

The further reproduction  
of the Magistrates Court, District  
Court and Court of Appeal  
Judgment + High Court Decision  
attached to the governments  
Reply has been omitted  
from this file by me.

MODE = MEMORY TRANSMISSION

START=18-JUN 11:47 END=18-JUN 11:59

FILE NO.=721

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	#	001541229179022	025/025	00:07:44

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To The UN  
Human Rights Committee  
Palais des Nations  
CH 1211 Geneva 10  
Fax: + 0015 41 22 91 79 022

Re: Communication : 1157/2003  
To the Committee

Please find attached my response to the submissions of the state party in this matter together with supporting documents. There are 25 pages including this cover sheet.

Yours Faithfully  
P. Coleman  
Patrick John Coleman  
15 Ethel st Hyde Park  
Queensland Australia 4612  
Email: howardsafreak@hotmail.com  
Phone: +61 0439839121

MODE = MEMORY TRANSMISSION

START=18-JUN 11:39

END=18-JUN 11:46

FILE NO.=720

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK		0262734102	025/025	00:03:12

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To The UN  
 Human Rights Committee  
 Palais des Nations  
 CH 1211 Geneva 10  
 Fax: + 0015 4122 91 79 022

Re: Communication 1157/2003  
 To the Committee

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Yours Faithfully

*Patrick John Coleman*

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 Queensland Australia 4612  
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To The UN  
Human Rights Committee  
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Fax: + 0015 4122 91 79 022

Re: Communication 1157/2003

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*Pateman*

Patrick John Cleman

15 Ethel st Hyde Park

Queensland Australia 4612

Email: howardsafreak@hotmail.com

Phone: +61 0439839121

Author  
Patrick John Coleman  
15 Ethel st Hyde Park  
4812  
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To The United Nations High Commissioner for Human Rights

Palais des Nations  
CH 1211 Geneva 10  
Fax : (+0015) 4122 9179022  
Email: [poertly@ohchr.org](mailto:poertly@ohchr.org)

**Re Communication 1157/2003 Coleman v Australia**  
**ref: G/SO 215/51 AUSTL (52) 11572003**

I inform the committee that I have received its recent communication to me including the reply of the state party this matter on 15/6/2004 via mail and its request for a response within 2 months.

I thank the committee for its timely forwarding of this matter to me.

I am pleased to also reply to the statements of the state party in this matter in a timely way.

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I would submit the following in reply to the state party's reply:

I agree that Australia is the state party to this complaint, and quite explicitly named them as such. They represent the other respondents who need not make any submission to the committee. Each of the persons and governments named have breached my rights, it is just that the state party is the one which must grant me a remedy under the ICCPR.

Under Article 50 of the ICCPR, the covenant extends to states within a federation. Australia is such a federation. I inform the committee that under Australian law<sup>1</sup>, it was a requirement of me to inform the attorneys general of the states, territories and of the commonwealth (hereafter the AG's) that a matter of constitutional importance was being raised in a court. The high court would not allow a proceeding on such a matter to be heard unless such notification had taken place and the AG's had had a chance to consider intervening. The AG for the state party did not intervene in the proceeding in the high court to either speak up for me or to argue in favour of the conviction. In this sense, if it is raised, I say that article 14(6) of the ICCPR is not

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<sup>1</sup> Section 78 (a) [http://www.austlii.edu.au/au/legis/cth/consol\\_act/ja1903112/s78a.html](http://www.austlii.edu.au/au/legis/cth/consol_act/ja1903112/s78a.html), and (b) of the Judiciary Act 1903 (CTH) [http://www.austlii.edu.au/au/legis/cth/consol\\_act/ja1903112/s78b.html](http://www.austlii.edu.au/au/legis/cth/consol_act/ja1903112/s78b.html)

applicable to these circumstances given the state party's submissions to the committee. They say I am guilty of a crime.

I submit that the state party is properly named and the request the committee not to rule my complaint inadmissible on this ground.

In regards to the claim of the state party that I have provided no evidence to the committee to show how my rights have been violated under articles 9, 15, 19 and 21; this is quite plainly an incorrect assertion. I repeat what I have complained about in my communications to the committee.

The evidence is that I peacefully gave a speech on human rights issues<sup>2</sup>. The prosecuting authority said that the fact that I was peaceful was irrelevant to the issue to be determined.

Peacefully giving a speech on human rights issues is not against international law, and is in fact protected by it. The only justified limitations that are relevant to this matter are contained in article 19(3) of the ICCPR. What I will evidence, because of the nature of the state party's reply, shows the power of such peaceful activity has in bringing pressure to bear on authorities to consider human rights issues – whether or not they decide to protect such rights.

As in the case of *Auli Kivenmaa v Finland*, there is nothing the state party can show which would justify my prosecution or gaoling for giving such a peaceful speech in a public place.

There was no threat to public order, no threat to national security, and it has never been alleged that anything I said was immoral. There are as yet no allegations that I have on that occasion unlawfully defamed any person.

I would like to point out that prior to 20/12/98; the local council would never allow me to give a speech in the mall without permission, regardless of whether I was standing at a booth, on a chair or a milk crate.

I refer the committee to the Report of the Queensland Parliament called "*Report number 12, November 1998, The Preservation and Enhancement of Individuals Rights and Freedoms in Qld, Should Queensland Adopt a Bill of Rights*" at Pages 71-74<sup>3</sup>.

There it is evidenced that prior to my prosecution the council had suppressed such activities. They made no effort to rebut what was said in the report. The council would not allow speaking without permission whether on at a booth or anywhere in the mall.

I had begun a petitioning campaign to get a speakers corner in the Flinders Mall and got many people to sign them in the mall. I gave these letters <sup>4</sup> to the council in

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<sup>2</sup> I show the committee a photo of a speech on 19/9/99 taken by the council on the other fountain mentioned in the evidence of Mrs Wendt in the trial; it is illustrative of what happened and what the place looks like.

<sup>3</sup> <http://www.parliament.qld.gov.au/comdocs/legalrev/Bill%20of%20Rights%20report%20-%20Report%20No%2012.PDF>

batches. This called for a trial of free speech, including the setting up of stalls to hand out material and for the council to allow people to speak without permission anytime they want. A stall is simply the same as a booth "as little as a table or chair".

I take the committee to an internal Townsville City Council document I obtained <sup>5</sup>, which shows that the council regarded me as the leading exponent of this campaign and that they were forced to "allay some concerns in this area" by erecting a speakers stone <sup>6</sup>. It shows that whatever their law said, their policy was on the plate. The date of the internal documents shows that their decision was made on the 23<sup>rd</sup> of December 1998. I am certain but I cannot prove, that I was charged while I was in custody in retaliation. It must be remembered that the policeman said to me that I was not going to like what he had to do and that it was a council prosecution not a police one. The council sent a letter to me and every individual who signed a letter <sup>7</sup> saying they would not allow a trial of the things contained in their petitions claiming that the community actually opposed the activities. Yet it was the community in the mall on the days when I was petitioning<sup>8</sup>. The recent experience they discussed was public pressure on the council.

I would also like to point out, that since 20/12/98; my free speech campaign resulted in the council erecting a speaker's stone in the mall. This stone is not a chair or a milk crate, but it could be said to be a booth within the meaning of s8 (1) of the by law<sup>9</sup>.

However, on the 6<sup>th</sup> of March 2000, I was convicted of 22 offences under the by law for speaking with out a permit, many of those speeches were on the speakers stone.

