

14th March 2005

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 Joint Standing Committee on Electoral Matters  
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Joint Standing Committee on Electoral Matters	
Submission No. ....	154
Date Received ....	14-3-05
Secretary .....	<i>[Signature]</i>

Dear Secretary,

**Submission from Stan Ghys**

**to**

**"Inquiry into the Conduct of the 2004 Federal Election and Matters Related Thereto"**

**regarding**

**"Publicly Elected Officials Resorting To 'Thuggery' And Subsequent Injustice In the Australian Court System As A Consequence Of Failure In 'Duty Of Care' To The Victim"**

I would raise a matter of serious concern to many Australians relating to my experience of the behaviour of publicly elected officials leading up to the 2004 election and subsequent events.

Whilst this is seemingly isolated, concerns remain and I feel the matter may represent a national pattern.

**Examples of feedback from Australians are provided on a web-site dedicated to the matter – <http://helpfreedomofspeech.blogspot.com/> – and are copied herein. Everyone is invited to email me their objections and support for inclusion on the web-site. Feedback is GREATLY appreciated and the web-site provides a special email address for this.**

The matter was escalated in my 8<sup>th</sup> March 2005 letter to The Hon John Howard MP – Prime Minister, which included copies of sworn statements by witnesses. The letter was copied to a number of MP's, along with petitions addressed to the House Of Representatives and the Senate signed by over 50 additional Australians.

A written response is anticipated from Mr Howard and a request was made of the MP's to kindly raise this in parliament.

Follows extracts from that letter and the examples of feedback from Australians.

**I also include a copy of a 28<sup>th</sup> September 2004 letter from a Greens candidate to the Australian Electoral Commission requesting an investigation based on their own experience with the publicly elected officials.**

I kindly ask that you investigate my experience, with other options virtually exhausted for reasons not limited to :

- the publicly elected officials having demonstrated abuse of their position
- their preparedness to combine this with money when I am in a poor financial position to defend myself
- fear of being accused of defamation when I do not have the means to confirm my rights
- fear for my personal safety and property in view of their previous behaviour
- fear of further expense and forgoing income is pursuing this

## Extract from letter to Mr Howard

I am a victim in a case where your publicly elected representatives resorted to 'thuggery', contrary to criminal law and the Australian federal electoral act.

A witness who experienced similar problems with your representatives lodged a sworn police statement and another witness made a sworn affidavit.

As summarized below, it became necessary to initiate an Apprehended Violence Order against your representatives but the courts then failed in their 'duty of care' to me and, as a consequence, penalized me – the victim in the case.

The 'thuggery' and court handling concerns many Australians ... These include MP's, union media liaison officers, journalists, management consultants, teachers, other highly regarded members of the general public and activist groups.

**This is a serious concern for Freedom Of Speech and Justice in Australia. It is also a serious concern for anyone experiencing physical intimidation or violence.**

I do not belong to any political or activist group and distributed my own T-shirts with council approval prior to the federal election. I am a 38 years old Australian tax-payer and normally engaged in exporting Australian technology.

**The 'thuggery' by your representatives included misrepresenting themselves as security, physical harassment and colluding with council rangers to raise a false harassment case in attempts to stop me, as well as covertly taking photos, physical assault and threat with a dog. There was also graffiti to my car while parked outside my own home, which was of a nature that was likely to be a form of further intimidation.**

I attempted to initiate an AVO. However, a court representative treated me with political discrimination at that time and the Australian court system later failed in its 'duty of care' to me in following correct procedure. This is detailed in my 4th February 2005 letter to the Attorney General's Department and covered by a sworn affidavit attached to that letter.

