PREM 19/4050

Confidential filing

The D Notice System. The Defence, Press and Broadcasting Committee (DPBC)

DEFENCE

March 1980.

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~18.3.80~~							
~~20.3.80~~							
~~3.4.80~~							
~~7.8.80~~							
~~15.12.81~~							
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~~8.2.82~~							
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~~16.12.87~~							
~~14.1.88~~							
~~19.1.88~~							
~~14.1.88~~							
~~5.2.88~~							
2.3.93							

PREM 19/4050

10 DOWNING STREET
LONDON SW1A 2AA

From the Principal Private Secretary

SIR ROBIN BUTLER

REVIEW OF THE D NOTICE SYSTEM

Thank you for your minute of 7 July, which the Prime Minister has seen and noted.

I am copying this minute to Andrew Cahn (Office of the Chancellor of the Duchy).

ALEX ALLAN
13 July 1993

Fax - Alex (1)
cc ~~Gus~~ (o/r)

1. Gus
To see
2. Show to Prime Minister on plane.
Alex

Ref: A093/2225

MR ALLAN

REVIEW OF THE D NOTICE SYSTEM

The Prime Minister and the Chancellor of the Duchy of Lancaster may wish for an update on the progress of the review of the D Notice system.

2. As Andrew Cahn explained in his letter of 2 February to you, the D Notice Committee initiated a review of the system last October. The review was conducted by a working group, including two media representatives from the D Notice Committee. The group has now completed its report and it will be considered by the Committee on 19 July.

3. The main recommendations are that:

- there should continue to be a system for providing advice and guidance to the media on security matters;

- a joint system (ie with both Government and media representatives) on the present lines would be preferable to a Government-only system;

- the D Notices should be reduced in number (from eight to six) and made less formal in tone;

- the system should operate more transparently than at present: the revised D Notices and their introduction (as well as the working group's report) should be published; and it should be made clear that the D Notice Secretary would consult Government Departments as appropriate before offering advice to the media;

- the MOD should remain the lead Department for the system.

4. The working group could not reach agreement on whether to adopt new nomenclature or to stick with the familiar terminology of 'D Notices'. The full Committee will therefore have to take a view on this.

5. As you know, the review is to be trailed in the White Paper on Open Government. In the light of the Prime Minister's comments, as set out in your letter of 30 June to Andrew Cahn, the relevant paragraph has been strengthened. I attach a copy of the final version.

6. I am copying this minute to Andrew Cahn (Chancellor of the Duchy of Lancaster's Office).

Fer. B.

SIR ROBIN BUTLER

7 July 1993

(3)

PASSAGE IN WHITE PAPER

The D Notice system is currently being reviewed. The eight D Notices provide written guidance for editors on defence and security matters on which publication could be damaging to national security. The Notices are issued by the Defence Press and Broadcasting Committee (DPBC), which comprises senior Government officials and media representatives. The DPBC commissioned its review last year, and will be meeting shortly to consider its recommendations. The aim of the review is to consider how the D Notice system can be made more transparent and relevant in the light of international change and the increased emphasis on openness in government.

R 3/2

CABINET OFFICE
70 Whitehall, London SW1A 2AS
Telephone: 071-270 0400

Chancellor of the Duchy of Lancaster
Minister of Public Service and Science

Kb0187

① cc GOD
LNR
Wilsdon.
② file

Alex Allan Esq
Principal Private Secretary to
the Prime Minister
10 Downing Street
LONDON
SW1A 2AA

2 February 1993

Dear Alex,

D NOTICE SYSTEM

Thank you for your letter of 25 January enclosing one from Stewart Purvis of ITN about the D Notice System. You said that the Prime Minister would be grateful for a quick view from the Chancellor of the Duchy on whether a reform of the D Notice System would be a useful part of a package on openness.

The Chancellor of the Duchy has discussed this with Sir Robin Butler. Sir Robin explained that the D Notice Committee had itself decided last October to initiate a review of the system. A number of practical ideas for reform have already been put on the table; indeed, Stewart Purvis' letter was his own personal input to the review, which is expected to be completed by April or May.

Depending on the exact timing of the White Paper on openness, the Chancellor of the Duchy considers it would be a very useful addition to refer to the review or, if possible, include its outcome. The Cabinet Office will be keeping in close touch with this review, and so there appears to be no need for a separate exercise.

Yours,

A T CAHN
Principal Private Secretary

K:PPS\DNOTICE.JD.

10 DOWNING STREET
LONDON SW1A 2AA

From the Principal Private Secretary

25 January 1993

D NOTICE SYSTEM

I attach a letter from Stewart Purvis about the D Notice system, which he passed on to the Press Office here.

The Prime Minister would be grateful for a quick view from the Chancellor of the Duchy about whether reform of the D Notice system might be a useful component of a package on openness. The intention would not necessarily be that material currently covered by D Notices would henceforth be published, but that alternative means might be found for protecting the relevant information, based on a system which might be more acceptable to all concerned.

If the Chancellor of the Duchy thinks that an initiative on these lines looks promising, we would need to take it up with the Ministry of Defence, Foreign and Commonwealth Office, Home Office, etc.

ALEX ALLAN

Andrew Cahn, Esq.,
Office of the Chancellor of the Duchy of Lancaster.

KW

Yes. ASAP 22.1

10 DOWNING STREET

Prime Minister ①

It strikes me that reform of the Dentine system could be a useful "openness" step. Shall I ask William Waldegrave for a new? [It would then need to be discussed with others with an interest: DNH/HO/MOD/FCO]

AC 21.1

Jonathan

Thank you for letting me see this. High time the Committee was reformed. I'm just rather surprised that such sensible suggestions should come from those to whom the Committee dictates rather than the government who operate it.

June
21/1

Mr Allan.

You might wish to see.

Jeffrey 22/1.

Independent Television News Ltd

ITN

200 Gray's Inn Road
London WC1X 8XZ
Telephone: 071 833 3000

Tel: 071 430 4307
Fax:: 071 430 4262

Mr Jonathan Haslam
Deputy Press Secretary
No 10 Downing Street
London
SW1

To Jane Rowell.

December 21, 1992

You may be interested to see this. In many respects he makes pertinent points.

Dear Jonathan

I thought my proposed evidence to the D Notice Committee might be of interest to you.

With best wishes

Yours sincerely

Stewart Purvis
Editor-in-Chief

Enclosure

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Registered Number:
548648 England

Independent Television News Ltd

ITN

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Tel: 071 430 4307
Fax:: 071 430 4262

Rear Admiral D M Pulvertaft, CB
Secretary
Defence, Press and Broadcasting Committee
Room 2235, Ministry of Defence
Main Building
London SW1A 2HB

December 18, 1992

Dear Rear Admiral Pulvertaft

I am grateful for this opportunity to submit views on the D Notice system. In my years at ITN I have both observed and participated in our relations with Government on matters of national security. I have also been a member of the Committee for two years. However, I have had increasing doubts about its effectiveness and welcome this chance to rehearse those doubts and offer some thoughts about future arrangements.

One of the penalties paid by a state as officially secretive as our own is that anything to do with 'secrets' or 'state security' inherits its own twilight world of manufactured myth and rumour. The D Notice Committee suffers accordingly, with many people believing that its role is to censor the media on matters of national security – a censorship with which the media are believed to comply. We know that the reality is somewhat different. The Committee is an advisory body with no statutory powers of enforcement and no direct link with the Official Secrets Act. However, any Editor who publishes information which is the subject of a D Notice knows the Government regards that information as secret and that publication risks prosecution under the Act. On the other hand, Editors also know that if they follow advice from the Secretary of the D Notice Committee this does not grant them any immunity from prosecution.

In many ways it seems quite remarkable that such a quintessentially English arrangement has lasted for most of this century. But the case for change has, in my opinion, become overwhelming. Whilst the D Notice system was established in 1912, its current procedures were broadly framed in the post-1945 Cold War. For most of that time it has operated in a world where two superpowers confronted each other; where the skies and seas were crowded with nuclear missile carrying engines; and where the "Great Game" had been transformed into the professional and ruthless trade of international espionage. The collapse of the Soviet empire has profoundly changed that post-War landscape and it is right that we should question attitudes and

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548648 England

systems rooted in the decades before the Berlin Wall was demolished.

But I believe emphatically that those who do question have to recognise that issues of national security exist in democratic societies and must be addressed responsibly by their media. My contention is that we need a different and more open system in this country.

It has to be said that the history of the D Notice Committee in recent years has not been one of total self-confidence. In 1980, the New Statesman published a series of articles by Duncan Campbell on telephone tapping, despite being warned by the Secretary of the D Notice Committee that they contravened a D Notice. The Government took no action – a decision which many thought undermined the D Notice system. In 1987, the BBC prepared a radio programme 'My Country Right or Wrong' which the D Notice Committee reviewed. The Secretary of the D Notice Committee declared that the security services raised no objections to the programme. However, the Government disregarded the D Notice Committee and successfully sought a court injunction to prevent the programme being broadcast on the grounds that officials who had participated had broken their obligations to lifetime confidence.

If this were not enough, the antiquity of the system was shown by the Prime Minister's decision to disclose the names of the Heads of both MI5 and MI6. This was a welcome announcement, particularly as it reflected in a highly public way the declared commitment to open government. We would like to see this openness developed even further. Ironically, however, Mr Major's disclosure would appear to contravene the D Notice system as it operated prior to that announcement.

But the current is not flowing all one way. With the end of the Cold War, the D Notice on Terrorism represented a clear move to extend the role of the system to matters of internal security. The current IRA campaign against targets in mainland Britain has lasted for 20 years and during that time I am not aware of any sustained criticism of the British media for acting irresponsibly, or in a way which hampers the fight against terrorism. Yet the D Notice on Terrorism represents a significant shift of policy undertaken without any parliamentary, let alone, public debate. This reinforces my view that the present structure has to change.

The fundamental flaw in the D Notice system is that the Press and Broadcasting Members of the Committee mostly represent nobody other than themselves. I do not, and cannot, speak for the ITV regional companies, Independent Radio, Channel Four, or Sky News. Members from the Press do not claim to represent other newspapers. And, given the fact that the Committee works in secret and all its documents have been marked "Private and Confidential", I seriously doubt whether Members discuss them outside the Committee.

So, what is our purpose? It could be the modest but important role of providing officials with feedback and advice on the issues of concern to the Committee. But I believe that what underpins the structure is the implicit assumption that by their participation the Press and Broadcasting Members give legitimacy to the D Notice

system on behalf of all the media. In the harsh words of Rupert Allason, in 1989: "The media representatives are there as patsies. They give an enfeebled Whitehall mechanism an air of respectability." If we give anything along these lines then it is at best a "false" air of respectability for the reasons outlined in the previous paragraph. The truth has always been that we do not speak for the entire media and I believe we need to conduct our future affairs on a proper basis.

In September I offered some thoughts on the future of the D Notice system to the IPI Seminar at City University. I tentatively volunteered an alternative system in which the D Notice Committee is abolished and relevant Government departments publish a joint Guidance to Editors on Matters of National Security. The document would have no legal force nor would it purport to represent a media consensus. It would then be for each Department to deal with the media and be responsible for initiating advice as necessary.

In part this simply recognises that the Government already has a large array of powers at its disposal. Acts of Parliament and recourse to the Courts give the U.K. Government more opportunities to restrict its media than most other democratic societies. Also, there are numerous examples of voluntary media co-operation with the authorities. We have always responded well to requests for "news blackouts" from the police in cases of hostage-taking or kidnaps. Many editors, myself included, can recount occasions when we have responded to direct requests not to transmit certain information, or show certain faces, because of security risks. All of the above exists outside the D Notice System.

In terms of international comparisons, both Australia and Canada historically followed the D Notice pattern, but it would appear that any decision to issue a Notice now in either country would require a large number of cobwebs to be removed first. We could similarly allow our own system to atrophy but I believe there is a more positive alternative.

Perhaps there is a less drastic way of achieving the objectives I set out at the IPI Seminar. The D Notice system could evolve in the following manner: the present procedures and membership of the Committee could be changed so as to provide a forum for discussion on security matters which would not compromise any of the participants. I suggest that this could be achieved by establishing a panel of advisers drawn from different sections of the media who would offer their advice on the press and broadcasting implications of national security issues. The existence of the panel would be publicly acknowledged, as would the identity of the panel members. However, the decision to issue a D Notice would be entirely and publicly the responsibility of the appropriate Whitehall Department.

In addition, acknowledging the useful role which the D Notice Committee Secretary plays as a contact for the press and broadcasters, I would propose a further development. A Defence Department official should be appointed to continue that function. But, again, there should be no ambivalence, the official would speak for the Government.

My object in outlining the above proposal is to offer a constructive way forward. It is undeniable that issues involving national security will always exist and that the media has a responsibility to handle them sensitively. However, the Government is responsible for national security and it is surely long overdue that we drop the pretence at the heart of the D Notice system that it does not represent the Government (I believe the country will survive the shock). And neither the Government nor the media is served by the present arrangement which seems designed to imply that agreement on individual D Notices is reached between both parties. Now really is the time to define clearly the respective roles of those who currently meet twice a year in room 6170 in the Ministry of Defence and allow them to operate a system which reflects both the enormous changes which have taken place in recent years and the growing consensus about the need for more open government.

I hope this is helpful.

Yours sincerely

STEWART PURVIS
Editor-in-Chief

pa.

From: THE PRIVATE SECRETARY

CONFIDENTIAL

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

5 February 1988

Dear Sir Christopher,

OD(DIS)(88)11: THE D NOTICE SYSTEM

OD(DIS)(88)12: "C" - THE SECRET LIFE OF SIR STEWART MENZIES BY ANTHONY CAVE BROWN

The Home Secretary has seen both these papers and is content with the recommendations made in each.

Copies of this letter to go the Private Secretaries to other members of OD(DIS) and to Sir Robin Butler.

Yours sincerely,

Philip Mawer

P J C MAWER

Sir Christopher Mallaby, KCMG

CONFIDENTIAL

MINISTRY OF DEFENCE
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PERMANENT UNDER-SECRETARY OF STATE
SIR CLIVE WHITMORE KCB CVO

PUS/V88/148
(46/1)

5th February, 1988.

CF-
PLCC, B/I
NCU

Dear Christopher,

FUTURE OF THE D-NOTICE SYSTEM

Following the Prime Minister's approval of the draft letter attached to OD(DIS)(88)11, I have written to Ramsden today. A copy of my letter is attached.

2. I have agreed with Ramsden that the complete exchange of correspondence between him and me should be released today, and this is being done by Bill Higgins.

3. I am sending copies of this letter to Brian Cubbon, John Boyd, Nigel Wicks and Michael Saunders.

Yours ever,

Clive.

Sir Christopher Mallaby, KCMG,
Cabinet Office,
70 Whitehall,
London, SW1.

MINISTRY OF DEFENCE
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PERMANENT UNDER-SECRETARY OF STATE
SIR CLIVE WHITMORE KCB CVO

PUS/V88/146
(46/1)

5th February, 1988.

Dear Mike,

Thank you for your letter of 2nd February.

2. I have taken note of the response of the media members of the Defence Press and Broadcasting Committee to my letter of 21st January in which I explained why the Government placed great value on the D-Notice system and hoped that the system would continue in being. I have drawn your letter to the attention of those in the Government who are concerned with these matters.

Yours ever,

Clive Whitmore.

J. M. Ramsden, Esq,
Vice-Chairman,
Defence Press and Broadcasting Committee.

CONFIDENTIAL

File
LA

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBIN BUTLER

THE D NOTICE SYSTEM - OD(DIS)(88)12

The Prime Minister has seen this paper about the reply from the Chairman of the D Notice Committee, Sir Clive Whitmore, to the Committee's Deputy Chairman.

She is content with the draft reply suggested in this OD(DIS) paper.

I am sending copies of this minute to the Private Secretaries to members of OD(DIS) and to Mr. Mallaby.

N.L.W

N. L. WICKS

4 February 1988

CONFIDENTIAL

h

MINISTRY OF DEFENCE
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PERMANENT UNDER-SECRETARY OF STATE
SIR CLIVE WHITMORE KCB CVO

PUS/V88/81
(46/1)

22nd January, 1988.

1. NFA — to note for PQs
2. CF
PC done
(send a cc to BI
N.C.U
22.1

Dear Brian,

THE D NOTICE SYSTEM

Following the Prime Minister's approval of the draft letter submitted by Christopher Mallaby with his minute of 18th January to Nigel Wicks I have now written to Mike Ramsden, and a copy of my letter is attached.

2. I have discussed with Ramsden the handling of the publication of the letter. We have agreed that there will be no release of the text of the letter, nor of the fact that the letter has been sent, until the media members of the Committee have had an opportunity to consider it and agree their reaction. A copy of the letter will be sent to the other media members on Monday on this basis. They are likely to need a few days to reach agreement on their line, following which I will settle with Ramsden precisely when we here will publish the letter.

3. I am sending copies of this letter to John Boyd, Christopher Mallaby, Nigel Wicks and Michael Saunders.

Yours ever,

Clive

Sir Brian Cubbon, GCB,
Home Office,
Whitehall,
London, SW1.

MINISTRY OF DEFENCE
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PERMANENT UNDER-SECRETARY OF STATE
SIR CLIVE WHITMORE KCB CVO

PUS/V88/75
(46/1)

21st January, 1988.

Dear Mike,

At the special meeting of the Defence Press and Broadcasting Committee which we held on 21st December to discuss the Government's actions in respect of the BBC 4 programme "My Country Right or Wrong" you made the following statement on behalf of the media members of the Committee:-

> "We deplore the Government's resort for the second time this year to legal action in cases where the D Notice procedures have been scrupulously followed by the Press side of the D Notice Committee. The D Notice system rests on mutual trust between Government and media. This trust is now seriously at risk, putting into question the continued relevance of the D Notice Committee. In the light of the injunction against the BBC Radio 4 programme "My Country Right or Wrong" we seek an early statement clarifying the Government's attitude towards the D Notice system."

2. The main point that I wish to make in this reply is that the Government continues to place very great value on the D Notice system. It has served the country well. It has done so because there has been a general recognition on the part of the media, as well as the Government, that publication of certain material could or would prejudice national security and that it is in the national interest to avoid its being made public. The Government continues to hold that view and hopes that the media continue to share it.

3. The Government wishes to continue to operate the D Notice system on the established basis. As your statement above says, its continued value will require trust on both sides. The Government hopes and expects that the media will continue to discuss freely and fully with the Secretary of the DPBC any material within the scope of the D Notices, so that the Secretary can be in a position to provide clear and full advice.

4. The D Notice system deals with information in specific categories, as set out in the D Notices themselves. It is advisory and voluntary. It does not deal with the question of breaches of the duty of confidentiality owed by members and former members of the security and intelligence services to the Crown, a matter which therefore falls outside the remit of the DPBC Secretary.

The Government's position, expounded at length in the Peter Wright case, is that members and former members of the security and intelligence services owe a lifelong duty of confidentiality to the Crown, and that the upholding of that duty is essential to the effectiveness of these services and thus to the overall security of the country. If advice on a question in this field is desired, the Treasury Solicitor would always be glad to provide it.

5. The D Notice system will continue only if both the Government and the media regard it as worthwhile in the national interest. Whatever disagreements there have been and may continue to be in other areas, nothing has changed, in the Government's view, with regard to the value of the system. The Government hopes very much that the media will agree with this and will continue to participate in the system.

Yours ever,

Clive Whitmore.

J. M. Ramsden, Esq,
Vice-Chairman,
Defence Press and Broadcasting Committee.

DEFENCE : D Notice System Nov 80

CONFIDENTIAL

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LOGAQI

10 DOWNING STREET

From the Principal Private Secretary

MR. MALLABY,
CABINET OFFICE.

THE D NOTICE SYSTEM

I have shown the Prime Minister your minute of 18 January with which you enclosed a revised draft letter to Mr. J. M. Ramsden, Vice-Chairman of the Defence Press and Broadcasting Committee.

The Prime Minister is content with this revised draft.

I am sending a copy of this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary and Defence Secretary and to the Legal Secretary to the Law Officers.

N. L. WICKS

19 January 1988

CONFIDENTIAL

PRIME MINISTER

THE D NOTICE SYSTEM

Christopher Mallaby's draft letter below deals with your two points of concern:

(i) it makes clear that the Government will continue to uphold the duty of confidentiality; but

(ii) the draft avoids giving any assurance that information given by the media to the DPBC Secretary will be used only for deciding what advice the Secretary should give about the national security implications of the material.

The draft has been approved by the Attorney. Are you content with it?

Agree new draft letter

N.L.W

(N.L. WICKS)

18 January 1988

010

B.017

MR WICKS

The D Notice System

WITH NEW?

As foreseen in your letter of ~~14~~ January to Mr Hawtin, I attach a revised draft of the letter from Sir Clive Whitmore to Mr Ramsden, the Vice Chairman of the DPBC. The draft has been approved by the Attorney General, Sir Clive Whitmore and the Departments concerned.

2. The draft does not take issue with the media members of the DPBC on the history of the BBC Radio 4 programme "My Country Right or Wrong". What the media members of the Committee have requested is "an early statement clarifying the Government's attitude towards the D Notice system". To re-tell the BBC story might well cause Mr Ramsden to differ with us on the facts. That would divert attention from our main purpose, which is to make the D Notice system work in the national interest. The draft therefore seeks to set out some of the principles concerning the working of the system but without relating them to "My Country Right or Wrong".

3. The fourth paragraph of the draft deals with the duty of confidentiality and its relevance to national security. The importance of that duty is made clear, and the draft seeks to convey, clearly but not threateningly, that the Government will take action whenever necessary to uphold the duty of confidentiality of members and former members of the security and intelligence services.

4. I am sending copies of this minute to the Private Secretaries of the Foreign and Commonwealth Secretary, the Home Secretary and the Defence Secretary; and to the Legal Secretary to the Law Officers.

C L G Mallaby

18 January 1988

Draft letter to Mr J M Ramsden, Vice-Chairman, DPBC

At a special meeting of the Defence Press and Broadcasting Committee which we held on 21 December to discuss the Government's actions in respect of the BBC Radio 4 programme "My Country Right or Wrong" you made the following statement on behalf of the media members of the Committee -

> "We deplore the Government's resort for the second time this year to legal action in cases where the D Notice procedures have been scrupulously followed by the Press side of the D Notice Committee. The D Notice system rests on mutual trust between Government and media. This trust is now seriously at risk, putting into question the continued relevance of the D Notice Committee. In the light of the injunction against the BBC Radio 4 programme "My Country Right or Wrong" we seek an early statement clarifying the Government's attitude towards the D Notice system."

