

# THE D-NOTICE SYSTEM

DR PAULINE SADLER gives a brief overview of the findings from her recently completed doctoral thesis on the D-Notice system.

## Historical background

The D-Notice system is an arrangement between the government and the media whereby the media agrees not to publish certain government information that is sensitive on the grounds of being a threat to national security. The system exists only in the U.K. and Australia, and has been described as "uniquely British". It is administered by a committee consisting of representatives from the media on one side and from the government, or from government departments, on the other side. The system is voluntary and extra legal, that is, there is no legal requirement for the media to participate and the system itself provides for no legal penalties in the event of a breach. One of the main criticisms of such a system is that it may be used to prevent the publication of material that is embarrassing to the government rather than having any real national security implications.

The D-Notice system has operated in the U.K. since 1912, and in 1992 became known as the DA (Defence Advisory) system. The Australian version had its origins in the Cold War period immediately after the Second World War. The Chifley Government (1945-1949) was advised by Sir Frederick Shedden, Secretary of the Australian Defence Department, to introduce a D-Notice system in Australia. In late 1950 Prime Minister Menzies took steps to introduce a D-Notice system relating only to issues of national security. On 14 July 1952 the first meeting of the Defence, Press and Broadcasting Committee took place at Victoria Barracks in Melbourne, with the Prime Minister acting as Chairman. The Australian system was

identical to the one operating in the U.K. and was introduced after discussions between the two governments.

The D-Notice system in Australia operated in secret until July 1967 when its existence was first made public in an article in *Nation* entitled "D-Noticed out of print". In February 1973 the *National Times* revealed to the Australian public for the first time the existence of the highly secretive Defence Signals Directorate (DSD). This was contrary to D-Notice No. 3, even though the American magazine *Ramparts* had run an article on it the previous year. In 1978 *Nation Review* published in full the five existing D-Notices and named those on the D-Notice Committee.

## The Australian D-Notices

At the inaugural meeting agreement was reached on eight D-Notices. These covered "UK atomic tests in Australia, aspects of naval shipbuilding, official cipherng, the number and deployment of Centurion tanks, troop movements in the Korean War, weapons and equipment information not officially released, aspects of air defence, and certain aerial photographs". In 1974 the original D-Notices were reduced to four and these were:

- No. 1: Technical information regarding navy, army and air force weapons, weapons systems, equipment and communications systems;
- No. 2: Air operational capability and air defences;
- No. 3: The whereabouts of Mr and Mrs Vladimir Petrov; and
- No. 4: Cipherng and monitoring activities.

In 1977 a fifth notice relating to the Australian Secret Intelligence Service

(ASIS) was added, the government thereby formally acknowledging the existence of the ASIS for the first time. In 1982 the D-Notices were again revised and have remained unchanged since. They are:

- No. 1: Capabilities of the Australian Defence Force, Including Aircraft, Ships, Weapons and Other Equipment;
- No. 2: Whereabouts of Mr and Mrs Vladimir Petrov;
- No. 3: Signal Intelligence and Communications Security;
- No. 4: ASIS.

## The Defence Press and Broadcasting Committee

The Defence Press and Broadcasting Committee have not met since 1982 and the last time the system came to the attention of the Australian public was in 1995. This was when the media, in particular the *ABC* and *The Sydney Morning Herald*, revealed that, during construction, the Chinese Embassy in Canberra had allegedly been bugged by the Australian intelligence agencies with assistance from the American National Security Agency. It was following this disclosure that the Keating government held discussions with the media in an attempt to reinvigorate the D-Notice system. While the system itself is voluntary, the government at the time were threatening to introduce amendments to the *Crimes Act* that would make secondary disclosure of official secrets an offence, with penalties of up to one million dollars for a prohibited broadcast or publication. One journalist described this at the time as the "carrot and stick" approach. Shortly afterwards there was a change

in government and the present government has as yet done nothing in respect of reinvigorating the system or amending the *Crimes Act*, although the matter has been under continuing consideration by the national security committee of Cabinet.

The DA Notice system in the U.K. has a Secretary, a retired senior member of the armed forces, who is appointed to the position for a three-year term. The Secretary is supposedly a servant of the committee and not a government official. The previous Secretary, Rear Admiral Pulvertaft who retired late in 1999, described himself as an "independent broker" between the government and the media. The Defence Press and Broadcasting Advisory Committee meets twice a year, the government side represented by the Chairman, who is the Permanent Under-Secretary of State for Defence, and a member each from the Home Office,

the Ministry of Defence and the Foreign and Commonwealth Office. There are thirteen members representing the media side.

The organisation of the system in the U.K. is in marked contrast to that in Australia where, up until the last meeting in 1982, the Chairman was the Minister of Defence, the executive secretary was a bureaucrat from the Ministry of Defence in Canberra and the system operated under the administrative responsibility of the Minister for Defence. There were four defence representatives and sixteen media representatives.

In both countries there should be members of the respective Committees whose only role is to represent the public interest, that is the interests of the general public. Although the government and the media purport to represent the public interest, in reality they represent their own version of the public interest.

This has the potential to work against the release of information.

### Recommendations

If the system is ever to be reinvigorated in Australia it would require the good will and co-operation of the media. This might be achieved by government assurances that no secondary disclosure amendments would be made to the *Crimes Act*, by ensuring D-Notices are updated regularly, and by changing the Committee so it is not embedded in the executive. In addition there should be at least one public interest representative on the Committee.

*(Pauline Sadler has recently completed her Ph.D. thesis, "Balancing the Public Interest: The D-Notice System and the Suppression of Sensitive Government Information Relating to National Security". She lives in Perth, Western Australia.)*

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