In summary, during a delay in the AVO being completed in the courts, my circumstances changed and it became difficult for me to continue to attend court. I acted in good faith and contacted the court in advance of a third visit. They advised me to simply fax a letter. I included a cross-reference to the sworn police statement referred to above. **However, the court subsequently and unjustly sent me a Notice Of Penalty for the costs of your publicly elected officials.**

I was then refused answers to letters questioning correct procedure, whether the court had advised your representatives of my advance notice, in which case costs may not have been incurred, and my rights to appeal subsequent to contradictions between courts. I was refused answers even after escalating these to the Directors Office Of Local Courts, including a request for confirmation of my findings that, **rather than advising me to simply fax a letter, the court should have directed me to the Chief Magistrate or, failing that, directed me to a form to apply to vacate the hearing. Thus, the Australian court system failed in its 'duty of care' towards me – the victim in the case.**

Law Access, Legal Aid, the NSW Law Society pro-bono scheme and a Community Legal Centre were of limited help, despite being very sympathetic, as cost orders are out of their jurisdiction and/or they are unable to provide court representation.

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This case regards your publicly elected representatives and is in absence of responses from the Australian court system. I write to escalate this to you, formally requesting your feedback and assistance, copying others that share concern regarding the immediate and wider implications for Freedom Of Speech and Justice in Australia, including serious concerns for anyone experiencing physical intimidation or violence.

- 1) Please send written confirmation that you have received this letter and advise a date by which you plan to provide a complete reply to the following items.
- 2) Other than a response such as "No comment", please advise what your position is for each of the following allegations regarding your representatives (bearing in mind, if necessary, that these allegations are made under my sworn affidavit to the Attorney General's Department and with sworn witness statements):
  - a) misrepresentation as being in control of security ?
  - b) physically harassing ?
  - c) and colluding with council rangers to raise a false harassment case in attempts to stop me ?
  - d) as well as covertly taking photos ?
  - e) physically assaulting ?
  - f) and threatening me with a dog ?
  - g) and possibly applying graffiti to my car, which had been parked outside my own home, of a nature that was likely to be a form of further intimidation ?
- 3) Other than a response such as "No comment", please advise what your position is for the following allegations regarding the Australian court system (also covered by the affidavit to the Attorney General's Department):
  - a) Political discrimination in the system ?
  - b) Penalizing me as a consequence of the their own failure in 'duty of care' to the victim ?
- 4) Summary statement regarding acceptability of the behaviour of your representatives and handling by the court system, including the Notice Of Penalty issued to me.
- 5) Your recommendation to have the case reviewed without the risk of further costs to me (including forgoing income) and having the Notice Of Penalty withdrawn with any installments repaid.
- 6) Your recommendation for me to be compensated for costs, forgone income and non-financial impacts.
- 7) A public apology from yourself or, failing that, your public recommendation that your representatives make a public apology, with either apology also expressed in print within the first 5 pages of the Sydney Morning Herald.

## **Examples of feedback from Australians**

**David O'Shea, Sydney, Reporter** – "It appears that Stan G. is being victimised for holding and expressing an opinion. This, and his report of the flawed legal process that followed, warrants further investigation".

**Laurie F., Granville, Federal Member of Parliament** – "I was appalled by the conduct of the public officials and abuse of their roles as elected public officials to suppress free speech".

**Dr. Val Plumwood, Canberra, Internationally renowned author (and crocodile attack survivor)** – "This is a disgraceful case. It reflects seriously on the character of our democracy and on our court system. Feel free to contact me for help".

**Nicole L., Alexandria - Sydney, Senior Clinical Trial Coordinator** – "This case should be of concern to all Australians. Please contact me for help".

**James B., Collingwood - Victoria, Policy & Research Officer** – "Equity before the law and natural justice for all citizens are fundamental to the health of any democracy, particularly around the electoral process. Every citizen has the right to take part in the electoral process without fear of intimidation - if we lose this right then dictatorship follows. Feel free to email me if you need help".

**Verity M., Sydenham - Sydney, Project Officer** – "This is an indictment on our legal system and its role in protecting people in need. It clearly shows one section of the law in need of immediate attention/change. You are welcome to email me at any time in the future for support".

**Mark C., Coffs Harbour - NSW, Administrator / Teacher** – "I thoroughly support a citizens right to free speech and Stan's case as presented to me seems a total violation of free speech and a misuse of power by local authorities then subsequently by court officials. Email me for further support".