Whilst those matters are not the subject of this complaint because I have not exhausted my remedies (for legal reasons I must keep to myself at this stage) in relation to them, they are illustrating on the matter of the sincerity with which the state party has claimed that I have many other avenues with which to express myself, and that the ban on speaking is not a "blanket ban".

I would also like to refer the committee to s14 of the by-law under consideration, and pose a hypothetical scenario to the committee to illustrate the character of the law in question. If a person were to make a demonstration at or on a booth under s8 (1), and drew attention to it by ringing a bell or banging a drum, that person would be committing an offence as the by-law would have it. Any political advertising devices are also banned. Also s8(2)(g) of the law says that a person can be charged for having anything connected with a speech, protest or demonstration, which means<sup>10</sup> the flag I had, the paper on which the universal declaration was printed and anything else. If as the state party would have it, I could give a speech outside the mall, I could be

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<sup>4</sup> See attached unsigned pro forma letter to the councillors calling for free speech to be implemented.

<sup>5</sup> Letter to the CEO of the Council from Mr Paul Askern- Director of Corporate Services with an additional comment by Mr Frank Hornby (Assistant Director) dated 23 December 1998

<sup>6</sup> See attached council draft plan showing the proposed stone dated 9/2/99 and the picture of the conditions of use "Plate" of the stone, and 2 photographs of the stone in place being used on Sunday 20/6/99 outside the then Townsville Post Office in the mall (with crowd).

<sup>7</sup> See attached letter from the CEO of the Council, Mr Brian Guthrie to me dated 12/2/99

<sup>8</sup> including 20/12/98

<sup>9</sup> [http://www.digp.qld.gov.au/applications/localLawSearch/data/TOWN/39\\_Pedestrian%20Malls%20LL\\_res24-06-89.pdf](http://www.digp.qld.gov.au/applications/localLawSearch/data/TOWN/39_Pedestrian%20Malls%20LL_res24-06-89.pdf)

<sup>10</sup> Although I was not charged under that provision such material could appear at a booth.

charged under s14 of the by law <sup>11</sup> if the sound travelled inside the mall. The state party's submissions are "very curious" in this regard.

By the time the local authority has impliedly agreed that a person may use a booth to speak from, it is too late, the damage has been done, I have been convicted fined and gaoled, and I am about to be bankrupted by the council.

As further evidence of the detriment I have suffered and am about to suffer, I refer the committee to the documents filed in the Townsville Courts -by the representatives of the local council. These documents say that bankruptcy proceedings will be brought against me in the Federal Court for the recovery of over \$19 800 (Aust). I refuse to pay such money, I did nothing wrong. As yet no court action has been taken, but it hangs over me like the *Sword of Damocles*.

The Qld police force has also asked me to pay them over \$10 000 (Aust) (But these costs have not as yet been assessed).

When I am bankrupted, the result is that I am precluded by s44 of the Australian Constitution from running for federal parliament; I am also precluded by the operation of state electoral laws and the local government act of Qld, from running in those elections as well. The detriment I will suffer if the Human Rights Committee does not find in my favour is that I will lose my political rights as well.

I must inform the committee that the Police Powers and Responsibilities Act 2000 Qld took away the powers of police to arrest under s16 of the by law. This is so because the local law is not scheduled to that act as an act which police have a right of arrest under.

Persons can only be arrested now, as a result of a warrant issued for the non payment of fines for an offence against the by law.

Prior to 20/12/98 I had been arrested twice under s8 (2) (e), once on 28/8/97 for reading out a speech on the issue of the republic and again on 16/11/97 condemning Australia's then attitude towards East Timor. I was convicted for the latter<sup>12</sup>. I was also arrested for petitioning those letters to the council on 8/12/98 but I have been awarded compensation for that unlawful arrest.

On the issue of whether I have been a victim or not, I got convicted, fined and gaoled. I have had my reputation consistently besmirched on the front pages of the local newspaper <sup>13</sup> as a result of the pursuit of me by the local authority.

This is not a hypothetical occurrence or a theoretical possibility, all of these things happened to me and I lost my freedom.

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<sup>11</sup> And chapter 1 "Preliminary"

<sup>12</sup> Which merely illustrates the context in which the events were occurring. Those arrests are not the subject of this communication.

<sup>13</sup> See the attached photocopy of the Townsville Bulletin 27/11/2002 front page headline and story "BANKRUPT THEM", which is one of many.



I have not asked the committee to grant me compensation. Clearly the committee does not have the jurisdiction to order such. However, the committee can say that I am entitled under article 9(5) of the ICCPR to compensation and ask the state party to provide me with a remedy.

I have exhausted all my domestic remedies in relation to even attempting to get compensation. In Australia, there is a legal rule called *RES JUDICATA*. This rule says that the courts must accept a ruling on a legal issue that has not been appealed, or on an issue in which all legal appeals have been exhausted.

As a result of the decision of the High Court of Australia, the conviction was affirmed and I have no domestic remedy of compensation because our purported law assumes the conviction to be valid and lawful.

In the same way the committee has jurisdiction to rule a complaint inadmissible and to declare a person a vexatious litigant or deem a complaint to be an abuse of its process, the Australian law says that if I seek compensation through the courts, knowing that I have no prospects of success, because the matter has been determined against me, that matter can be struck out because the court will say it has no prospect of success under domestic common law, it will be an abuse of process. If I repeatedly try to seek compensation in this situation I would be declared a vexatious litigant.

To put what I am complaining about in simpler language

- Article 19(2) of the ICCPR allows me to give a peaceful speech in a public place subject to any lawful limitations contained in Article 19(3). In the section of my complaint with the subheading "NATURE OF THE COMPLAINT" – sub para (1) on page 3, I stated that my right to freedom of speech and expression has been infringed. My rights have been violated.
- I say that I had a right to assemble with the members of the public in the mall under article 21 of the ICCPR. And I had a right to act differently to the people there by making a political statement orally. My rights have been violated.
- Article 15 of the ICCPR says that I must not be convicted of something that was not an offence under international law. I have been convicted of something that was not an offence under international law. Under article 19(2) of the ICCPR I had the right not to be prosecuted for giving my speech. My rights have been violated.
- It follows that if the committee rules in my favour on these matters, then the state party, who has not filed any reservations to the articles of the ICCPR, is bound by its obligations under the optional protocol to provide me with my remedy, ridding me of the conviction and compensating me under article 9(5). The state party can pass a law to make sure that neither I nor any other person have these same rights violated again.

My final point is that if the committee was able to view the video evidence, the video of the incident shows that 2 persons who viewed and listened to my speech shook my hand afterwards. If the committee can view video evidence the state party and I both have a copy of it. I also point to the committee to the evidence of Mrs Wendt<sup>14</sup> and Mr McCoist<sup>15</sup> on the court transcripts of the trial in the magistrate's court, it was a stifling hot day and everyone was in the shade because it was so hot. I was in the sun. We have a saying in Australia (from an old song), "only mad dogs and Englishmen go out in the mid day sun". McCoist says that there were people watching and it initiated debate between him and his customers. Wendt says there were thousands in the mall on that day.

I ask that the committee rule my complaint is admissible for the reasons stated in my complaint, and reiterated above.

