

NATIONAL SECURITY AND MASS MEDIA SELF-CENSORSHIP: THE ORIGINS, DISCLOSURE, DECLINE AND REVIVAL OF THE AUSTRALIAN D NOTICE SYSTEM

The traditional attitude of the British governing class to the dissemination of information has had a lot in common with the ancient public school attitude to sex. Ideally, it does not happen. If it turns out to be unavoidable, it should be carefully controlled and regulated, like some form of disease. How it is in fact done should never be mentioned in public; and if anyone goes too far and breaks the gentleman's code of practice, he should be expelled immediately.¹

RELYING chiefly on material available in the Australian Archives, this article offers an account of the circumstances surrounding the establishment in 1952 of the Australian D Notice press and broadcasting self censorship system.² It describes its early operations, its belated public disclosure, and its decline. It concludes with a brief assessment of the system and an examination of recent renewed interest in it in the context of controversy surrounding the foreign intelligence gathering activities of the Australian Secret Intelligence

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1 Palmer, "The History of the D-Notice Committee" in Andrew & Dilks (eds), *The Missing Dimension* (Macmillan, London 1984) p227.

2 The principal Australian Archives sources relied on are AA(ACT), A461/1, Item AG 337/1/1; A816/1, Items 10/301/130, 10/301/131, 10/301/138, 10/301/140, 10/301/142, 10/301/146; A1209/23, Item 57/5486; AA1969/224/1, Item (69) 48/1439; A5799/1, Items 1952/68, 1952/285; A5954/1, Boxes 850/2, 1956/2, 1956/6; AA(Vic), MP729/8/0, Items 1/431/8, 17/431/205, 43/431/11; MP926, File 3371/101/9; MP926/1/0, Item 3712/105/1; MP926/1, Item 2021/5/874; MP1748/1/0, Item GW/S/1. See also Commission of Inquiry into the Australian Secret Intelligence Service, *Report* (1995) ch11.

Service (ASIS) and the Australian Security Intelligence Organization (ASIO).

THE WESTMINSTER PASSION FOR SECRECY

In the United Kingdom the passion for official secrecy had taken such a hold by the end of the first decade of the twentieth century that it was considered necessary to bolster the *Official Secrets Acts* of 1889 and 1911 with a "gentlemen's agreement" with the British press. As a result, the concept of the D[efence] Notice was born. Under this arrangement, the British press agreed, as a matter of voluntary self-censorship, to refrain from publishing material relating to specified sensitive defence-related subjects where, in the opinion of the defence establishment, publication of such information would be detrimental to the national interest. The British press also agreed to participate in the work of a government-run committee which was charged with the task of specifying the subjects of D Notices.³

The UK D Notice system was set up in 1912. Although its establishment followed soon after passage of the *Official Secrets Act* 1911, it had no statutory recognition or authority. It bolstered the legislation which was intended to deal both with espionage, and with all lesser forms of unauthorised disclosure, receipt and publication of official secrets. The D Notices were agreed to under the auspices of the Admiralty, War Office and Press Committee on which both sides to the press censorship understanding were represented.⁴ The subjects specified in D Notices were said to be strictly limited to matters affecting defence and national security. Press representatives on the Committee had first to be convinced

3 This account of the UK arrangements is based on A1209/23, Item 57/5486 and *Security Procedures in the Public Service*, April 1962, Cmnd 1681, ch 9. See also, *The "D" Notice System*, June 1967, Cmnd 3312; *Report of the Committee of Privy Councillors Appointed to Inquire Into "D" Notice Matters*, June 1967, Cmnd 3309. Very useful secondary accounts are to be found in Williams, *Not in the Public Interest* (Hutchinson, London 1965) pp80-87; Williams, "Official Secrecy in England" (1968) 3 *Fed L Rev* 20; Jaconelli, "The D Notice System" [1982] *Pub L* 37; Michael, *The Politics of Secrecy* (Penguin, Harmondsworth 1982) pp86-90; Palmer, "The History of the D-Notice Committee" in Andrew & Dilks (eds), *The Missing Dimension*; Hooper, *Official Secrets: The Use and Abuse of the Act* (Secker & Warburg, London 1987); Porter, *Plots and Paranoia: A History of Political Espionage in Britain, 1790-1988* (Unwin Hyman, London 1989); Fairley, "D Notices, Official Secrets and the Law" (1990) 10 *Oxford J Leg Stud* 430.

4 The Committee was later renamed the Services, Press and Broadcasting Committee.

of the necessity for the issue of a proposed notice as a matter of national security before assenting to its issue. The system depended on the closest co-operation between the highest levels of both the defence establishment and the British press. The Committee was only formally convened where agreement could not be reached as a result of personal contact or correspondence between the Committee's Secretary and Committee members, or where a proposed D Notice involved some departure from established practice.

The D Notice system played on the proprietors' and editors' sense of personal honour, their patriotism, the proprietors' involvement in the British Establishment, their deference to military authority, and their willingness to be flattered, if not manipulated, by the defence establishment.⁵ In keeping with its imperial pedigree, the Australian system in its origins and early operations was affected by similar stimuli. Interestingly, the appeal to national honour, to the absolute necessity for the press to trust the government in matters of national security, and a pointing of the finger of guilt at those who engage in unauthorised disclosure, receipt or publication of official information were still being emphasised in 1995 by its defenders when the Australian D Notice system was the subject of renewed controversy.⁶ The ASIS D Notice controversy in 1995 led to official announcements that both the D Notice system and the official secrets legislation needed overhauling to ensure greater secrecy.

THE IMPERIAL DEFENCE CONNECTION

Reflecting Australia's limited political independence in the early years of the Commonwealth and the intimate ties between Australia's defence establishment and that of the United Kingdom, the Australian Parliament loyally followed the lead given by the Parliament at Westminster by including in the *Crimes Act* 1914 provisions designed to protect official secrets from espionage and lesser forms of unauthorised disclosure. Sections 70, 78 and 79 of the 1914 Act were copied from the UK *Official Secrets Act* 1911.⁷ The UK Act applied to the Dominions,⁸ but it was provided that its application to a Dominion could be suspended by the

5 Palmer, "The History of the D-Notice Committee" in Andrew & Dilks (eds), *The Missing Dimension*.

6 See for example, the letter to the editor by IJS Kennison (a former Director-General of ASIS), *The Australian*, 7 June 1995.

7 Aust, Parl, *Debates* HR (1914) Vol 75 at 264-270, 410.

8 More precisely, in the statutory language of the day, the King's "Possessions".

King on the passing of similar legislation in a Dominion. Accordingly, the UK Act's application in Australia was expressly suspended when the Australian Act came into operation in November 1915.⁹

In 1921, the British Government suggested to the Australian Government the desirability of considering an extension of the provisions of the 1914 Act so as to incorporate the changes effected by the United Kingdom's *Official Secrets Act 1920*.¹⁰ An amending Bill was prepared in 1922 in response to the UK Government's representations, but was not introduced into the Commonwealth Parliament.¹¹

Over the next decade further draft Bills were prepared including one, embodying the provisions of the 1920 United Kingdom Act, which was introduced into the Commonwealth Parliament and reached the second reading stage in the Senate in 1935.¹² Yet another Bill was drafted in 1938, but was not introduced into the Parliament. During the Second World War such press and broadcasting censorship measures as then became necessary were given effect principally through the comprehensive system of Regulations made under the *National Security Act 1939*.¹³

The UK D Notice system was not intended to have any role in wartime and the D Notice Committee was reconstituted soon after the end of the Second World War at which time the UK Government asked the Governments of Australia, Canada, and New Zealand whether they would be willing to put in place their own D Notice systems.¹⁴ Within the

9 *Official Secrets Act 1911* (UK) s11; The Official Secrets (Commonwealth of Australia) Order in Council 1915, 30 November 1915, SR&O 1915, No 1199.

10 UK, Parl, *Debates* H of Cmmns (1920) Vol 135, col 1537. The UK arrangements were revised by the *Official Secrets Act 1939* and more extensively by the *Official Secrets Act 1989*.

11 This account relies mostly on the narrative contained in a Council of Defence Paper on Defence Security Legislation presented on 28 April 1948, MP729/8, Item 1/431/8 and a Draft Cabinet Agendum prepared in 1951 (hereafter referred to as "Draft Cabinet Agendum"), M1509/1, Item 19.

12 Aust, Parl, *Debates* S (1935) Vol 147 at 381-384, 686-705, 1106-1116, 1180-1184, 1344-1362; Aust, Parl, *Debates* S (1935) Vol 148 at 1588, 1898-1922.

13 Defence (National Security-General) Regulations; Hasluck, *The Government and the People, 1939-1941* (Australian War Memorial, Canberra 1952) pp179-186; Hasluck, *The Government and the People, 1942-1945* (Australian War Memorial, Canberra 1970) pp355, 399-414, App 7.

14 Letter, UK High Commissioner to Secretary, Prime Minister's Department, 28 January 1947, A5954/1, Box 1956/6. This was a predictable outcome of the continuing very close defence relationships between the UK and the self-

Defence Department, whose Secretary, Sir Frederick Shedden,¹⁵ was an unabashed apostle of the British defence establishment culture, there was strong enthusiasm for the D Notice proposal. That proposal, in isolation scarcely a major defence policy agenda item, was nevertheless given a boost by the Chifley Government because of the worsening Cold War situation and the complex web of events which affected the formulation of Australian defence and foreign policy in the early Cold War period.¹⁶

In late 1946, Australia and the United Kingdom entered into an agreement for the testing of missiles and a new Long Range Weapons Project (LRWP) was created.¹⁷ The strictest secrecy was essential to the success of the LRWP. In February 1947, Prime Minister JB Chifley issued an instruction that all public statements on policy regarding the LRWP were to be made by himself or the Defence Minister and that public statements on executive matters in accordance with approved policy were to be made only by the Minister for Munitions.¹⁸

governing Dominions and under which there was extensive sharing of secret defence information. In the case of Anglo-Australian relations, this intimacy was also reflected in the establishment of the Joint Intelligence Organization (JIO): see *The Defence Department and the Higher Defence Machinery: Functions and Organisation*, December 1947 ("Functions and Organisation"), tabled as part of the Ministerial Statement on Post-War Defence Policy, Aust, Parl, *Debates HR* (1948) Vol 196 at 1243; A1068/7, Item DL47/7/3; Edwards & Pemberton, *Crises and Commitments: The Politics and Diplomacy of Australia's Involvement in Southeast Asian Conflicts, 1948-1965* (Allen & Unwin, Sydney 1992); Andrew, "The Growth of the Australian Intelligence Community and the Anglo-American Connection" (1989) 4 *Intelligence and National Security* 213.