2. The main point that I wish to make in this reply is that the Government continues to place very great value on the D Notice system. It has served the country well. It has done so because there has been a general recognition on the part of the media, as well as the Government, that publication of certain material could or would prejudice national security and

that it is in the national interest to avoid its being made public. The Government continues to hold that view and hopes that the media continue to share it.

3. The Government wishes to continue to operate the D Notice system on the established basis. As your statement above says, its continued value will require trust on both sides. The Government hopes and expects that the media will continue to discuss freely and fully with the Secretary of the DPBC any material within the scope of the D Notices, so that the Secretary can be in a position to provide clear and full advice.

4. The D Notice system deals with information in specific categories, as set out in the D Notices themselves. It is advisory and voluntary. It does not deal with the question of breaches of the duty of confidentiality owed by members and former members of the security and intelligence services to the Crown, a matter which therefore falls outside the remit of the DPBC Secretary. The Government's position, expounded at length in the Peter Wright case, is that members and former members of the security and intelligence services owe a lifelong duty of confidentiality to the Crown, and that the upholding of that duty is essential to the effectiveness of these services and thus to the overall security of the country. If advice on a question in this field is desired, the Treasury Solicitor would always be glad to provide it.

5. The D Notice system will continue only if both the Government and the media regard it as worthwhile in the national interest. Whatever disagreements there have been and may continue to be in other areas, nothing has changed, in the Government's view, with regard to the value of the system. The Government hopes very much that the media will agree with this and will continue to participate in the system.

DRAFT LETTER TO MR. J.M. RAMSDEN, VICE-CHAIRMAN, DPBC

At the special meeting of the Defence Press and Broadcasting Committee which we held on 21st December to discuss the Government's actions in respect of the BBC Radio 4 programme "My Country Right or Wrong" you made the following statement on behalf of the media members of the Committee:-

> "We deplore the Government's resort for the second time this year to legal action in cases where the D Notice procedures have been scrupulously followed by the Press side of the D Notice Committee. The D Notice system rests on mutual trust between Government and media. This trust is now seriously at risk, putting into question the continued relevance of the D Notice Committee. In the light of the injunction against the BBC Radio 4 programme "My Country Right or Wrong" we seek an early statement clarifying the Government's attitude towards the D Notice system."

2. Let me leave you in no doubt that the Government continues to place very great value on the D Notice system which has served the country well. What, if anything, is between us is not the way in which the system has always worked in avoiding inadvertent publication of specific matters which would prejudice national security. Rather, it is whether action taken by the Government to uphold the duty of confidentiality by its servants should bear on the working of the system. Although such action may give rise to disagreement between the Government and the media, it is something quite separate and distinct from the working of the DPBC and the D Notice system. Some or most of the media may disagree with the Government's position on the duty of confidentiality - which has been expounded at length in the Peter Wright case - and will make their views known very forcefully, but this should not, in the Government's view, compromise the quite separate function of the Committee which, I repeat, is to seek to ensure that information is not published which would damage national security.

This needs to be considered further. The function is not "quite separate" but overlapping

3. The D Notice system is voluntary and advisory and as such, as the media members of the Committee have observed, must rest on mutual trust between the Government and the media. In this context I can repeat the assurance that any information given by the media to the Secretary of the DPBC will be used by the Government solely to decide what advice to give the Secretary about the risk, if any, to national security which the material would represent if it were published.

4. The D Notice system will continue only if both the Government and the media regard it as worthwhile in the national interest. Whatever disagreements there have been and may continue to be in other areas, nothing has changed, in the Government's view, with regard to the value of the system. The Government hopes very much that the media will agree with this and will continue to participate in the system.

DRAFT LETTER TO MR. J.M. RAMSDEN, VICE-CHAIRMAN, DPBC

At the special meeting of the Defence Press and Broadcasting Committee which we held on 21st December to discuss the Government's actions in respect of the BBC Radio 4 programme "My Country Right or Wrong" you made the following statement on behalf of the media members of the Committee:-

> "We deplore the Government's resort for the second time this year to legal action in cases where the D Notice procedures have been scrupulously followed by the Press side of the D Notice Committee. The D Notice system rests on mutual trust between Government and media. This trust is now seriously at risk, putting into question the continued relevance of the D Notice Committee. In the light of the injunction against the BBC Radio 4 programme "My Country Right or Wrong" we seek an early statement clarifying the Government's attitude towards the D Notice system."

2. Let me leave you in no doubt that the Government continues to place very great value on the D Notice system which has served the country well. What, if anything, is between us is not the way in which the system has always worked in avoiding inadvertent publication of specific matters which would prejudice national security. Rather, it is whether action taken by the Government to uphold the duty of confidentiality by its servants should bear on the working of the system. Although such action may give rise to disagreement between the Government and the media, it is something quite separate and distinct from the working of the DPBC and the D Notice system. Some or most of the media may disagree with the Government's position on the duty of confidentiality - which has been expounded at length in the Peter Wright case - and will make their views known very forcefully, but this should not, in the Government's view, compromise the quite separate function of the Committee which, I repeat, is to seek to ensure that information is not published which would damage national security.

3. The D Notice system is voluntary and advisory and as such, as the media members of the Committee have observed, must rest on mutual trust between the Government and the media. In this context I can repeat the assurance that any information given by the media to the Secretary of the DPBC will be used by the Government solely to decide what advice to give the Secretary about the risk, if any, to national security which the material would represent if it were published.

4. The D Notice system will continue only if both the Government and the media regard it as worthwhile in the national interest. Whatever disagreements there have been and may continue to be in other areas, nothing has changed, in the Government's view, with regard to the value of the system. The Government hopes very much that the media will agree with this and will continue to participate in the system.

DEFENCE: D Notice
March 80

Mr Wicks

pa

10 DOWNING STREET

LONDON SW1A 2AA

From the Press Secretary

14 January 1988

Dear Christopher,

D-NOTICES

Herewith my covering note to Nigel Wicks for which you asked.

In the course of the meeting I drafted the attached insert (for inclusion in Annex I at the star) in an attempt to bridge the gap. When I waved it in front of Sir Clive Whitmore he didn't think it would do the trick.

Yours ever

Bernard

BERNARD INGHAM

Christopher Mallaby Esq

MR WICKS

D-NOTICE SYSTEM

We discussed the proposed letter to Mr J M Ramsden, Vice Chairman, Defence Press and Broadcasting Committee. I voiced my concern about the draft because it does not answer the point made in the very first sentence of the statement by the media members of the committee: "We deplore the Government's resort for the second time this year to legal action in cases where D-Notice procedures have been scrupulously followed by the Press side of the D-Notice Committee".

It might help if I set out, as I see it, the basis of the D-Notice system. The system stands or falls by the recognition on the part of the media that publication of some material could or would damage the interests of the nation and on their willingness to avoid such publication.

It is now doubtful whether this is accepted in some sections of the media. Indeed, only this morning we find The Guardian, The Independent and The Times naming the new Head of MI5.

The system stands or falls, secondarily, on the degree of mutual confidence between journalists and Government representatives on the Committee.

This, too, is manifestly in doubt in view of the terms of the media members' statement and in view of the practices of the media.

Consequently, it is not only the media members who are justified in seeking a clarifying statement; the Government is also justified in seeking clarification of media attitudes. In these circumstances, a statement will serve its purpose only if it addresses the situation frankly.

This means facing up to a number of difficult questions:

- can the Government give an unqualified undertaking that information gleaned through the D-Notice system will not be used directly or indirectly as a basis for action, whether legal or otherwise, outside the Committee?

- if it cannot give that assurance, is there any basis at all for confidence in the system?

- alternatively, is there any basis at all for confidence in the system if the media, recognising that the objective of the system is to avoid publication which would damage the

national interest, object when information gleaned through the system leads to action outside the D-Notice Committee to achieve the ends which the D-Notice Committee is supposed to serve?

I believe that the D-Notice Committee is a further impending casualty of the increasing anarchy in journalism. It will be rescued, if that is now possible, only by facing up to the facts.

In the light of this I have suggested an alternative draft to the proposed letter starting from Paragraph 2. This is at Annex I.

BERNARD INGHAM
13 January 1988

ANNEX I

2. Let me leave you in no doubt that the Government continues to place very great value on the D-Notice system. It has served the country well. It has done so because there has been a general recognition on the part of the media that publication of certain material could or would prejudice national security and that it is in the national interest to avoid its being made public inadvertently. It hopes the media continue to hold that view.

For that reason the Government believes it is important that there should be a clear understanding of the new situation which has arisen over recent months where the Government has felt obliged to act to uphold the duty of confidentiality of its servants. While this action may touch on the working of the D-Notice system, the Government believes it should be seen as something quite separate and distinct from the operation of the system and the DPBC.

Some or most of the media may disagree with the Government's position on seeking to enforce a duty of confidentiality which has been expounded at length in the Peter Wright case. The Government fully and readily acknowledges the media's right freely to express whatever views they may hold on this issue. But that is a quite separate matter from the working of the DPBC and D-Notice system. The Government believes that it cannot - and should not - affect the shared objective, explicit in the media's membership of the DPBC and support for the D-Notice system, of avoiding the publication of information which would damage national security.

The Government must retain its freedom to uphold the duty of confidentiality by its servants and that freedom should not be circumscribed by D-Notice machinery designed to achieve a different objective.

The D-Notice system is of course voluntary and advisory and, as as such, as the media members of the Committee have observed, must rest on mutual trust between the Government and the media. It will continue only if both the Government and the media regard it as worthwhile in the national interest. Whatever disagreements there have been and may continue to be in other areas, nothing has changed, in the Government's view, with regard to the value of the system.

The Government hopes very much that the media will agree with this and will continue to participate in it. After all, the joint objective is, to repeat, to serve the national interest.

INSERT

In this context I can say that information given by the media to the Secretary of the DPBC will, as in the past, be used by the Government to decide what advice to give the Secretary about the risk, if any, to national security which the material would represent if it were published. What I cannot say is that the Government will never in particular cases seek to enforce the duty of confidentiality by its servants simply because the media has had recourse to the D-Notice system. Nor, I suspect, would you expect me to do so since, as I have pointed out, two different issues are involved.

File

DOZ AMU

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

14 January 1988

Dear Brian,

THE D NOTICE SYSTEM

The Prime Minister discussed this morning your letter of 5 January with the Secretary of State for Defence, the Foreign Secretary, the Home Secretary and the Attorney General. Sir Robin Butler, Sir Clive Whitmore (Chairman of the Defence Press and Broadcasting Committee (DPBC)), Sir Christopher Mallaby and Mr. Bernard Ingham were also present. The meeting had before it, besides the draft letter to the Vice Chairman of the DPBC attached to your letter, draft passages for the letter by the Attorney General, Sir Christopher Mallaby and Mr. Ingham, all of which are attached for ease of reference.

In discussion it was argued strongly that the D Notice system provided a valuable and tested means for restraining the publication of information damaging to national security. Even though certain sections of the media refused to co-operate with the system, other sections acted responsibly, seeking and following the Committee's Secretary's advice.

In further discussion, two general criticisms were made of the draft letter to the Vice-Chairman of the DPBC which was attached to your letter:

(i) The draft ignored the undoubted overlap between national security and the duty of confidentiality owed by members of the security and intelligence services and others. The Government insisted on this duty in order to ensure the effectiveness of the security and intelligence services and thus protect national security. But the relevant D Notice 6 took no account of the need to preserve confidentiality; and thus did not regard breaches of confidentiality as damaging to national security. There was obvious difficulty in securing the DPBC's agreement to the Notice's amendment in this regard. An alternative course was to state clearly in the letter to the Committee's Vice-Chairman that the Government reserved the right to take action if national security was damaged, because of a breach of confidence, even if the Secretary of the Committee had raised no objection to

publication. The letter could also make clear that the Secretary could give no advice on the duty of confidentiality and that if the media wanted guidance on that aspect, they should contact the Treasury Solicitor.

(ii) Attention was drawn to the sentence in paragraph 3 of the draft letter attached to your letter which read:

> "I can repeat the assurance that any information given by the media to the Secretary of the DPBC will be used by the Government solely to decide what advice to give the Secretary about the risk, if any, to national security which the material would represent if it were published."

It had been suggested that the opening words should be amended to read:

> "I can repeat the assurance that any information given by the media to the Secretary of the DPBC about the contents of any forthcoming publication will be ...".

It was argued that even with the amendment, the text would put the Government into an untenable position. The Government should not be estopped from preventing - if necessary by action in the courts - any publication of information damaging to national security or breaching confidences. The Government needed to be in a position to use all the powers and information available to it to safeguard national security. On the other hand, the first time that the Government used, for such purposes, information provided to the DPBC, the D Notice system would collapse. Moreover, the Government might be put on notice in such cases only by information provided through the D Notice system. If the system had collapsed, there would be less prospect of the Government knowing about such damaging information before it appeared in the media. Warning through the D Notice machinery would always give the Government the opportunity to try to discover, through different channels, about the information; knowledge so gained could be used as a basis for legal action without infringing the confidences of the D Notice system.

Some particular points were raised on the drafting of the material suggested for the letter. "Submitted" in line 13 of paragraph 2 of the Attorney General's redraft would better read "fully disclosed". This change was intended to make the point that the media's practice of reading material to the Secretary over the telephone gave an insufficient basis for assessing with any confidence whether the material infringed national security. Such a judgement could only properly be made if the Secretary saw the material in writing. The Secretary would be well advised to avoid giving opinions, except in the most qualified terms, on material which he had

not seen in writing. The draft letter needed to make clear that the Secretary had not seen nor given an unqualified judgement upon the script of "My Country Right or Wrong". The Government could maintain the required degree of freedom to use DPBC material as it wished by making the assurance referred to at (ii) above, "Subject to the Government's overriding duty to preserve national security ...".

Finally, it was agreed that it was very important to ensure that Government servants were the subject of proper contractual arrangements which included a term imposing a duty of confidentiality.

Summing up the discussion, the Prime Minister said that the Cabinet Office should redraft the letter to the Vice Chairman of the DPBC in consultation with the Attorney General, Sir Clive Whitmore and interested Departments, taking account of the points made in the discussion. The Cabinet Office should then submit a revised text to Ministers for their decision.

I am sending copies of this letter to the Private Secretaries to the Foreign and Commonwealth Secretary, the Home Secretary, and the Attorney General, and to Sir Robin Butler, Sir Clive Whitmore, Sir Christopher Mallaby, and Bernard Ingham.

Yours ever
Nigel Wicks

N.L. Wicks

Brian Hawtin, Esq.,
Ministry of Defence.

10 DOWNING STREET

Prime Minister

I have asked Clive Whitmore to come as Chairman of the 1) Nabarro Committee in addition to the Hunters.

See B. I's important note below. N.L.W

[illegible] BI'd

E.R.

MR WICKS

D-NOTICE SYSTEM

We discussed the proposed letter to Mr J M Ramsden, Vice Chairman, Defence Press and Broadcasting Committee. I voiced my concern about the draft because it does not answer the point made in the very first sentence of the statement by the media members of the committee: "We deplore the Government's resort for the second time this year to legal action in cases where D-Notice procedures have been scrupulously followed by the Press side of the D-Notice Committee".

It might help if I set out, as I see it, the basis of the D-Notice system. The system stands or falls by the recognition on the part of the media that publication of some material could or would damage the interests of the nation and on their willingness to avoid such publication.

It is now doubtful whether this is accepted in some sections of the media. Indeed, only this morning we find The Guardian, The Independent and The Times naming the new Head of MI5.

The system stands or falls, secondarily, on the degree of mutual confidence between journalists and Government representatives on the Committee.

This, too, is manifestly in doubt in view of the terms of the media members' statement and in view of the practices of the media.

Consequently, it is not only the media members who are justified in seeking a clarifying statement; the Government is also justified in seeking clarification of media attitudes. In these circumstances, a statement will serve its purpose only if it addresses the situation frankly.

This means facing up to a number of difficult questions:

- can the Government give an unqualified undertaking that information gleaned through the D-Notice system will not be used directly or indirectly as a basis for action, whether legal or otherwise, outside the Committee?

- if it cannot give that assurance, is there any basis at all for confidence in the system?

- alternatively, is there any basis at all for confidence in the system if the media, recognising that the objective of the system is to avoid publication which would damage the

national interest, object when information gleaned through the system leads to action outside the D-Notice Committee to achieve the ends which the D-Notice Committee is supposed to serve?

I believe that the D-Notice Committee is a further impending casualty of the increasing anarchy in journalism. It will be rescued, if that is now possible, only by facing up to the facts.

In the light of this I have suggested an alternative draft to the proposed letter starting from Paragraph 2. This is at Annex I.

BERNARD INGHAM
13 January 1988

File JW

bc Mr Mallaby

cc Up

10 DOWNING STREET

LONDON SW1A 2AA

From the Principal Private Secretary

12 January, 1988.

Dear Brian,

THE D NOTICE SYSTEM

I have shown the Prime Minister your letter of 5 January in which you seek her approval to send to the Vice-Chairman of the Defence Press and Broadcasting Committee (D Notice Committee), Mr. J.M. Ramsden, a letter responding to your statement of 21 December. I understand that, subsequent to your letter, it was agreed between Departments that the last sentence of the third paragraph of the draft should begin as follows:

> "I can repeat the assurance that any information given by the media to the Secretary of the DPBC about the contents of any forthcoming publication will be ...".

The Prime Minister is unhappy with the draft, even with the amendment suggested above. She believes that the text of the letter needs to be scrutinised with the utmost care since its every word will be subject to rigorous analysis. Her main concern is that the draft letter attempts to separate the issues of confidentiality and national security. In her view, these two issues are not separate, but overlap; and it is wrong to draw the distinction referred to at the end of paragraph 2 of the letter; i.e. between ensuring that there is no publication of information damaging to national security, and the preservation of the duty of confidentiality.

I suggest that the best way of carrying this matter forward would be for your Secretary of State, together with the Foreign and Commonwealth Secretary, the Home Secretary and the Attorney General, to meet soon to discuss the issue raised by the Prime Minister and to settle the text of the letter to Mr. Ramsden. Our diary secretary is already in touch with yours about a possible meeting after Cabinet on Thursday.

Yours

I am copying this letter to Tony Galsworthy (Foreign and Commonwealth Office), Philip Mawer (Home Office), Michael Saunders (Law Officers' Department) and Trevor Woolley (Cabinet Office).

Yours ever

Nigel Wicks

N.L. Wicks

B.R. Hawtin, Esq.,
Ministry of Defence.

SIR CHRISTOPHER MALLABY'S DRAFT

Amended paragraphs 2 and 3 of the draft letter to Mr Ramsden, Vice-Chairman of the D Notice Committee

2. Let me leave you in no doubt that the Government continues to place very great value on the D Notice system which has served the country well. What, if anything, is between us, is not the way in which the system has always worked in avoiding inadvertent publication of items of information which would prejudice national security. Rather, it is whether action by the Government to maintain the effectiveness of the security and intelligence services by upholding the duty of confidentiality of members and former members of those services should bear on the working of the D Notice system. The Government's position, expounded at length in the Peter Wright case, is that members and former members of the security and intelligence services owe a lifelong duty of confidentiality to the Crown and that the upholding of that duty is essential to the overall security of the country. Some or most of the media may disagree with the Government's position on the duty of confidentiality; they will no doubt make their views known very forcefully ~~(forcibly)~~. But the difference between the Government and the

media on that matter should not compromise the distinct function of the D Notice system which, I repeat, is to seek to ensure that specific information is not published which would damage national security.

3. The D Notice system is voluntary and advisory and as such, as the media members of the Committee have observed, must rest on mutual trust between the Government and the media. In this context I can repeat the assurance that any information given by the media to the Secretary of the DPBC about the contents of any forthcoming publication will be used by the Government solely to decide what advice to give the Secretary about the risk, if any, to national security which the material would represent if it were published. (The fact that the Secretary of the DPBC only passes limited information to a ~~few~~ restricted circle of experts in Government means that the Government as a whole is not aware of it, and may ~~that~~ need to take steps, e.g. through the Treasury Solicitor, to obtain information about a publication which could involve breaches of the duty of confidentiality.)

x6

MR. INGHAM'S DRAFT

ANNEX I

2. Let me leave you in no doubt that the Government continues to place very great value on the D-Notice system. It has served the country well. It has done so because there has been a general recognition on the part of the media that publication of certain material could or would prejudice national security and that it is in the national interest to avoid its being made public inadvertently. It hopes the media continue to hold that view.

For that reason the Government believes it is important that there should be a clear understanding of the new situation which has arisen over recent months where the Government has felt obliged to act to uphold the duty of confidentiality of its servants. While this action may touch on the working of the D-Notice system, the Government believes it should be seen as something quite separate and distinct from the operation of the system and the DPBC.

Some or most of the media may disagree with the Government's position on seeking to enforce a duty of confidentiality which has been expounded at length in the Peter Wright case. The Government fully and readily acknowledges the media's right freely to express whatever views they may hold on this issue. But that is a quite separate matter from the working of the DPBC and D-Notice system. The Government believes that it cannot - and should not - affect the shared objective, explicit in the media's membership of the DPBC and support for the D-Notice system, of avoiding the publication of information which would damage national security.

The Government must retain its freedom to uphold the duty of confidentiality by its servants and that freedom should not be circumscribed by D-Notice machinery designed to achieve a different objective.

The D-Notice system is of course voluntary and advisory and, as as such, as the media members of the Committee have observed, must rest on mutual trust between the Government and the media. It will continue only if both the Government and the media regard it as worthwhile in the national interest. Whatever disagreements there have been and may continue to be in other areas, nothing has changed, in the Government's view, with regard to the value of the system.

The Government hopes very much that the media will agree with this and will continue to participate in it. After all, the joint objective is, to repeat, to serve the national interest.

ATTORNEY GENERAL'S DRAFT

It continues to work well as a means whereby inadvertent publication may be avoided of matters specifically identified in a 'D' Notice as being particularly sensitive for reasons of national security.