I have the honour of informing the committee that a recent full bench decision of our federal court has said in the case of MIMIA v Al Masri<sup>16</sup> that the views of the committee will now be given respect by Australian courts. This decision stands at this point in time. There the court said:

*"[149] Although the views of the Committee lack precedential authority in an Australian court, it is legitimate to have regard to them as the opinions of an expert body established by the treaty to further its objects by performing functions that include reporting, receiving reports, conciliating and considering claims that a State Party is not fulfilling its obligations. The Committee's functions under the Optional Protocol to the International Covenant on Civil and Political Rights, to which Australia has acceded (effective as of 25 December 1991) are particularly relevant in this respect. They include receiving, considering and expressing a view about claims by individuals that a State Party to the Protocol has violated covenanted rights. The conclusion that it is appropriate for a court to have regard to the views of such a body concerning the construction of a treaty is also supported by the observations of Kirby J in Johnson v Johnson<sup>17</sup>, and of Katz J in Commonwealth v Hamilton<sup>18</sup>, citing some observations of Black CJ in Commonwealth v Bradley<sup>19</sup>. See also The Queen v Sin Yau-Ming<sup>20</sup>. It is appropriate, as well, to have regard to the opinions expressed in works of scholarship in the field of international law, including opinions based upon the jurisprudence developed within international bodies, such as the Committee."*

When the committee decides in my favour, and I am in no doubt that the committee will if it follows the decision of Kivenmaa v Finland, it will allow for the committee's decision to be applied by others in the courts process in Australia.

I believe that the committee is presented with an opportunity, not just to uphold the ICCPR which binds the state party, but to have 2 chances of having its decision

<sup>14</sup> At pages 44 to 47 of the court transcripts.

<sup>15</sup> At pages 60 to 63 of the court transcripts.

<sup>16</sup> [2003] FCAFC 70 15 April 2003 <http://www.austlii.edu.au/au/cases/cth/FCAFC/2003/70.html>

<sup>17</sup> (2000) 201 CLR 488 at 501-502

<sup>18</sup> (2000) 108 FCR 378 at 387

<sup>19</sup> (1999) 95 FCR 218 at 237

<sup>20</sup> [1992] 1 HKCLR 127 at 141

implemented, one by the Australian common law, and in the other case by the obligations on the state party under the optional protocol.

I faithfully await the committee's decision on this matter and any other request for further information by either the committee or the state party.

Yours Faithfully



Patrick John Coleman  
The Author of the complaint  
18/6/2004

Name.....

Address.....

To Honourable Councillors .  
Townsville City council .

As you are aware, a debate has begun on whether or not Townsville is going to have a type of speakers corner . Debate is one thing, but public input is another .

We have not been asked, rather we have been told what type of public speaking is going to occur. To restrict public speaking in the Mall, to a specific area is contrary to the intent of the Peaceful Assemblies Act 1992.

It is possible that a one year trial period could be initiated as a test case for the rest of Queensland , this would show that business is not meant to be a competing interest to democratic principles and therefore -

the following things should not be restricted in any way apart from safety concerns arising from violent assemblies, where it has always been the right of police to intervene and always should be:

- stalls for political /environmental or religious purposes , relating specifically to the dissemination of information only .
- petitioning,
- public speaking in all open air areas of the mall,
- handing out of political/environmental handbills,
- The right of people to carry or hold signage , whether moving or stationary,
- The right not to ask for a permit for a peaceful assembly.
- The right of people to play musical instruments in the mall , without amplification devices ,whether for busking or not.

It is also desirable that summonses only be given instead of arrest or detainment for alleged or perceived disputes on points of law ,and that persons who are not acting violently during these assemblies be left in peace or monitored until the assembly has finished .

Signed.....

Print.....

Date.....



MEMORANDUM  
CORPORATE SERVICES

5090704  
PA.AM

23 December 1998

Returned to  
- 5 JAN 1999  
Corporate Services  
Department

TO: CHIEF EXECUTIVE OFFICER *(for attention Finance & Corporate Services Committee)*

FROM: DIRECTOR CORPORATE SERVICES

RE: FREEDOM OF SPEECH

Council has received a number of letters on the above subject. The letters are attached.

They quote the Peaceful Assemblies Act of 1992 and request that a one year trial be initiated as a test case for Freedom of Speech as a demonstration for the rest of Queensland. A list of activities proposed are set out in the letter.

The Peaceful Assemblies Act of 1992 provides a process by which assemblies can be held in public places including Malls. In the case of the Malls, not only the Commissioner of Police for the local area must be advised but ~~also~~ also the local authority. If the local authority objects we must lodge an objection in the Magistrate Court within a short period of time. The Magistrate may grant the local government's appeal against the application or allow the demonstration to proceed. To date the leading exponent of this campaign, Mr Pat Coleman, has made no application under the Peaceful Assemblies Act or sought permission from the Council for his activities. In fact his activities has generally been disruptive and of heckling nature which has detracted from to the enjoyment of the Mall by the general public, particularly on Cotters Market days.

In addition to this the Council has moved to ally some concerns in this area through the introduction of the Speaker's Stone. The design for the stone is currently being prepared and will be brought to the Mayor's attention shortly.

Francis Cornum

It is my view that the writers of these letters should be advised that the Council respects their wish to exercise their right to free speech and is providing a Speaker's Stone for this purpose. However, the Council will enforce its local laws and feels that the exercise of free speech must be exercised in a responsible way that recognises the rights of the Townsville community to enjoy one of its most important recreational and commercial assets. On this basis the Council is not prepared to initiate a trial of the activities as outlined in the letters.

### Recommendation

It is recommended that a letter be sent in response to the attached letters setting out the views expressed above.



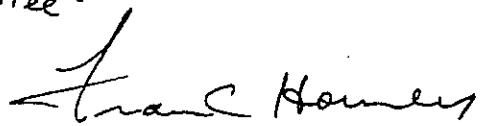
PAUL ASKERN  
DIRECTOR CORPORATE SERVICES

To. C.E.O

This memo was held over from Corporate and Finance Services meeting, held on 18TH January 1999, at the request of legal services in order to satisfy a concern with the Peaceful Assemblies Act of 1992. C+F.S had a verbal discussion on the concerns and resolved the issue.

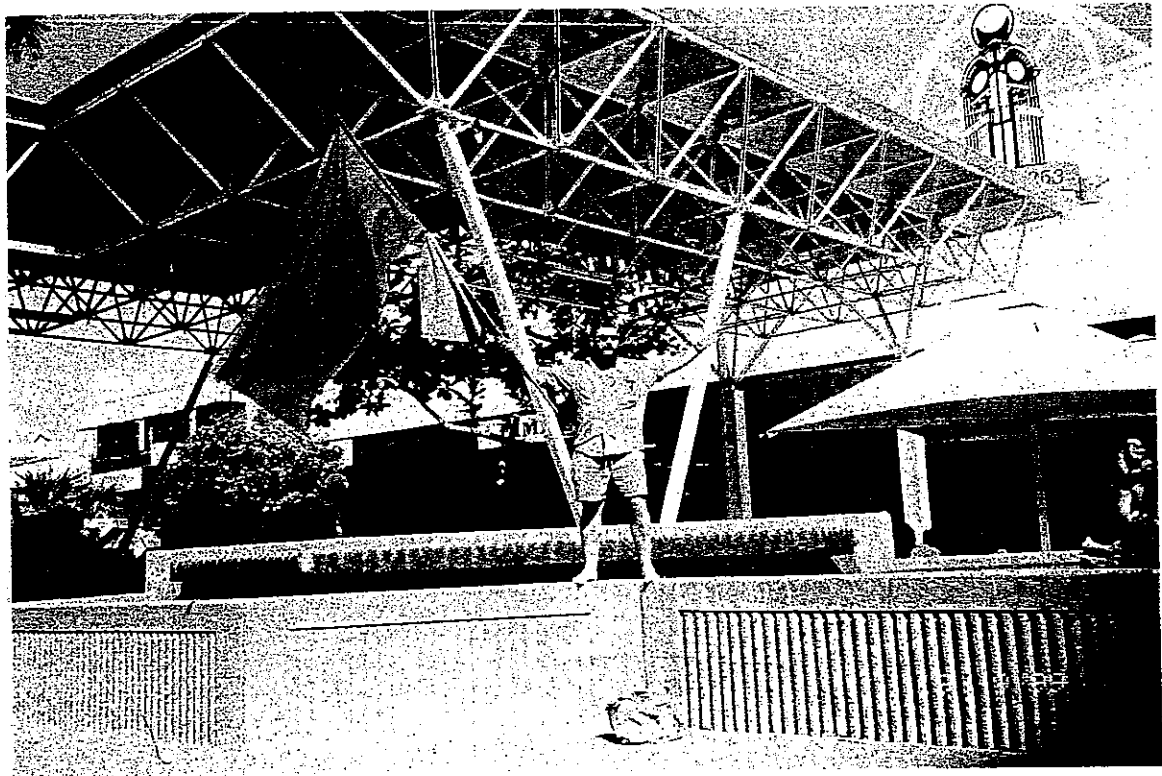
A further 88 petitions on the "speakers corner" have been received by Council. As the petitions came with a covering letter from Mr. Coleman, the appropriate acknowledgment was forwarded. Mr. Coleman rang me on 27/1 asking for copies of all reports to be forwarded to him. I informed him that this was not possible as the matters of his concern were still before committee.