15 For details of Shedden's long and highly influential career, see Buckley, "Sir Frederick Shedden: Defence Strategist, Administrator and Public Servant" (1985) *Defence Force J* No 50 at 21; Perry, "Sir Frederick Shedden (1893-1971)" (1990) *Defence Force J* No 83 at 38.

16 Meaney, "Australia, the Great Powers and the Coming of the Cold War" (1992) 38 *Aust J Pol & Hist* 316; Waters, *The Empire Fractures: Anglo-Australian Conflict in the 1940s* (Australian Scholarly Press, Melbourne 1995); Lee, *Search for Security: The Political Economy of Australia's Postwar Foreign and Defence Policy* (Allen & Unwin, Sydney 1995); Day (ed), *Brave New World: Dr HV Evatt and Australian Foreign Policy* (University of Queensland Press, Brisbane 1996).

17 Aust, Parl, *Debates HR* (1946) Vol 189 at 527; Morton, *Fire Across the Desert: Woomera and the Anglo-Australian Joint Project, 1946-1980* (AGPS, Canberra 1989); Gowing, *Independence and Deterrence: Britain and Atomic Energy, 1945-1952*, 2 Vols (Macmillan, London 1974); Cawte, *Atomic Australia, 1944-1990* (New South Wales University Press, Kensington 1992).

18 This policy was reaffirmed by the Menzies Government on 12 May 1950: Memorandum, Cook to Secretary, Department of Supply, 11 December 1951, A1209/23, Item 57/5486.

With the onset of the Cold War, especially from early 1947, there was increasing concern in the nation's military establishment about Australia's vulnerability to sabotage, espionage and subversion, and generally about the need for strengthened security against all forms of unauthorised disclosure of official secrets. From the outset of the Cold War, the prime focus of such concerns was the Communist Party of Australia (CPA) which was seen to be an integral part of Moscow's international communist apparatus bent on world domination. The Deputy Prime Minister, Minister for External Affairs and Attorney-General, Herbert Vere Evatt, informed the Parliament that his advisers were examining ways of strengthening Australia's existing secrecy laws. In a reference to the defection of the Soviet Embassy official, Igor Gouzenko, in Canada in 1946 and Gouzenko's revelations about Soviet espionage in Canada, Evatt said that there was a need for extreme precaution to guard against what had happened in Canada.¹⁹ The Chifley Government's absolute determination to see the LRWP implemented without any disruption whatsoever was soon tested. In early 1947, when elements in the CPA in South Australia threatened to boycott the construction on the LRWP rocket testing facility in that State, Evatt secured the swift passage of the *Approved Defence Projects Protection Act 1947* (Cth). The Act was more a symbolic than a practical measure since the CPA Central Committee declined to endorse the threatened boycott.²⁰ It was, however, an early indication of the Chifley Government's concern to reassure its Westminster partner in the LRWP. It was also an indication of its corresponding commitment to implement strict measures in order to remove any obstacle to the pursuit of defence policy which included the highest level of security protection for Australia's defence secrets such as those committed to Australia by the United Kingdom.

THE COLD WAR GENESIS OF THE AUSTRALIAN D NOTICE SYSTEM

The adequacy of Australia's defence security legislation was considered by the Chifley Cabinet on 19 July 1946 in response to a submission by the Defence Committee²¹ that the existing law was "incomplete, inadequate

19 Aust, Parl, *Debates* HR (1946) Vol 188 at 3175; (1947) Vol 190 at 420, 484-503.

20 See Aust, Parl, *Debates* HR (1947) Vol 190 at 484-503, 3244-3248; Evatt, *Hands Off the Nation's Defences* (Australian Labor Party, Canberra 1947).

21 The Defence Committee was established pursuant to reg 5 of the Defence Committee Regulations. The Committee comprised the Chiefs of Staff and an officer of the Department of Defence appointed by the Minister for Defence.

and out of date".²² In 1946, a wide-ranging Defence Security Bill was drafted by an inter-service committee and was sent to the Attorney-General's Department for consideration. This Bill provided for repeal of the official secrets provisions of the *Crimes Act* 1914 and their replacement with a regime based on, and in some respects more restrictive than, that embodied in the 1920 UK Act.

Concerned about leakages of official information and unwelcome publicity about defence matters, the UK High Commissioner in Canberra wrote to the Prime Minister's Department in 1945 and again in 1947 in connection with the wish of the UK Joint Intelligence Committee to explore the possibility of extending the UK D Notice system in some form or other to Canada, Australia and New Zealand. The High Commissioner also raised the matter directly with Prime Minister Chifley in late January 1947. These overtures met some resistance. The Commonwealth Director-General of Information liked the D Notice concept, but opposed having the press represented on a committee which would determine the need for secrecy in matters affecting national security, and, instead, preferred the compulsory wartime censorship controls.²³ In February 1947, the D Notice proposal was submitted to the Defence Committee which, in turn, sought advice from the Australian Joint Intelligence Committee (JIC).²⁴

Having consulted the UK Army Liaison Staff in London, the JIC concluded that the danger of leakage of secret information to the press was real and serious. It recommended the adoption of the UK system, arguing that any attempt to apply legislative censorship to newspapers in peacetime would succeed only in alienating and antagonising the press. The JIC accepted that the UK D Notice system was feasible, that it would

The practice was to appoint the Secretary of the Department of Defence: *Functions and Organisation* pp3-4.

- 22 Draft Cabinet Agendum.
- 23 Letter, UK High Commissioner to Secretary, Prime Minister's Department, 28 January 1947; Letter, UK High Commissioner to Chifley, 28 January 1947; Letter, E G Bonney to Secretary, Prime Minister's Department, 4 February 1947; Defence Committee Agendum 20/1947, A5954/1, Box 1956/6. The UK D Notice Committee had not met between 1923 and 1946: Palmer, "The History of the D-Notice Committee" in Andrew & Dilks (eds), *The Missing Dimension* p240.
- 24 The Australian JIC was made up of the Directors of Intelligence of the three services, the Defence Department Controller of Joint Intelligence, and a representative of the Department of External Affairs: *Functions and Organisation* p7.

be necessary to convince the press representatives of the necessity for each notice before their full and willing co-operation was obtained, that departmental public relations officers had insufficient standing to be responsible for the operation of the proposed system, and that the Australian Chiefs of Staff as a body or one of them (or their delegate) should represent the services on the proposed D Notice Committee.²⁵

The Defence Committee considered the JIC recommendation on 1 April 1947 and decided to refer the matter back to the JIC for further investigation suggesting, in particular, the desirability of the Defence Department's Controller of Joint Intelligence discussing the D Notice proposal with responsible officers of the press and broadcasting interests to ascertain their reaction to the proposal.²⁶ The Defence Committee was also concerned to obtain more information and advice on the detailed composition of the proposed committee to ensure that all sections of the press would be covered by the system.²⁷ This decision riled Shedden who considered that the Defence Committee had gone "off the rails".²⁸ The Defence Minister, JJ Dedman, accepted Shedden's advice that it was wrong in principle and procedure for the JIC as part of the advisory machinery of the armed services to raise the D Notice proposal with the press. Shedden was insistent that the D Notice proposal was a matter "of considerable delicacy" and that any discussion with the press should, instead, be conducted at the highest administrative level of the civilian defence machinery. Dedman instructed Shedden to inform the Defence Committee of his misgivings about military control of the proposed system and to seek the Committee's views. More specifically, Shedden proposed that Dedman should liaise with the Australian Newspaper Proprietors' Association.²⁹

The whole question and comments by the Director-General of Information were sent back to the Defence Committee on 27 May 1947. The Defence Committee supplied further comments and Shedden sought additional

25 JIC Report No 32/1947, 20 March 1947, A5954/1, Box 1956/6.

26 The Controller of Joint Intelligence was responsible to the Secretary of the Department of Defence for all administrative matters related to the JIC which came within the province of the Secretary and to the JIC for the co-ordination, supervision and administration of the joint intelligence machinery: *Functions and Organisation* p7.

27 Minutes, 16 May 1947, A5954/1, Box 1956/6.

28 As above.

29 Dedman agreed on 17 May 1947. The Australian Archives material examined by the author does not indicate whether Dedman met with the newspaper proprietors. It seems that he did not.

information from London and was, in turn, supplied with an assessment of the UK D Notice system by the UK internal security agency, MI5.³⁰ The D Notice proposal had not, however, developed much administrative or political momentum and, by November 1947, Dedman had decided not to proceed further with the proposal at that time. This was despite the fact that the UK Government had renewed its representations in that regard in Canberra in October.³¹ The main stumbling block was the composition and location of the committee within the overall defence machinery. Irritated by the Defence Committee's preference for a military committee controlled by the Chiefs of Staff and by the way in which the Defence Committee had investigated and pushed its version of the proposal, Shedden advised Dedman that he was firmly of the view that the committee should function as part of the civilian machinery of the Defence Department with adequate safeguards, such as existed in the UK, for the policy aspects of requests made to the press for acceptance of a voluntary system of peace-time censorship. Dedman agreed that a service committee was not acceptable.³²

The Cold War worsened throughout 1947 and the level of anti-communist propaganda and agitation at home and abroad had intensified.³³ All aspects of defence secrecy, from espionage to embarrassing press leaks, came to occupy the government's constant attention. One specific focus of concern was the participation of the Council for Scientific and Industrial Research (CSIR) in secret defence research work in areas such as aerodynamics and nuclear physics, and the security arrangements affecting

30 Defence Committee Minute 203/1947, 3 June 1947; MI5 Report, "Safeguarding of Secret Information: 'D' Notice Procedure", 3 July 1947, A5954/1, Box 1956/6.