As regards the British Security and Intelligence Services the relevant Notice is No. 6, as last revised in December 1981 [re-issued in January 1982]. The duty of confidentiality which is owed to the Crown by members and former members of those Services is not referred to in 'D' Notice No. 6. Because the Government believes, however, that the observance of that duty is necessary in the interests of national security it will wish, in an appropriate case, and in default of agreement, to seek its enforcement in the civil courts by means of an injunction restraining publication, notwithstanding that the particular material sought to be published may already have been fully disclosed submitted to the Committee, and attracted no adverse comment. It is appreciated that disagreement exists between the Goverenment and some within the media as to the Government's policy in regard to the duty of confidentiality in this context. That can, and no doubt will continue to be a matter for separate debate. It need not and should not, however, in the Government's view, prejudice the operation of the 'D' Notice Committee in relation to matters falling within the ambit of 'D' Notice No. 6, or any other Notice.

Prime Minister
Agree the draft letter at flag below, subject to Sir Charles Mallaby's amendment below?

N.L.W.

CONFIDENTIAL

B.09

MR WICKS

There are other things in this letter which I do not like because I do not believe they are accurate. See my comments on the background note to Ian Dalgetty's question. The two functions of information and confidentiality are NOT SEPARATE - they are overlapping. We must look at the draft very carefully indeed as every word will be analysed.

The D Notice System

The draft letter from Sir Clive Whitmore to the senior media representatives on the D Notice Committee, enclosed with Mr Hawtin's letter of 5 January to you, included the following sentence:

> "I can repeat the assurance that any information given by the media to the Secretary of the DPBC will be used by the Government solely to decide what advice to give the Secretary about the risk, if any, to national security which the material would represent if it were published."

2. That sentence is a fair description of our policy and practice, in that we would not go to law on the basis of information obtained only through the D Notice system that a particular publication was on the way; and in that any information provided through the D Notice system would not be used by the Government as evidence in any case we initiated on the basis of separate information. (In the case of Nigel West's "A Matter of Trust", we learned of the forthcoming publication through Arthur Martin, its main insider source. In the case of West's "Molehunt", the D Notice Secretary drew the publisher's attention both to new information damaging to national security and to information damaging to national security which had been removed from "A Matter of Trust". It is true that this letter from the D Notice Secretary was followed by contact between the Treasury Solicitor and West; but it was the latter who initiated the contact.)

CONFIDENTIAL

3. In one narrow sense the sentence from the draft letter, quoted above, is not complete. It could be that we obtained our first information on a forthcoming publication through the D Notice system and responded that we had no particular advice with regard to the national security remit of that system. Having done that, however, we might rack our brains, if the forthcoming publication contained material in breach of confidence, for another way of obtaining knowledge of it, so that the Treasury Solicitor could approach the publishers. Precisely because we would seek information from a separate source before the Treasury Solicitor took action, the role of the D Notice system in the background should not be visible to the publisher and author concerned. But, in order to avoid any want of accuracy in the sentence quoted above, I have obtained Sir Clive Whitmore's agreement to an amendment to the opening words:

> "I can repeat the assurance that any information given by the media to the Secretary of the DPBC about the contents of any forthcoming publication will be...".

This amended wording is in line with what Sir Clive Whitmore said on the matter at the meeting of the D Notice Committee on 21 December 1987.

C L G Mallaby

8 January 1988

DEFENCE: D Notice

March 80

1. In one narrow sense the answer from the Home Office, quoted above, is not complete. It could be that we obtained our first information on the forthcoming publication through the D Notice system and responded that we had no particular advice with regard to the national security result to that system. Having done that, however, we might rank our brains if the forthcoming publication contained material in breach of confidence, for another way of obtaining knowledge of it, so that the Treasury Solicitor could approach the publisher. Precisely because we would seek information from a separate source before the Treasury Solicitor took action, the role of the D Notice system in the background should not be visible to the publisher and author concerned. But, in order to avoid any want of accuracy in the sentence quoted above, I have obtained Sir Clive Whitmore's agreement to an amendment to the opening words:

"I can report the assurance that any information given by the media to the Secretary of the DPBC about the contents of any forthcoming publication will be...".

This amended wording is in line with what Sir Clive Whitmore said on the matter at the meeting of the D Notice Committee on 21 December 1987.

C E G Halsby

8 January 1988

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-218 2111/3

MO 23/1L

5th January 1988

Dear Nigel,

THE D NOTICE SYSTEM

There were a number of indications before Christmas that the media were proposing to withdraw from participation in the D Notice system: they were contemplating this step because they felt strong doubts about whether they could continue to co-operate in the system while the Government was taking legal action against the media to uphold the duty of confidentiality. A meeting of the Defence Press and Broadcasting Committee was held on 21st December to consider the situation, and although the discussion was protracted and at times difficult, it served its immediate purpose of dissuading the media members from withdrawing from the Committee. In the course of the meeting, however, the media members made the following statement:

> "We deplore the Government's resort for the second time this year to legal action in cases where the D Notice procedures have been scrupulously followed by the Press side of the D Notice Committee. The D Notice system rests on mutual trust between Government and media. This trust is now seriously at risk, putting into question the continued relevance of the D Notice Committee. In the light of the injunction against the BBC Radio 4 programme "My Country Right or Wrong" we seek an early statement clarifying the Government's attitude towards the D Notice system."

The official members of the Committee have been giving some thought to how best to respond to the request for an early statement on the Government's attitude to the D Notice system and they have concluded that this might be done in a letter from Sir Clive Whitmore, Chairman of the DPBC, to Mr J M Ramsden, Vice-Chairman and leader of the Press side. I attach the draft of such a letter which the Defence Secretary has seen and approved.

Nigel Wicks Esq
10 Downing Street

Mr Younger's minute of 16th December to the Prime Minister set out his reasons for believing that the D Notice system has an important role to play in preventing breaches of national security and that there is no simple and obvious replacement for it. We are in no doubt that the media representatives on the Committee share this view, but they have reacted strongly to the Government's recent actions to uphold the duty of confidentiality and they have allowed their feelings to cloud the important distinction between the two issues. The draft, therefore, aims to set out clearly this distinction, while at the same time confirming the Government's belief in the value of the D Notice system.

Officials believe that a letter on the lines of the attached draft should be sufficient to dissuade the media from withdrawing from the D Notice system, though there is no certainty of this. I should be grateful to know whether the Prime Minister is content with the draft.

I am sending copies of this letter to Tony Galsworthy (Foreign and Commonwealth Office), Philip Mawer (Home Office), Michael Saunders (Law Officers' Department) and to Trevor Woolley (Cabinet Office).

Yours sincerely

Brian Hawtin

(B R HAWTIN)
Private Secretary

2 CCBI

Prime Minister
Quite a powerful defence of the D Notice System, provided there IS voluntary cooperation from the journalists.
N.L.W. 17.12

MO 23/1E

PRIME MINISTER

THE D NOTICE SYSTEM

In the light of our consideration last weekend of possible action against The Observer and of the current action against the BBC, I thought it might be helpful if I were to circulate a note about the D Notice system. I believe the system is of considerable value and it is important that we consider carefully any action which might result in its downfall.

2. The D Notice system provides the means by which advice can be sought on the implications for national security of material which might be published or broadcast. It also enables the Government and its agencies to discover more about books and stories they have heard about covertly. The system is overseen by the Defence Press and Broadcasting Committee, which is chaired by the Permanent Under Secretary of the Ministry of Defence and consists of a further three senior officials and eleven influential representatives of the media. Day-to-day work is the responsibility of the Secretary of the Committee. It is a voluntary system under which an editor or author can accept or reject the advice the Secretary of the Committee gives him after consulting the Government Department or agency concerned. In most cases agreement is reached between the Secretary and the media. Only rarely do issues arise which need to be put to Ministers. I attach as a Annex to this minute some examples of the sort of cases which the Secretary has dealt with over the last year or so. In addition, there is a steady flow of work from reputable aerial survey firms to safeguard photographs of defence installations.

This a good list.

3. Inevitably, a voluntary system, and particularly one which operates in such a grey area, is not watertight. It depends for its success on confidence and trust, and the relationship between the Secretary of the DPBC and the media is a delicate one. It is important that the advice the Secretary gives is based on grounds of national security alone, and he must be seen to be truly independent of Government. Confusion about his relationship with Government is at the heart of the present difficulties with the D Notice system.

4. As the Annex shows, this voluntary system does work. Without it there would be no simple and obvious way in which we could seek to prevent the publication of information damaging to national security; we should have to rely entirely on the uninformed discretion of editors. And without the early warning the system provides of articles and broadcasts which might cause difficulties, we should be faced more frequently than now with decisions on whether to take legal action after the event and after the damage had been done. As the events of last weekend demonstrated, if we allow the system to work it frequently does so to the advantage of the Government.

5. I am sending copies of this minute to the Foreign and Commonwealth Secretary, the Home Secretary, and the Attorney General and to Sir Robert Armstrong.

G.Y.

Ministry of Defence
16 December 1987

CONFIDENTIAL

ANNEX

EXAMPLES OF D NOTICE BUSINESS

a. During negotiations for changes to be made to David Hooper's book "Official Secrets" it was revealed that a publisher held a copy of either Sethia's diary or the manuscript of his book.

b. Discussion of a book about the IRA with publishers revealed that there was no intelligence dimension.

c. Amendments obtained to two articles on cryptography to be published in the Intelligence and National Security Journal.

d. Measures to prevent photography of sensitive areas during mass trespass at the Clyde Submarine Base agreed with BBC, ITN and TVAM.

e. Chapter on Bletchley Park in book of memoirs considered and no advice offered.

f. Advice sought by Penrose (Sunday Times) in connection with Blunt.

g. Anglia TV withdrew team trying to obtain photograph of Sir Arthur Franks.

h. Addresses and telephone numbers removed from newspaper articles about a BT muddle over Security Service telephone bills.

i. SIS suspected The Sun was to publish an article on "Security Chiefs". Editor denied this and undertook to warn Sec DPBC if the article materialised and to safeguard addresses.

j. Radio Falmouth dissuaded from publishing information about emergency oil installations.

k. First approach to BBC on "Secret Society" series made by Sec DPBC; resulted in advice being sought from Government on ZIRCON and from Sec DPBC on two other episodes and one change accepted.

l. Sunday People sought advice on a story of activities of Otto Klempf.

m. In conjunction with T Sol numerous amendments achieved to West's MOLEHUNT. Express's serialisation started with unexpurgated text. Early action taken in respect of second and subsequent extracts.

n. At request of FCO, manuscript of book about OPEC obtained and read. No advice.

o. At Security Service request, ensured Observer was not running a story about anti-terrorist operations.

p. Routine call on Editor of Daily Express revealed Nigel West writing a new book.

q. Richard Deacon book "SPYCLOPAEDIA" submitted at request of Sec DPBC.

r. Impact of Sunday Mirror article about 'C' reduced.

s. Three breaches of D Notice No.6 taken up with Editor of The Independent. This led to a visit by Chairman and Sec DPBC at which Editor gave undertaking to consult in future.

t. Breach of D Notice No.6 taken up with Editor of Observer who apologised and undertook not to repeat.

DEFENCE: D Notice System
March 80

DEFENCE, PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 6

BRITISH SECURITY AND INTELLIGENCE SERVICES

1. The broad functions of the security and intelligence services are widely known. They are responsible for countering threats to the Realm arising from espionage, subversion and sabotage and for providing HM Government with secret intelligence concerning foreign powers. These services must work as far as possible in conditions of secrecy. The publication of detailed information about their activities or methods, or the disclosure of identities, is likely to prejudice both present and past operations, and also to make more difficult the day to day work of persons involved.

2. It is requested therefore that nothing should be published without reference to the Secretary about:

a. specific operations of the security and intelligence services and those involved with them;

b. details of the manner in which operational methods, including the interception of communications, are actually applied and of their targets;

c. the identities, whereabouts and tasks of persons employed by these services including details of their families and home addresses. Editors are reminded that such disclosures can lead to the identification of other members of the services, and of individuals who have at any time assisted these services; and that the publication of identities or of photographs can help a terrorist organisation to identify a target;

d. the addresses and telephone numbers used by these services;

e. the organisational structures, communications networks, numerical strengths, and training techniques of these services, and details of the resources allocated to them;

f. technical advances by the security and intelligence services, in relation to their intelligence and counter-intelligence methods, whether the basic methods are well known or not;

3. Attempts are sometimes made to prompt disclosures about the work of the security and intelligence services by planting stories in the British or foreign press. It is therefore requested that ostensible disclosures of information published about these services should not be repeated or otherwise elaborated upon without reference to the Secretary. This includes information purporting to come from members or former members of these services.

20 March 1986

010

Defence

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~930 7022~~ 218 6169

D/S of S/4618C

31st March 1982

Dear Mike,

I enclose a copy of an Answer we are giving today to a Parliamentary Question from Geoffrey Johnson-Smith MP on the conclusions of the review of the D Notice system.

Sir Frank Cooper who chairs the Defence Press and Broadcasting Committee (The 'D' Notice Committee) has kept Sir Robert Armstrong informed and he has consulted the Prime Minister on the form and timing of the public announcement of the results of the review. As you will know, it was the Prime Minister who preferred the initial announcement to be in the form of an inspired Parliamentary Question.

I am also enclosing a copy of the new D Notices which have been placed in the Library of the House and of the letter the Secretary of the DPBC sent today to the Chairman of the Select Committee on Defence.

A copy of this letter and enclosures goes to David Heyhoe in the Lord President's office.

Yours ever

Derek Pipe

(D T PIPER)

M A Pattison Esq

WEDNESDAY 31ST MARCH 1982

MR GEOFFREY JOHNSON SMITH (CONSERVATIVE)(EAST GRINSTEAD)

67 Mr Johnson Smith - To ask the Secretary of State for Defence, having regard to his observations upon the third report from the Defence Committee for Session 1979/80 Cmnd 8129, whether the Defence Press and Broadcasting Committee has now reached a conclusion on its review of the D notice system.

A N S W E R

(Mr John Nott)

The Defence Press and Broadcasting Committee (DPBC) has now completed its review of the D Notice system and has informed the Government of its conclusions.

The D Notices themselves have been revised and reduced in number from 12 to 8. They have been kept in general terms in the belief that advice on details of application or interpretation can best be conveyed in consultation with the D Notice Secretary. D Notices will continue to be advisory and the system will remain entirely voluntary with no legal sanction. The final responsibility for the decision whether or not to publish will continue to lie solely with the editor or publisher concerned.

The Committee is convinced of the continuing need for a system which seeks to protect information on national security matters whose publication would be harmful to the nation. It considers that many of the difficulties and misconceptions concerning the D Notice system which have arisen in the past have been the result

of a lack of general understanding of its purpose and how it works, and that it would be of benefit if these were more widely known. To this end, a description of the system has been included in a General Introduction to the D Notices and this introduction is being widely circulated.

The Government have considered the conclusions of the Defence Press and Broadcasting Committee's review and give them their full support.

A copy of the new D Notices together with the General Introduction has been placed in the Library.

Ministry of Defence

31st March 1982

DEFENCE, PRESS AND BROADCASTING COMMITTEE

Secretary: Rear Admiral W. N. Ash, CB, MVO

Telephones:
Office: 01-218 2206
Home: London - 01-431 1693
Exeter (0392) 58751

Room 6370
Ministry of Defence
Main Building
Whitehall
LONDON SW1A 2HB

Ref. DN/5201/DPBC

18 March 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICES

ERRATA AND CORRIGENDA

It is requested that the following amendments be inserted in the enclosed copy(ies) of D Notices dated 12 January 1982:-

Page (iii) - Membership of the Defence Press and Broadcasting Committee

After the entry for J K Donlan, Esq, insert:

G. Evans, Esq, NPA
Managing Editor
The Sunday Telegraph

Page 5 - D NOTICE No 3

Para 2c, 2nd line. Last word should read 'plutonium'

Page 6 - D NOTICE No 4

Para 3, last line. Second word should read 'operations'

W N ASH

Secretary of the Committee

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICES

The enclosed D Notices dated 12 January, 1982 are issued by the Defence Press and Broadcasting Committee. Any questions about the D Notices, their application or interpretation should be addressed to the Secretary, Defence Press and Broadcasting Committee, (the 'D Notice Secretary'), currently Rear Admiral W N Ash. He is available at any time and details of how to contact him are appended.

The D Notices now issued are not confidential, though the Defence Press and Broadcasting Committee will preserve the ability to issue advice on a confidential basis if a need should arise in the future. They are addressed to editors and publishers personally, but additional copies are freely available from the Secretary if they wish to circulate them more widely within their own organisation.

12 January 1982

Rear Admiral
Secretary of the Committee

DEFENCE PRESS AND BROADCASTING COMMITTEE

LIST OF CONTENTS

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

MEMBERSHIP OF THE DEFENCE PRESS AND BROADCASTING COMMITTEE

The current membership of the Defence Press and Broadcasting Committee is as follows:

		Representing
Chairman	Sir Frank Cooper GCB CMG Permanent Under Secretary of State Ministry of Defence	
Chairman, Press and Broadcasting Side	J M Ramsden Esq Editor-in-Chief Flight International	PPA
Government Representatives	Sir Brian Cubbon, KCB Permanent Under Secretary of State Home Office	
	Sir Arthur Hockaday, KCB, CMG Second Permanent Under Secretary of State Ministry of Defence	
	Patrick Wright Esq, CMG Deputy Under Secretary of State Foreign and Commonwealth Office	
Press and Broadcasting Representatives	J Bishop, Esq Managing Editor Illustrated London News	PPA
	Windsor Clarke, Esq, CBE	NS
	J K Donlan, Esq Managing Editor, News and Special Reports The Sun	NPA
	R Francis, Esq Director, News and Current Affairs British Broadcasting Corporation	BBC
	F J H Grant, Esq Managing Editor The Times	NPA
	D Horobin, Esq Deputy Editor Independent Television News Limited	ITN

DEFENCE PRESS AND BROADCASTING COMMITTEE

MEMBERSHIP OF THE DEFENCE PRESS AND BROADCASTING COMMITTEE

		Representing
Press and Broadcasting Representatives (Cont)	K Whetstone, Esq Editor Birmingham Evening Mail	NS
	C Wilson, Esq Editorial Director George Outram & Co	SDNS

Secretary	Rear Admiral W N Ash, CB, MVO
Associate Secretary	J B Wright, Esq Deputy Chief Press Officer Ministry of Defence

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

CONTACTING THE SECRETARY

The office of the Secretary, Defence Press and Broadcasting Committee is situated at:

Room 6370
Ministry of Defence
Main Building
Whitehall
London SW1A 2HB

Telephone No. 01-218 2206

The office is normally open from Mondays to Fridays from 0900 to 1700. The telephone is fitted with an Ansaphone which, out of office hours, gives information on how the Secretary may be contacted.

The Secretary will normally be available out of office hours at home on either 01-431-1693 or Exeter (0392)-58751. These telephones are also fitted with Ansaphones and if the Secretary is temporarily absent a message can be dictated and the Secretary will phone back as soon as he returns.

During the Secretary's longer absence on leave or from other causes, the Associate Secretary, Mr J B Wright, Deputy Chief Press Officer, Ministry of Defence telephone number 01-218-3259, will handle enquiries. Out of office hours he can be reached at home, telephone number Oxford (0865)-66723.

In the event of any difficulty, the Duty Press Officer, Ministry of Defence, telephone number 01-218 7907, should be consulted. He will always be kept aware of the movements of the Secretary and Associate Secretary.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

GENERAL INTRODUCTION TO THE D NOTICE SYSTEM

1. The D Notice system applies to certain categories of information which the government considers that it has a duty to protect, and which it asks editors and publishers to refrain from publishing, as being particularly sensitive for reasons of national security. D Notices are designed to provide guidance on the nature and extent of this information, and are backed up by readily available advice on their application and interpretation. The criterion used to establish and administer D Notices is that they should be strictly confined to subjects where secrecy is agreed to be necessary. The guidance is not intended to be inflexible: in particular cases some relaxation may be possible; but in order to avoid serious risk which may not be apparent editors and publishers are asked to consult the D Notice Secretary whenever there may be doubt.

2. The D Notice system is entirely voluntary and has no legal authority: the final responsibility for the decision whether or not to publish lies solely with the editor or publisher concerned. The legal aspects of the publication of official information are covered separately by the Official Secrets Acts (see paragraph 8 below).

The Need to Protect Information

3. Hostile intelligence services draw on information from a variety of sources both overt and covert, and by piecing it together can build up a composite picture of a subject. The dissemination of sensitive information can make their task easier and put national security at risk. It can also be of value to terrorist groups who lack the resources to obtain it through their own efforts. For these reasons there are dangers inherent even in the publication of information covered by D Notices which has already appeared elsewhere. It is strongly requested that there should be no elaboration, nor confirmation or denial, of the accuracy of items published elsewhere, without reference to the Secretary.

How the System Works

4. D Notices are addressed to national and provincial newspaper editors, to radio and television organisations, and to some publishers of periodicals and books on defence and related subjects.

5. D Notices may be issued or amended only on the authority of the Defence Press and Broadcasting Committee (DPBC). The Committee is composed jointly of officials from government departments concerned with national security, and representatives of the press and broadcasting organisations. The Chairman of the Committee is the Permanent Under-Secretary of State for Defence. The press and broadcasting members select one of their number as Chairman of their side of the Committee; he acts as their spokesman at meetings of the Committee and provides a point of day-to-day contact for the Secretary DPBC (the "D Notice Secretary"), whose office is the central point of the system.

6. The Secretary, who is normally a retired senior officer from the Armed Forces, is appointed with the approval of both sides of the Committee. He is the servant equally of the government and press sides of the DPBC and he is available at all times. D Notices are necessarily drafted in somewhat general terms, and from time to time questions of real difficulty arise as to the

application of a D Notice to some particular set of circumstances. It is on such questions in particular that the Secretary is available to advise. He is not however invested with any authority to give 'rulings' or judicial interpretations: this would be at variance with the basic principle of the system, which operates throughout as one of free co-operation and consultation.