**Roger R., Friends Of ABC** – "We believe strongly in the right to responsibly express views without intimidation or threat from those who disagree".

**Timothy V., Werrington, Media Liaison Officer - Construction, Forestry, Mining and Energy Union** – "Stan's treatment is a further example of how far the right to dissent and protest has been eroded, and how little the law is willing to do to protect people from the violent excess of the Howard government. Please feel free to contact me for further support".

**Derek M., Balmain - Sydney, Journalist / Writer** – "The attack on Stan G's right to express opposition to the policies of the government amount to an outrageous oppression of democratic rights - with the support of the legal system. It is an attack on the political rights of all citizens. Nor is it an isolated incidence. The freedom of trade unionists to defend their members has been greatly reduced by the federal government. Environmentalists objecting to the logging of old growth forest in Tasmania are being sued by the logging company Gunn".

**Craig M., Sydney, International Management Consultant** – "This situation is unfortunately a microcosm reflecting the degeneration of public morality that has been increasingly infecting the country under the Howard government, a government which procured election on a lie, continued with dissimulation, took us into an immoral war and engaged continuously in blatant human rights abuses. We're happy to support any way we can".

**Carlos M., Parramatta - Sydney, Mature Age Student** – "Yet another attempt to silence and intimidate different views that question the status quo and those in power. Just like the skin on the drum, the harder they hit us the louder we become! All power to you Stan - count on my support 100%!  
'First, they ignore you. Then they laugh at you. Then they fight you. Then you win.' - Gandhi".

**Matthew S., Camperdown - Sydney, Photographer** – "I find it very disturbing, that someone who chose to publicly expose themselves to political scrutiny is being treated this way by the courts. It makes me wonder what happens to those who don't have the voice or determination of this man. At the very least, a review of this case is in order".

**Anonymous** – "Some believe Australia can help bring democracy to Iraq. This case shows Australian 'democracy' is in serious need of attention".

**Matt S., Canberra, Program Manager for an Australian Youth Initiative** – "I unreservedly support Stan's actions, and hope that he can find a human being to deal within the court system. Obviously he was given inadequate advice from certain staff, and it is unfair that he should pay the price of their incompetence. I am happy to offer future support".

**Rossy C., Sydney, Nursing Assistant** – "Once again the 'powers that be' suppress ordinary people's rights to voice their opinion and be heard in anything that may be sensitive to government policies like immigration, indigenous affairs and our public health system to name a few. Wake up 'ordinary individual Australians' because next time it could be you! Please feel free to contact me for further reference".

**Anne E., Canberra, Mature Age Student** – "To peacefully broadcast a political voice in a public place without fear of physical intimidation and with confidence that public officials will play fair is an essential building block of a healthy democracy".

**Paul B., Brisbane, Volunteer worker** – "This case is not only an injustice to one person, but indirectly a threat to all of us. Like so much of the so-called 'law' we see, there are the powerful few with money and resources who can access certain favorable

rules, and the rest of us who suffer the consequences. Feel free to email me with any further information. Regards and solidarity from the north".

**Mike W., Convenor Newtown Peace Group** – "Having seen Stan's campaign I am appalled but not surprised at his treatment. Fighting the Establishment is a tough business. Hope you get all the support you deserve. Let me know what the anti war movement can do to help".

**Copy of 28<sup>th</sup> September 2004 letter from a Greens candidate to the Australian Electoral Commission**

Doug Williamson  
Parramatta Greens candidate  
4/2 Thomas St,  
NORTH PARRAMATTA. 2151

28 September 2004

Steve Walsh  
Parramatta Divisional Returning Officer  
AEC  
Lvl 3, North Wing  
2-12 Macquarie St,  
PARRAMATTA. 2150

Request for investigation

Dear Steve,

Late last Thursday afternoon, 23 September in Macquarie St mall, Parramatta one of my stall workers was repeatedly assaulted and intimidated by Parramatta City Liberal councillor, <name withheld in this copy> who was working on a Liberal Party stall. This is in direct contravention of s.327 of the Commonwealth Electoral Act. (Hereinafter referred to as "the Act"). After this had occurred, <name withheld in this copy> was seen to be photographing my stall workers and a number of unrelated third parties who were making enquiries at our stall, without their permission, using a mobile phone camera.