For the information of the Committee.



A/D.C.S. 28.1.99

19 SEPTEMBER-01



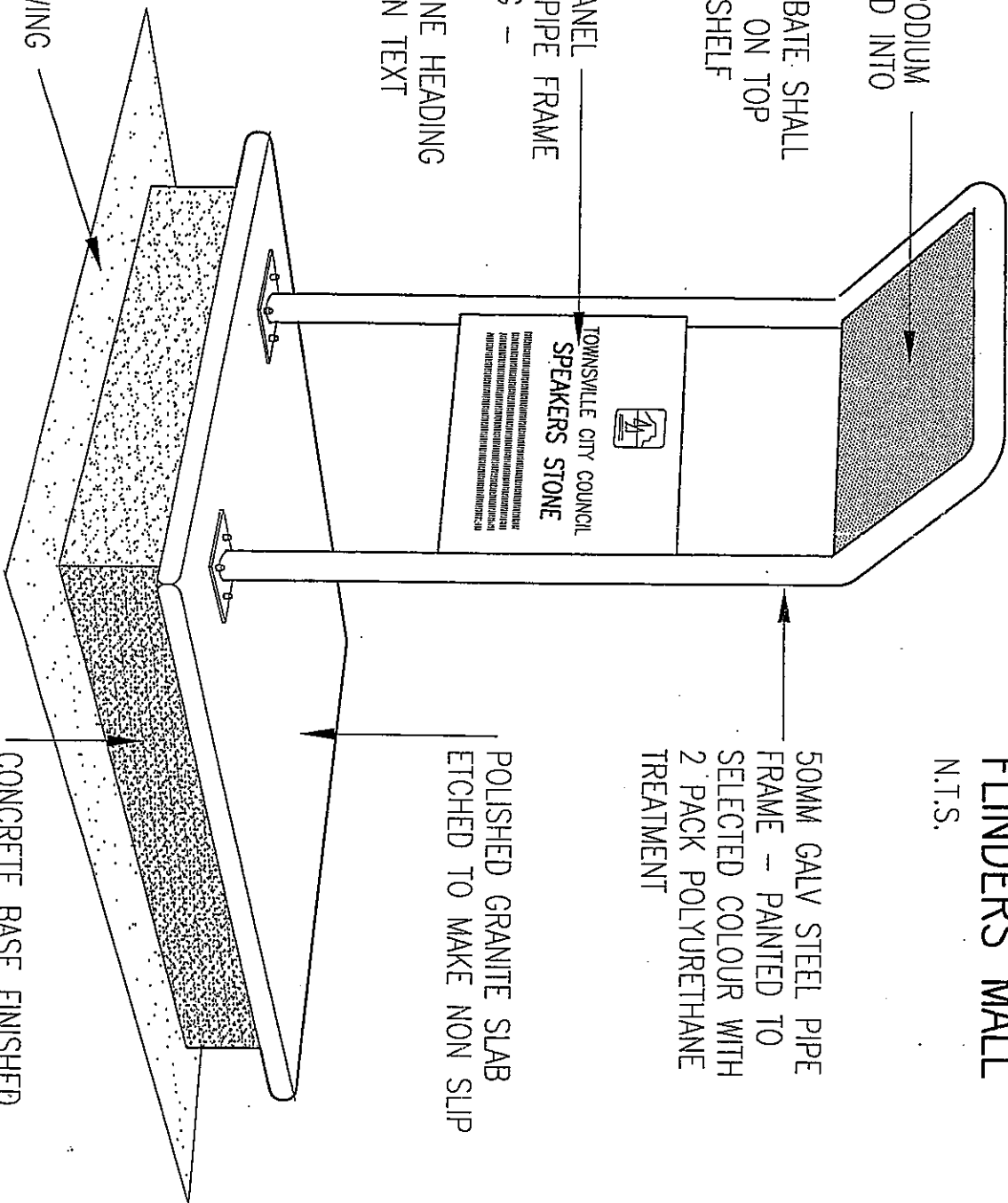
**SPEAKERS STONE  
FLINDERS MALL**  
N.T.S.