7. In cases where it is thought necessary to issue a D Notice on a specific matter, the government department concerned will agree a draft of the proposed Notice with the Secretary who, from his experience, can advise upon the form and content which are likely to make it acceptable to the press. The Secretary will then seek the agreement of both sides of the DPBC to the draft and, if it is obtained, issue the text as a D Notice in the name of the DPBC as a whole. New drafts which are challenged or whose texts cannot be agreed are considered at a full meeting of the DPBC. In very urgent cases the Secretary is authorised to issue a D Notice at the request of a department on his own responsibility provided that he can secure the agreement of both sides of the DPBC, including not fewer than 3 press and broadcasting members. If such an emergency Notice is issued it has to be reviewed by the full Committee as soon as possible.

D Notices and the Official Secrets Act 1911-1939

8. There is no direct relationship between the D Notice system and the Official Secrets Acts. Nothing in the D Notice system relieves an editor of his responsibilities under the Acts, though D Notices have a useful function in reminding editors that publication of the information which they protect could contravene the provisions of the Acts.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 1.

DEFENCE PLANS, OPERATIONAL CAPABILITY, STATE OF READINESS AND TRAINING

1. The defensive capability of the United Kingdom, particularly as to broad policy and overall strategy, is in general terms a proper subject for public discussion. It is important, however, that such discussion should not disclose details whose publication could damage British interests by giving a potential enemy important strategic or operational advantages.

2. It is requested therefore that information of the kind listed below should not be disclosed without first seeking advice:

a. defence plans or particulars of defence policy which would enable a potential enemy to deduce details of our intentions at any level of operations;

b. plans for the allocation, handling and deployment of service resources to meet particular hostile situations, and other contingency plans;

c. details of the work carried out at, or the specific function of, defence establishments, installations or units where such detail has not been officially released or is not readily apparent;

d. the state of readiness and detailed operational capability of individual units or formations;

e. operational movements of individual units or formations (as distinct from routine peacetime movements);

f. particulars of current or projected tactics, trials, techniques and training (including anti-interrogation training).

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 2

DEFENCE EQUIPMENT

1. Detailed information on defence equipment when prematurely revealed can help potential enemies to devise effective counter-measures more quickly, or speed up development of their own weapons and equipment. This applies to all stages from research and development to use in service. Even when major equipment has been introduced, protection of information about its operational use is necessary if it is to retain its full effectiveness.

2. It is requested therefore that detailed information that has not been officially released about defence equipment should not be published without first seeking advice. The categories of information referred to are:

a. code names and code numbers;

b. design details, technical specifications, materials and production methods;

c. trials and new facilities for them, trials equipment, dates and results;

d. performance figures and operational capabilities;

e. specifics of possible counter-measures;

f. total numbers ordered, rates of production, and stocks;

g. forecast dates of entry into service;

h. detailed photographic and other pictorial or diagrammatic material.

3. Detailed information about cancelled projects is also subject to the general request for restraint in publication because it may have relevance to other developments.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 3

NUCLEAR WEAPONS AND EQUIPMENT

1. Information about the performance and deployment of nuclear weapons and their delivery systems, including any measures they incorporate to defeat anti-aircraft or anti-missile defences, could be of value to an enemy in formulating his defence plans and in devising counter-measures. At the same time information about the design of nuclear weapons and the technology for their manufacture could assist nuclear weapon states to improve their nuclear capability; non-nuclear weapon states to acquire one; or sub-national groups to produce explosive nuclear devices.

2. It is requested therefore that information falling in the following categories should not be published without first seeking advice:

a. the design of specific nuclear weapons, their characteristics (eg yields and vulnerability); and systems whose purpose is to enhance their penetration through defences;

b. the technologies for producing nuclear weapons and the special nuclear materials used in them;

c. stockpile quantities, storage arrangements and deployment plans for nuclear weapons and the materials used in them, especially plutonium, uranium and tritium;

d. detailed information on the arrangements for transport and movement of nuclear weapons, components and fissile material.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 4

RADIO AND RADAR TRANSMISSIONS

1. Radio communications and other electro-magnetic transmissions are intercepted by potential enemies. Intercepted information may be of exceptional value to an enemy, and the unofficial publication of information which aids interception may be very damaging to national security.

2. It is requested therefore that advice should be sought before the publication of details of radio and radar equipments and transmissions used for defence purposes, unless they have been officially released.

3. Especial caution is necessary in respect of details such as physical characteristics, frequencies, transmitting times, purpose and location, particularly when they relate to equipment under development or engaged in defence operations and exercises.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 5

CYPHERS AND COMMUNICATIONS

1. There is a need for careful handling of information about HM Government's communications systems and those of our allies. Publication of details about these communications could assist potential enemies to penetrate them.

2. It is requested that no details should be published of:

a. HM Government's codes and cyphers and those of NATO and other allies;

b. the operations, organisation and numerical strength of communications establishments dealing with national security matters.

3. It is also requested that extreme discretion should be used in reporting ostensible disclosures of information published at home or overseas about British codes and cyphers and that such information should not be elaborated upon without reference to the Secretary. This includes information purporting to come from people who are or were employed in British communications establishments.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 6

BRITISH SECURITY AND INTELLIGENCE SERVICES

1. The broad functions of the security and intelligence services are widely known. They are responsible for countering threats to the Realm arising from espionage, subversion and sabotage and for providing HM Government with secret intelligence concerning foreign powers. These services must operate as far as possible in conditions of secrecy. Their work can be made much more difficult, even impossible, by publication of detailed information about their activities or methods, since this is likely to stimulate specific counter-measures.

2. It is requested therefore that nothing should be published without reference to the Secretary about:

a. specific operations of the security and intelligence services and those involved with them;

b. details of the manner in which operational methods, including the interception of communications, are actually applied and of their targets;

c. the identities, whereabouts and tasks of persons employed by these services, including details of their families and home addresses. Editors are reminded that, in addition to possible risks to operations from disclosures of such matters, former employees and their families and associates may still be at risk, sometimes for a long period, after ceasing employment;

d. the addresses and telephone numbers used by these services;

e. the organisational structures, communications networks, numerical strengths, and training techniques of these services, and details of the resources allocated to them;

f. technical advances by the security and intelligence services, in relation to their intelligence and counter-intelligence methods, whether the basic methods are well known or not;

3. Attempts are sometimes made to prompt disclosures about the work of the security and intelligence services by planting stories in the British or foreign press. It is therefore requested that ostensible disclosures of information published about these services should not be repeated or otherwise elaborated upon without reference to the Secretary. This includes information purporting to come from members or former members of these services.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 7

WAR PRECAUTIONS AND CIVIL DEFENCE

1. It is necessary to safeguard a number of key buildings, structures and installations, which are essential to national security. Many of them have a peacetime use from which it may be possible to deduce their wartime function; nevertheless, it would be damaging to the national interest to disclose their defence purpose or to publish details or photographs of their precise location, structure, approaches or identifiable surface work. It is requested therefore that disclosure or publication of such detail should not be made without first seeking official advice.

2. The buildings, structures and installations fall broadly into the following categories:

a. underground installations for the storage and movement of emergency reserves of oil;

b. sites of headquarters or communication centres of government above local authority level in time of war;

c. underground cables or other communications equipment intended for emergency use;

d. underground flood gates that are not in public view on the London Underground Railways.

3. It is also requested that the identity or the purpose of the buildings or sites earmarked for the Emergency National Grid Control Centre or the NATO Wartime Civil Agencies for Oil and Shipping, or the capacity of any non-commercial oil storages or pipelines, should not be published.

12 January 1982

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 8

PHOTOGRAPHY

1. The wide availability to the public of sophisticated photographic equipment and the use of high definition cameras in satellite and other reconnaissance does not remove the need for caution with regard to the publication of photographs of defence establishments and installations. Such photographs can reveal details of possible targets not otherwise known as available to potential enemies.

2. It is requested therefore that advice should be sought before the publication of detailed photographs, films, diagrams and sketches of defence establishments and installations. This applies in particular to material containing details of the operational bases of the three Services and of their essential support facilities including research and development establishments, ranges and experimental areas, storage and maintenance depots, dockyards and factories, and to aerial photographs of warships in a naval dockyard or commercial shipyard. It is not intended however that general views of districts which contain a defence establishment should be withheld from publication, provided that these do not clearly distinguish details which would assist in identifying the purpose of the building or installation.

3. See D Notice No 2 concerning the photography, etc, of defence equipment.

12 January 1982

DEFENCE, PRESS AND BROADCASTING COMMITTEE

Secretary: Rear Admiral W.N. Ash, CB, MVO

Telephones:
Office: 01-218 2206
Home: London - 01-431 1693
Exeter (0392) 58751

Room 6370
Ministry of Defence
Main Building
Whitehall
LONDON SW1A 2HB

Ref. DN/5201/DPBC

Cranley Onslow, Esq, MP
Chairman, Defence Committee
House of Commons

31 March 1982

Dear Chairman

DEFENCE PRESS AND BROADCASTING COMMITTEE - REVIEW OF THE D NOTICE SYSTEM

1. In their report on the D Notice system (Third Report, Session 1979-80, (HC773 dated 6 August 1980)), the Defence Committee of the House of Commons noted that the Defence Press and Broadcasting Committee (DPBC) would be initiating a full review of all aspects of the existing system. The Defence Committee subsequently asked that the conclusions of this review should be submitted to them, so that they could take them into account in any response to the Government Observations on their report.

2. The DPBC have now completed their review of the system and, as Chairmen of the DPBC and of the Press and Broadcasting side of the Committee, we now submit the Committee's conclusions for the information of the Defence Committee together with a copy of the new D Notices preceded by a General Introduction.

3. In conducting their review, the DPBC have taken full account of the views expressed by the Defence Committee in their report and have addressed themselves in particular to two questions which the report identified as being in need of consideration: the means by which general understanding and acceptance of the system should be improved; and second, the form of the advice.

4. In para 18 of their report, the Defence Committee commented that "it is the perception of the system by the Press rather than its real nature which may be creating unnecessary inhibitions". The DPBC recognise that many of the past misconceptions about the D Notice system and the difficulties which have, on occasion, arisen in its administration could be attributed in some degree to misunderstanding of how the system works. They accept that if the system is to be recognised and accepted, then the reasons for its existence, the way in which the advice given is arrived at and made available, and the nature of the advice itself, should be understood by those whose concern it is. The DPBC believe that to this end the newly revised General Introduction should be freely and widely disseminated. As to the new D Notices themselves, there is nothing in them which is classified

in the official sense and they will no longer be marked 'Private and Confidential' (though it will be necessary to preserve the ability to issue D Notice advice on a confidential basis if a need should arise in the future). D Notices will be addressed to editors and publishers personally, but it is being emphasised that there need be no security restriction on the extent to which they are circulated within their organisations.

5. The DPBC felt unable to endorse the Defence Committee's view (para 30 of their report) that detailed and specific advice on particular matters should be given in appendices to the D Notices. Such material would inevitably be so voluminous if it were to be comprehensive that it would confuse and perhaps inhibit the reader rather than help him. The DPBC concluded that the recipients of D Notices would be best served by continuing to cover only the general areas of information where care is necessary, and these areas are defined with as much precision as possible. It believes that advice on detail will best be achieved by encouraging consultation with the D Notice Secretary on all matters of interpretation, or where there is any doubt as to application.

6. It is the Committee's intention to meet at least twice a year. To ensure that the general advice remains current the DPBC will take formal steps to re-validate the contents of D Notices annually.

7. The press and broadcasting members of the DPBC have not yet completed their consultations with the press organisations on the complete composition of their side of the Committee, but they have taken note of the Defence Committee's views expressed in para 35 of their report.

8. The DPBC agree with the view of the Defence Committee (para 36) that it is essential that the DPBC's Secretary should be seen to be the servant of the whole Committee and not just of the Ministry of Defence. They believe that this always has been accepted to be the case by the vast majority of those in the press and broadcasting, as well as by those in Whitehall, who have contact with the system.

9. The DPBC have considered the proposal that the Secretary should be located in his own premises away from the main Ministry of Defence building. Clearly there is an argument in favour of this on presentational grounds, but the DPBC believe on balance that because the main function of the D Notice Secretary is to assist the press and broadcasting with up-to-date and immediately available advice on the interpretation and application of D Notices, he can do this effectively only by maintaining close day-to-day contact with those responsible for the information which D Notices seek to protect, and he should therefore remain where he is.

10. The purpose of the D Notice system is to protect information on national security matters when publication would be harmful to the nation; and that alone. The DPBC believe that the newly revised D Notices, together with their measures to increase general understanding of the system, will, with the continued co-operation of the media, achieve its wider acceptance and as a result serve this purpose well.

11. The House of Commons is being informed of the outcome of the D Notice Review in a written answer to a Parliamentary Question to be made on 31 March 1982 and it will be communicated to the press immediately thereafter.

J M RAMSDEN
Editor-in-Chief
'Flight International'
(IPC Business Press)
Chairman, Press and Broadcasting Side
Defence Press and Broadcasting Committee

FRANK COOPER
Chairman
Defence Press and Broadcasting Committee

2cc AH
Debra

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

REVISION OF D NOTICES

I have shown the Prime Minister your minute A07911, and she has noted that the Secretary of State for Defence will be answering a Question about the results of the review of D Notices on Wednesday, 31 March.

AWL.

26 March 1982

AH

2.

CC/BI

Prime Minister

25/3

Ref. A07911

MR WHITMORE

Revision of 'D' Notices

In my minutes of 15th December and 8th February I explained the results of the 'D' Notice review and described the Ministry of Defence's plans for announcing those results. On the Prime Minister's instructions we subsequently agreed with the Ministry of Defence that the results of the review would be announced by way of a written answer to an inspired Parliamentary Question to the Secretary of State for Defence.

2. I have now heard from the Ministry of Defence that this procedure and the text of the Question and Answer have been agreed with the Press and Broadcasting Committee, and that the Question will be answered on Wednesday, 31st March. I attach a copy of the Question and Answer.

RWA

ROBERT ARMSTRONG

25th March 1982

Question

To ask the Secretary of State for Defence, having regard to his observations upon the third report from the Defence Committee for Session [ ], Cmnd 8129, whether the Defence Press and Broadcasting Committee has now reached a conclusion on its review of the D Notice system.

Answer

The Defence Press and Broadcasting Committee (DPBC) has now completed its review of the D Notice system and has informed the Government of its conclusions.

The D Notices themselves have been revised and reduced in number from 12 to 8. They have been kept in general terms in the belief that advice on details of application or interpretation can best be conveyed in consultation with the D Notice Secretary. D Notices will continue to be advisory and the system will remain entirely voluntary with no legal sanction. The final responsibility for the decision whether or not to publish will continue to lie solely with the editor or publisher concerned.

The Committee is convinced of the continuing need for a system which seeks to protect information on national security matters whose publication would be harmful to the nation. It considers that many of the difficulties and misconceptions concerning the D Notice system which have arisen in the past have been the result of a lack of general understanding of its purpose and how it works, and that it would be of benefit if these were more widely known. To this end, a description of the system has been included in a General Introduction to the D Notices and this introduction is being widely circulated.

The Government have considered the conclusions of the Defence Press and Broadcasting Committee's review and give them their full support.

A copy of the new D Notices together with the General Introduction [is being] [has been] placed in the library.

Defence
File AH

10 DOWNING STREET

From the Principal Private Secretary

IN CONFIDENCE

SIR ROBERT ARMSTRONG

REVISION OF D NOTICES

The Prime Minister has seen your minute A07602 of 24 February 1982 and she agrees that we should now publicise the results of the review of D Notices by means of both a press release and a Written Answer.

25 February 1982

AH

Prime Minister

Agree to an announcement by means of a Press release and a Written Answer?

Yes

No

24.1.82

Ref. A07602

PRIME MINISTER

Revision of D Notices

On ~~17~~ 17 December you approved the revised D Notices drafted by the Defence Press and Broadcasting Committee (DPBC) and agreed to the texts being published if the DPBC believed this was necessary.

2. The DPBC, at its meeting on 12 January, formally adopted the new D Notices and agreed that the results of their review of the D Notice system should be made available to the House of Commons Defence Committee in the form of a report signed by Mr J M Ramsden as Chairman of the Press side and Sir Frank Cooper for the official side. The DPBC also concluded that the results should be made public by the issue of a Press release with the questions and requests for interviews which would inevitably ensue being dealt with by the D Notice Secretary (Rear Admiral W N Ash).

3. In response to my minute A07361 of ~~8~~ February, you indicated that you were content with the draft report to the Defence Committee but said you were less ready to accept that the DPBC should publicise the results of the review by means of a Press release (which could stimulate difficult questions) and asked whether it would be better to make the announcement by means of a written answer to a Parliamentary Question.

4. I have now taken further advice on this point. The root of the problem lies in the delicate relationship between the Government and the media inherent in the DPBC. The Press and Broadcasting members are perpetually sensitive about being regarded as "Uncle Toms" who co-operate with the Government in muzzling the freedom of the Press. They like to engender a feeling that the Committee works in the broad national interest detached from the day-to-day ups and downs of relations between the Government and the media; and that it is some kind of independent body justified by the preservation of national security. This is a fiction constitutionally, since the official members (who represent the Home Office, the Foreign Office and the Ministry of Defence) operate under Ministerial direction. Nonetheless, the Press and Broadcasting members' sensitivities are

very real and, if they felt that these were ignored or trodden on, the entirely voluntary D Notice system would be put at risk. We do not want them to be embarrassed or to start to distance themselves from the outcome of the review and lack robustness in their defence of their own contribution and of the new D Notices. It was they, indeed, who argued for a Press release by the Committee as a whole with subsequent enquiries being fielded by Admiral Ash who, in spite of having his office within the Ministry of Defence building, is widely recognised as "neutral".

5. On the other side there are, of course, the sensitivities of Members of Parliament to be considered. In the circumstances I suggest that we should continue with a Press release (and answering of enquiries by Admiral Ash) but also inspire a Parliamentary Question for written answer by the Secretary of State for Defence on the same day, which would allow him to indicate the Government's support for the conclusions of the review. This is a slightly unorthodox approach, but it fits with the unorthodox nature of the D Notice system.

6. I should be grateful for your agreement to this revised proposal. Sir Frank Cooper (the Chairman of the Committee) believes that the Press and Broadcasting members could be brought to accept it, and the way would then be clear to obtain their concurrence with the draft report to the House of Commons Defence Committee.

RWA

ROBERT ARMSTRONG

24 February 1982

file AH

Defence

10 DOWNING STREET

From the Principal Private Secretary

IN CONFIDENCE

SIR ROBERT ARMSTRONG

REVISION OF D NOTICES

The Prime Minister has seen your minute A07361 of 8 February 1982 and she is content with the draft report to the Defence Committee on the review of the D Notice system.

She is, however, less ready to accept that the Defence Press and Broadcasting Committee should publicise the results of the review by means of a press release. She thinks that to proceed in this way will stimulate some difficult questions. She would like to know what the alternatives are and in particular she has asked whether it would be better to make the announcement by means of a written Question.

I should be grateful if you could let the Prime Minister have some further advice on this point.

18/2 /

TAW.

9 February 1982

AH

Ref: A07361

1. Prime Minister.

Yes

Content with the attached draft report to the Defence Committee?

Agree that the DPBC should publicise the results of their review of the D Notice system by means of a press release - before giving the question that will be included - attributed?

Are reluctant to agree because of

IN CONFIDENCE

PRIME MINISTER

Revision of D Notices

What about a written P.Q.? No

The Defence Press and Broadcasting Committee (DPBC) (sometimes known as the "D Notice Committee") has been engaged since July 1980 upon a complete review of the D Notice system and of the Notices themselves. Terms of reference for the review were contained in the Government's preliminary observations, which were published as Command 8129 in January 1981, on the Third Report from the Defence Committee Review Session 1979-80. The DPBC was invited to take full account of the Defence Committee's Report in its current review.

2. In response to my minute A06936 of 15th December 1981 you approved the revised D Notices (now reduced in number from 12 to 8) and agreed to the texts being published if the DPBC believed this was necessary.

3. The DPBC met on 12th January and gave its formal approval to the new D Notices, subject to the excision from Notice No. 8 (Photography of Defence Establishments) of a small amount of explanatory material which they thought unnecessary. The excision does not affect the degree of protection afforded by the Notice.

4. The Committee agreed that the D Notices should be addressed personally to editors and other recipients (for example the people concerned in the book publishing business) and that there need be no restriction on circulation within their own organisations as editors and others might wish. It was also agreed that there was a positive advantage in the purpose and methods of the system being more widely known. The General Introduction to the D Notices has been drafted with this in mind and can be widely used.

5. The Press and Broadcasting members found it difficult to come to a view about the extent to which D Notices themselves should be disseminated more widely. They concluded that nothing should be done to encourage open publication but that they could not object if they became public. The clinching point was that, since the Notices are not now classified, the Defence Committee

is perfectly free to make them public when it gets them. There is no doubt too that some journals will make the contents public, but the Notices were revised on the basis that they might be published and the effect will be transitory.

6. The D Notices are now being printed and should be ready for distribution later in the month. Before this can be done it will be necessary to respond to the Defence Committee's request that it should be informed of the outcome of the review. There is an unusual amalgam of both Press and official involvement in the D Notice system; it seems right that any report on the review should be seen to come from both sides of the DPBC and that it should be signed by Mr. J.M. Ramsden as Chairman of the Press side as well as by Sir Frank Cooper for the official side.

7. I attach a copy of the draft report from the DPBC for the Defence Committee. The Defence Committee should be content with the outcome of the review, and in particular with the resolution of the two questions which the Defence Committee's Report identified as being in need of consideration: the means by which general understanding and acceptance of the system should be improved and, second, the form in which advice can best be made available.

8. With regard to two specific proposals put forward by the Defence Committee, the draft report -

(a) does not address itself to the proposal that compliance with a D Notice should guarantee immunity from prosecution. The official side takes the view that the response to this should come rather from the Government than from the DPBC, and the Home Office is considering how best to deal with this;

(b) considers the proposal that the Secretary of the D Notice Committee should be located elsewhere than in the Ministry of Defence, but comes down in favour of the status quo.

9. There remains the question of how the results of the review should be made public. The DPBC took the view that it should issue a Press release at the appropriate time. This will undoubtedly generate questions and requests for interviews from the media. It is the DPBC's view that these should be left

in the hands of the D Notice Secretary who is the central point of the system and can speak for both sides of the Committee.

10. I should be grateful for your agreement to the text of the draft report to the Defence Committee and to the proposals for publicising the results of the review.