The following Saturday morning, 25 September at the same location <name withheld in this copy>, another Parramatta Liberal <name withheld in this copy> and a <description withheld in this copy> (who had been seen working on the Liberal stall on a previous occasion) were asked by a Stan Ghyse, a person selling t-shirts with a political message to refrain from taking his photograph. At this, the <description withheld in this copy>, threatened to sool his dog onto Mr Ghyse.

On this Saturday too, although in a possibly unrelated incident, one of my stall workers had paint smeared on the back of his partners car over the top of some Greens party political stickers.

Further to this, it has been noted that a number of both ours and the ALP's party corflutes, placed in people's front yards with their permission have been anonymously removed during nighttime, whilst nearby Liberal party corflutes remain untouched. A specific example of this occurred on a property on the corner of Kissing Point Rd and James Ruse Drive on or about Wednesday – Thursday, 22-23 September.

As per your instructions on the day of the ballot draw, independent legal advice is being sought over these matters. Whilst this is occurring, I formally request that the Australian Electoral Commission fully investigate these matters in accordance with the Act and make public your findings.

Yours sincerely,  
D J Williamson

CC: Geoff Ash, Kelly Livingstone, Monica Heary and Antony Lawes

**A CASE OF WHAT AMOUNTS TO 'THUGGERY' BY PUBLICLY ELECTED OFFICIALS  
AND SUBSEQUENT INJUSTICE IN THE COURT SYSTEM**

**PLEASE HELP**

This is a case that is of concern to many Australians:

- what amounts to 'thuggery' by publicly elected officials, with a number of sworn witness statements,
- and injustice in the court system, where the victim of the 'thuggery' ended up being penalized due to the court's own failure in 'duty of care'.

I ask for your help. It has become a long story but I will attempt to summarise it.

My name is Stan G. Like most of you, I am not a member of a political or activist group and I am struggling to make a living. (I'm coming back after retrenchments and help companies engaged in research, development and exports).

Leading up to the federal election, I became fed up with lies about children overboard, dismissal of Australian's objections to the Iraq war, undemocratic blocking of a petition to George Bush in our own parliament, and Liberal party seats rorting their own GST system.

I decided to print hundreds of T-shirts, quoting media reports about such topics, at my own time and cost.

I respectfully distributed these in suburbs across Sydney without any problems.

However, when I went to a particular marginal seat, with permission from authorities, I was confronted by a person claiming to be in "control of security" but later identified as a publicly elected Councilor and a Liberal party representative.

He stood over me and then appeared to call council rangers, colluding with them to say that I had been harassing someone and requesting me to leave. When nearby witnesses stepped forward in my defense, the council rangers admitted that strings were likely being pulled from above.

I left but returned 2 days later, with a permit, and was confronted by the same man, and a second person with a large dog. The second person was also a publicly elected Councilor and Liberal Party representative.

One of the Councilors was preparing to take a photo of me. Aware of other people who had experienced dirty politics in the marginal seat, I calmly and politely asked the Councilors not to take photos of me.

The one with the dog stepped forward and violently poked me in the chest saying "You scum bag. I'm going to sic my dog on to you". A bystander quickly responded by publicly shouting out their objection, leading to the departure of the two Councilors.

Within two days, my car was graffitied outside my own home. Whilst it is difficult to verify, I wonder if someone had obtained my address from the application for a council permit.

I became fearful at what the Councilors might do next but I was determined to maintain my rights to Freedom of Speech in distributing the T-shirts.