31 Letter, Williams to Chifley, 18 October 1947, as above.

32 The UK Committee was basically civilian in character: Shedden, Memo, 18 November 1947, as above. Chifley informed the UK Government that the proposal was still receiving consideration: Letter, Chifley to UK High Commissioner, 20 November 1947, as above. The slow progress which characterised the examination of the D Notice proposal may also have been attributable, in part at least, to the ALP's long-standing suspicion of the mainstream press in Australia which was noted for its strong anti-Labor bias and a resulting reluctance to enter into too formal or close a relationship with the media proprietors: Memorandum on the Admiralty, War Office, Air Ministry and Press Committee (undated) and Letter, UK High Commissioner (Canberra) to Secretary, Prime Minister's Department, 3 January 1952, A1209/23, Item 57/5486. For some discussion of the Chifley Government's dealings with the press, see Crisp, *Ben Chifley* (Longmans, Melbourne 1961) ch17.

33 Curthoys & Merritt (eds), *Australia's First Cold War, 1945-1953: Vol 1, Communism and Culture* (Allen & Unwin, Sydney 1984).

its handling of classified scientific and technical information. On 25 March 1947, the head of the CSIR, Sir David Rivett, gave a public lecture which intensified the controversy about defence security.³⁴ Rivett's thesis was popularly portrayed in terms that science and secrecy were incompatible. According to Rivett:

If national sovereignty demanded the right to prepare secretly for the destruction of other sovereignties, let those who took the responsibility for such a decision keep their projects clear of national scientific institutions in which traditional freedom of science must be maintained.³⁵

Rivett told AP Rowe, the Chifley Government's Defence Scientific Adviser, that he did not find it possible to have both a secret and a non-secret part of his mind.³⁶ There was no doubting Rivett's concern to ensure the security of defence-related information. His concern was to be rid of work which inhibited the CSIR from conducting its work entirely in the open. However, this attitude alarmed the Government's defence advisers and its allies in London and Washington. For the defence establishment (and for the anti-communist community generally) it was an article of faith that the CSIR's defence-related research had to be conducted in conditions of the utmost secrecy so as to guard against Soviet espionage and inadvertent disclosures of classified scientific information.³⁷

Official agitation about the CSIR and its supposedly lax attitude to scientific secrecy was accentuated by concern about Opposition allegations of communist penetration of the CSIR staff and the influence of the CPA-led union, the Australasian Association of Scientific

34 Aust, Parl, *Debates* HR (1947) Vol 191 at 1161; Schedvin, *Shaping Science and Industry: A History of Australia's Council for Scientific and Industrial Research, 1926-1949* (Allen & Unwin, Sydney 1987); JJ Dedman Papers, MS 987, Series 6, National Library of Australia (NLA).

35 *The Canberra Times*, 26 March 1947; Memorandum (AP Rowe), 6 February 1948; Defence Committee Minutes, 22 January 1948, 6 May 1948, 8 July 1948; Memorandum, CSIR to Dedman, 17 June 1948, A816/1, Item 9/301/160; Dedman Papers, NLA.

36 Dedman Papers, NLA.

37 The Executive Committee of the CSIR made it clear that it was not interested in handling classified military information, but that it had a clear interest in receiving scientific reports from the UK and the US with the qualification that it would prefer not to receive such reports if they were of such a high order of secrecy that they could not be seen by every interested CSIR scientific officer: A816/1, Item 9/301/160.

Workers.³⁸ The fact that CSIR staff were not employed pursuant to the provisions of the *Commonwealth Public Service Act* 1922 was regarded by the Opposition in the Federal Parliament as a grave impediment to ensuring the adequate security of its important defence-related research.³⁹ Rivett was repeatedly harassed by Opposition members of the Commonwealth Parliament. One leading Opposition member said that the Government had "deferred [to], appeased, placated, compromised, and then retreated in the face of every onslaught by the Communists".⁴⁰ Eventually, in 1949, the Government succumbed to the domestic and foreign pressure and substantially restructured the CSIR in a way which subjected the new CSIRO's employees to the strict secrecy obligations imposed on Commonwealth public servants.⁴¹

Especially after 1947, the Chifley Government was deeply embarrassed by repeated press leaks of sensitive defence-related information and, as a result, it resorted to ad hoc requests to the press for voluntary censorship. In mid-1947, Chifley wrote to the Australian Newspaper Proprietors' Association and the Australian Broadcasting Commission (ABC) asking them to co-operate in preventing publication of information regarding an agreement between the United States Air Force (USAF) and the Royal Australian Air Force for aerial photographic mapping of the south west Pacific until after the survey had been completed. The USAF was convinced that any breach of security, particularly in the press, could be most embarrassing if used by the Soviet Union in the United Nations General Assembly or in the Security Council. The Secretary of the Department of External Affairs (DEA), Dr John Burton, thought that it was impossible to prevent newspaper correspondents in Port Moresby and elsewhere from finding out what the USAF detachments were doing and that the only way of ensuring that the press did not publish accounts of the project prematurely was for the government to approach newspaper

38 Moran, "Scientists in the Political and Public Arena: A Social-Intellectual History of the Australian Association of Scientific Workers, 1939-1949" (M Phil thesis, Griffith University 1983); Buckley-Moran, "Australian Scientists and the Cold War" in Martin, Baker, Manwell & Pugh (eds), *Intellectual Suppression: Australian Case Histories, Analysis and Responses* (Angus & Robertson, North Ryde 1986).

39 See for example, Aust, Parl, *Debates* HR (1947) Vol 191 at 1290, 1301.

40 Aust, Parl, *Debates* HR (1947) Vol 190 at 68.

41 CSIR, Report on Organisation, Administration and Related Problems, 17 December 1948, AA(ACT) A462/2, Item 450/2/7. The restructuring was achieved through the combined effect of the *Supply and Development Act* 1948 (Cth), the *Commonwealth Public Service Act (No 2)* 1948 (Cth), and the *Science and Industry Research Act* 1949 (Cth).

proprietors directly and to enlist their co-operation in generally burying, for the time being, any such stories which they might receive from their correspondents. The co-operation requested by Chifley was swiftly pledged.⁴²

The very strict secrecy surrounding the development of the LRWP provided a continuing stimulus for consideration of the D Notice proposal. General JF Evetts, the British officer who was in charge of the LRWP, was very concerned about newspaper stories and publicity in general about the LRWP. Evetts regarded such publicity as a serious departure from the unequivocal instruction about LRWP publicity which Prime Minister Chifley had issued in February 1947. It was largely through pressure applied by Evetts that, following the publication of stories concerning the LRWP in the Melbourne newspapers *The Age* and *The Herald* in September 1947, Dedman wrote to the Minister for Supply and Development expressing concern about the harmful effects of such publicity on Australia's trusted position in safeguarding secret defence information. Again, underscoring the gravity of official concern about the perceived harm caused by the press coverage, Chifley wrote to the UK High Commissioner in Canberra endeavouring to reassure the UK Government of his government's determination to protect defence security.⁴³

Another source of anxiety about official secrecy was the unhappy relationship between the Department of Defence and the DEA and friction over demarcation of the boundary between defence and foreign policy. Shedden's relationship with the DEA, and Burton in particular, was strained and Shedden was sceptical about the adequacy of DEA security. In 1947 Australia had become a party to the ultra secret UKUSA Agreement on signals intelligence.⁴⁴ Shedden and Burton engaged in a very acrimonious correspondence about the strict indoctrination required for participation of senior DEA officials (and the Minister for External Affairs) in the workings of the signals intelligence arrangements.⁴⁵

42 Letter, Burton to Secretary, Prime Minister's Department, 15 July 1947; Letters, Chifley to Australian Newspaper Proprietors' Association, the ABC, and *Truth and Sportsman* Ltd, 21 July 1947, A1067/1, Item A46/2/8/8A.

43 *The Age*, 25 September 1947; *The Herald*, 25 September 1947; Letter, Dedman to Armstrong, 25 September 1947, MP1748/1/0, Item GW/S/1.

44 Ball, *A Suitable Piece of Real Estate: American Installations in Australia* (Hale & Iremonger, Sydney 1980).

45 A5954/1, Box 848/2.

Despite the slow progress made with the D Notice proposal in 1947, Shedden nevertheless ensured that it was not forgotten and that it was considered from time to time as a part of the ongoing comprehensive review of defence and security arrangements in the deteriorating Cold War environment.⁴⁶ As a result, the Council of Defence considered the D Notice issue on 28 April 1948 and referred it to the Attorney-General's Department and to a Council sub-committee comprising the Prime Minister, the Attorney-General and the Defence Minister.⁴⁷ In making this decision the Council emphasised the need for stricter legislation by reason of "great changes in the nature of war and the requirements of national defence and security as well as the experience of two major wars".⁴⁸ This very generalised and bland rationale masked a state of increasing official anxiety about Communist penetration of the Commonwealth Public Service and the ranks of the Australian defence forces, and a belief that a Soviet espionage ring was at work in Australia.

It is not surprising that, in the context of generalised concern about stiffening defence security measures, the D Notice proposal was considered at a ministerial level. In January 1948, the Director of the newly established Central Intelligence Agency (CIA) reported to US President Harry S Truman that there had been a leak in high government circles in Canberra to the Soviet Union.⁴⁹ The British Prime Minister, Clement Attlee, sent a special envoy, MI5 Director General, Sir Percy Sillitoe, to Australia in February 1948 to inform Prime Minister Chifley

46 Shedden had close ongoing contacts with influential individuals in the media including, for example, KR Murdoch of *The Herald*, and RL Curthoys, the Australian correspondent of *The Times*, to both of whom he gave confidential briefings from time to time: A5954, Boxes 60/3 and 2228. Given the strictness of the Government's security arrangements, there is a strong likelihood that some of the media speculation about Australian internal security was the result of high level bureaucratic leaks, inspired in Melbourne or London, rather than low level unauthorised disclosures.