11. Agreement is being sought separately from the Home Secretary, the Foreign and Commonwealth Secretary and the Secretary of State for Defence.

RTA

Robert Armstrong

8th February 1982

REVISED DRAFT

anley Onslow, Esq, MP
hairman, Defence Committee
House of Commons

DEFENCE PRESS AND BROADCASTING COMMITTEE - REVIEW OF THE D NOTICE SYSTEM

1. In their report on the D Notice system (Third Report, Session 1979-80, (HC773 dated 6 Aug 1980)), the Defence Committee of the House of Commons noted that the Defence Press and Broadcasting Committee (DPBC) would be initiating a full review of all aspects of the existing system. The Defence Committee subsequently asked that the conclusions of this review should be submitted to them, so that they could take them into account in any response by the Committee to the Government Observations on their report.

2. The DPBC have now completed their review of the system and, as Chairmen of the DPBC and of the Press and Broadcasting side of the Committee, we now submit on behalf of the DPBC the following report of the Committee's conclusions for the information of the Defence Committee together with a copy of the new set of D Notices preceded by a General Introduction. A further copy /has been/ /is being/ placed in the library of the House of Commons.

3. In conducting its review, the DPBC has taken full account of the views expressed by the Defence Committee in their report and has addressed itself in particular to two questions which the report identified as being in need of consideration: the means by which general understanding and acceptance of the system should be improved; and second, the form in which advice can best be made available.

4. At para 18 of their report, the Defence Committee commented that "it is the perception of the system by the Press rather than its real nature which may be creating unnecessary inhibitions". The DPBC recognise that many of the misconceptions that have existed in the past about the nature and purpose of the D Notice system and the difficulties that have, on occasion, arisen in its administration could be attributed in some degree to a lack of general understanding of how the system works. They agree that if the system is to be recognised and accepted for what it is, then in principle the reasons for its existence, the way in which the advice given is arrived at and made available, and the nature of the

advice itself, should be widely understood by those who concern it is. The DPBC believe that to this end the explanation of the purpose and methods of the system contained in the new General Introduction should be freely and widely disseminated. As to the new Notices themselves, there is nothing in them which is classified in the official sense and they will no longer be marked 'Private and Confidential' (though it will be necessary, for reasons of security, to preserve the ability to issue D Notice advice on a confidential basis if a need should arise in the future). D Notices will be addressed to editors and publishers personally, but it is being emphasised that there need be no restriction for security reasons on the extent to which they are circulated within their organisations.

5. After full consideration the DPBC felt unable to endorse the Defence Committee's view (at para 30 of their report) that detailed and specific advice on particular matters should be given in appendices to the D Notices. It emerged on examination that such material would inevitably have to be so voluminous if it were to be comprehensive as to confuse and perhaps unnecessarily inhibit the editor rather than help them. The DPBC concluded, therefore, that the interests of the recipients of D Notices would best be served by continued coverage of only the general areas of information where care is necessary, though these areas are defined with as much precision as is possible. It believes that advice on detail will best be achieved by encouraging greater consultation with the D Notice Secretary than hitherto on all matters of particular interpretation, or where there is any doubt as to its application. It is the Committee's intention to meet in future at least twice a year. To ensure that the general advice remains current the DPBC will review the contents of D Notices annually.

6. The press and broadcasting members of the DPBC have not yet completed their consultations with the press organisations they represent on the future composition of their membership of the Committee, but they have taken note of the Defence Committee's views expressed at para 35 of their report.

7. The DPBC agree with the view of the Defence Committee (para 36 of their report) that it is essential that the DPBC's Secretary should be seen to be the servant of the whole Committee and not just of the Ministry of Defence. They believe that

this is already, and always has been, accepted to be the case by the vast majority of those in the press and broadcasting, as well as by those in Whitehall, who have contact with the system. The DPBC have considered the proposal that the Secretary should be located in his own premises away from the main Ministry of Defence building. Clearly there is an argument in favour of this on presentational grounds, but the DPBC believe it to be outweighed by the consideration that a main function of the D Notice Secretary is to assist the press and broadcasting with up-to-date and immediately available advice on the interpretation and application of D Notices. He can only do this effectively by maintaining close day-to-day contact with those responsible for the information which D Notices seek to protect, and to remove his office from the MOD would reduce his ability to keep in touch in this way, and thereby diminish the service which should be available to the Press. They have concluded, therefore, that on balance it is preferable for the Secretary's office to remain where it is.

8. It is the purpose of the D Notice system to seek to protect information on national security matters whose publication would be harmful to the nation; and that alone. The DPBC believe that the newly revised D Notices, together with the measures to be taken to increase the general understanding of the purposes and methods of the system, will, with the co-operation of the media, achieve its wider acceptance and as a result serve this purpose well.

9. The results of the DPBC's review will be released to the press on .....

Chairman
Press and Broadcasting Side
Defence Press and Broadcasting Committee

Chairman
Defence Press and Broadcasting Committee

DEFENCE PRESS AND BROADCASTING COMMITTEE

D NOTICE NO 8

PHOTOGRAPHY

1. The wide availability to the public of sophisticated photographic equipment and the use of high definition cameras in satellite and other reconnaissance does not remove the need for caution with regard to the publication of photographs of defence establishments and installations. Such photographs can reveal details of possible targets not otherwise known as available to potential enemies.

2. It is requested therefore that advice should be sought before the publication of detailed photographs, films, diagrams and sketches of defence establishments and installations. This applies in particular to material containing details of the operational bases of the three Services and of their essential support facilities including research and development establishments, ranges and experimental areas, storage and maintenance depots, dockyards and factories, and to aerial photographs of warships in a naval dockyard or commercial shipyard. It is not intended however that general views of districts which contain a defence establishment should be withheld from publication, provided that these do not clearly distinguish details which would assist in identifying the purpose of the building or installation.

3. See D Notice No 2 concerning the photography, etc, of defence equipment.

12 January 1982

Defence

File AH

10 DOWNING STREET

From the Principal Private Secretary

IN CONFIDENCE

SIR ROBERT ARMSTRONG

REVISION OF D NOTICES

The Prime Minister has seen your minute A06936 of 15 December 1981 and has approved the revised D Notices.

She is content for the revised texts to be published, if the Defence Press and Broadcasting Committee believe this is necessary.

AWW.

17 December 1981

A10

Prime Minister

Agree to the revised D Notices and, if necessary, to their publication?

Yes

Ref: A06936

IN CONFIDENCE

PRIME MINISTER

Revision of D Notices

The Defence Press and Broadcasting Committee (DPBC) (sometimes known as the "D Notice Committee") has been engaged since July last year upon a complete review of the D Notice system and of the Notices themselves. Terms of reference for the review were contained in the Government's preliminary observations on the Third Report from the Defence Committee Review Session 1979-80, which were presented by the Secretary of State for Defence and published as Command 8129 in January 1981. Contents of the Notices were last thoroughly reviewed in 1971.

2. In their review, the DPBC pursued three main aims:-

(i) To bring the Notices up-to-date so that they covered all the information, but only that information, in the national security field which it is essential to protect in present-day circumstances.

(ii) So to arrange the system that it should be possible to achieve a wider understanding of its purposes and methods, by the public in general but particularly within the media; and thus avoid as far as possible the misconception and misrepresentation of it that have occurred in the past; and thus

(iii) To preserve the value of the system, and its acceptability to the media, as a voluntary arrangement for protecting really sensitive information.

3. The two sides of the DPBC have now reached agreement on the new form and the content of the D Notices. The wording has been brought up-to-date; but the general extent of information covered has not been much altered. Some detail that has been officially released and some that is plainly out-of-date has been eliminated.

4. The number of Notices has been reduced from 12 to 8. Those which dealt with training in methods of resistance to interrogation (No. 7) and the whereabouts in Australia of the Russian defector PETROV (No. 12) have been dropped. Those previously dealing separately with classified weapons and equipment for the three armed services (Nos. 2, 3 and 4) have now been combined under one heading.

5. The revised list of D Notices is as follows:

1. Defence plans, operational capability, state of readiness and training.
2. Defence equipment.
3. Nuclear weapons and equipment.
4. Radio and radar transmissions.
5. Cyphers and communications.
6. British security and intelligence services.
7. War precautions and civil defence.
8. Photography (of defence establishments).

6. The general aim in preparing the Notices has been to describe in broad terms the information which requires protection; and to encourage the Press to seek advice from the D Notices Secretary to a greater extent than hitherto on matters of interpretation or application where editors may be in doubt about particular stories.

7. In one or two places the Committee had to bow to pressure from the Press and broadcasting side on the score that information had come so widely into the public domain that it would be unrealistic to seek to deny the use of it, or where they made a strong case that, in present-day conditions, the Press should not be denied the right to discuss subjects in broad terms. The official members of the Committee (who represent the Home Office, the Foreign Office and the Ministry of Defence) believe, however, that, despite these concessions, phrasing has been achieved that will effectively protect the really essential matters.

8. The new Notices were also prepared on the basis that they may be published. For example, Notices No. 5 and No. 6 ('Cyphers and communications' and 'British security and intelligence services') have been drafted in a less specific manner than before and do not name the organisations involved. I doubt whether publication of the contents would bring us closer to avowal of the intelligence agencies than we already are as a result of other developments which I have reported separately. The agencies themselves were fully consulted during the revision of the Notices.

9. I attach a copy of the General Introduction and revised D Notices. The texts have been approved by the Home Secretary, the Foreign Secretary and the Secretary of State for Defence. The DPBC are due to meet on 17th December in order, subject to Ministers' concurrence, formally to approve the Notices. That meeting will consider also how widely the Notices should be disseminated within Press and broadcasting organisations and whether or not they should be published.

10. I should be grateful for your agreement to the revised texts and to their publication, if the DPBC believe this to be the right course.

RFA

Robert Armstrong

15th December 1981

DRAFT

12 Nov 81
VERSION

GENERAL INTRODUCTION TO THE D NOTICE SYSTEM

1. The D Notice system applies to certain categories of information which the government considers that it has a duty to protect, and which it asks editors and publishers to refrain from publishing, as being particularly sensitive for reasons of national security. D Notices are designed to provide guidance on the nature and extent of this information, and are backed up by readily available advice on their application and interpretation. The criterion used to establish and administer D Notices is that they should be strictly confined to subjects where secrecy is agreed to be necessary. The guidance is not intended to be inflexible; in particular cases some relaxation may be possible; but in order to avoid serious risk which may not be apparent editors and publishers are asked to consult the D Notice Secretary whenever there may be doubt.

2. The D Notice system is entirely voluntary and has no legal authority: the final responsibility for the decision whether or not to publish lies solely with the editor or publisher concerned. The legal aspects of the publication of official information are covered separately by the Official Secrets Acts (see paragraph 8 below).

The Need to Protect Information

3. Hostile intelligence services draw on information from a variety of sources both overt and covert, and by piecing it together can build up a composite picture of a subject. The dissemination of sensitive information can make their task easier and put national security at risk. It can also be of value to terrorist groups who lack the resources to obtain it through their own efforts. For these reasons there are dangers inherent even in the publication of information covered by D Notices which has already appeared elsewhere. It is strongly requested that there should be no elaboration, nor confirmation or denial, of the accuracy of items published elsewhere, without reference to the Secretary.

How the System Works

4. D Notices are addressed to national and provincial newspaper editors, to radio and television organisations, and to some publishers of periodicals and books on defence and related subjects.

5. D Notices may be issued or amended only on the authority of the Defence Press and Broadcasting Committee (DPBC). The Committee is composed jointly of officials from government departments concerned with national security, and representatives of the press and broadcasting organisations. The Chairman of the Committee is the Permanent Under-Secretary of State for Defence. The press and broadcasting members select one of their number as Chairman of their side of the Committee; he acts as their spokesman at meetings of the Committee and provides a point of day-to-day contact for the Secretary DPBC (the "D Notice Secretary"), whose office is the central point of the system.

6. The Secretary, who is normally a retired senior officer from the Armed Forces, is appointed with the approval of both sides of the Committee. He is the servant equally of the government and press sides of the DPBC and he is available at all times. D Notices are necessarily drafted in somewhat general terms, and from time to time questions of real difficulty arise as to the application of a D Notice to some particular set of circumstances. It is on such questions in particular that the Secretary is available to advise. He is not however invested with any authority to give 'rulings' or judicial interpretations: this would be at variance with the basic principle of the system, which operates throughout as one of free co-operation and consultation.

7. In cases where it is thought necessary to issue a D Notice on a specific matter, the government department concerned will agree a draft of the proposed Notice with the Secretary who, from his experience, can advise upon the form and content which are likely to make it acceptable to the press. The Secretary will then seek the agreement of both sides of the DPBC to the draft and, if it is obtained, issue the text as a D Notice in the name of the DPBC as a whole. New drafts which are challenged or whose texts cannot be agreed are considered at a full meeting of the DPBC. In very urgent cases the Secretary is authorised to issue a D Notice at the request of a department on his own responsibility provided that he can secure the agreement of both sides of the DPBC, including

not fewer than 3 press and broadcasting members. If such an emergency Notice is issued it has to be reviewed by the full Committee as soon as possible.

D Notices and the Official Secrets Acts 1911-1939

8. There is no direct relationship between the D Notice system and the official Secrets Acts. Nothing in the D Notice system relieves an editor of his responsibilities under the Acts, though D Notices have a useful function in reminding editors that publication of the information which they protect could contravene the provisions of the Acts.

DRAFT

12 Nov 81
VERSION

D NOTICE NO 1

DEFENCE PLANS, OPERATIONAL CAPABILITY, STATE OF READINESS AND TRAINING

1. The defensive capability of the United Kingdom, particularly as to broad policy and overall strategy, is in general terms a proper subject for public discussion. It is important, however, that such discussion should not disclose details whose publication could damage British interests by giving a potential enemy important strategic or operational advantages.

2. It is requested therefore that information of the kind listed below should not be disclosed without first seeking advice:

a. defence plans or particulars of defence policy which would enable a potential enemy to deduce details of our intentions at any level of operations;

b. plans for the allocation, handling and deployment of service resources to meet particular hostile situations, and other contingency plans;

c. details of the work carried out at, or the specific function of, defence establishments, installations or units where such detail has not been officially released or is not readily apparent;

d. the state of readiness and detailed operational capability of individual units or formations;

e. operational movements of individual units or formations (as distinct from routine peacetime movements);

f. particulars of current or projected tactics, trials, techniques and training (including anti-interrogation training).

DRAFT

D NOTICE NO 2

DEFENCE EQUIPMENT

1. Detailed information on defence equipment when prematurely revealed can help potential enemies to devise effective counter-measures more quickly, or speed up development of their own weapons and equipment. This applies to all stages from research and development to use in service. Even when major equipment has been introduced, protection of information about its operational use is necessary if it is to retain its full effectiveness.

2. It is requested therefore that detailed information that has not been officially released about defence equipment should not be published without first seeking advice. The categories of information referred to are:

a. code names and code numbers;

b. design details, technical specifications, materials and production methods;

c. trials and new facilities for them, trials equipment, dates and results;

d. performance figures and operational capabilities;

e. specifics of possible counter-measures;

f. total numbers ordered, rates of production, and stocks;

g. forecast dates of entry into service;

h. detailed photographic and other pictorial or diagrammatic material.

3. Detailed information about cancelled projects is also subject to the general request for restraint in publication because it may have relevance to other developments.

DRAFT

D NOTICE NO 3

NUCLEAR WEAPONS AND EQUIPMENT

1. Information about the performance and deployment of nuclear weapons and their delivery systems, including any measures they incorporate to defeat anti-aircraft or anti-missile defences, could be of value to an enemy in formulating his defence plans and in devising counter-measures. At the same time information about the design of nuclear weapons and the technology for their manufacture could assist nuclear weapon states to improve their nuclear capability; non-nuclear weapon states to acquire one; or sub-national groups to produce explosive nuclear devices.

2. It is requested therefore that information falling in the following categories should not be published without first seeking advice:

a. the design of specific nuclear weapons, their characteristics (eg yields and vulnerability); and systems whose purpose is to enhance their penetration through defences;

b. the technologies for producing nuclear weapons and the special nuclear materials used in them;

c. stockpile quantities, storage arrangements and deployment plans for nuclear weapons and the materials used in them, especially plutonium, uranium and tritium;

d. detailed information on the arrangements for transport and movement of nuclear weapons, components and fissile material.

DRAFT

D NOTICE NO 4

RADIO AND RADAR TRANSMISSIONS

1. Radio communications and other electro-magnetic transmissions are intercepted by potential enemies. Intercepted information may be of exceptional value to an enemy, and the unofficial publication of information which aids interception may be very damaging to national security.

2. It is requested therefore that advice should be sought before the publication of details of radio and radar equipments and transmissions used for defence purposes, unless they have been officially released.

3. Especial caution is necessary in respect of details such as physical characteristics, frequencies, transmitting times, purpose and location, particularly when they relate to equipment under development or engaged in defence operations and exercises.

DRAFT

D NOTICE NO 5

CYPHERS AND COMMUNICATIONS

1. There is a need for careful handling of information about HM Government's communications systems and those of our allies. Publication of details about these communications could assist potential enemies to penetrate them.

2. It is requested that no details should be published of:

   a. HM Government's codes and cyphers and those of NATO and other allies;

   b. the operations, organisation and numerical strength of communications establishments dealing with national security matters.

3. It is also requested that extreme discretion should be used in reporting ostensible disclosures of information published at home or overseas about British codes and cyphers and that such information should not be elaborated upon without reference to the Secretary. This includes information purporting to come from people who are or were employed in British communications establishments.

DRAFT

D NOTICE NO 6

SECURITY AND INTELLIGENCE SERVICES

1. The broad functions of the security and intelligence services are widely known. They are responsible for countering threats to the Realm arising from espionage, subversion and sabotage and for providing HMG with secret intelligence concerning foreign powers. These services must operate as far as possible in conditions of secrecy. Their work can be made much more difficult, even impossible, by publication of detailed information about their activities or methods, since this is likely to stimulate specific counter-measures.

2. It is requested therefore that nothing should be published without reference to the Secretary about:

a. specific operations of the security and intelligence services and those involved with them;

b. details of the manner in which operational methods, including the interception of communications, are actually applied and of their targets;

c. the identities, whereabouts and tasks of persons employed by these services, including details of their families and home addresses. Editors are reminded that, in addition to possible risks to operations from disclosures of such matters, former employees and their families and associates may still be at risk, sometimes for a long period, after ceasing employment;

d. the addresses and telephone numbers used by these services;

e. the organisational structures, communications networks, numerical strengths, and training techniques of these services, and details of the resources allocated to them;

f. technical advances by the security and intelligence services, in relation to their intelligence and counter-intelligence methods, whether the basic methods are well known or not;

3. Attempts are sometimes made to prompt disclosures about the work of the security and intelligence services by planting stories in the British or foreign press. It is therefore requested that ostensible disclosures of information published about these services should not be repeated or otherwise elaborated upon without reference to the Secretary. This includes information purporting to come from members or former members of these services.

DRAFT

D NOTICE NO 7

WAR PRECAUTIONS AND CIVIL DEFENCE

1. It is necessary to safeguard a number of key buildings, structures and installations, which are essential to national security. Many of them have a peacetime use from which it may be possible to deduce their wartime function; nevertheless, it would be damaging to the national interest to disclose their defence purpose or to publish details or photographs of their precise location, structure, approaches or identifiable surface work. It is requested therefore that disclosure or publication of such detail should not be made without first seeking official advice.

2. The buildings, structures and installations fall broadly into the following categories:

a. underground installations for the storage and movement of emergency reserves of oil;

b. sites of headquarters or communication centres of government above local authority level in time of war;

c. underground cables or other communications equipment intended for emergency use;

d. underground flood gates that are not in public view on the London Underground Railways.

3. It is also requested that the identity or the purpose of the buildings or sites earmarked for the Emergency National Grid Control Centre or the NATO Wartime Civil Agencies for Oil and Shipping, or the capacity of any non-commercial oil storages or pipelines, should not be published.

DRAFT

D NOTICE NO 8

PHOTOGRAPHY

1. The wide availability to the public of sophisticated photographic equipment and the use of high definition cameras in satellite and other reconnaissance does not remove the need for caution with regard to the publication of photographs of defence establishments and installations. This is because:

a. satellite photography or highly sophisticated reconnaissance systems which could show the exact lay-out of military establishments are not available to all potential enemies;

b. accurate targetting and the planning of sabotage can be greatly aided by photographs taken from low or ground level;

c. high altitude photography is vulnerable to adverse weather conditions and photographs taken from low or ground level can confirm suspected activity not previously shown in sufficient detail;

d. photographs can reveal a previously unknown target which may be of interest to an enemy;

e. photographs can suggest the existence of so far unsuspected activity.

2. It is requested therefore that advice should be sought before the publication of detailed photographs, films, diagrams and sketches of defence establishments and installations. This applies in particular to material containing details of the operational bases of the three Services and of their essential support facilities including research and development establishments, ranges and experimental areas, storage and maintenance depots, dockyards and factories, and to aerial photographs of warships in a naval dockyard or commercial shipyard. It is not intended however that general views of districts which contain a defence establishment should be withheld from publication, provided that these do not clearly distinguish details which would assist in identifying the purpose of the building or installation.

3. See D Notice No 2 concerning the photography, etc, of defence equipment.

HOUSE OF COMMONS

Third Report from the

DEFENCE COMMITTEE

Session 1979-80

The D Notice System

Together with the Minutes of Proceedings of the Committee relating to the Report

HC 773

Ordered by The House of Commons *to be printed*
6th August 1980

THIRD REPORT FROM THE DEFENCE COMMITTEE

The Defence Committee is appointed under S.O. No. 86A to examine the expenditure, administration and policy of the Ministry of Defence and associated public bodies, and similar matters within the responsibilities of the Secretary of State for Northern Ireland.

The Committee consists of a maximum of eleven Members, of whom the quorum is three. Unless the House otherwise orders, all Members nominated to the Committee continue to be members of it for the remainder of the Parliament.

The Committee has power:

(*a*) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;

(*b*) to appoint persons with technical knowledge either to supply information which is not readily available or to elucidate matters of complexity within the Committee's order of reference.

