

Press conference on Bernard Collaery

The Hon Mark Dreyfus QC MP
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Transcript

Subjects: Bernard Collaery; National Anti-Corruption Commission; Whistleblower Protections

MARK DREYFUS: Today I have discontinued the prosecution of Mr Bernard Collaery under section 71 of the *Judiciary Act 1903*. All prosecutions involve a balancing of interests. The balance of interests can change over time. This is such a case. The consent of a former Attorney-General was required to commence the prosecution of Mr Collaery having regard to our national security, our national interest and the proper administration of justice. Today I have determined that this prosecution should end. My decision was informed by the Government's commitment to Australia's national security and our relations with our neighbours. This is an exceptional case. Governments must protect secrets, and this government remains steadfast in our commitment to keep Australians safe by keeping secrets out of the wrong hands. The long-standing practice of government has been to neither confirm nor deny claims made about intelligence matters. And I will strictly adhere to that practice. I'm happy to take a few questions.

JOURNALIST: Does this mean effectively that all charges against Mr Collaery have been dropped?

MARK DREYFUS: The prosecution is now at an end and the Supreme Court of the Australian Capital Territory has been informed.

JOURNALIST: So, what's the next step then?

MARK DREYFUS: There are no further steps in this case. The prosecution of Mr Bernard Collaery ended today with my intervention under section 71 of the Judiciary Act.

JOURNALIST: Obviously this has been going on for quite some time. Will there be compensation?

MARK DREYFUS: What's important is that Mr Collaery's prosecution has ended. It's ended in circumstances where there were no agreements and no undertakings.

JOURNALIST: Have you spoken to Mr Collaery today and gauged his reaction? It's been around a long time.

MARK DREYFUS: Mr Collaery has been informed of the decision I've just announced.

JOURNALIST: Do you know what his reaction was?

MARK DREYFUS: I'll say again, Mr Collaery has been informed of the decision I have just announced.

JOURNALIST: Can I ask you some questions on other issues? Do you have a preferred timetable for getting The Voice referendum legislation through Parliament?

MARK DREYFUS: Of course, the question of when the referendum on The Voice is going to take place is a matter now under consideration by government.

JOURNALIST: Do you have a preferred timetable?

MARK DREYFUS: It's a matter that's under consideration by government. It's going to be a collective decision by all of us. And, of course, I may have a view, my colleagues may have views and that's the matter we are discussing now.

JOURNALIST: And also, just on a separate topic on spies. MI5 and the FBI have held a joint briefing. Chinese cyberattacks are through the roof and they're running seven times as many investigations. Are you concerned and is Australia in a similar position?

MARK DREYFUS: I think I'd refer you to the statements that have been made repeatedly over the last three years in annual statements by the Director-General of Security, the head of ASIO, Mike Burgess.

JOURNALIST: Will you do anything as part of the federal integrity commission to bolster protections for whistleblowers?

MARK DREYFUS: This is a matter, that is the protection of whistleblowers, that's been raised frequently in the context of the creation of the National Anti-Corruption Commission. I've set up a task force within the Attorney-General's Department to make sure that it happens this year consistent with the commitment that the Prime Minister made repeatedly during the campaign. And, of course, there will be a need to protect whistleblowers in connection with the work of the National Anti-Corruption Commission so that people who make allegations, who make complaints to the National Anti-Corruption Commission, who are in fact whistleblowers, they will need to be protected. People that give evidence before the National Anti-Corruption Commission, whether in private hearings or public hearings, will also need to be expressly protected by the legislation. More generally I've got a long-standing commitment to the protection of genuine whistleblowers. I brought the Public Interest Disclosure Act to the Australian Parliament in 2013 when I was last Attorney-General. Disappointingly to me the former government failed to act on a statutory review conducted by Mr Philip Moss, an eminent Australian public servant, who reported to the former government in 2016. Almost six years have been allowed to pass. Now I'm now looking closely at the implementation of Mr. Moss' recommendations and you can expect to hear more from me in coming months about that. But that's to describe the wider question of protection of whistleblowers. We've got a specific question of protection of whistleblowers in connection with the National Anti-Corruption Commission and that will be dealt with in the National Anti-Corruption Commission bill.

JOURNALIST: What do you classify as a genuine whistleblower?

MARK DREYFUS: Someone who's bringing forward allegations that are worthy of investigation, who is someone from inside an organisation. Someone who is from outside, generally speaking, isn't the type of person that you would use the term whistleblower to refer to.

JOURNALIST: What if they were a former employee?

MARK DREYFUS: Well then they are some who has got, in that sense, the status of an insider.

JOURNALIST: Are there any other examples, such as the ATO whistleblower Richard Boyle, where you could intervene?

MARK DREYFUS: I'm not going to be commenting on other cases I may or may not have received briefings about. Mr Collaery's case was an exceptional case. And that's what provided the circumstance, that consideration of the national interest, the consideration of Australia's national security and administration of justice matters in this exceptional case is what has brought me to this very unusual decision under section 71 of the Judiciary Act to discontinue this prosecution.

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