

Case study 1

Bugging the Chinese Embassy in Canberra

In 1995, the then Labor Federal Government was embarrassed by media revelations that its international espionage organisation had been spying on diplomats in Canberra by bugging the Chinese Embassy. In April 1995, the Federal Government tried to prevent publication of the story in the *Sydney Morning Herald*, first by persuasion, then by injunction. Executives at the Fairfax organisation claimed publication was in the national interest, in the same way that Foreign Minister Gareth Evans tried to insist that suppressing the story was also in the national interest (PANPA 1995d). On 25 May 1995, an item relating to the bugging of the Chinese Embassy by Phillip Williams was pulled from the ABC's prime time evening television news bulletin, apparently after intervention by then managing director, Brian Johns.

According to a report in the *Australian*, Johns made the decision to pull the item, which was to have led the bulletin, despite ABC legal advice that it did not break the law (Simper 1995a). The next day the story was broadcast and Brian Johns was reported to have acknowledged he initially pulled the item on the basis that it was subject to a Government 'D-notice'. The Commonwealth solicitor, Dr J.G. Renwick had faxed Johns seeking an undertaking from the ABC that the item would not be broadcast (Simper 1995b). The Chinese Embassy story was the subject of a five-week legal battle between media organisations and the Federal Government.

In the NSW Supreme court, Justice John Bryson dissolved temporary injunctions against Fairfax newspapers, the ABC, and 2UE, allowing them to publish the story. Foreign Minister Evans tried to get the media to adhere to a voluntary code of non-disclosure of sensitive material (D-notices) that was instituted during war time, but had fallen into disuse. Newspaper editors and electronic media representatives meet regularly with Government to review D-notices, but in this case refused to voluntarily comply with non-disclosure. As a result, Senator Evans announced he would introduce legislation to tighten the regulations. In June 1995 the Federal Government proposed amendments to the Crimes Act, giving courts the power to jail journalists for disclosing sensitive security information. The Government's proposed amendments

would rule out the defence of 'public interest' and would ensure that any trial of miscreant journalists took place in secret (Lague & Wright 1995).

In December 1995 it was reported that the then Labor Government proposed to jail public officials who leaked official secrets to the press. At the same time, Defence Minister Robert Ray, was considering fines of up to one million dollars against media companies who published such disclosures (Lague 1995). The *SMH* editorial ('Unnecessary Censorship' 1995) on the same day condemned the Government's proposal as 'a threat to the public's right to information which should be made public'.

A D-notice is an agreement between the media and the Government to voluntarily suppress defence and security information in the 'national interest'. The system is administered by a committee of media representatives and defence officials, which is chaired by the Minister for Defence, and applies to the following types of information:

- Certain details of defence capability and planning.
- The whereabouts of the Petrovs (famous Russian defectors from the 1950s) until Mrs Petrov died in 2002 (her husband had died earlier).
- The activities and identities of Australian Security Intelligence Service (ASIS) agents.
- Methods of monitoring communications for intelligence purposes.

The D-notice system was initiated by the Menzies Government in 1952 and was initially supported by newspaper owners. However, for almost a decade the Australian public was not told of the existence of the D-notice system, which was itself subject to a notice. A D-notice has no legal standing, it is a voluntary system, and it is an editor's decision whether or not to abide by it. The D-notice appears to have fallen into disuse, though technically they are still on the 'books' as it were. As we discuss in the following chapter, the military establishment now has more sophisticated methods of subtle, and not so subtle, information management, such as the technique of 'embedding', which became a household term during the 2003 Gulf conflict.

Issues and questions raised by case study 1

- 1 Research the D-notice system. Is it a justified system of information control?
- 2 What sort of stories should be subject to D-notices?
- 3 How would you characterise its use in recent times?
- 4 Does it cut across the principles of a free media?
- 5 What can you establish about the latter years of the Petrovs, now they have both died? Was it worth being classified as a national secret?
- 6 Is the D-notice system any sort of problem for the fourth estate model?

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