The following were Members of the Committee during the inquiry:

Sir John Langford-Holt (Chairman)

Sir Frederic Bennett
Mr. John Cartwright
Mr. Bernard Conlan
Mr. Bruce George
Rt. Hon. Dr John Gilbert
Sir Timothy Kitson
Mr. Allen McKay
Mr. Michael Mates
Mr. Cranley Onslow
Mr. Patrick Wall

THIRD REPORT FROM THE DEFENCE COMMITTEE

TABLE OF CONTENTS

Note: the Minutes of Evidence and the Appendices thereto will be published in due course

THIRD REPORT

The Defence Committee have agreed to the following report:-

THE D NOTICE SYSTEM

Genesis and conduct of inquiry

1. We embarked upon an inquiry into the D Notice system as it relates to defence matters because the system had never before been reviewed by a Committee of this House and because it had recently attracted some severe criticism. We invited written evidence on an individual basis from the principal organs of the Press and from broadcasting organisations and issued a general invitation to submit evidence to anyone who might wish to do so. The written evidence which we received, is published as Appendices 1 to 27 of the Minutes of Evidence. We also took oral evidence from the Chairman (QQ1-123), Vice Chairman (QQ190-234) and Secretary (QQ124-189; 242-252)of the D Notice Committee (described in paragraph 3 below) and a number of organisations, newspapers and individuals (See list of witnesses).

2. The D Notice system is administered by the Defence,Press and Broadcasting Committee (hereinafter referred to as the D Notice Committee). During the course of our inquiry we were told by the Chairman of the Committee, Sir Frank Cooper, that the D Notice Committee would be initiating a full review of all aspects of the existing system. (Appendix 24 of the Minutes of Evidence). We welcome this as we welcome the assurance of Sir Frank that the views of this Committee will be fully taken into account in the forthcoming review (Q5). At the same time, we cannot accept that the existing D Notice Committee should have the last word on this matter; the prescription for the future may be too radical for the Committee itself to contemplate.

Description and history of the system

3. The D Notice Committee, which has the formal responsibility for issuing D Notices, comprises senior Government officials (the Permanent Under Secretary of State, Ministry of Defence in the chair, the Permanent Under Secretary of State, Home Office, the Second Permanent Under Secretary of State, Ministry of Defence and the Deputy Under Secretary of State, Foreign and Commonwealth Office) and representatives of the various press and broadcasting organisations. (A full list of the membership is published at Appendix 22 to the Minutes of Evidence). D Notices are circulated to national and provincial newspaper editors, to radio and television organisations and to editors of certain periodicals and to some publishers of books on defence and related subjects. Their purpose is to advise editors and publishers that the Government regards certain categories of information as subjects on which secrecy is necessary to preserve national security, and to ask editors to refrain from publishing such information. An editor or journalist who is in doubt can get in touch with the Secretary of the D Notice Committee for advice. It is for editors and publishers to decide whether they receive D Notices (QQ155, 222) and whether they will follow the advice of the D Notices as amplified, as the case may be, by the Secretary to the Committee (QQ50, 83). The D Notices have no legal force (QQ29, 223) (see Ministry of Defence Memorandum).

4. The D Notice Committee was set up in 1912, a year after the enactment of the Official Secrets Act, 1911. At that time, the Government was concerned about leaks of government information and there was also considerable anxiety about German espionage. The 1911 Act, therefore, significantly strengthened the provisions of the first Official Secrets Act of 1889 and the new D Notice Committee provided further safeguards. The constitution and modus operandi of the D Notice system have been much the same from the beginning except during two world wars when a system of censorship operated. The Secretary of the Committee came originally from the Press Association news agency, but after the 1939-45 war, the Press asked the Government to provide a secretary and to pay his salary. Accordingly the post was taken over by Rear Admiral (Retired) G.P. Thomson who had been Chief Press Censor at the Ministry of Information during a large part of the war. The Government have continued to provide the Secretary and pay his salary and, in recent years, his office has been located in the Ministry of Defence.

5. The D Notice system was reviewed by the Radcliffe Committee on Security Procedures in the Public Service which reported in 1962 (Cmnd. 1681). The Committee was concerned with a much wider range of matters than the D Notice system but, having made a survey of the arrangements, they concluded that they had "no hesitation in recommending the continuance of the system".

6. In 1967, Mr. Chapman Pincher, a journalist on the staff of the Daily Express, was at the centre of a major controversy about the working of the D Notice system in connection with a story which he published in the Daily Express about the opening of cables and overseas telegrams. One of the matters at issue was whether or not the publication of the article was in breach of one or more D Notices. A Committee of Privy Counsellors was appointed to inquire into D Notice matters and reported in 1967 (Cmnd. 3309). The Committee concluded that, on a narrow interpretation of one of the relevant D Notices, it had not been breached by the Daily Express article. They also concluded there had been no breach of another relevant D Notice. On the general question of the D Notice system the Committee said that there was "not much in the way of alteration that could usefully be recommended" for the system. The Government then published a White Paper (Cmnd. 3312) disagreeing with the Privy Counsellors' findings in the Chapman Pincher case although they accepted the conclusions of the Privy Counsellors about the operation of the D Notice system. Finally an internal Civil Service inquiry resulted in the Secretary to the D Notice Committee (Colonel Lohan) being asked to resign.

7. In 1971 Mr. Brian Roberts, the editor of the Sunday Telegraph, Colonel Douglas Cairne, Britain's senior observer during the Nigerian civil war, Mr. Jonathan Aitken, a free-lance journalist, and one other person were charged with offences under section 2 of the Official Secrets Act 1911. The prosecution case was that there had been the communication and receipt of a confidential assessment of the situation in Nigeria, written by Cairne, a Government official, and which had passed through various hands to the Sunday Telegraph. The Sunday Telegraph approached the Secretary of the D Notice Committee before publication of their report, and was told that D Notices did not apply because the report did not relate to British forces or British defences.

8. At the trial it was established that the report contained no military secrets. The prosecution failed to secure a conviction under section 2 and in his summing-up Mr. Justice Caulfield suggested that section 2 should be "pensioned off". This was widely interpreted as a call for the repeal of section 2, but the judge went on to suggest the replacement of section 2 with new provisions so that there would be greater clarity about which official information could be communicated without prosecution. The defendants were acquitted and awarded costs from public funds.

9. Until the Chapman Pincher and Sunday Telegraph cases, the D Notices dealt with detailed matters and were subject to constant amendment. Thereafter they were redrafted in much more general terms. The present set of D Notices dates from 1971 and, with one exception, they have not been amended since that date (Q165). There are 12 Notices the coverage of which ranges from defence plans, details of weapons systems, war precautions and civil defence to intelligence services. Their titles are listed in the Annex to the Ministry of Defence Memorandum published with Sir Frank Cooper's evidence. The Notices are issued in confidence to the recipients and are labelled "private and confidential" (Q11). This is not a Government security classification (QQ172-3) and no restriction is placed on the use made of the sets of D Notices by editors who receive them. Indeed that is regarded by the Chairman of the D Notice Committee as fundamental to the system (QQ8-9). The Notices are not publicly available although, in response to our inquiry, it was established that only one sentence of one D Notice contains classified information (evidence not reported). We were supplied with copies of the current D Notices by the Ministry of Defence but we respect their confidential nature and do not propose to publish them as part of this report.

10. We would emphasise the following aspects of the D Notice system:-

(i) it is a system of advice - partly codified (in the D Notices) and partly ad hoc (as when the Secretary to the D Notice Committee deals with a particular inquiry).

(ii) it is an administrative arrangement and has no legal sanction (Q222). Moreover, as far as the Press is concerned, both participation in running it and the receipt of D Notices are voluntary, and advice given may be accepted or rejected (a point repeatedly made in evidence).

(iii) it is administered on a bipartite basis. The Committee comprises representatives both of Government and of the press and broadcasting organisations (Appendix 22).

(iv) it is not prima facie an offence under the Official Secrets Acts, nor a breach of the D Notice system, to publish the existing D Notices (Q171-3).

Legal background

11. Our inquiry did not extend to reviewing the Official Secrets Acts as such, but it is necessary to appreciate the main features of this legislation to understand the D Notice system. Specifically:

(i) an offence is committed under section 1 of the 1911 Act by any person who "for a purpose prejudicial to the safety or interests of the State" obtains or communicates any document or information "which is calculated to be or might be or is intended to be directly or indirectly useful to an enemy" (including a potential enemy) (see the Franks Report on Section 2 of the Official Secrets Act 1911, published in 1972 (Cmnd. 5104 p.16)).

(ii) an offence is committed under section 2 of the 1911 Act by any person who communicates official information without authority or by any person who receives such information or receives it and discloses it. (See Franks Report op cit pp14-15).

12. Foreign Experience

As was pointed out by Sir Frank Cooper in evidence, the D Notice system is uniquely British (Q50). In only one other country, Australia, is there a similar system in operation (Q2). How the disclosure of official information is handled in other countries is described at length in a report entitled "Disclosure of Official Information: A Report on Overseas Practice", which was prepared by the Civil Service Department and published in 1979. In some countries like the United States and Sweden there is a statutory right of access to many classes of official information, but in both of these countries steps are taken to protect information, publication of which would be damaging to national security. For example, in the United States freedom of access does not extend to records specifically required by Executive Order to be kept secret in the interest of national defence or foreign policy. We heard evidence about United States practice from Mr.

Leonard Downie, London correspondent of the Washington Post, to whom we are indebted (QQ707-746). We think his evidence is sufficiently interesting to be taken carefully into account in any revision of the Official Secrets Acts.

The case for the D Notice system

13. Section 1 of the Official Secrets Act 1911 clearly bites on the publication of information about defence matters. Its definition of sensitive material, however, - "what is calculated to be or might be or is intended to be directly or indirectly useful to an enemy" - is in very general terms and there must be a case for saying that its elaboration would be helpful to both editors and Government. The D Notices provide additional guidance to the Press and further detailed advice is available from the Secretary of the D Notice Committee.

14. It is much more difficult to assess the relevance of Section 2 to the publication of information which would endanger national security. Section 2 prohibits the release without authority of all information about the affairs of Government and its publication. On the advice available to us a strict construction of the law would permit information about defence matters emanating from official sources to be published only if its release has been authorised. In practice,a great deal of information is authorised to be released, whether formally or informally, and defence correspondents are probably dependent for much of what they print on authorised releases (Q541). If that was all there was to the matter, there might be no need for D Notices. However, journalists also get an important part of their information about government business from personal investigation, intelligent deduction and unauthorised leaks from within Government or the Defence industries. All that is a widely accepted part of life so far as the generality of Government business is concerned. The question remains as to what is to be done about information on defence matters gathered in these ways, the publication of which might endanger national security? It has been argued before us that a neat answer has been provided by the D Notice system.

15. It must be recognised that the majority of those who responded to our request to submit evidence to the Committee supported the retention of the D Notice system. While, understandably, no great enthusiasm was shown in their submissions, most newspaper editors accepted the need for the system. The editor of the Sunday Mirror went so far as to say that "the D Notice system is one of those quaintly British

institutions which should be preserved as long as possible ... it works well" (see Appendix 16). The system as it operated before 1967 when arrangements were changed, was regarded by one leading practitioner Mr. Chapman Pincher as working very well (Q425). The Ministry of Defence who are the principal users of the system clearly wish to see it remain in being (Q1).

16. A further argument for the system, as it stands, is that it is designed to prevent publication of information which might be potentially damaging to national security. In this respect, it is an additional safeguard not provided by the Official Secrets Acts in so far as the operation of the latter is in most cases penal rather than preventative in relation to publication of damaging material. In this context, some of the support for the D Notice system in the press as for example in the submission by the Sunday Mirror (op cit) stems from the fear of a worse system being created in its stead (see also Q541).

Criticisms of the D Notice system

17. Four main criticisms of the D Notice system can be distinguished in the evidence which we heard. The first was that the system is a form of censorship. Mr. Chapman Pincher in his oral evidence emphasised that the system is a form of censorship though he accepted that some degree of censorship is inevitable (Q425). Mr. Peter Hennessey in his written evidence calls the arrangement "a system of self-censorship operated by the press and government" (Appendix 12). It was also pointed out by Mr. Jonathan Aitken that the system could be used by the Government as a means of suppressing information, for reasons of administrative or political convenience, the publication of which would not endanger national security. (Q497). However, we have received no evidence that this has occurred during the last few years, though Mr. Aitken drew our attention to a notorious example of suppression earlier on when a D Notice was used to try to prevent publication of the details of Philby's treachery (Q497).

18. An additional argument made to us, also relevant to the charge of censorship, was that the D Notices themselves are now mainly couched in very general terms (Q208). It was suggested to us that the impression is created in the minds of some of the recipients of the Government seeking to prohibit public discussion of defence matters across a very

wide area. In other words, it is the perception of the system by the Press rather than its real nature which may be creating unnecessary inhibitions. (QQ547, 654). This impression is sustained by the fact that Government releases much information within the ambit of the Notices and that other information within their ambit becomes, for various reasons, public property in the course of time.

19. It was also stressed in evidence that no-one is under an obligation to take delivery of the D Notices or, having taken delivery of them, to act on them. (QQ50, 83, 155, 222) In fact they are not distributed to the so-called "fringe" press, nor to the London correspondents of the non-Commonwealth press, neither of which groups is represented on the D Notice Committee (Q724).

20. Secondly, it is urged that the freedom of the Press is compromised by participation in the system. This was strongly believed by those in press and broadcasting who opposed the D Notice system. They are in a minority among those who submitted evidence to us but they come from among those publications which take a serious interest in defence matters. The written evidence received by the Committee revealed the New Statesman, Defence magazine (Appendix 7) and London Weekend Television (under certain conditions) (Appendix 13) against the system. The editors of the Press Association (Appendix 11) and of the Guardian and the Sunday Times (Q653) (but not the staff of these two newspapers) were also against. Other critical views came from several journalists submitting evidence in their personal capacities (Appendices 12, 18 and 21). The fact remains, however, that the majority of the evidence from the media serves to reflect acceptance of the system.

21. A third main criticism was that there is confusion between the D Notice system and the law. Under the Official Secrets Acts the initiation of prosecution is a matter for the Attorney General. Mr. Jonathan Aitken M.P. (Q.479), Mr. Chapman Pincher (Q.425) and others made the point to us that compliance with a D Notice does not preclude prosecution under the law (QQ29-31; 470, 511). It is also true that defiance of a D Notice does not inevitably lead to prosecution. At the same time, it is open to anyone prosecuted to call the Secretary to the D Notices Committee to appear in his defence and testify that the relevant D Notice was complied with. We were also told that in recent years there have been few

breaches of D Notices (Q85) and our attention has not been drawn to any prosecutions since 1971 relating to matters covered by D Notice. It has been suggested in the memorandum from the Sunday Times and by Mr. Aitken (QQ479, 504) that compliance with a D Notice should carry an assurance that there would be no prosecution under the law. We return to that suggestion in paragraph 40.

22. A fourth criticism was that the system is very little used and is, therefore, unnecessary (QQ136, 256, 320, 343, 487). It was suggested to us that this dated from the controversy in which Mr. Chapman Pincher was involved in 1967 and the prosecution of Mr. Jonathan Aitken and others in 1971 (Q479). It is true that the D Notices have hardly been altered in 9 years and that, in a recent 6 month period, the secretary of the D Notices Committee received only some 30 inquiries and they were of a minor character (QQ136, 141). It was pointed out to us in evidence that there is in such circumstances a danger that the D Notices are locked away and become less and less used as time goes by (Q514).

23. We heard evidence that few editors would publish anything which they knew would impair national security and, therefore, there was no need for the guidance of the D Notices. A distinction between national security (in the sense of the defence of the realm) and the national interest (in the sense of the overall well-being of the country) seemed to lie behind this evidence. The argument being put to us was that wider considerations than the security of defence information might exceptionally make an editor a better judge of where the true national interest lies than the D Notice Committee or the Government (Q567). The Chairman of the D Notice Committee told us that, in the last resort, the system left the editor free to judge (Q16). We were also told by witnesses from the press and broadcasting that the question of publication had to be judged from the standpoint of the Official Secrets Acts as well as the D Notices and, for that purpose, editors would normally take legal advice (QQ443, 459, 519, 520). The extreme point of view put to us was that the media were best left to judge the question of publication against the legal restrictions without the intervention of the D Notice system (Q626).

Conclusions

24. We have taken evidence from a wide variety of interests and points of view on the D Notice system. From that evidence, it is clear that the system as at present constituted is failing to fulfil the role for which it was created. If, as we were told in evidence, the system is not used by newspapers (QQ136, 479, 514, 656); if major newspapers do not know what part of the D Notices is classified (Q523) and have not consulted their D Notices for a number of years; and, in one case, admitted to having lost them (QQ514, 665); if some categories of sensitive information are not covered (QQ67, 242); if both foreign and fringe press are outside the system (QQ700, 724); if the wording of the D Notices is so wide as to render them meaningless (QQ488, 671); if the D Notice Committee only finds it necessary to meet twice a year (QQ58-9, 193) and then does not seriously review the Notices themselves, having had no single amendment proposed from the Press side in nearly 10 years we are forced to the conclusion that as it stands the system hardly serves a useful purpose. Moreover, the appearance of covert censorship which it conveys has provoked strong criticism. (QQ425, 624, 626, 654).

25. On the other hand, it is important to prevent the disclosure of information about defence matters which would be damaging to national security. The law provides penalties for such disclosures but the practical difficulty is to know precisely where the line should be drawn between what is damaging and what is a legitimate matter for public discussion (Q678). The Official Secrets Acts are drafted in much too general terms to provide the necessary guidance.

26. It would be possible to argue that a decision to publish in any particular case should be left to the judgement of individual editors interpreting the law as best they can without any official guidance and relying solely on the advice of their lawyers. Whilst we certainly accept that few editors in this country would act in an irresponsible fashion we cannot rule out the possibility that some, whether from malice or ignorance, might do so. In any case, many defence questions are of a technical character and it is just not possible for the layman to know which details are safe to disclose and which are not.

27. We therefore regard it as necessary that advice should continue to be given to the press and broadcasting on what cannot be disseminated without damage to national security. Moreover, we think that a system of ad hoc advice would be incomplete without some codification, at least to the extent of laying down general principles. At the same time, it is not easy to provide advice in a manner which will command the acceptance and respect of the press and public. As we noted in paragraph 2 this is a task to which the D Notice Committee is also addressing itself.

28. There are two main questions - the subject matter of the Notices themselves and the responsibility for drafting and promulgating them. There is also the subsidiary question of where the media should be able to look for ad hoc advice.

29. As to the first question, although the existing Notices are very general in character, they are issued under the heading "private and confidential", and are not published and not widely disseminated. To our minds there seems to be little in them which could not be published. As indeed has been confirmed to us by the Ministry of Defence, only one sentence in one D Notice contains classified material. It is this unnecessary secrecy which gives rise to misconceptions about the system and to the criticisms which are made of it and makes it difficult for the public to judge whether the criticisms are justified or not. We would strongly urge the publication of a document (whether or not it is called a D Notice is immaterial) which would traverse much of the ground of the present D Notices and provide in generally accessible form as much guidance as possible about what is sensitive and what is not without doing damage to national security.

30. That would open the way to drafting appendices to the published Notices which would give detailed and specific advice on particular matters, which would keep abreast of current developments in the defence field, which would rigorously exclude anything which had become public property (whether intentionally or not) and which would not be published but, as at present, issued in confidence. These confidential appendices would need to be constantly reviewed, revised and re-issued.

31. That brings us to the question of who should be responsible for the drafting and issuing of such Notices. Clearly, whatever the precise arrangements, the initiative must rest with the Ministry of Defence and as appropriate with the Home Office and Foreign and Commonwealth Office. Only the Government is privy to the whole range of information about current defence and other relevant matters and is adequately equipped to judge the significance of technical details (which are important in the defence field) from a security point of view. On the other hand, it would be odd if the Ministry did not, by some means, consult the Press and broadcasting before issuing Notices it had drafted. That ought to make the guidance more acceptable to the media. At present consultation is done through the standing arrangements of the D Notice Committee, but it could be done ad hoc.

32. It seems to us that the main charge against the existing D Notice Committee is not that there is anything wrong in principle about bringing the Press into consultation but that the Committee is clearly not, at the present time, commanding the confidence of a significant part of the media and, even more clearly, is doing nothing actively to manage the arrangements for safeguarding national security.

33. Against this background we have considered the alternatives (i) of retaining the D Notice Committee and making certain changes in its procedures additional to those we have already proposed and (ii) of disbanding the Committee and transferring its functions to the Ministry which would implement the changes we have already proposed.

34. In favour of the first alternative is the fact that the Press themselves have not as a body chosen to withdraw from the present arrangements. It might be thought by some to be presumptuous on our part to suggest that they should.

35. Under the first alternative we would propose that the press and broadcasting representatives on the Committee should comprise editors and journalists from publications which take an active interest in publishing information about defence and in discussing it. It would be for the representative bodies of the Press and for the broadcasting organisations to consider how this might best be brought about.

36. Ad hoc advice about the detailed application of the Notices would continue to be sought from the Committee's Secretary. It seems to us essential, however, that he should be seen to be the servant of the whole Committee and not just of the Ministry of Defence. The last few Secretaries have been retired Service officers with experience of military intelligence. A previous connection with intelligence work does not seem necessary although we accept that the Secretary needs to have good inside knowledge of the workings of the Ministry and the Armed Forces. It would however be desirable that, to emphasise his independence of the Ministry, the Secretary should be located in his own premises away from the main Ministry of Defence building.

37. The second alternative would be to wind up the D Notice Committee. Published guidance and the confidential annexes which we have suggested would then be drafted and issued solely on the Government's responsibility. Ad hoc advice could still be made available from the Ministries concerned. The argument in favour of this alternative would be that the responsibilities would then rest where they properly belong and the present confusion about the role of the Press in the whole business would be cleared away. It would always be open to the Government in the exercise of its responsibilities, to consult the media ad hoc.

38. As between the alternatives, we have concluded that the D Notice Committee should be retained at least until there is a fundamental review of the operation of the Official Secrets Acts. We wish to emphasise that the Committee will only gain the necessary degree of acceptance if the changes, which we have outlined above, are implemented. The reforms we propose would continue the useful life of a system which at one time fulfilled a worthwhile role and which could, in the future, make a continuing contribution to the necessary safeguarding of the national interest while creating the least possible constraint on the publication of defence information.