*Terrillene Berry*  
9/2/99

FLAT STEEL PODIUM  
SHELF WELDED INTO  
PIPE FRAME  
- RULES OF DEBATE SHALL  
BE INSCRIBED ON TOP  
SURFACE OF SHELF

FLAT STEEL PANEL  
WELDED INTO PIPE FRAME  
INCORPORATING -  
LOGO  
SPEAKERS STONE HEADING  
AND DEDICATION TEXT

CONCRETE MOWING  
STRIP

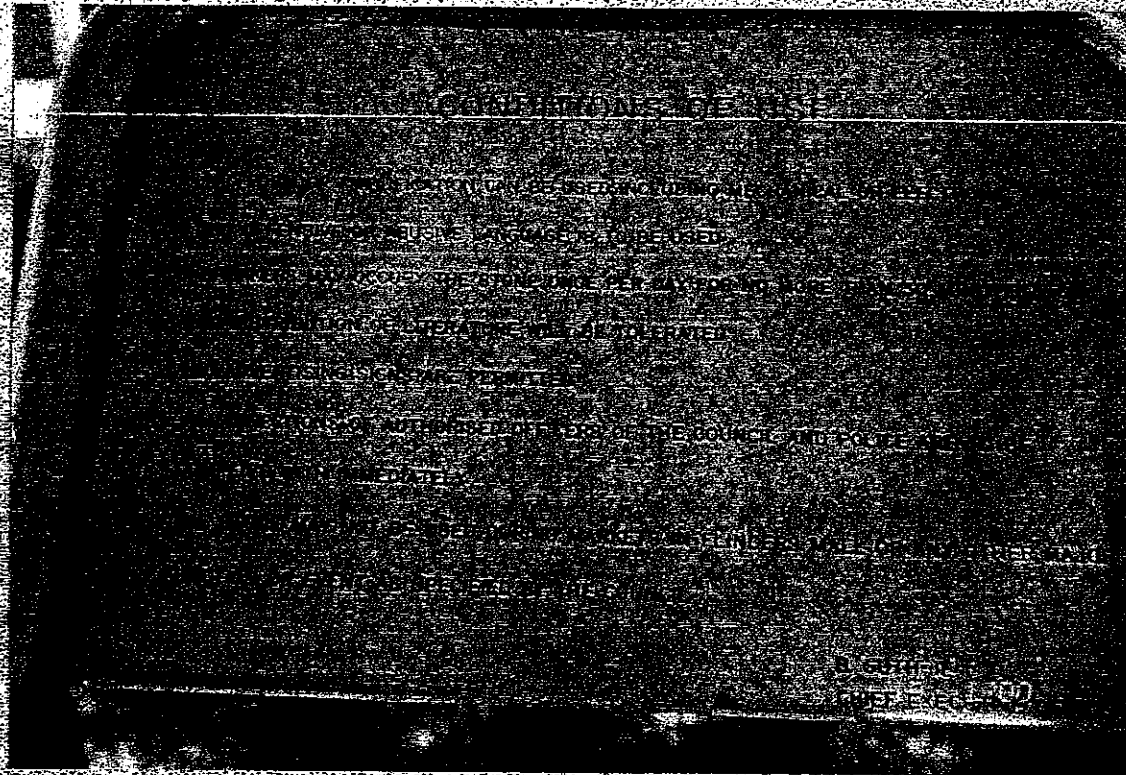


50MM GALV STEEL PIPE  
FRAME - PAINTED TO  
SELECTED COLOUR WITH  
2 PACK POLYURETHANE  
TREATMENT

POLISHED GRANITE SLAB  
ETCHED TO MAKE NON SLIP

CONCRETE BASE FINISHED  
WITH GRANOSITE COATING  
TO MATCH SURROUNDING  
FIXTURES





20 JUNE - P5



20 JUNE - P6





**COUNCIL OF THE CITY OF TOWNSVILLE**  
ADMINISTRATION BUILDING, WALKER STREET,  
TOWNSVILLE

All communications to be addressed to:

The Chief Executive Officer  
P.O. Box 1268, Townsville,  
Qld. 4810.  
Telephone: (07) 4727 9000  
Fax No.: (07) 4727 9050  
AUSDOC: DX 41447  
Townsville

In reply please quote ref.:

12 February 1999

Pat Coleman  
2/27 Marcel Street  
KIRWAN QLD 4817

Dear Sir/Madam,

Thank you for your letter of 7 January 1999 concerning the right to freedom of speech in Flinders Mall.

At its meeting of 9 February 1999, the Council considered your letter along with other letters expressing the same views. While the Council has great respect and support for people to exercise their right to free speech, it believes the exercise of these rights should not deprive other members of the community of their rights.

In the case of Flinders Mall, the Council has by-laws in place to protect the rights of the Townsville community to enjoy one of its most important recreational and commercial assets. Activities, which have taken place in the Mall recently under the guise of freedom of speech, would be described by many in the community subjected (without consultation) to the experience, as verbal harassment of the general public, disruption of community activities and noise pollution. The Council is not prepared to allow a trial of activities as suggested on a totally unfettered basis under the banner of freedom of speech, particularly on the basis of recent experience.

As stated, the Council respects and supports the right of freedom of speech. To this end a Speakers Stone will be introduced to Flinders Mall in the near future. This will provide a valuable avenue for the dissemination of information and views.

Your letter also mentions the Peaceful Assemblies Act of 1992. This Act sets out a process by which assemblies can be held in public places including Malls. In the case of Flinders Mall, not only the Commissioner of Police for the local area must be advised but also the local authority. If the local authority objects it must lodge an objection in the Magistrates Court within a short period of time. The Magistrate may grant the local government's appeal against the application or allow the assembly to proceed. In regard to recent activities in Flinders Mall by "freedom of speech" proponents, no due process under the Act has been followed. These activities, particularly during the Cotters Market on Sundays, have generally been disruptive and of a heckling nature which has detracted from the enjoyment of the Mall by traders, stallholders and the general public.

The Council appreciates receiving your views but would urge you to respect Council by-laws in the interests of the community, make use of the Speakers Stone to exercise your right to free speech and follow due process under the Peaceful Assemblies Act 1992 in pursuit of your goals.

Yours sincerely

**B. GUTHRIE**  
**CHIEF EXECUTIVE OFFICER**  
speakerstone

QLD 40/2004

*Bankruptcy Act 1966*

**BANKRUPTCY NOTICE**

This Bankruptcy Notice is prescribed, under subs. 41 (2) of the *Bankruptcy Act 1966* ("the Act"), by r. 4.02 of the Bankruptcy Regulations.

To: PATRICK JOHN COLEMAN  
("the debtor")

of: 15 ETHEL STREET

HYDE PARK QLD 4812

**This Bankruptcy Notice is an important document. You should get legal advice if you are unsure of what to do after you have read it.**

1. TOWNSVILLE CITY COUNCIL  
("the creditor")

of: WALKER STREET

TOWNSVILLE QLD 4810

claims you owe the creditor a debt of \$19,883.08, as shown in the Schedule.

2. The creditor claims that the debt is due and payable by you.

A copy of the judgment or order relied upon by the creditor is attached. At the time of applying for this Notice, execution of the judgment or order had not been stayed.

3. You are required, within 21 days after service on you of this Bankruptcy Notice:

- (a) to pay to the creditor the amount of the debt; or
- (b) to make an arrangement to the creditor's satisfaction for settlement of the debt.

[NOTE: The number of days to be inserted is 21 or, if an order has been made under subparagraph 40 (1) (g) (ii) of the Act, the number of days constituting the time fixed by the order.]

4. Payment of the debt can be made to:

BOULTON CLEARY & KERN

of:

1 SABINA STREET  
THE LAKES

TOWNSVILLE QLD 4812

[NOTE: The address must be within Australia.]

5. **Bankruptcy proceedings may be taken against you** if, within the time stated in paragraph 3, above:
- (a) you do not comply with the requirements of either paragraph 3 (a) or paragraph 3 (b) above; and
  - (b) the Court (that is, the Federal Court of Australia or the Federal Magistrates Court) does not extend, or is not deemed to have extended, the time for compliance with this Bankruptcy Notice (see paragraph 6, below).
6. The Court may extend the time for compliance with this Bankruptcy Notice if, within the time stated in paragraph 3 above, you apply to the Court on one or both of the following grounds:
- (a) that you have instituted proceedings to set aside the judgment or order in respect of which this Bankruptcy Notice has been issued;
  - (b) that you have filed with the Court an application (on one or more grounds, apart from the grounds mentioned in paragraph 7, below) to set aside this Bankruptcy Notice.
7. In addition, within the time specified in paragraph 3 above, you may file an application to the Court for an order to set aside this Bankruptcy Notice on the specific grounds that:
- (a) you have a counter-claim, set-off or cross demand equal to or exceeding the sum specified in this Bankruptcy Notice as owing to the creditor; and
  - (b) in the action or proceeding in which the judgment or order mentioned in paragraph 2 of this Bankruptcy Notice was obtained, you could not have set up that counter-claim, set-off or cross demand \*.

\* This means that, because of a legal obstacle, you could not have raised that counter-claim, set-off or cross demand in defence of the creditor's court action against you. It is not enough if, for example, you simply neglected or overlooked the matter.

8. You should note the following points carefully:

- (a) If you file, at the Court, an application mentioned in **paragraph 6 (a)** or **(b)**, you must still comply with this Bankruptcy Notice within the time stated in paragraph 3 above unless the Court extends the time for you to comply.
- (b) If you file, at the Court, an application mentioned in **paragraph 7 (a)**, you need not comply with this Bankruptcy Notice until the Court decides whether you have grounds for a counter-claim, set-off or cross demand. Whether you will have to comply at that stage will depend on the Court's decision.