47 The Council of Defence was established pursuant to s28 of the *Defence Act* 1903 (Cth). Under the Council of Defence Regulations, the Council comprised the Prime Minister, the Minister for Defence, other Ministers, the Leader of the Government in the Senate, the Chiefs of Staff, and the Secretary of the Department of Defence: *Functions and Organisation*.

48 Draft Cabinet Agendum; Revised Draft Cabinet Agendum on Official Secrets Bill, 1951, A1209/23, Item 57/5486.

49 Hillenkoetter, Memorandum for the President, 27 January 1948, Naval Aide Files, Box 13, Harry S Truman Library, Independence, Missouri; Edwards & Pemberton, *Crises and Commitments*; Andrew, "The Growth of the Australian Intelligence Community and the Anglo-American Connection" (1989) 4 *Intelligence and National Security* 213.

that there was evidence that secret UK Government documents made available to the Australian Government in 1945 had been leaked from the DEA to the Soviet Union probably via the CPA and the Soviet Legation in Canberra.⁵⁰ This development led to a further marked deterioration in relations between Shedden and Burton.⁵¹

By mid-1948, the Soviet Union had begun the long blockade of the western sector of Berlin and the Cold War had entered a much more threatening phase.⁵² In the aftermath of the detection of evidence of Soviet espionage in Canberra, the CPA was characterised by the Australian defence establishment as the single most dangerous factor affecting the nation's internal security.⁵³ The UK and US Governments began to exert more pressure on the Chifley Government to make extensive changes in Australia's internal security apparatus. The investigation of strengthened official secrets legislation enhanced by a D Notice system should be seen in this wider political and defence security context. The Australia-US relationship was deteriorating and the pressure applied to the Chifley Government by Washington intensified after mid-

- 50 The source of the intelligence concerning the suspected leak in the DEA was the so-called VENONA decrypts of Soviet diplomatic traffic. It seems certain that the Chifley Government was not told anything more than that the suspected leak was detected through conventional espionage activities. In 1995, the US National Security Agency began to release material relating to the VENONA decrypts: National Security Agency, *Introductory History of VENONA and Guide to the Translations* (Fort George G Meade, Maryland 1995). The VENONA documents and related commentary can be obtained on the World Wide Web at <http://www.nsa.gov.8080/docs/venona/docs.html>.
- 51 Cain, "Missiles and Mistrust: US Intelligence Responses to British and Australian Missile Research" (1988) 3 *Intelligence and National Security* 5; Cain, "An Aspect of Post-War Australian Relations with the United Kingdom and the United States: Missiles, Spies and Disharmony" (1988) 23 *Aust Hist Stud* 186; Andrew, "The Growth of the Australian Intelligence Community and the Anglo-American Connection" (1989) 4 *Intelligence and National Security* 213; Maher, "The Lapstone Experiment and the Beginnings of ASIO" (1993) *Labour History* No 64 at 103.
- 52 The scholarly literature on the early Cold War is vast. For present purposes, useful recent detailed analyses are contained in Gaddis, *The Long Peace: Inquiries Into the History of the Cold War* (Oxford University Press, New York 1987); Leffler, *A Preponderance of Power: National Security, the Truman Administration, and the Cold War* (Stanford University Press, Stanford 1992); Mastny, *The Cold War and Soviet Insecurity: The Stalin Years* (Oxford University Press, New York 1996). On the Berlin Blockade, see Shlaim, *The United States and the Berlin Blockade: A Study in Crisis* (University of California Press, Berkeley 1983).
- 53 JIC Appreciation No 4/1949; Defence Committee Minutes, 7 April 1949, A5954/1, Box 1473/1.

1948 when the US Government, having classified Australia as a security risk, resorted to the drastic expedient of suspending the flow of highly classified military information to Australia.⁵⁴ The National Military Establishment in Washington insisted that the UK not divulge US classified information to Australian officials and scientists. This stricture created a serious obstacle to the orderly development of the LRWP which was so central to UK defence policy. The Australian Government was no less dismayed. It was committed to a very substantial expenditure on the LRWP and the US embargo restricted its ability to send Australian scientists to the UK to participate in LRWP-related training and research activities.⁵⁵

In July 1948, a garbled version of the US military information embargo was published in Australian newspapers.⁵⁶ This led to bitter exchanges in the Commonwealth Parliament and more trenchant Opposition criticism. In London that month Chifley discussed the stiffening of Australian internal security arrangements with the UK Government.⁵⁷ There was mounting pressure from London for the establishment of an Australian counter espionage service modelled on, if not controlled directly by, MI5 which Shedden had been promoting since he became Secretary of the Defence Department in 1938. The MI5 Chief of Counter Soviet Intelligence, Roger Hollis, was despatched to Australia in 1948 and 1949.⁵⁸ The UK Government was determined to identify the person(s) responsible for the apparent leak, about which the CIA had reported to President Truman, and to persuade the Australian Government to

54 Disclosure of Classified Military Information to Foreign Governments - Statement by the Navy Member, 18 May 1948, and Memorandum for Holders of SANACC 206/57, 26 July 1948, National Records and Archives Administration (NARA), Washington, DC, RG 218, Records of the Joint Chiefs of Staff.

55 A5954/1, Boxes 848, 1677, 1795; NARA, RG 218, RG 263, RG 319, RG 330; Morton, *Fire Across the Desert*; Gowing, *Independence and Deterrence*.

56 *The Sydney Morning Herald*, 24 and 26 July 1948.

57 Minutes of Meeting with the Prime Minister of Australia at 10 Downing Street, 8 and 18 July 1948, DEFE 7/268; Minutes of Meeting with the Prime Minister of Australia at the Ministry of Defence, 12 July 1948, PREM 8/712, UK, Public Records Office.

58 Not surprisingly, the Sillitoe and Hollis visits to Australia in 1948 were not publicised by either the British or Australian Governments. Indeed, every effort was made to keep the fact of the visits secret, but news of the Sillitoe visit was swiftly leaked to the press: see for example, *Inside Canberra*, 4 March 1948; *The Herald*, 15 and 16 March 1948; *The Age*, 16 and 17 March 1948; *The Argus*, 17 March 1948. Sillitoe's name was mentioned, but not Hollis's: Maher, "The Lapstone Experiment and the Beginnings of ASIO" (1993) *Labour History* No 64 at 103.

implement a thorough-going overhaul of its internal security apparatus. Shedden blamed poor security in the DEA for the apparent leak to the Soviet Union. In April 1948, Shedden had, rather imperiously, pressed Burton for an explanation of DEA conduct in the handling of classified documents and this only deepened the rift between them.⁵⁹

After Chifley's London visit, the Opposition parties in the Commonwealth Parliament attacked the government for its alleged complacency regarding Australia's internal security. The centrepiece of this assault was the Opposition's claim that it had a copy of a confidential document recording Chifley's discussions in London in July 1948. Angered by that and later embarrassing press leaks, Chifley had the Commonwealth Investigation Service (CIS) conduct an inquiry.⁶⁰

In October and November 1948, the Opposition renewed its attack on the Government's internal security policy. Although the Government's public position was characterised by claims that the Opposition was deliberately exaggerating the problems in Australia-US relations and Australian internal security, the Government's private position regarding the US embargo, the impact on Australia-UK relations, and the ensuing pressure to reform the Australian internal security apparatus, was one of dismay and desperation.⁶¹

59 Letter, Shedden to Burton, 7 April 1948, A6691/1, Item AS3/1, section 6. Washington was also informed that the Commonwealth Investigation Service contained communist elements. Roger Hollis delivered at least one (still classified) report on Australian internal security to British Prime Minister Clement Attlee. According to Chifley, that report was favourable to Australia. However, the Australian Chiefs of Staff informed the US military representatives in Australia that the CIS could not be relied upon: Despatch 233, Cowen to Acheson, 29 September 1948, RG 263, NARA.

60 The source of the Opposition leak was probably within the UK defence establishment. The inquiries ordered by Chifley into media leaks in late 1948 produced a finding that at least one media leak was the work of a journalist employed by the *The Sydney Morning Herald*, John Harold William Farland. This, in turn, led to the dismissal of a public servant who had leaked other information to Farland, and to the prosecution and conviction of Farland for being a party to the commission of an offence against s70 of the *Crimes Act 1914* (Cth); *The Sydney Morning Herald*, 24 and 26 July 1948; Aust, Parl, *Debates* HR (1948) Vol 198 at 1027-1052, 1073-1084, 1087, 1088, 1093-1112; Aust, Parl, *Debates* HR (1948) Vol 199 at 2478-2530; CIS Report by Wilks and McDermott, January 1949, M1509/1, Items 32 and 33; A7359/84, Item 58/525.

61 Aust, Parl, *Debates* HR (1948) Vol 199 at 2478-2530; A1503/1, Item 29; Maher, "The Lapstone Experiment and the Beginnings of ASIO" (1993) *Labour History* No 64 at 103; Despatch 233, Cowen to Acheson, 29 September 1948, RG 263, NARA.