39. With revised D Notices and revised machinery for administering them, we would hope and expect that the system would command wider acceptance among the media. The system would still be voluntary and it would remain the editor's right and responsibility to decide, in the last resort, whether or not to publish and to take the consequences.

40. There is the question which we noted in paragraph 21 of whether or not compliance with a D Notice should guarantee immunity from prosecution or constitute a valid defence in court. We think that these are logical proposals. Before the law can be changed, there may be difficulties in providing an absolute guarantee but meanwhile we think that the Government should make it clear that prosecution would not normally be initiated where there had been a genuine attempt to comply with a D Notice.

PROCEEDINGS OF THE DEFENCE COMMITTEE

Wednesday 30th April 1980

Members present:

Sir John Langford-Holt in the Chair

Sir Frederic Bennett
Mr. John Cartwright
Mr. Bernard Conlan
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Sir Timothy Kitson
Mr. Allen McKay
Mr. Patrick Wall

The Committee deliberated.

Resolved, That an inquiry be conducted into the D Notice system.

[Adjourned till Wednesday next at Ten o'clock

Wednesday 4th June 1980

Members present:

Sir John Langford-Holt in the Chair

Mr. John Cartwright
Mr. Bernard Conlan
Mr. Bruce George
Mr. Allen McKay
Mr. Michael Mates
Mr. Patrick Wall

The Committee deliberated.

Ordered, That, unless otherwise ordered, strangers be admitted during the examination of witnesses in connection with the inquiry into the D Notice system.

[Adjoured till Wednesday next at half-past Ten o'clock

Wednesday 11th June 1980

Members present:

Sir John Langford-Holt in the Chair

Sir Frederic Bennett
Mr. John Cartwright
Mr. Bernard Conlan
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Sir Timothy Kitson
Mr. Allen McKay
Mr. Michael Mates
Mr. Cranley Onslow
Mr. Patrick Wall

The Committee deliberated.

Sir Frank Cooper GCB, CMG, Chairman of the Defence, Press and Broadcasting Committee, was called in and examined.

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

Ordered, That strangers do now withdraw.

Sir Frank Cooper was further examined.

[Adjourned till tomorrow
at half-past Ten o'clock

Tuesday 17th June 1980

Members present:

Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Mr. Allen McKay
Mr. Michael Mates

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

The Committee deliberated.

Rear Admiral W.N. Ash CB, MVO, Secretary, Defence, Press and Broadcasting Committee, was called in and examined.

Mr. Windsor Clarke, CBE, Vice-Chairman, Defence, Press and Broadasting Committeee, was called in and examined.

Ordered, That strangers do now withdraw.

Mr. Windsor Clarke was further examined.

The witness withdrew.

Rear Admiral Ash was further examined.

[Adjourned till Tuesday next
at half-past Ten o'clock

Tuesday 8th July 1980

Members present:

Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Mr. Michael Mates
Mr. Patrick Wall

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

The Committee deliberated.

Mr. Richard Francis, Director of News and Current Affairs, and Mr. Alan Protheroe, Editor of Television News, British Broadcasting Corporation, were called in and examined.

Mr. David Glencross, Deputy Director of Television, and Mr. Neville Clarke, Senior Television Programme Officer, Independent Broadcasting Authority, were called in and examined.

Mr. David Boulton, Head of Current Affairs, Granada Television, was called in and examined.

[Adjourned till tomorrow at half-past Ten o'clock

Thursday 15th July 1980

Members present:

Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Mr. Michael Mates
Mr. Cranley Onslow

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

Mr. Chapman Pincher was called in and examined.

Mr. Jonathan Aitken, a Member of the House, was examined.

Mr. Peter Preston, Editor, and Mr. David Fairhall, Defence Correspondent, The Guardian, were called in and examined.

[Adjourned till Tuesday next at half-past Ten o'clock

Tuesday 22nd July 1980

Members present:

Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Mr. Allen McKay
Mr. Michael Mates
Mr. Cranley Onslow
Mr. Patrick Wall

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

The Committee deliberated.

Mr. Bruce Page, Editor and Mr. Duncan Campbell, staff writer, New Statesman, were called in and examined.

Mr. Harold Evans, Editor, and Mr. Peter Harland, Managing Editor, Sunday Times, were called in and examined.

Mr. Leonard Downie, London correspondent, Washington Post, was called in and examined.

[Adjourned till tomorrow at half-past Ten o'clock

Thursday 24th July 1980

Members present:

Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Mr. Allen McKay
Mr. Michael Mates
Mr. Cranley Onslow
Mr. Patrick Wall

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

The Committee deliberated.

[Adjourned till Tuesday next at half-past Ten o'clock

Tuesday 29th July 1980

Members present:

Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Mr. Michael Mates
Mr. Cranley Onslow
Mr. Patrick Wall

In the absence of the Chairman, Dr. Gilbert was called to the Chair.

The Committee deliberated.

[Adjourned till tomorrow at Four o'clock

Wednesday 30th July 1980

Members present:

Sir John Langford-Holt in the Chair

Sir Frederic Bennett
Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Sir Timothy Kitson
Mr. Allen McKay
Mr. Cranley Onslow

The Committee deliberated.

Draft Report (the D Notice system), proposed by Dr. Gilbert, brought up and read.

Ordered, That the proposed Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 3 read and agreed to
Paragraph 4 read and postponed
Paragarphs 5 to 7 read, amended and agreed to
Paragarph 8 read and agreed to
Pargraphs 9 and 10 read, amended and agreed to
Postponed paragraph 4 again read, amended and agreed to
Paragraphs 11 and 11a read, amended and agreed to
Paragraph 12 read and agreed to
Paragraph 13 read, amended and agreed to
Paragraphs 14 and 15 read and agreed to
Paragraph 16 read and postponed
Paragraphs 17 and 18 read, amended and agreed to
Paragraph 19 read and agreed to
Postponed paragraph 16 again read, amended and agreed to
Paragraphs 20 and 21 read and agreed to
Paragraphs 22 to 25 read, amended and agreed to.

Further consideration of Report adjourned till Tuesday next.

[Adjourned till Tuesday next at Six o'clock

Tuesday 5th August 1980

Members present:

Sir John Langford-Holt in the Chair

Sir Frederic Bennett
Mr. John Cartwright
Mr. Bruce George
Rt. Hon. Dr. John Gilbert
Sir Timothy Kitson
Mr. Allen McKay
Mr. Michael Mates
Mr. Cranley Onslow

The Committee deliberated.

Consideration of Report (the D Notice system) resumed.
Paragraphs 26 to 28 read, amended and agreed to.
Paragraphs 29 to 33 read and agreed to.
Paragraphs 34 to 36 read, amended and agreed to.
Paragraph 37 read, as follows:

> "37. As between the alternatives, we have concluded that the most straightforward answer would be to dispense with the D Notice Committee and to place responsibility for the Notices themselves squarely with the the Ministry of Defence and other Government Departments. This recommendation is not designed to undermine the system of guidance about what should not be published as far as defence information is concerned. It is intended to simplify the system, and to leave editors with the clear and direct responsibility, which is theirs already, to decide what their papers publish. Although we realise that, with the abolition of the Committee, the post of its secretary would lapse, this would not preclude the Government from designating an official to act as a focal point for guidance. These arrangements should continue until there is a fundamental review of the operation of the Official Secrets Acts."

Amendment proposed, in line 1, to leave out from the word 'concluded' to end of paragraph and insert the words:

> "that the D Notice Committee should be retained at least until there is a fundamental review of the operation of the Official Secrets Acts. We wish to emphasise that the Committee will only gain the necessary degree of acceptance if the changes, which we have outlined above, are implemented. The reforms we propose would continue the useful life of a system which at one time fulfilled a worthwhile role and which could in the future make a continuing contribution to the necessary safeguarding of the national interest while creating the least possible constraint on the publication of defence information." - (Mr. Onslow).

Question proposed, That the amendment be made.

Amendment proposed to the proposed Amendment, in line 3, after the words 'operation of' to insert the words 'and need for' - (Dr. Gilbert).

Question put, That the Amendment to the proposed Amendment be made.

The Committee divided:

Ayes, 4	Noes, 4
Mr. Cartwright	Sir Frederic Bennett
Mr. George	Sir Timothy Kitson
Dr. Gilbert	Mr. Mates
Mr. McKay	Mr. Onslow

Whereupon the Chairman declared himself with the Noes.

Question put, That the proposed Amendment be made.
The Committee divided

Ayes, 4	Noes, 4
Sir Frederic Bennett	Mr. Cartwright
Sir Timothy Kitson	Mr. George
Mr. Mates	Dr. Gilbert
Mr. Onslow	Mr. McKay

Whereupon the Chairman declared himself with the Ayes.

Paragraph, as amended, agreed to.

Paragraphs 38 and 39 read, amended and agreed to.

Resolved, That the Report, as amended be the Third Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 85 (Select Committees (reports)) be applied to the Report.

[Adjourned till Wednesday
29th October at half-past Ten
o'clock

LIST OF WITNESSES

Wednesday, 11th June, 1980

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Sir Frank Cooper GCB, CMG,
Chairman of the Defence, Press and
Broadcasting Committee

Tuesday, 17th June, 1980

Rear Admiral W.N. Ash, CB, MVO,
Secretary of the Defence, Press and
Broadcastng Committee

Mr. Windsor Clarke, CBE, Vice-Chairman
of the Defence, Press and
Broadcasting Committee

Tuesday, 8th July, 1980

BBC
Mr. Richard Francis, Director,
News and Current Affairs
Mr. Alan Protheroe, Editor
Television News

INDEPENDENT BROADCASTING AUTHORITY
Mr. David Glencross, Deputy Director
of Television
Mr. Neville Clarke, Senior Television
Programme Officer

GRANADA TELEVISION LTD.
Mr. David Boulton, Head of Current Affairs

Tuesday 15th July 1980

Mr. Chapman Pincher

Mr. Jonathan Aitken MP

THE GUARDIAN
Mr. Peter Preston, Editor
Mr. David Fairhall, Defence Correspondent

Tuesday 22nd July 1980

NEW STATESMAN
Mr. Bruce Page, Editor
Mr. Duncan Campbell, Staff writer

SUNDAY TIMES
Mr. Harold Evans, Editor
Mr. Peter Harland, Managing Editor

Mr. Leonard Downie, London
Correspondent of the Washington Post

Note: the Minutes of Evidence will be published in due course

APPENDICES TO THE MINUTES OF EVIDENCE

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16. Letter to the Clerk to the Committee from The Sunday Mirror (D.25.C)

17. Letter to the Clerk to the Committee from The Newspaper Society (D.28.A)

18. Letter to the Clerk to the Committee from Mr. Jacob Ecclestone (D.28.B)

19. Letter to the Clerk to the Committee from the Newspaper Publishers Association (D.31)

20. Memorandum by The Scottish Daily Newspaper Society (D.37)

21. Memorandum by Louis Heren, Deputy Editor of The Times (D.42)

22. MEMBERSHIP OF DEFENCE, PRESS AND BROADCASTING COMMITTEE
Memorandum by the Ministry of Defence (D.21)

23. COMPARABLE PRACTICES IN OTHER COUNTRIES
Memorandum by the Ministry of Defence (D.27)

24. Letter to the Chairman to the Committee from the Chairman of the Defence, Press and Broadcasting Committee (D.54)

25. Letter to The Times from Mr. Windsor Clarke published on 10th August 1973

26. Letter to the Clerk to the Committee from the National Union of Journalists (D.55)

27. Letter to the Clerk to the Committe from Mr. Tom Pocock of the Evening Standard (D.57)

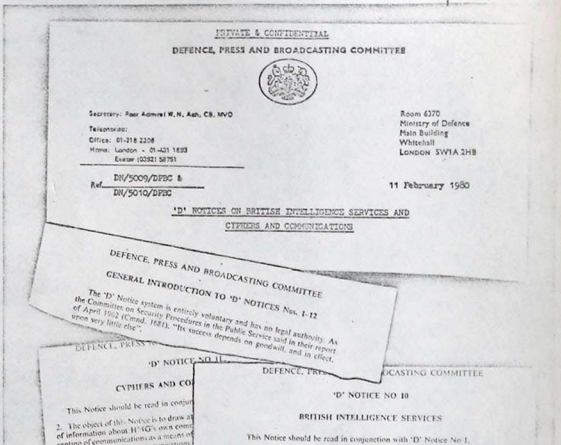
Note: the Appendices to the Minutes of Evidence will be published in due course

Article from New Statesman dated 3 April 1980

The D Notice quangette

Defence

Recent articles on security in the NEW STATESMAN have provoked a move by the almost forgotten 'D Notice', or Defence Press and Broadcasting Committee, to reassert its existence and authority. We therefore sought to clarify, in correspondence, what role (if any) the Committee and D Notices had in the 1980s; our inquiries were rebuffed. DUNCAN CAMPBELL reports on a lesser known quango inside the Ministry of Defence.



PRIVATE & CONFIDENTIAL

DEFENCE, PRESS AND BROADCASTING COMMITTEE

Secretary: Rear Admiral W. N. Ash, CB, MVO

Telephones:
Office: 01-218 2206
Home: London - 01-431 1693
Exeter (0392) 58791

Room 4370
Ministry of Defence
Main Building
Whitehall
LONDON SW1A 2HB

Ref. DN/5009/DPSC &
DN/5010/DPSC

11 February 1980

'D' NOTICES ON BRITISH INTELLIGENCE SERVICES AND CYPHERS AND COMMUNICATIONS

DEFENCE, PRESS AND BROADCASTING COMMITTEE

GENERAL INTRODUCTION TO 'D' NOTICES Nos. 1-12

The 'D' Notice system is entirely voluntary and has no legal authority. As the Committee on Security Procedures in the Public Service said in their report of April 1962 (Cmnd. 1681), "Its success depends on goodwill, and in effect, upon very little else".

'D' NOTICE NO 10

BRITISH INTELLIGENCE SERVICES

This Notice should be read in conjunction with 'D' Notice No 1.

2. The broad functions of the Security Service and the Secret Service (referred to as MI5 and MI6) are of course widely known. The Security Service is responsible for countering threats to the Realm arising from espionage, subversion and sabotage and the Secret Service exists to provide HM Government with secret intelligence concerning foreign powers. Both Services operate as far as possible in conditions of secrecy.

THE D NOTICE SYSTEM is one of the greater mysteries of British journalism. Many members of the public believe it to be a means for the government to suppress news of their favourite grievance. Even quite experienced journalists working on a 'sensitive' story fear – absurdly – that their efforts may be frustrated by the arrival of the D Notice carrier, despatched urgently from the Ministry of Defence. American and other foreign journalists regard the system of self-censorship it embodies as peculiarly British, a further example of placid press complacency.

Ironically, one reason the D Notice system has broken down is the deep secrecy with which it is surrounded. Few media employees have any idea of what D Notices say, or where in their respective organisations they might be found. If they did know what the D Notices said, they would be surprised by the all-embracing sweep of censorship which they suggest. D Notice No 1 on 'Defence Plans', for example, would if obeyed prohibit the British public from hearing anything not 'released officially' or 'published in another country' on:

> Information relating to . . . defence policy or plans . . . actual Service manpower strengths by specialities, categories or trades . . . future movements or intended destinations of HM Ships . . .current or projected tactics (or) trials. In cases of doubt, you are requested to seek advice through the appropriate Government Department.

Quite clearly, the press does not in its daily work suppress all information on defence which has not been 'officially released'. It therefore comes as something of a surprise that a serious body can issue such a permanent proclamation and continue to expect to be taken seriously.

D Notice No 1 is just one of twelve notices which have remained unaltered since their issue in August 1970. Contrary to popular myth they do not arrive by despatch rider, but lie gathering dust in an Editor's drawer. Each set of notices is contained in a small green loose leaf folder. The folder also contains an explanation of the system and a list of committee members. Each folder is numbered and stamped in gold lettering (the NEW STATESMAN is issued with no 511).

The members of the D Notice Committee include four top civil servants and 11 'press and broadcasting' representatives. Numerically, it would appear, the Committee is run by the press. The truth is clearer from a detailed examination of the membership list; the civil servants are all heavyweight Permanent Secretaries, while the press members are predominantly some distance from frontline news gathering. The civil service members are Sir Frank Cooper, Chairman (MOD permanent Under-Secretary), Sir Robert Armstrong (Home Office), Sir Arthur Hockaday (also MOD), and Sir Anthony Duff (Deputy Under-Secretary at the Foreign Office). The press contingent is led by Windsor Clarke, the 'Group Editorial Consultant' of Westminster Press, who is the Vice-Chairman, and includes the following:

> John Grant, Managing Editor, *The Times;* J H Donlan, News Editor, the *Sun;* J H Ramsden, Editor of *Flight* magazine; J Bishop, Editor of the *Illustrated London News*; B Vickers, Editor of the *Scottish Daily Record;* David Chipp, Editor-in-Chief of the Press Association; T Smith of the *Melbourne Herald* cable service; H Whetstone, Editor of the *Coventry Evening Telegraph;* Richard Francis, BBC Editor of News and Current Affairs; and D Horobin of ITN.

The Defence, Press and Broadcasting Committee might have greater credibility as an advisory body if their record was as anything other than a rubber stamp for the civil service view of affairs. The membership distinctly omits those sections of the press with a critical attitude to government secrecy. The Committee in fact seldom meets more than once a year, and then almost ceremonially. Since 1971, when the current set of Notices were issued, the Committee has met 11 times. All the work is done instead by the Committee Secretary who is a salaried £15,000-a-year Ministry of Defence employee. The current holder of the position is Rear Admiral W. N. Ash, who was appointed at the beginning of this year.

ALL TWELVE D Notices take the form of general please-do-not-publish-anything-new concerned-with-certain-topics. On occasion 'some relaxation may be possible' from stiff censorship: the most widespread ban, as may be imagined, concerns intelligence activities. D Notice No 10 calls for a complete secrecy on all details of intelligence or security activities. Its terms would specifically prohibit publication of any of the NEW STATESMAN stories on these subjects this February in particular, telephone tapping cannot be discussed:

> You are requested not to publish anything about . . . details of the manner in which well-known intelligence methods (eg telephone tapping) are actually applied or of their target and purpose

Our article on this subject, which was reported by almost every other publication

D Notices 'in force' since 16 August 1970

1. Defence plans, operational capability and state of readiness
2. Classified military weapons, weapon systems and equipment
3. Royal navy warship construction and naval equipment
4. Aircraft and aero engines
5. Nuclear weapons and equipment
6. Photography
7. Prisoners of war and evaders
8. National defence – war precautions and civil defence
9. Radio and radar transmissions
10. British intelligence services
11. Cyphers and communications
12. Whereabouts of Mr and Mrs Vladimir Petrov

thus breached D Notice 10 (and others). This did not matter in the slightest; the D Notice system bears no relationship to the Official Secrets Act, and it was clear (not least from the Home Secretary's recent announcement on the subject) that telephone tapping was a matter of considerable public concern, particularly as it had got so out of hand.

Admiral Ash reflected official alarm over awakening public interest when he circulated a reminder to Editors that D Notices were still 'in force' on the 11th of February. D Notices do not, however, have any 'force'. They merely operate by consent and are written to reflect a presumed consensus. But the system is now far behind the times, hopelessly immutable, and ultimately irrelevant. Neither the NEW STATESMAN nor any other responsible publication would wittingly publish information which endangers life or serious national interests. In these matters, however, neither we nor anyone else is usefully guided by the blanket ban on discussion contained in D Notices issued by a committee rubber stamping the views of the vested military and other civil service interests. In these circumstances the Editor of the NEW STATESMAN has suggested to Admiral Ash that the disbandment of the Defence, Press and Broadcasting Committee would be a worthwhile contribution to the present government's crackdown on unnecessary quangos. The D Notice Committee is currently maintained at public expense on the Ministry of Defence budget.

Admiral Ash replied tersely (see box). His letter arrived, in true D Notice fashion, by despatch rider from the the Ministry of Defence and the envelope is reproduced on this week's cover.

ON CRITICAL OCCASIONS in the past, the D Notice Committee has ill served the press, and demonstrated who actually calls the shots. In 1961, the committee cheerfully passed out a notice which ostensibly banned all unauthorised discussion of any military equipment whatsover until 'officially announced'. An outcry by some alarmed newspapers resulted in the notice being withdrawn and rewritten; it then became (and now remains) meaningless. The current equivalent notice (No 2) – 'Classified Military Weapons, Weapons Systems and Equipment' – is unhelpful, since it precludes discussion of 'classified' systems weapons but offers no guidance as to which are, and are not 'classified'.

Persons not known for their radicalism, such as Lord Shawcross and Chapman Pincher of the *Daily Express*, have observed that D Notices were to avoid embarrassment or to 'protect a department rather than national security'. The worst example of this was in 1967, when a new notice was rushed out to prohibit any discussion of traitors living abroad (Philby, Burgess and Maclean). The Notice was aimed specifically at investigations into the full extent of Philby's treachery then being conducted by the *Sunday Times* and the *Observer*. Both papers, after some debate, completely ignored the attempt to suppress the Philby story.

Both the abortive censorship of the Philby affair, and the D Notice rumpus of 1967 involving the *Daily Express*, left their mark on the procedure. Subsequently, it has become clear that the system, besides its absurd generalities of censorship and irrelevance, has no value in one area where such a body might make a positive contribution to journalism and the public interest. That is the administration of the Official Secrets Act and the opening up of the processes and activities of government. Two cases under the Official Secrets Act have show that obeying D Notices provides no protection whatsoever to journalists. In the 1970 *Sunday Telegraph* case, both the newspaper and journalist Jonathan Aitken had cleared their articles entirely (which made use of an alleged official report on British arms supplies to Nigeria at the time of Biafra) with the D Notice Committee. It was of no avail.

Similarly, in the 1977 ABC case, where the present author and another journalist interviewed a former soldier with intelligence experience, we were in obedience to the terms of D Notice No 10, which is only concerned with the publication, not the *gathering*, of information. Once again, although the point was usefully taken in defence, it did not prevent a long and costly prosecution.

As far as opening up government is concerned, the Committee as presently constituted is clearly not interested. To raise these issues, the NEW STATESMAN's Editor Bruce Page responded to Admiral Ash's circular with a lengthy comment on the issues, and an invitation to debate the matter (see box). Admiral Ash has replied that discussion would be 'tendentious'.