**WARNING**

9. The information in paragraphs 6, 7 and 8 is based on provisions of section 41 of the Act. The information is a summary only, and not a complete statement of the relevant law. It might be unwise to rely solely on this summary. If you need a more detailed explanation, you should seek legal advice.

**Schedule**

Column 1	Column 2
1. Amount of judgment or order	\$19,883.08
Plus 2. Legal costs if ordered to be paid and a specific amount was not included in the judgment or order (see Note 1, below)	\$
Plus 3. If claimed in this Bankruptcy Notice, interest accrued since the date of judgment or order (see Note 2, below)	\$
4. Subtotal	\$
Less 5. Payments made and/or credits allowed since date of judgment or order	\$
6. Total debt owing	\$19,883.08

(NB: Amounts, where applicable, are to be inserted in column 2)

**For the Information of the Creditor—  
Notes to the Schedule**

Note 1: Legal costs (item 2 of the Schedule)

If legal costs are being claimed in this Bankruptcy Notice, a certificate of taxed or assessed costs in support of the amount claimed must be attached to this Bankruptcy Notice.

Note 2: Interest accrued (item 3 of the Schedule)

If interest is being claimed in this Bankruptcy Notice, details of the calculation of the amount of interest claimed are to be set out in a document attached to this Bankruptcy Notice. The document must state:

(a) the provision under which the interest is being claimed;

and

(b) the principal sum on which, the period for which, and the interest rate or rates at which, the interest is being claimed.

(NB: If different rates are claimed for different periods, full details must be shown)

**For the Information of the Creditor**

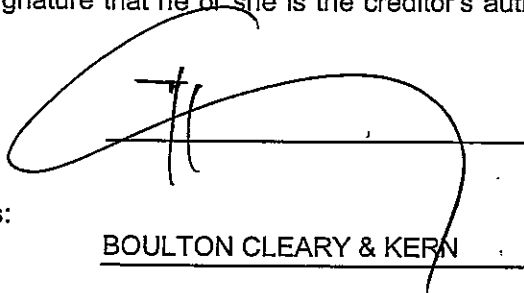
**Note about use of information**

It may be necessary to disclose some or all of the information provided by you on this Form to Government agencies and departments for any purpose under the Act. Also, the information may be included on a public record or given to other persons, bodies or agencies for purposes authorised by the Act.

\_\_\_\_\_  
The person who applied for this notice to be issued is:

JEFFREY KEITH GUY

who confirms by the following signature that he or she is the creditor's authorised agent:

  
\_\_\_\_\_

and whose address for service is:

BOULTON CLEARY & KERN

1 SABINA STREET

THE LAKES

TOWNSVILLE QLD 4812

Telephone and fax numbers  
(including STD code):

(07) 4772 9200

(07) 4772 9222

DX number (if applicable):

N/A

FOR OFFICIAL USE ONLY


Dated this 2ND day of FEBRUARY 2004

This notice was issued by the Official Receiver (or delegate or an officer authorised by the Official Receiver) for the Bankruptcy District of:

Queensland

address of Official Receiver:

ITSA – Queensland,  
Level 1, National Australia Bank Building,  
Ross River Road,  
Aitkenvale Qld 4814

  
JANE E HOLLWAY

ITSA  
LEVEL 1, 315 ROSS RIVER ROAD  
AITKENVALE 4814

(signature or stamp of Official Receiver or delegate or authorised officer)



IN THE HIGH COURT OF AUSTRALIA  
BRISBANE OFFICE OF THE REGISTRY

NUMBER: B14 of 2001

BETWEEN:

PATRICK JOHN COLEMAN

Applicant

AND:

NICHOLAS SELLARS

First Respondent

AND:

TOWNSVILLE CITY COUNCIL

Second Respondent

ORDER

Justices: Gaudron and Gummow JJ

Date and Place of Hearing: 26 June 2002 at Brisbane

Date of Order: 26 June 2002

Where Made: Brisbane

Appearances: K G Horler QC  
E S Wilson  
For the Applicant

R V Hanson QC  
For the First Respondent

N M Cooke QC  
For the Second Respondent



THE COURT ORDERS THAT:

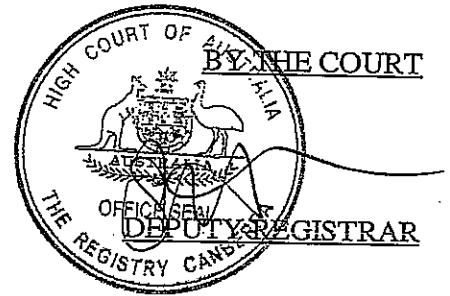
1. The application for special leave to appeal to this Court from the judgment and order of the Court of Appeal of the Supreme Court of Queensland given and made on the 21<sup>st</sup> day of November 2000 be and the same is hereby refused.

ORDER  
Filed on behalf of the Second Respondent

Page 1

King & Company  
Solicitors  
Level 6, 95 North Quay  
BRISBANE QLD 4000  
Ph: 07 3236 1199 : Fx: 07 3236 1885  
Ref: MFW:KLS:AA13732

2. The Applicant pay the First and Second Respondent's costs of and incidental to the within application.





Min No: 03/230072 OIL MC  
File No: 03/3084

5 June 2003

Mr Patrick Coleman  
15 Ethel St  
Hyde Park QLD 4812

Dear Mr Coleman

**Individual Communications under International Human Rights Treaties**

Thank you for your email of 27 April 2003 to the Attorney-General. The Attorney-General has asked me to respond on his behalf.

The Government is committed to observing its international and domestic human rights obligations.

Given that your own communication under the International Covenant on Civil and Political Rights is currently before the United Nations Human Rights Committee, I am not in a position to comment on how the Government would respond to any views the Human Rights Committee may finally express.

Thank you for drawing your views to the Attorney-General's attention.

Yours sincerely



Rebecca Irwin  
Assistant Secretary  
Public International Law Branch

Telephone: 6250 6494  
Facsimile: 6250 5931  
E-mail rebecca.irwin@ag.gov.au

To  
The United Nations  
High Commissioner for Human Rights  
Palais des Nations  
CH - 1211 Geneva 10  
Switzerland  
Fax 0015 4122 917 9022

Re: Coleman v Australia (Communication 1157/2003)  
Ref: G/SO 215/51 AUSTL(52) 1157/2003

To the UNHRC,

I regret to inform the Human Rights Committee, that, as a result of my reading the Universal Declaration of Human Rights out in public without permission, and the subsequent prosecution and my unsuccessful appeals against being convicted for such peaceful activity, I have been BANKRUPTED.

A copy of the order of the court is attached. The period of my BANKRUPTCY will be 3 years from me filing my statement of affairs, being today.

Yours Faithfully Patrick John Coleman  
Plaintiff (Complainant)  
15 Ethel st Hyde Park  
Queensland, Australia 4612  
Date 27/7/2004

Bankruptcy Act 1966

**BANKRUPTCY NOTICE**

This Bankruptcy Notice is prescribed, under subs. 41(2) of the *Bankruptcy Act 1966* ("the Act"), by r. 4.02 of the Bankruptcy Regulations.

To: PATRICK JOHN COLEMAN  
("the debtor")

of: 15 ETHEL STREET  
HYDE PARK QLD 4812

**This Bankruptcy Notice is an important document. You should get legal advice if you are unsure of what to do after you have read it.**

1. TOWNSVILLE CITY COUNCIL  
("the creditor")

of: WALKER STREET  
TOWNSVILLE QLD 4810

claims you owe the creditor a debt of \$19,883.08, as shown in the Schedule.