As instructed by the Council of Defence, the Attorney-General's Department prepared a report on implementing tougher defence security legislation. The ministerial sub-committee established by the Council of Defence considered the draft Defence Security Bill prepared by an inter-service committee and decided that the proposal should be examined by an inter-departmental committee set up to conduct a review of defence legislation generally. The Inter-Departmental Committee for the Review of Defence Legislation expressed agreement in principle that tougher official secrets legislation was desirable and produced several revised draft Bills in the next three years.⁶² The issue was destined to be shunted around the defence and security establishment for another ten years before any legislative change occurred.⁶³

On 6 October 1948, following press speculation about proposals for establishment of an Australian counter-espionage service modelled on MI5, Chifley wrote to Australian newspaper editors and managers, the ABC, and the managers of broadcasting stations seeking their co-operation in refraining from publishing any matter regarding specific internal security measures other than material which was supplied through government channels. Overall, the response of the recipients to Chifley's overtures was favourable although some proprietors were non-committal and others suggested that the government provide more specific guidance as to what, in the national interest, should not be published.⁶⁴ More embarrassing press leaks followed. In the month following Chifley's approach to the press, the Royal Air Force expressed dismay that, in London, *The Times* had carried a report that Australia would build the Hawker jet fighter. This and other incidents suggesting lax security made resolution of the dispute with the US about the supply of classified military information more difficult.⁶⁵

In September 1948, as a consequence of his London discussions, Chifley was advised generally about security measures and he requested that the D

62 Draft Cabinet Agendum.

63 *Crimes Act* 1960 (Cth) s52.

64 Letter, Chifley to Norton et al, 6 October 1948, A5954/1, Box 850/2; Chifley's letter was couched in terms which unsettled some of the recipients. Chifley had to write to them again reassuring them that he was not asking them to refrain from criticising the government in regard to security matters, but rather that specific matters which might retard security action being taken should not be published: Letter, Chifley to Norton et al, 2 November 1948, A5954/1, Box 850/2.

65 Letter, Air-Commodore Armstrong to Major General Beavis, 8 November 1948, A5954/1, Box 850/2.

Notice proposal be re-submitted for his consideration. However, on 8 December 1948 he decided not to take any further action on the proposal and, instead, to rely on the ad hoc letter he had sent to the press on 6 October 1948.⁶⁶ Despite all the government's endeavours to stiffen security, leaks continued and inquiries were undertaken by the CIS in an effort to ascertain the source of the leaks.⁶⁷

The D Notice proposal was merely one element in a much wider examination and re-working of Australia's internal security arrangements during the early Cold War years. Unable to resist the various pressures applied to it from within Australia and from Washington and London, the Chifley Government implemented a wide range of public and unannounced measures designed principally to extirpate CPA influence. In October 1948, as part of the review of internal security in which Sillitoe and Hollis and other MI5 officials were directly involved, Prime Minister Chifley issued new instructions to improve the secure handling of classified government documents. The instructions had been prepared by the JIC by adapting existing instructions of the Military Board.⁶⁸ The decision which most directly reflected the Government's response to the external pressures and which was to have the most lasting impact on Australia's internal security arrangements was the Prime Minister's brief announcement on 2 March 1949 of the establishment, by Prime Ministerial Directive, of ASIO.

By the second half of 1949, a lengthy Bill for amendment of the official secrets provisions of the *Crimes Act* had been prepared and the Solicitor-General, Kenneth Hamilton Bailey, suggested that it be introduced in the Parliament without delay.⁶⁹ With an election due to be conducted at the end of 1949 the Chifley Government had other priorities and was not about to expose itself to further criticism from an Opposition that had conducted a sustained attack on the government for its alleged complacency regarding communism and Australian internal security. Shedden was sufficiently concerned by press reports about LRWP security arrangements that he took the D Notice proposal back to the Defence Committee. With General Evetts present, the Defence Committee met on 1 December 1949 and considered extracts from Australian newspapers

66 Shedden, Memo, 17 June 1950, A5954/1, Box 1956/6; A816/2, Item 25/301/492.

67 *The Herald*, 4 and 6 November 1948; AA1969/224/1, Item (69) 48/1439.

68 Prime Minister's Department, Instructions for the Security of Official Documents and Information, 19 October 1948, MP729/8, File 17/431/205.

69 Minute, Coleman to Dedman, 16 September 1949, A5954/1, Box 2350/12.

concerning LRWP security arrangements. The Committee considered that the press reports were part of the problem of Australia's poor internal security reputation, that is to say, in London and Washington. The Committee was deeply concerned about how official publicity was conducted and questioned the wisdom of conducted press tours of LRWP facilities. It was difficult to control what was printed and unwanted publicity could not fail to cause misgivings in London and Washington "especially if it resulted in hazardous writing from the security angle, or even from speculation".⁷⁰ The Secretary of the Department of Supply and Development stated that, following the press reports about LRWP security, it had been necessary for the Australian Government to bring the facts to the notice of the appropriate authorities in London and Washington in order to minimise any harmful effects produced by the press reports. The Committee concluded that every effort should be made to obtain the co-operation of the press in the adoption of an Australian D Notice system. The Committee was satisfied that without such co-operation, the press would continue to publish harmful material.⁷¹

On 10 December 1949, the Chifley Government was defeated in a general election. No doubt sensing that the government led by Robert Gordon Menzies would be more favourably disposed to the proposal, Shedden took up the D Notice proposal with the new government. Shedden advised the Acting Defence Minister that the D Notice system was one way of closing a serious gap in existing defence security arrangements. The existing legislation made it impossible to eliminate the possibility of the press coming into possession of and publishing classified defence information. Shedden stressed the importance of the issue on Australia's overseas security standing.⁷²

By mid-1950, reports of Soviet espionage penetration of the US atomic weapons programme added a further urgent note to the calls for maximum protection of classified information. Shedden then raised the D Notice proposal with the Department of Supply. That initiative produced a prompt positive response and for the first time the proposal was formally raised at a conference with press representatives in August 1950 presided

70 Minute, 1 December 1949, A5954/1, Item 1956/6; Memorandum, Cook to Secretary, Department of Supply, 11 December 1951, A1209/23, Item 57/5486.

71 As above.

72 By way of example, Shedden noted that since the election there had been an inadvertent disclosure of classified information in the handing over of a gun by the Department of Supply to the Royal Australian Navy even though the press release accompanying the handover had been carefully prepared: Memo, Shedden to Acting Defence Minister, 17 June 1950, A5954/1, Item 1956/6.

over by the Deputy Prime Minister, AG Fadden. The press expressed its willingness to co-operate with the government. In November 1950, the Defence Minister, Phillip McBride, secured the Prime Minister's agreement to the despatch of a letter to the main newspaper and radio station proprietors and the ABC seeking a formal response to the D Notice proposal. Closely following the UK precedent, Menzies proposed that the system operate through a committee to consist of representatives of the Defence Department in the co-ordinating role, the three service departments, the Department of Supply, the principal daily newspapers, the proprietors' associations, the news services, the ABC, and commercial broadcasters. In keeping with Shedden's implacable determination, the Committee was to be accorded the highest practicable status in the civilian defence apparatus.⁷³ The response of the proprietors and the ABC was uniformly prompt and favourable.⁷⁴

The anglophile Menzies exploited the same sensibilities which underpinned the UK model. The Prime Minister's approaches to the Australian media proprietors appealed to their influential position, to their national obligation to play an important role in protecting the state in a time of increasing insecurity, and to a sense of residual imperial pride.

The efficacy of the proposal depended to a large degree on its coverage. There were, however, several hundred local and provincial newspapers and a wide range of other periodical publications together with the Australian representatives of overseas news agencies. It was thought that those to whom invitations were originally sent would, principally through the representative press and broadcasting organisations, produce sufficient coverage to ensure that the proposed system would operate satisfactorily.⁷⁵

Despite the Shedden-inspired momentum and the proprietors' enthusiasm for the D Notice proposal, little progress was achieved in the next six months. The Prime Minister's Department pressed the Defence Department repeatedly for a progress report on implementation of the

73 Letter, McBride to Menzies, 8 November 1950; Letters, Menzies to Kennedy, Packer, Norton, Moses and Macdonald, 22 November 1950, A1209/23, Item 57/5486.

74 Letter, Norton to Menzies, 28 November 1950; Letter, Australian Federation of Commercial Broadcasting Stations to Menzies, 30 November 1950; Letter, Australian Newspapers Council to Menzies, 4 December 1950; Letter, Australian Newspapers Proprietors' Association to Menzies, 5 December 1950; Letter, Boyer to Menzies, 22 December 1950, as above.

75 A1209/23, Item 57/5486.

proposal. Shedden wrote to the Department of Supply in August 1951 reporting that the proposal was under consideration.⁷⁶ In early 1952, the UK Government renewed its representations in Canberra.⁷⁷ The Supply Minister, Howard Beale, had raised the subject in Cabinet and in early 1952 reminded Menzies by sending him a memorandum on the history of the proposal.⁷⁸

The Prime Minister pressed Shedden for an urgent status report.⁷⁹ Still nothing happened. A further urgent reminder was sent to Shedden's department.⁸⁰ Yet another reminder was sent on 24 March 1952.⁸¹ Then the UK High Commissioner in Canberra pressed the Prime Minister's Department, having been informed that approval in principle had been given for the establishment of a D Notice system.⁸² At the end of March 1952, McBride sent a substantive response to Menzies advising that the implementation delay was due to the difficulty that had been experienced in recruiting a suitable officer to act as Secretary to the proposed D Notice Committee.⁸³ Shedden advised that the Chiefs of Staff had been consulted, but had not supplied any suggestions. The Defence Department had been concerned about "the delicacy with which the scheme must be operated" which had been illustrated by the response of the Australian Newspaper Proprietors Association which had stressed that D Notices should "not be used to cover political matters that have no relation to national security". McBride recommended (and Menzies agreed)⁸⁴ that the Defence Department should appoint a public relations officer, one of whose functions would be to act as committee secretary. McBride also

76 Memorandum, Cook to Secretary, 11 December 1951, as above.

77 Letter, UK High Commissioner (Canberra) to Secretary, Prime Minister's Department, 3 January 1952, as above.

78 Letter, Beale to Menzies, 24 January 1952, as above.

79 Letter, Brown to Chilton, 20 February 1952, as above.

80 Teleprinter message, 6 March 1952, as above.

81 Shedden's assistant, Sam Landau, told Shedden that he accepted responsibility for the delay, saying that he had too much urgent work: Memo, Landau to Shedden, 25 March 1952, A5954/1, Box 1956/6.

