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Muzzling sheep: Wikileaks bringing a new D-notice era for Australia?

Posted on [December 21, 2010](#) by [William John Grant](#)

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Legendary British Labour foreign secretary Ernest Bevin probably didn't say "why bother to muzzle sheep?" during a House of Commons debate in the 1940s on media censorship – there is no official record of him doing so – but the phrase still resonates with those concerned about the tensions between government and media.

Suddenly, the idea of media submission to the information controls set by government has new currency. [D-notices](#), short for Defence Notices, are an antiquated system in which the government stakes out territory it claims as belonging exclusively to the realm of national security, and asks the media not to go there. They are voluntary agreements and are not enforceable in law. Britain has had D-notices since 1912 and still has them today (though now they are called DA-notices – the "A" stands for advisory). Australia had D-notices too, from 1952. In fact, technically we still do. Though the D-notice committee has not met since 1982, that may be about to change.

Are we on the brink of a new D-notice era in this country, as the Wikileaks juggernaut rolls on, spooking governments around the world? The system of voluntary media regulation [now being proposed by Attorney-General Robert McClelland](#) does not carry the old Cold War moniker but the name is bound to stick.

The latest attempt to revive a form of D-notices predates the current storm over Wikileaks. Just over a year ago, Australian Attorney-General Robert McClelland first raised the issue of a formalised arrangement to deal with national security information in the media sphere. The catalyst was the joint counter-terrorism Operation Neath in Melbourne in August 2009. Subsequent revelations of secret agreements between media and police to influence the timing of the ensuing media stories pointed to the possibility of a more systematic approach.

Yet it is the Australian Government's response to Wikileaks that has really brought the prospect of a renewed D-notice system to the fore. On 26 November this year McClelland [wrote to leading members of the mainstream media](#) in Australia seeking their comments on new "mutually agreed arrangements relating to the publication of sensitive national security and law enforcement information." Also on 26 November, Wikileaks announced that the UK DA-notice committee had issued a message to British media designed to deter publication of Wikileaks material. The [message subsequently reproduced extensively online from the head of the UK committee said](#), in part: "...may I ask you to seek my advice before publishing or broadcasting any information drawn from these latest Wikileaks' disclosures which might be covered by the five standing DA Notices."

On 8 December 2010 [Bernard Keane contemplated](#) the prospect of McClelland's proposal as the Wikileaks revelations continued spilling out indiscriminately, and politicians and commentators called for Julian Assange's head. Keane said that the voluntary arrangements the Attorney-General was seeking "might see mainstream media outlets – the only ones invited to participate in the development of the arrangements – self-censor national security related material."

The conclusion is inescapable: this amounts to D-notices for the twenty-first century, with the parameters expanded to include law enforcement along with national security. The Australian media have until 18 February 2011 to respond to the proposal. It is hard to imagine they will be in favour, if only because of the negative connotations of the D-notice system. And, since the notices would only apply to the mainstream media, it is hard to see how they could possibly be effective in this era of online media.

However, academic [Scott Burchill ran a comment piece on ABC Online](#) on 14 December asserting that the sheep are ready for muzzling. "Some journalists," he said



“don't need to be socialised because they are pre-programmed for obeisance. For those whose natural instinct is collaboration with the state, 'don't tell me, I don't want to know and shouldn't be told' is the media ethic of the moment. It's a form of self-censorship based on the belief that the public cannot be trusted with diplomatic confidences. The challenge, as they see it, is not how to ensure that the public stays better informed but rather how governments around the world can improve their capacity to withhold information...Instead of raising the veil of 'official' secrecy they are helping governments impose a burka of silence.”

The history of the D-notice system in Australia shows a remarkable willingness by the media to don the burka of silence. D-notices are a fascinating exercise in managing the nexus between government and media priorities. The UK introduced them in peacetime – although a war was looming – essentially as an adjunct to the Official Secrets Act that had passed into law in 1911, placing sanctions on the leaking of sensitive information and providing heavy penalties for espionage. While the D-notice system bolstered the official secrets legislation, it did not itself have a legislative basis. The only other country to adopt a similar system of voluntary media censorship, Australia, did so after lobbying from the UK that began in 1921 and gathered pace after the Second World War as international tensions and the nuclear arms race escalated. Successive Australian Prime Ministers resisted the UK's entreaties until finally Robert Menzies agreed in 1950. No surprises there – Menzies was a noted Anglophile leading the country at a time when much secret business was afoot. Most of it concerned British weapons, both the atomic bomb tests and also the rockets being tested at Woomera. The British wanted the D-notice system to be in place before the first atomic bomb test on Australian territory, and it was. The nuclear tests were among eight items that became subject to media information controls in 1952. No-one outside the secret committee that discussed and agreed on the Australian D-notices knew of their existence for 15 years, from 1952 when the committee first met to 1967 when journalist Richard Farmer broke the story in *Nation* about the very existence of D-notices [Pauline Sadler, *National Security and the D-Notice System*, Dartmouth Publishing Company, Aldershot, 2001, p. 69]. In 1982 the committee met for the last time, refining the wording of four remaining D-notices. Those notices have never been rescinded.

