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OPINION

This immoral act against a decent man diminishes all who pursue it



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The Bristol Beaufighter was flying over the waters off the Netherlands on June 29, 1944, when it spotted two German mine sweepers and 11 smaller boats heading for port.

The two-man torpedo bomber from the “ANZAC Strike Wing” made a wide turn before launching a diving attack from 800 feet. During the strike its starboard engine was damaged and, taking fire from the land, the pilot Edmund Francis Collaery flew parallel to the coast as he prepared to ditch in the sea. Collaery would have liked his chances because he was a strong swimmer and had survived an earlier crash landing in the North Sea.



Pilot Edmund Francis Collaery in the cockpit.

In the minutes after the plane hit the water the navigator, Horace Pearson, swam clear and would report that Collaery seemed to be fighting to free his boots from the pedals as he disappeared below the water. Pearson could not reach his friend and the 29-year-old’s body was never recovered.

Ted's English wife, Alice, was pregnant when she received word he was missing, presumed dead. Her numerous letters to the Red Cross in the bitter months that followed chart a hope that burned long after her husband was lost.

Her son, Bernard, would be born in October and, a year later, the two were on a ship to a distant and strange land on the other side of the world.

Bernard would grow up on his father's farm on what is now the Wollongong suburb of Fairy Meadow but the son was not made to be a farmer. He would study law at Sydney University before following his father in the service of his country.

Bernard served with foreign affairs as first secretary (immigration) in Paris for five years sometime in the mid to late 1970s. The length of the posting and other hints of his time in France are curious and might indicate he was working in intelligence.

He would go on to a career in the law in Canberra where his caseload included a bulging list of pro-bono work. His interests in politics stretched from local planning laws to the liberation of East Timor.

I met him in 1989, not long after the party he led, the Residents Rally, won a surprising four seats in the new ACT Legislative Assembly. There he used the balance of power to make and unmake governments and rose to be attorney-general for a time. He was at once brilliant, infuriating, Machiavellian and honourable.

Banished to the backbench after toppling the government he helped forge Bernard amused himself during sittings by providing a running commentary on the debates in the tiny chamber to the media, which sat within stage whispering of his backbench seat.

I was the sole journalist in the gallery one day when Bernard tracked the arrival of a media adviser to the government benches.

"That new Labor staffer is gorgeous," he said.

"Yes she is," I agreed.

"She looked fabulous in that red dress yesterday."

"Bernard it was black."

"I know," he grinned. "But in my mind it was red."

After politics Bernard rebooted his legal practice in Canberra where he tilted at some big windmills in his search for justice. No giant would prove greater than the Commonwealth in his quest to defend former Australian Secret Intelligence Service agent "Witness K".



Lawyer Bernard Collaery addresses the media outside the Supreme Court in Canberra earlier this month. AAP

The pair now stand accused of disclosing secret information: the truth that Australia bugged the Timor-Leste cabinet office to win an advantage over the impoverished nation in negotiations over an oil and gas field.

In 2013, while representing Timor-Leste at the Permanent Court of Arbitration, Bernard stayed at a Hague hotel with a view over the waters where his father's plane sank in 1944.

Now Bernard has his feet trapped in the pedals of what passes for Australian justice as the Commonwealth seeks retribution for its embarrassment. Witness K will plead guilty and his barrister will fight on in the face of the very real possibility that he will be tried in secret.

I understand the argument that spies shouldn't be precious about their profession and can't unilaterally decide what stays secret and presume the reason the agencies are pushing so hard is to send a powerful message to their troops. But it is beyond comprehension that the Commonwealth would seek to prosecute someone like Bernard Collaery in secret.

This is an immoral act against a decent man and it diminishes those who pursue it. The agencies should have the good sense to let it drop and, failing that, given they are supposed to be defending a democracy, let them make their case in a public trial and let the truth out.

Because in a secret trial even if they win, they lose. Unlike his father, Bernard will float free.

As Cervantes said in the tale of another quixotic soul: "The truth may be stretched thin, but it never breaks, and it always surfaces above lies, as oil floats on water."