2. The creditor claims that the debt is due and payable by you.

A copy of the judgment or order relied upon by the creditor is attached. At the time of applying for this Notice, execution of the judgment or order had not been stayed.

3. You are required, within 21 days after service on you of this Bankruptcy Notice:

- (a) to pay to the creditor the amount of the debt; or
- (b) to make an arrangement to the creditor's satisfaction for settlement of the debt.

[NOTE: The number of days to be inserted is 21 or, if an order has been made under subparagraph 40 (1) (g) (ii) of the Act, the number of days constituting the time fixed by the order.]

4. Payment of the debt can be made to:

BOULTON CLEARY & KERN

of:

1 SABINA STREET  
THE LAKES

TOWNSVILLE QLD 4812

[NOTE: The address must be within Australia.]

5. **Bankruptcy proceedings may be taken against you** if, within the time stated in paragraph 3, above:
- (a) you do not comply with the requirements of either paragraph 3 (a) or paragraph 3 (b) above; and
  - (b) the Court (that is, the Federal Court of Australia or the Federal Magistrates Court) does not extend, or is not deemed to have extended, the time for compliance with this Bankruptcy Notice (see paragraph 6, below).
6. The Court may extend the time for compliance with this Bankruptcy Notice if, within the time stated in paragraph 3 above, you apply to the Court on one or both of the following grounds:
- (a) that you have instituted proceedings to set aside the judgment or order in respect of which this Bankruptcy Notice has been issued;
  - (b) that you have filed with the Court an application (on one or more grounds, apart from the grounds mentioned in paragraph 7, below) to set aside this Bankruptcy Notice.
7. In addition, within the time specified in paragraph 3 above, you may file an application to the Court for an order to set aside this Bankruptcy Notice on the specific grounds that:
- (a) you have a counter-claim, set-off or cross demand equal to or exceeding the sum specified in this Bankruptcy Notice as owing to the creditor; and
  - (b) in the action or proceeding in which the judgment or order mentioned in paragraph 2 of this Bankruptcy Notice was obtained, you could not have set up that counter-claim, set-off or cross demand \*.
- \* This means that, because of a legal obstacle, you could not have raised that counter-claim, set-off or cross demand in defence of the creditor's court action against you. It is not enough if, for example, you simply neglected or overlooked the matter.

8. You should note the following points carefully:
- (a) If you file, at the Court, an application mentioned in paragraph 6 (a) or (b), you must still comply with this Bankruptcy Notice within the time stated in paragraph 3 above unless the Court extends the time for you to comply.
  - (b) If you file, at the Court, an application mentioned in paragraph 7 (a), you need not comply with this Bankruptcy Notice until the Court decides whether you have grounds for a counter-claim, set-off or cross demand. Whether you will have to comply at that stage will depend on the Court's decision.

**WARNING**

9. The information in paragraphs 6, 7 and 8 is based on provisions of section 41 of the Act. The information is a summary only, and not a complete statement of the relevant law. It might be unwise to rely solely on this summary. If you need a more detailed explanation, you should seek legal advice.

**Schedule**

Column 1	Column 2
1. Amount of judgment or order	\$19,883.08
<b>Plus</b> 2. Legal costs if ordered to be paid and a specific amount was not included in the judgment or order (see Note 1, below)	\$
<b>Plus</b> 3. If claimed in this Bankruptcy Notice, interest accrued since the date of judgment or order (see Note 2, below)	\$
4. Subtotal	\$
<b>Less</b> 5. Payments made and/or credits allowed since date of judgment or order	\$
6. Total debt owing	\$19,883.08

(NB: Amounts, where applicable, are to be inserted in column 2)

**For the Information of the Creditor—  
Notes to the Schedule**

**Note 1:** Legal costs (item 2 of the Schedule)

If legal costs are being claimed in this Bankruptcy Notice, a certificate of taxed or assessed costs in support of the amount claimed must be attached to this Bankruptcy Notice.



Note 2: Interest accrued (item 3 of the Schedule)

If interest is being claimed in this Bankruptcy Notice, details of the calculation of the amount of interest claimed are to be set out in a document attached to this Bankruptcy Notice. The document must state:

(a) the provision under which the interest is being claimed;

and

(b) the principal sum on which, the period for which, and the interest rate or rates at which, the interest is being claimed.

(NB: If different rates are claimed for different periods, full details must be shown)

**For the Information of the Creditor**

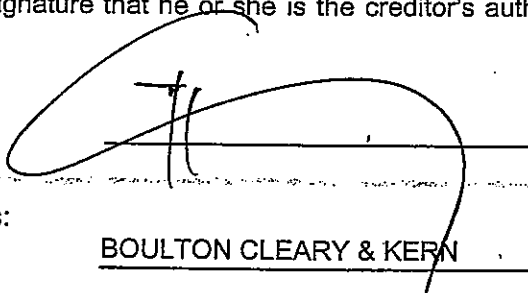
**Note about use of information**

It may be necessary to disclose some or all of the information provided by you on this Form to Government agencies and departments for any purpose under the Act. Also, the information may be included on a public record or given to other persons, bodies or agencies for purposes authorised by the Act.

The person who applied for this notice to be issued is:

JEFFREY KEITH GUY

who confirms by the following signature that he or she is the creditor's authorised agent:



and whose address for service is:

BOULTON CLEARY & KERN

1 SABINA STREET

THE LAKES

TOWNSVILLE QLD 4812

Telephone and fax numbers  
(including STD code):

(07) 4772 9200

(07) 4772 9222

DX number (if applicable):

N/A

FOR OFFICIAL USE ONLY

Dated this 2ND day of FEBRUARY 2004

This notice was issued by the Official Receiver (or delegate or an officer authorised by the Official Receiver) for the Bankruptcy District of:

Queensland

address of Official Receiver:

ITSA – Queensland,  
Level 1, National Australia Bank Building,  
Ross River Road,  
Aitkenvale Qld 4814

  
JANE E HOLLWAY

ITSA  
LEVEL 1, 315 ROSS RIVER ROAD  
AITKENVALE 4814

(signature or stamp of Official Receiver or delegate or authorised officer)

**IN THE HIGH COURT OF AUSTRALIA  
BRISBANE OFFICE OF THE REGISTRY**

NUMBER: B14 of 2001

**BETWEEN:**

**PATRICK JOHN COLEMAN**

**Applicant**

**AND:**

**NICHOLAS SELLARS**

**First Respondent**

**AND: TOWNSVILLE CITY COUNCIL**

**Second Respondent**

**ORDER**

Justices: Gaudron and Gummow JJ

Date and Place of Hearing: 26 June 2002 at Brisbane

Date of Order: 26 June 2002

Where Made: Brisbane

Appearances: K G Horler QC  
E S Wilson  
For the Applicant

R V Hanson QC  
For the First Respondent

N M Cooke QC  
For the Second Respondent

**THE COURT ORDERS THAT:**

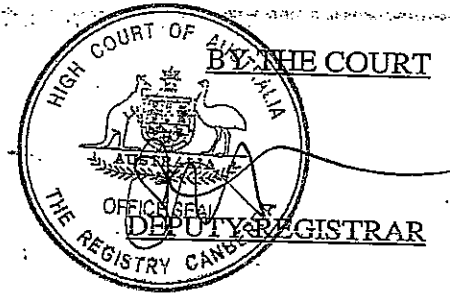
1. The application for special leave to appeal to this Court from the judgment and order of the Court of Appeal of the Supreme Court of Queensland given and made on the 21<sup>st</sup> day of November 2000 be and the same is hereby refused.