The possible architect of Australia's new D-notice system, Robert McClelland, shares his surname (though apparently not his genetics) with a senior political figure from an earlier generation, 'Diamond Jim' McClelland. The irony is rich: Diamond Jim headed the [Royal Commission into British nuclear tests in Australia](#) that reported in 1985. Media coverage of the test series was greatly influenced by the strictures placed on reporting by the voluntary censorship system. Diamond Jim was scathing of the information restrictions enforced in the name of “national security” throughout the British nuclear tests. His Royal Commission report is a masterpiece of controlled anger, not least for the fact that the Australian public was not able to know about much about the tests. As the McClelland report stated “There was no opportunity for the Australian public to have an understanding of the nature of the [first British atomic] test and so make any critical analysis of the conduct of it. This was to be a recurrent theme throughout the entire weapons testing program.” [The Report of the Royal Commission into British Nuclear Tests in Australia, Vol. 2, AGPS, Canberra, 1985, p. 462].

The D-notice that had been established just a few months before the first test had worked brilliantly.

The prime attraction of the D-notice system, initially to the UK authorities and later to the Australian government, was their capacity to ensure “prior restraint” [Douglas Fairley, “D Notices, Official Secrets and the Law”, *Oxford Journal of Legal Studies*, Vol. 10, No. 3, Autumn 1990, p. 431] – in other words, media self-censorship. Getting media practitioners to provide their own restraint was preferable to the more hazardous option of pursuing media outlets after the event of publication of national security information. D-notices tended to flatter media organisations by treating them as equals with as much a stake in patriotism and national honour as government and also provided an orderly mechanism whereby media could publish agreed information on national security matters without risk of litigation or generally being harried by the government. [Laurence W Maher, “National Security and Mass Media Self-Censorship: The Origins, Disclosure, Decline and Revival of the Australian D-notice System”, *Australian Journal of Legal History* 3, 1997, p. 173.]

Robert Menzies took a keen interest in the development of the D-notice system and personally wrote to the leading media organisations of his day, including the Australian Newspaper Proprietors' Association, the Australian Newspapers Council, the Australian Broadcasting Commission and the Australian Commercial Broadcasting Stations. [Robert Menzies, “Security of defence information”, letter to E Kennedy, President of the Australian Newspaper Proprietors' Association, 22 November 1950, National Archives of Australia Series No. A5954, Item 1956/6.] Without exception, they all agreed to the introduction of D-notices. These organisations' most senior representatives, along with the permanent heads of the departments of Defence, Navy, Army, Air, Defence Production and Supply, formed the Defence, Press and Broadcasting committee to oversee D-notices. The committee's first meeting in July 1952 at Victoria Barracks in Melbourne was chaired by Defence Minister Philip McBride and attended by Robert Menzies. The participants established principles that emphasised the need to prevent dissemination of information “detrimental to national security” and the voluntary nature of the notices, among other things. Menzies welcomed the members of the media organisations present, and “...expressed the Government's appreciation of their willingness to co-operate with the Defence Authorities in the introduction and operation of a system of 'D' Notices.” [Minutes of the first meeting of the Defence, Press and Broadcasting Committee, 14 July 1952, National Archives of Australia Series No. A1209, Item 1957/5486.]

The 1950s media embraced the D-notice system, and some media outlets sent material to the secretary of the committee for “pre-publication vetting”. [Maher, op. cit., p, 195] The compliance of the Australian media to D-notices for the British atomic tests in Australia explains in part why so little was reported.

It is hard to imagine media being so compliant today and opting to report less than they know. Attorney-General McClelland may have an uphill battle. On the other hand, if the muzzle fits...

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3 THOUGHTS ON "MUZZLING SHEEP: WIKILEAKS BRINGING A NEW D-NOTICE ERA FOR AUSTRALIA?"



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