82 Letter, Cocram to Brown, 21 March 1952, A1209/23, Item 57/5486.

83 Shedden's close links with the Editors were again manifested in the arrangements he made with HAM Campbell, the editor of *The Age*, to confer with McBride about recruitment of a public relations officer as secretary of the committee: Letter, Shedden to Campbell, 23 April 1952, A5954/1, Box 1956/6.

84 Letter, Menzies to McBride, 4 April 1952, A1209/23, Item 57/5486.

instructed the JIC to prepare an initial set of draft "D" Notices.⁸⁵ The JIC consulted with UK defence authorities and supplied a report to McBride.⁸⁶

Like its predecessor, the Menzies Government was troubled by press leaks of classified defence information. It was, of course, highly agitated about Soviet espionage in Australia.⁸⁷ In May 1952, the Australian Minister for External Affairs, RG Casey, claimed in the House of Representatives that there was "a nest of [Communist] traitors" in the Commonwealth public service.⁸⁸

By mid-1952, the necessary administrative arrangements for the D Notice system had at last been completed.⁸⁹ The recipients of the invitations first despatched in 1950 were again contacted and the new Defence, Press and

85 Letter, Menzies to McBride, 28 March 1952, as above.

86 Letter, McBride to Fadden, 27 June 1952, as above. In April 1952, the Defence Committee and the JIC considered detailed specifications for the proposed system.

87 One contemporary illustration of official anxiety about press treatment of sensitive defence-related information concerned the developing uranium industry and the secrecy surrounding atomic energy and atomic weapons testing: *Atomic Energy (Control of Materials) Act 1946* (Cth); *Atomic Energy Act 1953* (Cth). The great fear, as one Commonwealth official informed the Defence Minister, was that, quite apart from espionage, the Soviet Union would gain access to information that should not be divulged: Letter, McKnight to McBride, 6 June 1952, A1209/23, Item 57/5486. For background to this subject, see Cawte, *Atomic Australia, 1944-1990*. There had already been some press reports of amounts paid for South African uranium. If the Russians were to obtain from some other source the rough price the United States paid for uranium, they could thereby acquire a reliable assessment of the production from Radium Hill. The official also recorded his concern that the Sydney newspaper proprietor, Frank Packer, had given an unco-operative public response to the official overtures for press restraint in relation to the atomic tests conducted by the UK at the Monte Bello Islands off the northern coast of Western Australia. Acting Prime Minister Fadden had written to the chief executives of newspapers and broadcasting stations on 28 May 1952 seeking their co-operation in preserving the security aspects of the tests: Letter, Fadden to Joseph et al, 28 May 1952, A1209/23, Item 5486.

88 Aust, Parl, *Debates* HR (1952) Vol 217 at 870-872; Manne, *The Petrov Affair: Politics and Espionage* (Pergamon, Sydney 1987).

89 The inaugural Secretary and Executive Officer of the Committee was AE Buchanan who held the position of Commonwealth War Book Officer in the Department of Defence. Buchanan had served in the Royal Australian Navy and in 1947 was the Defence representative in the UK Cabinet Office, in which capacity he had been involved in liaising with the UK Government on the D Notice proposal: Letter, Shedden to Burton, 25 July 1947, A816/59, Item 10/301/130; Memo, Shedden to Buchanan, 7 May 1952, A5954/1, Box 1956/2.

Broadcasting Committee, presided over by Menzies with McBride also present, met for the first time on 14 July 1952 at Victorian Barracks in Melbourne.⁹⁰ The Committee was comprised of the Secretaries of the Departments of Defence, Navy, Army, Air, Defence Production, and Supply and senior executives of the Australian Newspaper Proprietors Association, the Australian Newspapers Council, Truth and Sportsman Limited (which did not belong to an industry association), the ABC, the Australian Federation of Commercial Broadcasting Stations, Associated Newspapers Limited, and a representative of daily newspapers in Western Australia.⁹¹

Menzies welcomed the participants and stressed the necessity which existed for protecting secret defence information, particularly that supplied to Australia by the UK and other governments. The meeting then accepted a statement of basic principles, endorsed a procedure for operation of the D Notice system closely resembling the principles and procedure of the UK D Notice system, agreed not to alter the composition of the Committee, and approved (with some modifications) the drafts of the first eight D Notices. The inaugural D Notices concerned UK atomic tests in Australia, aspects of the naval shipbuilding programme in Australia, official cyphering, the number and deployment of Centurion tanks, troop movements in the Korean War, weapons and equipment information not officially released, certain detailed information relating to air defence, and certain aerial photographs.⁹² The D Notice system formally commenced operations on 18 August 1952. Further notices were soon issued in relation to the forthcoming atomic weapons tests conducted in the Woomera area.⁹³

90 Letter, Fadden to Kennedy, 2 July 1953, A1209/23, Item 57/5486. In some cases, as with his letter to Kennedy, Fadden addressed the invitations on a first name basis.

91 Telegram, Macartney to Fadden, 10 July 1952, as above; Defence Committee Agendum No 285/1952, 30 December 1952, A5799/15, Item 285/1952.

92 Minutes of the First Meeting of the Defence Press and Broadcasting Committee, 14 July 1952, as above.

93 See for example, Letter, Buchanan to McKnight, 10 November 1953; Letter, O'Connor to Brown, 20 July 1955, as above. There were some anomalies. One D Notice meant that the press refrained from publishing aerial photographs of oil refineries and oil storage installations under construction or undergoing major extensions after 18 August 1952. However, oil companies and other authorities had not been observing a similar restriction. The Defence Department advised that the companies, the Commonwealth Government and State Government departments be asked to do so: Letter, Shedden to Brown, 20 July 1956, as above. A request was sent to each Premier for the necessary co-operation. By late 1952 one of the original notices relating to recent atomic tests had been

THE D NOTICE SYSTEM IN OPERATION

As the object of the D Notice system was to prevent the publication or broadcasting of information on defence matters deemed detrimental to national security, the scheme was designed so that D Notices were to originate from the defence departments when they anticipated that defence matters which they desired should be kept secret in the interests of national security might become known to the press and broadcasting agencies. In such a situation, a draft D Notice would be sent by the originating department to the Committee Secretary together with any explanatory or other supporting material. The Committee Secretary would, if necessary, discuss any aspects requiring clarification or any proposed amendment to the draft notice with the originating department.⁹⁴

If the proposed Notice was "straightforward, that is, in accordance with the established principles and practice of the Committee", the Secretary would consult with the individual press and broadcasting members of the Committee and if that consultative process produced agreement, then the draft Notice would not be formally circulated to Committee members for discussion, but, instead, would be issued thereupon by the Secretary in the name of the Committee.⁹⁵

If, however, the press and broadcasting members of the Committee did not agree with any draft Notice as proposed and the originating department still wished the Notice to be issued, or if the draft involved some departure from established practice, then the Secretary would convene a formal meeting of the Committee. The need to convene such formal meetings seems rarely to have arisen.⁹⁶ When a draft was approved by the Committee, the D Notice would be issued by the Secretary to editors and managers, in the name of the Committee, under the following preamble:

I am directed by the Defence, Press and Broadcasting Committee to forward to you the following private and confidential notice, which is not for publication.⁹⁷

cancelled. D Notice No 10 (applied to the atomic test code-named "Totem") was cancelled in November 1953: Letter, Secretary and Executive Officer to McKnight, 10 November 1953, as above.

94 A1209/23, Item 57/5486.

95 As above.

96 As above.

97 As above.

The Committee was to meet at intervals as business for it warranted, but in any event it was agreed that the Committee should meet at least once every six months for a general review and discussion. Since the system was voluntary, there were no penalties for non-compliance. As in the UK, the role of the Committee Secretary was of paramount importance.⁹⁸

In order to be effective, the D Notices had to be adequately distributed in press offices and Notices were therefore expressed in terms that did not themselves give away classified information or indicate where such information could be obtained. Accordingly, the more general the terms of the Notice, the better. At the same time, the Notices required a reasonable degree of precision if they were to be understood and heeded. In the UK, the service department responsible for the issue of a D Notice consulted MI5 for advice on the drafting of the notice.⁹⁹ The available Australian archival records suggest that ASIO was not similarly involved. ASIO envisaged that only in the most exceptional circumstances would it need to sponsor a D Notice.¹⁰⁰

The Committee did not, however, meet regularly and overall it seems that, from the defence and security establishment perspective, the system worked well. Similarly, as far as it is possible to tell from the archival material, the media embraced the system enthusiastically. This overall positive outcome was partly due to the fact that an effort was made to provide the press with information that could be published. Thus, D Notice No 10 which related to atomic testing activities itself expressly stated that background information provided by the government was not caught by the Notice.¹⁰¹ In addition, almost as soon as the system commenced, some editors began to send material to the D Notice Committee for pre-publication vetting and the Secretary willingly obliged.¹⁰²

Not surprisingly, there was close liaison between the Australian D Notice Committee and its UK counterpart. This reflected the established formal liaison mechanisms within the Australia-UK defence and security apparatus. Soon after its establishment, the Australian system was applied beyond the sphere of strictly military information when, following the

98 As above.

99 Letter, UK High Commissioner to Secretary, Prime Minister's Department, 28 January 1947; MI5 Memorandum, 3 July 1947, A5954/1, Box 1956/6.