I sought an Apprehended Violence Order against one of the Councilors (the other's name hadn't been confirmed). I visited a courthouse but what I didn't count on was a lengthy delay in the case being heard in court. I went to court a second time for an initial 'court mention' and a third visit was scheduled for a 'court hearing'.

By that time, the election had been and gone. I felt that the risk to me had decreased and that continuing with the Apprehended Violence Order may incite the Councilors who had confronted me. Additionally, my work demands had grown and one of my witnesses was to be interstate for her son's wedding at the time of the hearing.

In good faith, I rang the court the week before the scheduled hearing to say that it would be difficult for me to continue and to ask what I should do. I was advised that I should simply send a fax, which I did that day. My fax detailed the situation and provided a cross-reference to a sworn police statement by a person who had experienced similar problems with the Councilors.

However, weeks later, I received a Notice Of Penalty for costs of a solicitor hired by the Councilor.

To cut a long story short, I escalated my case to the Directors Office Of Local Courts and then the Attorney General's Department, without answers to questions regarding a basis for appeal.

I now believe that the court should not have advised me to send a fax but should have advised me to contact the Chief Magistrate or directed me to a form to apply to vacate the hearing. I believe I have been treated unjustly by the Australian court system, being penalized for their failure in 'duty of care'.

In going public, I have concerns regarding 'contempt of court', feel stifled by defamation law (which applies in spite of my honesty and sworn witness statements), and I fear physical reprisal by the Councilors - be it to myself, my partner or our possessions. I am an individual seeking a voice without the back up of a political or activist organisation.

So how can you help ?

You may have received a leaflet asking for a brief email of objection and support to be copied to a website covering the case. University staff across New South Wales, Victoria and the A.C.T. would have received an email along the same lines.

With few responses, on 8<sup>th</sup> March 2005 I wrote to John Howard requesting that he personally and publicly reply, regarding the conduct of his representatives and injustice in the Australian court system. (However, my letter was then forwarded to Phillip Ruddock, the Attorney General, whose department I have already been in contact with).

In summary, this case regards Freedom Of Speech and Justice in Australia as a whole.

To ensure a reply from John Howard, I have copied MP's along with a petition. My local MP, Anthony Albanese, has agreed to table the case in Parliament in May, for which I thank him.

Whilst it could set a precedent for others, it is unlikely that the case will be reviewed in terms of my situation with the Notice Of Penalty. If I could afford it, I would seek an appeal, even though court delays have resulted in expiration of the standard deadline for appeal.

In the meantime, you can be of enormous assistance by:

- Sending me a brief email outlining your objection and support,
- by writing to newspapers requesting that John Howard personally reply to my 8<sup>th</sup> March 2005 letter,
- and, if you happen to be a fortunate Australian, consider pledging some money to open up the option for a formal appeal.

My email address is stan-g8@bigpond.net.au

Thank you for your time in what has become a test case for Freedom Of Speech and Justice in Australia.

Stan G.

28/3/05

## Introduction

## ATTACHMENT B

The right to freely and respectfully speak is mostly taken for granted. Do you believe that Freedom Of Speech and justice are 'alive and well' in Australia ?

Demonstrating this isn't true, I'll summarise a test case of increasing concern to many Australians.

It amounts to 'thuggery' by publicly elected officials and subsequent injustice in the Australian court system, where the victim was penalized, and needs your help. This is my personal account. I am not a member of any political or activist group and normally represent a small Australian technology export business.

### Why Freedom Of Speech is important

Firstly, why is Freedom Of Speech important ?

- It's fundamental to individual freedom. Thoughts and opinions wouldn't mean much if they couldn't be communicated to anyone else.
- Free speech is fundamental to democracy – essential for citizens, enabling debate about public affairs and government, and informed voting at elections.
- When governors can censor, they may suppress dissenting views, as is the case of dictatorships.

### The status of Freedom Of Speech and justice in Australia

In 1948 the U.N. recognized that "Everyone has the right to freedom of expression; including freedom to hold opinions without interference and to impart information and ideas through any media". In 1998, Commonwealth members pledged to give wholehearted support. Australia is a signatory but governments must pass specific Acts of Parliament to incorporate it into law. No government has implemented free speech provisions, so they are not enforceable by Australian courts.

