

Trial of Witness K and Bernard Collaery begins amid Midwinter Ball

Bernard Keane

The greatest intelligence scandal of recent decades continued in a small Canberra court yesterday when Witness K and Bernard Collaery were put on trial. The government wanted to hide it.



Bernard Collaery. Image credit: Rod Mcguirk/AAP

While Attorney-General Christian Porter was [preening in his finery](#) ahead of the press gallery's Midwinter Ball last night, lawyers for the men he has launched a malicious and politically motivated prosecution at were standing up in a crowded Canberra courtroom to begin their defence.

The first hearings for the trial of Witness K and Bernard Collaery for revealing ASIS' illegal conduct in bugging the Timor-Leste cabinet, began late yesterday afternoon, ostensibly at the unusual time of 4.15, but it was some while later when the associate for Chief Magistrate and former RAAF officer Lorraine Walker emerged to call "Bernard Collaery". Collaery wasn't there, nor, presumably, was Witness K, whose identity must remain secret, but dozens of others were: supporters, journalists, barristers, solicitors, far more than the few seats of the tiny courtroom would allow. People sat on the floor, squeezed up against each other and strained to hear barristers for the prosecution and defence introduce themselves.

The issue of the moment was how much luck the government would have in its effort to make sure its prosecution of K and Collaery would be carried out *in camera* and beyond public scrutiny. The government has sought at every stage to cover up the crimes committed under the Howard government, and if it has its way, the cover-up will continue for, it says, national security reasons, but mainly to ensure that the public doesn't get to hear of matters such as why ASIS was ordered by Alexander Downer to redeploy resources from the fight against terrorism to an operation designed to benefit an Australian company, why K was wrongfully dismissed over the matter, or why the prosecution documents signally fail to mention News Corp journalists despite *The Australian* being the media outlet that first revealed ASIS' crime.

Prosecutors, and K's and Collaery's lawyers are still negotiating over the government's desire to hide proceedings. The only legal action was thus to agree orders that negotiations would continue and proceedings would resume on October 29, when it will become clearer whether the parties have worked out an agreement or whether Walker will have to make a decision about how far to grant the Commonwealth's request to hide its actions. K's barrister Haydn Carmichael rose to make the point that it was Walker's decision as to what national security interests involved, and she didn't have to accept the Crown's assertions as to what constituted it.

As lawyers and supporters drifted out into a mild Canberra spring evening, up at Parliament House, MPs and senators were getting ready for an evening of fun and frivolity. Labor politicians, who might have been expected to have, at some point, raised concerns about a Liberal government telling an intelligence agency to break the law and spy on the friendly government of a micro-state heavily reliant on our help for commercial purposes, and then cover it up, and then launch a vexatious prosecution over the entirely legal revelation of that crime, have been conspicuously silent over the matter. The heavy lifting of protecting basic rights and shedding light on government criminality has been left to the likes of the Greens' Nick McKim, Centre Alliance's Rex Patrick and Andrew Wilkie, who knows a thing or two about being targeted by Alexander Downer's office.

Labor is complicit with the Liberals in this scandal, as it is complicit with the Liberals' steady march to a police state over the last five years. And things will be no different after the next election.