100 A5954/1, Box 1956/6.

101 A816/1, Item 10/301/138.

102 A816/1, Item 10/301/140.

Petrov defection in early 1954, a D Notice was issued on the subject of the whereabouts of Mr and Mrs Petrov.¹⁰³ The UK Committee issued a similar notice in order to secure compliance in the UK with the Australian notice.¹⁰⁴

For its part, the Australian Committee did not accede automatically to requests to assist the operation of the allied UK system. In 1953, MI5 sought, through the UK D Notice Committee, to have the Australian Government procure a D Notice relating generally to publication of information about British secret agents. This was prompted by stories about such agents in the UK press and their republication in Australian newspapers.¹⁰⁵ The press representatives on the Australian Committee were troubled by the proposal, but agreed to the issue of D Notice No 11 which, because of the Australian media's refusal to agree (much to the chagrin of MI5), did not apply to matters which had already been published.¹⁰⁶

Similarly, the Australian Committee did not act as a mere cipher in respect of Australian requests. In 1956, a senior official of the Prime Minister's Department raised with the Committee the possibility of issuing a D Notice covering defections and other applications for political asylum during the period of the Olympic Games in Melbourne. The D Notice Committee Secretary, Captain AE Buchanan, reminded the official that the system related to the defence of the Commonwealth and emphasised that the application would have to be justified on defence grounds. To this the Prime Minister's Department suggested that it was possible that an asylum seeker might possess information that could be of great value insofar as defence of the Commonwealth was concerned. It was said, for example, that an intelligence operative posing as an official or visitor to the Games might attempt to seek asylum. It was regarded as certain that such persons would accompany Iron Curtain country teams. Only an interrogation would decide whether a person was a defector or a refugee. It would be in

103 Vladimir Petrov died in 1991. Mrs Petrov is understood to reside in Melbourne. D Notice No 2 relating to the whereabouts of the Petrovs is one of the four subsisting D Notices.

104 A816/59, Item 10/301/130.

105 *Sunday Herald*, 4 October 1953.

106 Letter, Thompson to Sheehan, 16 October 1953; Letter, Sheehan to Shedden, 20 October 1953; Minute, Buchanan to Shedden, 20 November 1953; Letter, Hill (MI5) to Thompson, 11 January 1954; Letter, Sheehan to Shedden, 14 January 1954; D Notice No 11 "Secret Agents", A816/59, Item 10/301/138. For similar press stories about British secret agents, see *Daily Telegraph*, 30 January 1954; *The Herald*, 6 February 1954.

the national interest to delay any announcement of an asylum case until an official government release had been made. There were, it was said, other risks associated with premature public disclosure of an asylum case. The Prime Minister's Department argued that it would therefore be essential to emphasise the confidential nature of the proposed D Notice. If such a notice leaked to the media, it could be misrepresented as an official plan to incite defections among Olympic guests. Buchanan was attracted to the proposal, even though it had a strong political content, but was concerned about damage to the system which might result from disclosure of the Notice. The proposal was thought to be subsumed within broader planning for defence security aspects of the Olympic Games and of defectors and refugees being dealt with by the Defence Committee and appears not to have been pressed by the Prime Minister's Department.¹⁰⁷

Regular television transmissions commenced in Melbourne and Sydney in 1956 and in other capital cities in 1959. As result, in 1960, a representative of the then Federation of Television Stations was added to the D Notice Committee. The system was reviewed in that year following which the Notices still required and the statement of D Notice principles were reissued on 1 December 1960.¹⁰⁸

AUSTRALIA'S D NOTICE SYSTEM EXPOSED

The D Notices, which were formally classified as confidential, were issued to the participating media organisations on the basis that they were private and confidential and therefore definitely not for publication. Given the underlying strict secrecy of the system, it may be thought scarcely surprising that the existence of the Australian D Notice system was itself a closely guarded secret for more than a decade. For fifteen years the Australian system operated free of major problems. At the same time, since the efficacy of the system depended on its limited dissemination throughout the upper echelons of media organisations, it is surprising that it was kept secret for so long given the number of people who came to know about its existence and the fact that the existence of the parent UK system was well known by the early 1960s.¹⁰⁹

107 A816/59, Item 10/301/146.

108 Letter, Buchanan to Defence, Press and Broadcasting Committee members, 9 December 1960, A816/59, Item 10/301/142.

109 In the case of D Notice No 11, the surviving archival record reveals that 30 copies were sent to the ABC alone: A816/1, Item 10/310/140. The first journalist to reveal details of the D Notice system suggested that some newspaper editors did not know of the existence of the system and that a lack of specialist defence writers also explained why the system was kept secret for so

By the mid-1960s, as the Menzies era came to a close, the Australian media was becoming more probing and diversified. The controversy surrounding the Petrov affair, the absence of official material about ASIO in a climate of increasing controversy and suspicion about the activities and utility of that organisation,¹¹⁰ ASIO's practice of providing selected "off the record" media briefings, and the widespread public debate on the *Crimes Act* 1960 combined to generate more discussion. Moreover, in the absence of any espionage prosecutions arising out of the Petrov Royal Commission and scepticism about the anti-communist fixation of ASIO, the old claims about national security were simply no longer accepted unquestioningly.¹¹¹

Perhaps fittingly, there was an British dimension to the long-delayed public disclosure of the existence of the Australian system. In early 1967, the UK system was subjected to extensive media scrutiny and debate which, in turn, led to official inquiries.¹¹² Then, in mid-1967, *The Australian* newspaper announced that it was planning to publish a story about domestic diplomatic espionage, but the story was not published. It seems that the proprietor had to be reminded of the D Notice relating to secret agents.¹¹³ This *volte face* led to questions being asked in the Commonwealth Parliament and to the first official public acknowledgment of the existence of the Australian system. In October 1967, Prime Minister Harold Holt told the House of Representatives that there was a D Notice system operating in Australia along very much the same lines as the UK system.¹¹⁴ A month later he disclosed the size of the D Notice

long: Farmer, "D-noticed out of print", *Nation*, 15 July 1967; *Security Procedures in the Public Service*, April 1962, Cmnd 1681, ch9.

110 The secrecy surrounding ASIO was such that successive Menzies and later conservative governments usually declined to provide any information to the public other than to defend ASIO against ALP attack in the Commonwealth Parliament.

111 Questions affecting the ability of the mass media to publicise matters relating to defence, national security, and the conduct of Australian diplomacy came before the High Court of Australia in *Commonwealth v John Fairfax & Sons Ltd* (1980) 147 CLR 39; see also Toohey & Wilkinson, *The Book of Leaks* (Angus & Robertson, North Ryde 1987).

112 See fn3.

113 *The Australian*, 30 June 1967; Farmer, "D-noticed out of print", *Nation*, 15 July 1967. According to Farmer it was Rupert Murdoch, Managing Director of *The Australian*, who explained that a D Notice had prevented the newspaper from publishing the promised item; Whitmore, "Censorship of the Mass Media: The D Notice System" (1968) 41 *ALJ* 449; Spigelman, *Secrecy: Political Censorship in Australia* (Angus & Robertson, Sydney 1972) pp23-24.

114 Aust, Parl, *Debates* HR (1967) Vol 57 at 1643.

Committee, but refused, however, to disclose the identity of the members of the Committee or to reveal the precise number or subject of the Notices, saying only that such disclosure was not in the national interest.¹¹⁵

The Australian D Notice system proved to be effective even after its existence had been made public. It is a measure of the success of the system that, by way of striking contrast with the UK, successive Australian governments have not felt sufficiently outraged by leaks of classified information to be moved to prosecute. In the UK there have been many *Official Secrets Act* prosecutions.¹¹⁶ This is probably accounted for by the much larger number of both unauthorised media disclosures and the sensitivity caused by espionage cases in the UK during the Cold War years.¹¹⁷ Of course, a prosecution requires an identifiable or identified accused, and in most cases of unauthorised disclosures of classified information to the media the source of the leak cannot be definitively traced. It is in the nature of the process. In addition, some leaks are quite deliberately engineered by officialdom. It seems that in the case of the Australian media's disinclination to publicise allegedly sensitive defence information, compliance with the D Notice system was regarded as a form of insurance against prosecution. The premium paid for that cover was self-censorship.

Perhaps the most dramatic illustration of the grip of official secrecy generally in the Cold War, and the success of the D Notice system in particular, is to found in the total secrecy which surrounded the establishment (in 1952) and operation of ASIS whose chief function is covert intelligence collection beyond Australia's shores. It was not until 1977 that the Commonwealth publicly acknowledged the existence of ASIS.¹¹⁸

By 1974, there were only four D Notices. In 1977, a D Notice was issued in respect of the operations and personnel of ASIS. The Government had

115 Aust, Parl, *Debates* HR (1967) Vol 59 at 2865. In 1968, an Opposition member of the House of Representatives disclosed details of the Notices and media representation on the D Notice Committee: Aust, Parl, *Debates* HR (1968) Vol 59 at 1412-1416.

116 Hooper, *Official Secrets: The Use and Abuse of the Act* App 1.

117 Unlike the UK, Australia did not witness any Cold War espionage trials even though the RCE Report in 1955 came out of a process in which the CPA was branded as an agency of Soviet espionage and CPA members and sympathisers were, in effect, put on trial for disloyalty.

118 See Ministerial Statement on the Royal Commission on Intelligence and Security: Aust, Parl, *Debates* HR (1977) Vol 107 at 2339.

informed the Parliament that it would adhere strictly to the practice of refusing to provide details of ASIS activities and would not enter into any discussion on ASIS.¹¹⁹ In 1982, the D Notice Committee reviewed the system and reduced the Notices to four: No 1, the capabilities of the Australian Defence Force, including aircraft, ships, weapons and other equipment; No 2, the whereabouts of Mr and Mrs Petrov; No 3, signals intelligence and communications security; and No 4, ASIS operations and personnel. Thereafter, the system fell into disuse.¹²⁰

DECLINE AND REVIVAL

The D Australian Notice system was regarded by the defence and security establishment as an essential element in (a) the protection of national security, (b) the safety of individuals, and (c) the conduct of Australia's international relations. These three concerns have invariably, and unhelpfully, been linked in justifications of official secrecy.¹²¹

The existence of the D Notice system reinforced a very broad and ill-defined notion of national security and a thoroughgoing commitment to secrecy.¹²² In broad terms, it rested on the proposition that the citizenry can never expect (nor should it be entitled) to be in a position to challenge government decisions about the protection of national security when the government invokes such a claim.¹²³

With the passing of the Cold War by 1990, the number of D Notices and the importance attached to constant monitoring of the system had declined to the point where some editors were unaware of the existence of the

119 As above.

120 Commission of Inquiry into the Australian Secret Intelligence Service, *Report* (1995) paras 11.5-11.6.

121 Statement by Minister for Foreign Affairs, Government Response to Commission of Inquiry into the Australian Secret Intelligence Service: Aust, Parl, *Debates S* (1995) Vol 169 at 716.