### A test case for Freedom Of Speech and justice – My own personal account

In this test case, publicly elected officials conducted themselves worse than school playground bullies – and the victim ended up being penalized due to court failure in 'duty of care'. Defamation law is supposed to protect reputations but, in practice, it protects publicly elected officials from scrutiny.

### What amounts to 'thuggery' by publicly elected officials in an attempt to deny Freedom Of Speech

Imagine being fed up with lies about children overboard, dismissal of opposition to war, obstruction of a petition to George Bush in our own parliament, and politicians rorting their own GST system.

As radical as it may seem, imagine printing and respectfully distributing T-shirts, leading up to the recent federal election, with quotes of government acknowledging its own lies.

You're not with a political or activist group but you distribute T-shirts in many locations, without confrontation, and then distribute T-shirts in a marginal seat, under a permit from appropriate authorities.

You're confronted by a person claiming to be in "control of security" but later identified as a publicly elected Councilor and political party representative.

They stand over you and appear to collude with council rangers, with a claim that you harassed someone and request that you leave. Witnesses step forward and the rangers admit it's likely that strings are being pulled from above.

Returning two days later, you're confronted by the same person, and another with a large dog.

They prepare to take a photo of you but you calmly ask them not to.



Suddenly, one pulls his dog forward, aggressively pokes you in the chest and says "You scum bag. I'm going to sic my dog on to you". They leave when a bystander shouts objections.

Soon after, your car is graffitied outside your own home. Whilst difficult to verify, maybe someone obtained your address from your application for a council permit.

### Subsequent injustice in the Australian court system due to the court's own failure in 'duty of care'.

That's my personal account, with sworn witness statements, but not complete without covering subsequent injustice in the Australian court system.

I was fearful at what might happen next but wished to maintain my right to distribute the T-shirts.

I sought an Apprehended Violence Order but there was a lengthy delay in the case being heard. I went to court a second time for an initial 'mention' and a third visit was scheduled for 'hearing'. By that time, the election had passed.

There is an old saying, "Justice delayed is justice denied".

Risks may have decreased but continuing the AVO may have incited the Councilors. Additionally, my work demands had grown and a witness had to be interstate at the time of the hearing.

In good faith, I rang the court the week before, saying it was difficult to continue and asking what to do. I was advised to simply send a fax, which I did that day, referencing a sworn police statement by someone who experienced similar conduct by the Councilors.

Weeks later, I received a Notice Of Penalty for costs of a solicitor hired by a Councilor.

I escalated this to the Directors Office Of Local Courts and Attorney General's Department, without answers to questions regarding a basis for appeal.

I now believe the court should not have advised me to send a fax but should have directed me to the Chief Magistrate or to a form to apply to vacate the hearing – I have been treated unjustly by Australian courts and penalized for their failure in 'duty of care'.

### How you can help

Going public, I'm an individual seeking resolution without the back up of any organisation. How can you help ?

You may have received one of 5,000 leaflets seeking a supportive email to be copied to a website. Many university staff across three states also received a note.

With few responses, I wrote to John Howard on 8<sup>th</sup> March 2005 requesting that he personally and publicly reply, concerning the conduct of his representatives and injustice in the Australian court system.

Reinforcing the request, there's a petition that Anthony Albanese MP has kindly agreed to table in Parliament. Hopefully a precedent will be set for others and my Notice Of Penalty will be reviewed. If I could afford it, I'd fight for an appeal, despite court delays leading to expiry of the standard deadline.

The general public can be of enormous help:

- Please write to newspapers requesting that John Howard personally reply to my 8<sup>th</sup> March 2005 letter,
- Send a brief email of your objection and support to stan-g8@bigpond.net.au, and
- If you happen to be a fortunate Australian, consider pledging some money for an appeal.

You can help in what has become a test case for Freedom Of Speech and Justice in Australia.

4/5/05