journalist has been used, a question frequently raised by press critics, is largely academic. The development, by then, has a legitimate dynamic of its own.

## 'Playing Games'

More difficult for the journalist are the backgrounders and the trial balloons, for here, in the words of one former Government official, "Journalists and officials are playing games with each other, and often with public. How legitimate is it to run a story saying 'The President is in good shape' if the reporter hasn't spoken to the President, only has Henry Kissinger's word for it, and Henry will not even let you use his name in attributing it."

"What it comes down to," says one Washington reporter, is this. "I would listen to the trial balloon and attend the backgrounder, and decide for myself if they produced a worthwhile story. If not, I wouldn't be stampeded into using the information just because other papers were going to use it—I'd file it away for future reference."

"It's all right for critics to say don't attend a backgrounder unless you can tell the reader who is giving it, but you miss some damned important stories with that attitude," he said.

### A Fatal Reputation

President Johnson was a master at such balloon floating. One official who sat in on the Johnson trial balloon planning described it as follows:

"This is a typical one. The President was going to make a speech on Europe, say, suggesting a new basis for Atlantic relations. He'd tell the selected reporter the hard pitch in his prospective speech, and then sit back and wait for the backfire that was going to come to him from European capitals. If it was tough he could disown the speech or tone it down."

The netherworld between the trial balloon and the unauthorized leak is the "back-grounder." In it, a group of reporters are called in and

To have a reputation as a leaker in Washington is fatal, although it is almost axiomatic that nearly every official does leak to a favored journalist.

"It's Alice in Wonderland," said one former official. "If you get a reputation as a leaker—even though everyone knows that everyone else around you is leaking—you get cut off from everything. You're invited to no meetings, you see no cable traffic, you're not on the telephone circuit—you know immediately."

"The next day you'll get a visit from Air Force counter-intelligence," he said. "If you say no, you don't know the reporter, you're home free; if you say yes, you're on the list, even if you weren't the source for the leak. It's foolish, but that's the way it works."