122 For a recent discussion see Hanks, "National Security - A Political Concept" (1988) 14 *Monash UL Rev* 114; Lee, Hanks, & Morabito, *In the Name of National Security: The Legal Dimensions* (LBC Information Services, North Ryde 1995).

123 See for example, *Church of Scientology Inc v Woodward* (1982) 154 CLR 25. For a discussion of issues affecting the legal regulation of the national security community, see *R v Home Secretary; ex parte Hosenball* [1977] 1 WLR 766; *Council of Civil Service Unions v Minister for the Civil Service* [1985] 1 AC 374; *R v Home Secretary; ex parte Cheblak* [1991] 1 WLR 890; *R v Home Secretary; ex parte Chahal* [1995] 1 WLR 526.

system.¹²⁴ The fact that the existence of ASIS was kept secret for so long, the continuing shroud of secrecy affecting its history and operations, the changing nature of the relationship of the media to government, and a healthy scepticism about the utility and morality of ASIS operations attributable in part to the fiasco of the bungled ASIS training operation involving the terrorising of civilians at the Sheraton Hotel in Melbourne on 30 November 1983, combined to make it inevitable that ASIS would be a source of incorrigible media curiosity.¹²⁵

Even so, the continuing existence of the D Notice system accounted for the lack of media attention to ASIS and to the world of signals intelligence and the role played by the Defence Signals Directorate (DSD), that most secret of all the Australian intelligence agencies. The D Notice system has never reached to (non-UK) foreign publications or to books, and thus much of what is known in Australia about signals intelligence and covert foreign intelligence collection has been revealed in those other sources.¹²⁶

For the most part, even after the Sheraton Hotel fiasco, the press and the electronic media were disinclined to subject ASIS to scrutiny. However, in late 1993 *The Age* in Melbourne published a report about possible legal action against ASIS by former agents. Then, in February 1994, the ABC screened a programme in which allegations were made concerning treatment by ASIS of certain disaffected members of the service. These media disclosures led to severe discomfort on the part of the Government and its security advisers.

A secret inquiry was conducted in 1992 concerning the continued existence of ASIS and its operational priorities and the Government decided to retain ASIS. In March 1994, following disquiet about the disclosures in *The Age* and by the ABC, the Government decided, after initial hesitation, to establish a Commission of Inquiry to look into limited aspects of the management and accountability of ASIS. This led, in turn,

124 Commission of Inquiry into the Australian Secret Intelligence Service, *Report* (1995).

125 Royal Commission on Australia's Security and Intelligence Agencies, *Report on the Sheraton Hotel Incident* (1984); Aust, Parl, *Papers* (1984) No 1; *A v Hayden* (1984) 156 CLR 532.

126 Ball, *A Suitable Piece of Real Estate: American Installations in Australia* (Hale & Iremonger, Sydney 1980); Toohey & Pinwill, *Oyster: The Story of the Australian Secret Intelligence Service* (William Heinemann Australia, Port Melbourne 1989); Richelson & Ball, *The Ties That Bind: Intelligence Cooperation Between the UKUSA Countries* (Unwin Hyman, Boston, 2nd ed 1990).

to an examination of the D Notice system by the Commission of Inquiry.¹²⁷

In December 1993, the Defence Department had initiated a review of the D Notice system partly in response to a review of the British system completed in 1993. At the end of March 1995, the ASIS Commission of Inquiry, in that part of its Report so far made public, recommended a revision of the D Notice System.¹²⁸

The Australian D Notice system was thrust back on to the front pages in May 1995 following widespread coverage of a story that ASIS and ASIO had carried out a comprehensive electronic surveillance operation at the Chinese Embassy in Canberra. Both the ABC and *The Sydney Morning Herald* had earlier decided to publish items about the Chinese Embassy operation. For five weeks the newspaper was restrained by an order of the Supreme Court of New South Wales from publishing its story and the existence of the injunction was itself the subject of an injunction prohibiting publication. The Commonwealth Government had sought injunctive relief against the newspaper as part of a vigorous commitment to maintain the shroud of secrecy that has been applied to ASIS since its creation.¹²⁹

The leaking of the Chinese Embassy bugging operation demonstrated the inherent limitations of the voluntary D Notice system. From its inception, the system has been dependent on media co-operation. Much had changed since the Australian media enthusiastically pledged its co-operation in the fraught Cold War environment of 1952.

Where a threatened leak of classified information is detected by the Commonwealth and it becomes clear that such co-operation is absent, the Commonwealth has two possible responses. It can hope that the leaked story will not attract media or other public attention, or it can try to prevent it emerging or spreading by securing injunctive relief. This was not the first time that *The Sydney Morning Herald* had come into conflict with the Commonwealth Government over defence security.¹³⁰

127 Aust, Parl, *Debates S* (1995) Vol 170 at 1676.

128 Commission of Inquiry into the Australian Secret Intelligence Service, *Report* (1995).

129 *The Weekend Australian*, 27-28 May 1995; Editorial, *The Sydney Morning Herald*, 30 May 1995.

130 *Commonwealth v John Fairfax & Sons Ltd* (1980) 147 CLR 39.

In the case of *The Sydney Morning Herald* episode in 1995, it appears that the newspaper was not prepared (on this occasion at least) to embrace the self-censorship of the D Notice system and the Commonwealth considered that it had no choice but to go to court because of its inflexible policy not to tolerate unauthorised (that is to say, any) revelations about ASIS espionage.¹³¹ It is easy enough to be wise after the event, but there is a basis for supposing that, by its very nature, this story of alleged *domestic ASIS activity* was such that once a leak to the media had occurred, keeping it out of the public domain was a forlorn hope.

The D Notice affecting ASIS and the D Notice system are, by definition, designed to preclude informed public debate on such questions. The outraged tone of some of the official statements in response to revelation of the Chinese Embassy operation suggests that the Australian Government and its defence and security advisers regarded the posing of such questions as bordering on the seditious.

From its inception in the UK, the D Notice system had (if mostly in theory) raised the question: To what extent, if at all, should media proprietors and editors *actively participate* in such a servile way in peacetime censorship? In the United States a D Notice system would be unthinkable.¹³² This is not because there is less bureaucratic fascination with shrouding the national security establishment in secrecy. It has more to do with the residual influence of the revolutionary basis of US Government and two centuries of distrust of cosy relationships between newspapers (and more recently the electronic media) and the State.

The history of Australia's D Notice system is a reminder that the citizenry should be acutely suspicious of government claims that public discussion of a matter should be stifled simply because their government claims that "national security" is implicated. By way of illustration, the D Notice affecting ASIS has had the effect of preventing any informed public assessment of the contribution of that organisation to the wellbeing of the Commonwealth. With the passing of the Cold War there is extra reason

131 *The Sydney Morning Herald*, 29 May 1995; Lague, "Our Spy Service: For Uncritical Eyes Only" *The Sydney Morning Herald*, 3 June 1995; Toohey, "Intelligence Agencies Fail the Test of the Future - and the Past" *Australian Financial Review*, 30 May 1995; Bowman, "For Whose Eyes Only?" *ABC Radio 24 Hours*, August 1995, p60.

132 In 1948 the US Government had considered a short-lived proposal for a voluntary censorship scheme to check the publication of information that might be valuable to a potential enemy: *The Herald*, 8 March 1948; Letter, Farncomb to Shedden, 8 June 1950, A816/59, Item 10/301/130.

for the public to be satisfied that its taxes are being wisely laid out in the systematic breaking of domestic and foreign law. The spectacular failures of kindred organisations such as the CIA to predict the fall of the Soviet Union and the fact that, for example, the CIA has been subjected to very extensive public scrutiny provides a clear basis for questioning the willingness of the media to muzzle itself when it comes to ASIS.¹³³ Our elected representatives might be more inclined to question the advice of the anonymous officials of the national security establishment if there was some informed public debate.

EPILOGUE

At the time this note was being prepared a review of the D Notice system was being undertaken by the Commonwealth Government. In the wake of the Chinese Embassy bugging controversy, the Australian media reacted with predictable indignation to the announcement of the then Foreign Minister, Senator Gareth Evans, that the Australian Government was proposing to stiffen the *Crimes Act* 1914 to the extent of imposing sentences of imprisonment on individuals convicted of unauthorised release of national security information.¹³⁴ In the 40 years since the Australian D Notice system was established, the role of the press and its attitude to public discussion of national security have changed markedly. What Palmer identified in the UK context as "the oil of social deference that had greased the smooth running of the D Notice system" and "the patriotic snobbery", and which had long characterised the working of the Australian system, have been replaced by a pragmatism and scepticism.¹³⁵ The passing of the Cold War has also removed the main pressure to conform unquestioningly to official requests to censor public discussion of aspects of defence, foreign policy and national security issues. However, as the angry official response to the disclosures about ASIS operations in 1995 indicates, there has been little, if any, relaxation in the underlying official passion for secrecy.

133 Turner, *Secrecy and Democracy: The CIA in Transition* (Houghton Mifflin Co, Boston 1985); Jeffreys-Jones, *The CIA and American Democracy* (Yale University Press, New Haven 1989); Turner, "For Smarter Intelligence: Separate Spies from Analysts" *The Washington Post*, 24 July 1994; Moynihan, "Our Stupid but Permanent CIA" *The Washington Post*, 24 July 1994; Colby, "The CIA: Everybody's Favorite Scapegoat" *The Washington Post*, 5 August 1994.

134 See for example, *The Sydney Morning Herald*, 13 December 1995. On the Howard Government's commitment to strengthen the D Notice system, see *The Sydney Morning Herald*, 24 June 1996.

135 Palmer, "The History of the D-Notice Committee" in Andrew & Dilks (eds), *The Missing Dimension* (Macmillan, London 1984) p242-243.