We do not suggest here that D Notices should be ignored and forgotten. For most of the major national media, that has already happened to a greater or lesser extent. (Minor publications may continue to be intimidated.) But formal recognition should be given to the actual ending of the system, through the disbandment of the Committee in its present form. It might ideally be replaced by a more genuinely representative interface between Fleet Street and Whitehall which sought to open up the government and not to close down press investigation. In the meantime we clearly borders on the farcical to suggest, as Admiral Ash did in February, that a set of largely forgotten non-legal rules remain in force'.

Correspondence between NEW STATESMAN and the D Notice Committee

Defence, Press and Broadcasting Committee
Memorandum Ref DN/5000/DPBC & DN/5010/DPBC
'D' Notice on British Intelligence Services and Cyphers and Communications

11 February 1980

Following the appearance in the Press of recent articles on the subjects concerned, enquiries have been received from Editors as to the continuing validity of D Notices Nos 10 and 11.

The need to protect the information on the intelligence services covered by these two notices is unchanged and remains of the first importance in the interests of national security. Editors are requested to be continued to be guided by the advice contained in them. As is the case with all D Notices, the guidance in Notices Nos 10 and 11 is kept under review by the Defence, Press and Broadcasting Committee.

The Secretary of the Committee remains available to Editors at all times for consultation and advice on any aspect of the D Notice system.

W. N. Ash, Secretary of the Committee

New Statesman **14 March 1980**

Dear Admiral Ash,

After some consideration, we feel that we should reply in some detail to your letter concerning D Notices 'in force'. It is unfortunate that the letter omits to refer to the General Introduction which is issued with D Notices, and in particular the observation therein that the 'D Notice system is entirely voluntary and has no legal authority'.

Your letter appears intended to answer enquiries from other Editors who, following the recent publication of a number of articles on intelligence matters, are confused as to the role of D Notices. It is unfortunate that nothing in the letter seeks to balance the public interest in these matters with the blanket ban on discussion contained in the two Notices – Nos 10 and 11 – to which you refer. These Notices, it is worth observing, are unaltered since their issue on the 16th August 1971.

You will perhaps be aware from reading recent NEW STATESMAN articles and other reports that matters we have recently raised in the areas concerned are of deep public concern. This, we would suggest, is evident from the press, parliamentary and public response to our discussions of phone tapping, mail opening or the real cost of the intelligence services. The Home Secretary, for example, has recently seen fit to convene an inquiry into telephone tapping.

The D Notice system, the Introduction also notes, 'depends on goodwill and in effect very little else'. There is no reason not to extend all goodwill to yourself and your committee members. There are many reasons not to extend the same silent goodwill to the media and organisations covered in the D Notices you mention.

It has always been an open question whether an informal arrangement made in exceptional times could be legitimately extended and institutionalised. Today, it cannot be said that there is any simple unanimity about political issues. It must be stressed that during the 1970s the intelligence services in many Western societies have, by their actions and attitudes, lost the confidence of large sections of the public. (The fact that there are other societies where in which such trust has never existed does not affect the point.)

If it is the case that these notices have been kept 'under review', then it is remarkable indeed that there has been no change in them to reflect the changes in public knowledge and public attitudes since 1971.

During the 1980s – in our argument at least – there are political and civil liberties which are directly threatened by many activities of the intelligence and security agencies (D Notice No 10) and by those departments engaged in communications interception (D Notice No 11). No doubt you would take a different view but it would be hard to deny that this is a legitimate subject of debate. If the reviews conducted by your colleagues and yourself lead to no discernible changes, then we would ask you to consider whether your organisation still serves any useful purpose.

It must be plain to you and your committee that many serious media organisations now give the system little or no credence. They apply instead their own best judgment on what may wisely be published and what may not. A set of D Notices attempting to suppress any real information in the areas concerned is of no value.

As a contribution to public understanding we propose to publish edited versions of your letter and our reply.

Yours sincerely, Bruce Page, Editor

Defence, Press and Broadcasting Committee **19 March 1980**

Dear Mr Page,

[. . .] Your representation of the D Notice system is so tendentious and wide of the mark that I do not think that anything would be gained by joining issue on it.

You know, of course, that the Periodical Publishers Association, of which I understand the New Statesman is a member, is among those who represent the Press on the Defence Press and Broadcasting Committee.

Yours sincerely, W N Ash

Extract from the Times 2 April 1980

Editor calls for D-notices review

By Peter Hennessy

The *New Statesman* will publish tomorrow details of a correspondence between its editor, Mr Bruce Page, and Rear-Admiral William Ash, Secretary of the Defence, Press and Broadcasting Committee, about the continuing legitimacy of two D-notices urging newspapers and broadcasting organizations to refrain from publishing details about British intelligence services and government ciphers and communications.

Admiral Ash refuses to be drawn into argument with Mr Page, telling him in a letter dated March 19, that: "Your representation of the D-Notice system is so wide of the mark that I do not think that anything would be gained by joining issue on it."

In February the *New Statesman* published articles by Mr Duncan Campbell on telephone tapping, the buildings and functions of MI5 and MI6. On February 11, newspapers and broadcasting organizations were reminded in a memorandum sent by Admiral Ash of the continuing validity of D-notices No 10 and No 11 on British intelligence and ciphers and communications respectively.

Mr Page replied to Admiral Ash's memorandum in a letter dated March 14. He agreed that a voluntary system of self-censorship might be justified in wartime. But, he continued: "it must be stressed that during the 1970s the intelligence services in many western societies have, by their actions and attitudes, lost the confidence of large sections of the public . . . Today there can be little justification for the tone of your letter—which effectively suggests that editors should feel themselves under an injunction to refrain from entering into any debate about the nature and usefulness of expensive intelligence operations. . . . During the 1980s—in our argument at least—there are political and civil liberties which are directly threatened by many activities of the intelligence and security agencies . . . and by those departments engaged in communications interception".

Mr Page criticized Admiral Ash for marking his February 11 memorandum "private and confidential". He reminded him that "many serious media organizations now give the system little or no credence".

Mr Page upbraided the members of the Defence, Press and Broadcasting Committee for failing to review the 12 D-notices since they were promulgated in their present form on August 16, 1971. Finally, he told Admiral Ash that the *New Statesman* intended to publish their correspondence.

In his reply Admiral Ash reminded Mr Page that his February 11 memorandum was marked "private and confidential" and that the Periodical Publishers Association, of which the *New Statesman* is a member, is represented on the D-notice committee. Admiral Ash was travelling last night to comment on Mr Page's decision to publish

CONFIDENTIAL - FB

DNB

10 DOWNING STREET

From the Principal Private Secretary

SIR ROBERT ARMSTRONG

The 'D' Notice System

The Prime Minister has seen and noted your minute A01869 of 1 April about press interest in the 'D' Notice system.

2 April 1980

GE

2.

CONFIDENTIAL

Prime Minister

Ref. A01869

PRIME MINISTER

The 'D' Notice System

I sent you a minute on 18th March about revived Press interest in the operation of the 'D' Notice system. I mentioned in particular the request which the Secretary of the Defence, Press and Broadcasting Committee (DPBC) had received from two journalists, Mr. Ian Mather of the Observer and Mr. Peter Hennessy of the Times, for an interview. You agreed that Sir Frank Cooper should give the interviews.

2. Sir Frank Cooper tells me that the interviews went reasonably well. Mr. Hennessy in particular showed himself to be both well-informed and perceptive in his questioning. This has now borne fruit in the form of an article in The Times of 1st April. I attach a copy; it contains nothing particularly damaging.

3. The New Statesman has released to The Times their correspondence with Admiral Ash, the Secretary of the DPBC, about which I consulted you in my minute of 18th March. This correspondence is likely to be published in tomorrow's Times and also no doubt in Thursday's New Statesman, presumably with editorial comment. I suppose that this may be taken up in the House after the Easter Recess.

RTA

(Robert Armstrong)

1st April, 1980

CONFIDENTIAL

Ref. A0842

PRIME MINISTER

The 'D' Notice System

I sent you a minute on 18th March about reviving Press interest in the operation of the 'D' Notice system. I mentioned in particular the regime which the Secretary of the Defence, Press and Broadcasting Committee (DPBC) had received from the journalists, Mr. Ian Mather of the Observer and Mr. Peter Hennessy of the Times, for an interview. You agreed that Sir Frank Cooper should give the interview.

2. Sir Frank Cooper tells me that the interview went reasonably well. Mr. Hennessy in particular showed himself to be fair, well-informed and perceptive in his questioning. This has now borne fruit in the form of an article in The Times of 1st April. I attach a copy; it contains nothing particularly damaging.

3. The New Statesman has released to The Times their correspondence with Admiral Ash, the Secretary of the DPBC, about which I consulted you in my minute of 18th March. This correspondence is likely to be published in tomorrow's Times and also to dominate in Thursday's New Statesman, presumably with editorial comment. I suppose that this may be taken up in the House after the Easter Recess.

(Robert Armstrong)

1st April, 1980

THE TIMES TUESDAY APRIL 1 1980

Whitehall brief: Press self-censorship over spies proves ambivalent in civilian politics

D-notices face challenge as disclosure practice grows

By Peter Hennessy

On the first three Fridays in February the *New Statesman* published a series of articles by Mr Duncan Campbell on telephone tapping, the location of the headquarters and outstations of MI6 and MI5, and the activities of the two agencies, which drove a coach and horses through at least two D-notices, No 10 on British intelligence services and No 11 on ciphers and communications.

Mr Bruce Page, editor of the *New Statesman*, did not bother to consult the loose-leaf folder of D-notices in his office before publishing the pieces. He said last week: "I do not believe the D-notice system has any validity today."

The D-notice committee is 68 years old this year. It is a product of the pre-1914 German spy mania that gave us MI5 in 1909, the Official Secrets Act and MI6 in 1911. It is an institution that causes wonder in foreign journalists, relying, as it does, on the voluntary agreement of British journalists and broadcasters not to publish information covered by the 12 D (or defence) notices.

North American newspapermen in particular, are prone to describe the system as a classic example of self-censorship by the British press whose representatives sit on the Defence, Press and Broadcasting Committee under the chairmanship of Sir. Frank Cooper, Permanent Secretary to the Ministry of Defence, and alongside senior civil servants from the Home Office and Foreign and Commonwealth Office who speak, respectively, for MI5 and MI6. No D-notice can be promulgated without the approval of the committee.

The D-notice committee touches a strand of deep ambivalence in many British journalists, including those who are firmly opposed to the excessive secrecy of Whitehall.

The growth in Britain of "whistle-blowing" journalism (blowing the whistle on the secret parts of the state and its servants by disclosing their activities) would seem to have sealed the fate of the D-notice system if the late Lord Radcliffe is to be believed. Reports to the Prime Minister on a particularly messy fracas between the Wilson government and the *Daily Express* over

Rear-Admiral Ash: Discussing justification for system.

what is now notice No 11 in 1967.

Lord Radcliffe said breaches had occurred occasionally, almost invariably through inadvertance. The moment one newspaper deliberately flouted them, the system would break down as its competitors would follow suit.

The present Secretary of the D-notice committee, Rear-Admiral William Ash, who succeeded Rear-Admiral Kenneth Farnhill on January 2, is engaged in a correspondence with Mr Page about the continued justification of the system.

Mr Page said last week: The reflexes on which the D-notice committee is working assume a common, easily-defined enemy, and that the intelligence services are small-scale and operate exclusively against outside forces. They are very big now. They have grown in scope and technological capacity and have all sorts of implications for internal politics. It is illegitimate to project their wartime remit into a much more complex system of civilian politics. There is a real difference between tracking down the odd German spy and defining whole classes of domestic politics as subversive.

The Civil Service members of the D-notice committee are not prepared to speak publicly on the matter. But last week a senior figure in the defence community indicated that Whitehall was "not particularly" worried by Mr Campbell's revelations about security and intelligence matters. The prime purpose of the D-notice system, he argued, was to keep information about weaponry out of the public prints and that, to date, it had been "almost 100 per cent efficient" on that score.

He explained: "I do not see why we should do the work of Soviet intelligence for it by delivering such information to them on a plate. Like them, we are interested in good, old fashioned hard military intelligence—how fast a particular Soviet submarine goes, how quiet it is, the strength of its hull. That is the area of greatest importance. In the last decade, the D-notice system has operated very rationally and sensibly. The safeguard is the media members of the committee who are very sharp and fight the press. You would be in great difficulty if you tried to get away with a cover up."

Lord Radcliffe's 1967 judgment seems, in retrospect, to be wrong. Despite the "whistle-blowers", most sections of the press continue to observe the notices. Admiral Ash may, in the words of one insider, be a "legal fiction" (the committee has no legal basis or direct connexion with the Official Secrets Acts), but his recent appointment to the £15,000-a-year post and the sustained enthusiasm of the defence community for his work, suggests there is every sign of continued life for this strange institution.

Defence

MINISTRY OF DEFENCE
MAIN BUILDING WHITEHALL LONDON SW1
Telephone 01-~~930 2232~~ 218 2111/3

MO 22/5

20th March 1980

1A.
24

Dear Clive,

THE D NOTICE SYSTEM

Sir Robert Armstrong sent my Secretary of State a copy of his minute to the Prime Minister of 18th March.

My Secretary of State is, for his part, content with what is therein proposed but I understand that it has already been suggested to the Cabinet Office that the adjective "wildly" could, with advantage, be deleted from the second paragraph of the letter to Mr Bruce Page.

I am sending copies of this letter to John Chilcot (Home Office), George Walden (FCO) and David Wright (Cabinet Office).

Yours ever.
Brian

(B M NORBURY)
Private Secretary

C A Whitmore Esq

CONFIDENTIAL

Defence.

10 DOWNING STREET

From the Principal Private Secretary

Sir Robert Armstrong

The D Notice System

The Prime Minister has seen your minute A01737 of 18 March, 1980. Subject to the views of the Home Secretary, the Foreign and Commonwealth Secretary and the Secretary of State for Defence, she agrees that a letter should go to the Editor of the New Statesman on the lines of the draft attached to your minute. She would, however, like to see the word "wildly" deleted from the second paragraph.

2. The Prime Minister also agrees that Sir Frank Cooper should give unattributable background briefings to Mr. Ian Mather and Mr. Peter Hennessy.

3. I am sending copies of this minute to Mr. Chilcot, Mr. Walden and Mr. Norbury.

C. A. WHITMORE

20 March, 1980.

CONFIDENTIAL

cc Bingham

CONFIDENTIAL

Prime Minister.

Agree, subject to the views of your colleagues, that:-

(i) the Editor of the New Statesman should be sent a reply on the lines of the attached draft;

(ii) Sir Francis Cooper should give unattributable background briefing to Mr Mather and the Harmony?

Yes as very slightly amended.

19 iii

Ref. A01737

PRIME MINISTER

Agreed

The D Notice System

You will be aware of the existence of the D Notice system.

2. Under this system a series of notices are put out to the Press and broadcasting authorities drawing their attention to matters which national security requires should not be the subject of treatment by the Press. The notices protect mainly national defence material, but there are also two D Notices covering the intelligence services and ciphers and communication (D Notices Nos. 10 and 11). All D Notices are issued on the authority of the Defence, Press and Broadcasting Committee (DPBC). This Committee consists of representatives of the Government and of the Press. Its Chairman is the Permanent Under Secretary of State, Ministry of Defence; its Vice-Chairman is a representative of the Press side (at present Mr. Windsor Clarke of the Westminster Press).

3. The Secretary of the Committee is the man who effectively runs the system from day to day and is the point of contact for any queries from the Press about the application of D Notices in particular cases. The present Secretary is Rear Admiral W.N. Ash.

4. Shortly after the New Statesman began its recent series of articles about the intelligence and security services, the Secretary of the DPBC, with the agreement of the Vice-Chairman, issued a memorandum to the Press and broadcasting authorities reminding them of the continuing validity of D Notices Nos. 10 and 11.

5. This reminder has resulted in two developments.

6. First, the Secretary of the DPBC has received separate requests from two respectable journalists for interviews. Mr. Ian Mather of the Observer has asked for a background interview for a factual piece, and Mr. Peter Hennessy of the Times has asked for an "on-the-record" interview.

CONFIDENTIAL

7. The Secretary has also received a long letter from the Editor of the New Statesman, of which I attach a copy. The letter demands a reply, which the Editor proposes to publish with his letter in the New Statesman.

8. I have discussed with Sir Frank Cooper how to respond to these approaches.

9. We are agreed that the Editor of the New Statesman should be sent a brief reply, on the lines of the attached draft.

10. We should see some advantage in giving interviews to the two respectable journalists who have asked for them, subject to two points:

(a) Since all D Notices are themselves confidential, we think that neither interview should be "on the record"; both should be for background only and unattributable.

(b) We should see some advantage in the interviews being given by Sir Frank Cooper, as Chairman of the DPBC, rather than by the Secretary. This does not betoken any lack of confidence in the Secretary (though he has in fact been doing the job for only a relatively short time); but we both have vivid memories of the publicity that surrounded one of his predecessors, Colonel "Sammy" Lohan, and we think that it would be better for the time being that he should run no risk of compromising his role as custodian of the D Notice system by getting into the business of interviews of this kind.

11. I should be grateful for your agreement that we should proceed accordingly, subject to the views of the Home Secretary, the Foreign and Commonwealth Secretary and the Secretary of State for Defence, to whom I am sending copies of this minute.

RWA

ROBERT ARMSTRONG

18th March, 1980

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14.3.80

Rear Admiral W. N. Ash, CB, MVO,
Secretary to the Defence, Press and Broadcasting Committee,
Room 6370
Ministry of Defence,
Main Building,
Whitehall,
London, SW1A 2HB.

Dear Admiral Ash,

After some consideration, we feel that we should reply in some detail to your letter of the 11th February, 1980 concerning D Notices 'in force'. It is unfortunate that the letter omits to refer to the General Introduction which is issued with D Notices, and in particular the observation therein that 'the D Notice system is entirely voluntary and has no legal authority'.

Your letter appears intended to answer enquiries from other Editors who, following the recent publication of a number of articles on intelligence matters, are confused as to the role of D Notices. It is unfortunate that nothing in the letter seeks to explain the voluntary role of the system, or to balance the public interest in these matters with the blanket ban on discussion contained in the two Notices - Nos 10 and 11 - to which you refer. These Notices, it is worth observing, are unaltered since their issue on the 16th August, 1971.

You will perhaps be aware from reading recent NEW STATESMAN articles and other reports that the matters we have recently raised in the areas concerned are of deep public concern. This we would suggest is evident from the press, parliamentary and public response to our discussions of phone tapping, mail opening, or the real cost of the intelligence services. The Home Secretary, for example, has recently seen fit to convene an inquiry into telephone tapping.

The D.Notice system, the Introduction also notes, 'depends on goodwill and in effect very little else'. There is no reason not to extend all goodwill to yourself and your committee members. There are many reasons not to extend the same silent goodwill to the matters and organisations covered in the D Notices you mention.

Circumstances have changed very considerably since the D Notice system was introduced during the Second World War. For the duration of a war - and a war whose clearly-defined purpose was shared by almost every significant section of the community - many curtailments of liberty may be acceptable. It is no doubt true that it was to the credit of the British political system that this necessary purpose was achieved without any formal censorship.

/over ...

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But it has always been open to question whether an informal arrangement made in such exceptional times could be legitimately extended and institutionalised. Today, it cannot be said that there is any such simple unanimity about political issues as existed in the time when the British people, and democrats everywhere, were united against Nazism. It would be wrong to expect it to exist - for peace, however fragile it may be, is a time for debate. And in particular, it must be stressed that during the 1970s the intelligence services in many Western societies have, by their actions and attitudes, lost the confidence of large sections of the public. (The fact that there are other societies in which such trust has never existed does not affect the point).

Today, there can be little justification for the tone of your letter - which effectively suggests that editors should feel themselves under an injunction to refrain from entering into any debate about the nature and usefulness of expensive intelligence operations.

We must ask, respectfully, whether your letter is sent with the full knowledge and support of the entire D Notice Committee. If it is the case that these notices have been kept 'under review', then it is remarkable indeed that there has been no change in them to reflect the changes in public knowledge and public attitudes since 1971.

During the 1980s - in our argument at least - there are political and civil liberties which are directly threatened by many activities of the intelligence and security agencies (D Notice No. 10) and by those departments engaged in communications interception (D Notice No. 11). No doubt you would take a different view, but it would be hard to deny that this is a legitimate subject of debate. If the 'reviews' conducted by your colleagues and yourself lead to no discernible changes, then we would ask you to consider whether your organisation still serves any useful purpose.

It seems especially regrettable that your letter was marked 'private and confidential'. Nothing in the letter or its contents calls for privacy, or would, if revealed, endanger any part of the national interest. You must be personally aware of the public mystification which already surrounds the D Notice Committee; aggrieved members of the public frequently complain to you, to us, or to members of Parliament about you when their particular grievance is not aired in the National Press, believing that you have intervened with fearsome official powers of censorship. Even some experienced journalists still believe that D Notices arrive suddenly by dispatch rider from the Ministry of Defence as a sensitive story nears the deadline. We know and you know that this is nonsense.

Yet it is nonsense you promote by marking all such papers as though they were truly confidential, and tempting recipients thereby into believing that they carry some greater moral authority. It must be plain to you and your committee by now that many serious media organisations now give the system little or no credence. They apply instead their own best judgment on what may wisely be published and what may not. A set of D Notices attempting to suppress all real information in the areas concerned is of no value.

/over ...

As a contribution to public understanding we propose to publish edited versions of your letter and our reply, in this week's issue of the NEW STATESMAN. We would be obliged if you will inform us of any objections to this approach, or comments on our reply, as soon as possible.

Yours sincerely,

Bruce Page
Editor.

DRAFT LETTER TO BRUCE PAGE, ESQ., EDITOR, NEW STATESMAN

Thank you for your letter of 14th March. I can, of course, have no objection to your publishing your letter but you will no doubt have the courtesy to take regard to the fact that mine was marked Private and Confidential.

Your representation of the D Notice system is so ~~wildly~~ tendentious and wide of the mark that I do not think that anything would be gained by joining issue on it.

You know, of course, that the Periodical Publishers Association, of which I understand the New Statesman is a member, is among those who represent the Press on the Defence, Press and Broadcasting Committee.