Page 1

ORDER  
Filed on behalf of the Second Respondent

King & Company  
Solicitors  
Level 6, 95 North Quay  
BRISBANE QLD 4000  
Ph: 07 3236 1199 : Fx: 07 3236 1885  
Ref: MFW:KLS:AA13732

2. The Applicant pay the First and Second Respondent's costs of and incidental to the within application.



**IN THE HIGH COURT OF AUSTRALIA  
BRISBANE OFFICE OF THE REGISTRY**

**B14 of 2001**

**BETWEEN      PATRICK JOHN COLEMAN**  
Applicant/Appellant

**AND            NICHOLAS SELLARS (informant)**  
First Respondent

**TOWNSVILLE CITY COUNCIL**  
Second Respondent

**CERTIFICATE OF TAXATION**

**IT IS HEREBY CERTIFIED** that the Bill of Costs of the Second Respondent against the Applicant pursuant to the Order of the Court dated the 26th day of June 2002 at Brisbane has been taxed and allowed at \$19,883.08.

Dated this 11<sup>th</sup> day of September 2003.



---

This Certificate was taken out by the Solicitors for the Second Respondent, King and Company Solicitors, Level 6, Quay Central, 95 North Quay, Brisbane Qld 4001.



Téléfax: (41-22)-9179022  
Télégrammes: UNATIONS, GENEVE  
Téléc: 41 29 62  
Téléphone: (41-22) 917 9258  
Internet: www.unhchr.ch  
E-mail: mschmidt@ohchr.org

Address:  
Palais des Nations  
CH-1211 GENEVE 10

REFERENCE: G/SO/215/51AUSTL (18)  
MS/stp 1157/2003

14 February 2003

Dear Mr. Coleman,

I have the honour to inform you that the communication dated 14 January 2003 which you submitted to the Human Rights Committee for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights, has been registered as communication No. 1157/2003. You are kindly asked to refer to the registration number in any future correspondence.

In accordance with rule 91 of the Committee's rules of procedure, a copy of the communication has been sent to the State party today, with the request that any information or observation in respect of the question of admissibility and merits of the communication should reach the Committee within six months.

Any reply from the State party will be communicated to you in due course to enable you to comment thereon, if you so wish.

For information, please find herewith a copy of the Committee's rules of procedure.

Yours sincerely,

  
Maria Francisca Ize-Charrin  
Chief  
Support Services Branch

Mr. Patrick John Coleman  
15, Ethel st. Hyde Park  
4812 Queensland  
Australia

**FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE**

No. BZ 322 of 2004

**IN THE MATTER OF**

**PATRICK JOHN COLEMAN  
RESPONDENT**

**AND**

**THE TOWNSVILLE CITY COUNCIL  
APPLICANT**

To the registrar of the Federal Magistrates Court of Australia  
119 North Quay Brisbane Qld 4000  
Fax: 32481240

And  
The Townsville City Council  
Address for service  
Boulton Clearly and Kearn  
1 Sabina st , The Lakes Townsville Qld  
Fax: 47729222

**Letter seeking adjournment of proceeding**

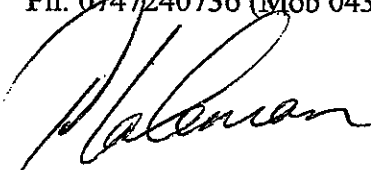
I seek an adjournment of this proceeding until this matter (between me and the council), which was communicated to the United Nations Human Rights Committee in January 2003 (Communication 1157/2003 Coleman v Australia) has been finalized.

The applicants in this matter know this is before the committee, and know I will have to be cleared of any detriments and given a remedy when my complaint is heard and determined.

I will draw the to the attention of the court and the applicant the recent decision of *Minister for Immigration & Multicultural & Indigenous Affairs v Al Masri [2003] FCAFC 70*, the full bench of the Federal Court said at par [149]:

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Address for service: 15 Ethel st Hyde Park 4812 Qld      Date: 9/7/2004  
Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com



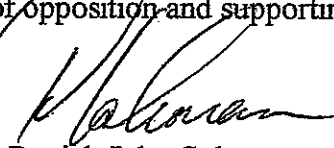
*"Although the views of the Committee lack precedential authority in an Australian court, it is legitimate to have regard to them as the opinions of an expert body established by the treaty to further its objects by performing functions that include reporting, receiving reports, conciliating and considering claims that a State Party is not fulfilling its obligations. The Committee's functions under the Optional Protocol to the International Covenant on Civil and Political Rights, to which Australia has acceded (effective as of 25 December 1991) are particularly relevant in this respect. They include receiving, considering and expressing a view about claims by individuals that a State Party to the Protocol has violated covenanted rights. The conclusion that it is appropriate for a court to have regard to the views of such a body concerning the construction of a treaty is also supported by the observations of Kirby J in Johnson v Johnson (2000) 201 CLR 488 at 501-502, and of Katz J in Commonwealth v Hamilton (2000) 108 FCR 378 at 387, citing some observations of Black CJ in Commonwealth v Bradley (1999) 95 FCR 218 at 237. See also The Queen v Sin Yau-Ming [1992] 1 HKCLR 127 at 141. It is appropriate, as well, to have regard to the opinions expressed in works of scholarship in the field of international law, including opinions based upon the jurisprudence developed within international bodies, such as the Committee."*

Although the High Court is the limit of appeal within our jurisdiction, the state has declared the UNHRC competent to hear complaints. And the only way that I can be denied a remedy in law, is if the state withdraws from the Optional Protocol. They wouldn't dare!

I demand this matter be adjourned so that I may prove myself right and uphold the right to freedom of expression in the committee. This situation will take on a whole different colour when the committee hands down its decision.

If I am not granted an adjournment till the committee hands down its decision, then file my entry of appearance, notice of opposition and affidavit, and I refer the applicant to my notice of opposition and supporting affidavit - read them and do your worst!

Signed:



Patrick John Coleman

Date: 9/7/2004

---

Address for service: 15 Ethel st Hyde Park 4812 Qld      Date: 9/7/2004  
Ph: 0747240736 (Mob 0439839121) Email: [howardsafreak@hotmail.com](mailto:howardsafreak@hotmail.com)



**FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE**

No. BZ 322 of 2004

**IN THE MATTER OF**

**PATRICK JOHN COLEMAN  
RESPONDENT**

**AND**

**THE TOWNSVILLE CITY COUNCIL  
APPLICANT**

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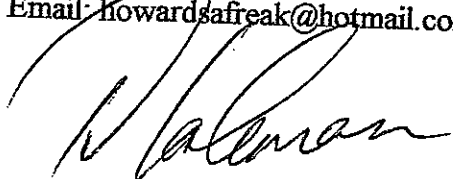
**NOTICE OF APPEARANCE (ON THE PAPERS)**

NAME : Patrick John Coleman ADDRESS: 15 Ethel st Hyde Park Qld 4812 ,  
unemployed , appears ON THE PAPERS

Address for service: 15 Ethel st Hyde Park 4812 Qld  
Date: 9/7/2004

---

Ph: 0747240736 (Mob 0439839121)  
Email: howardsafreak@hotmail.com



**FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE**

No. BZ 322 of 2004

**IN THE MATTER OF**

**PATRICK JOHN COLEMAN  
RESPONDENT**

**AND**

**THE TOWNSVILLE CITY COUNCIL  
APPLICANT**

**NOTICE OF INTENTION TO OPPOSE APPLICATION OR PETITION**

I Patrick John Coleman , the person named as a creditor, intend to appose the petition on the following grounds :

(1) I concede that there has been a final order of the High Court of Australia against me and that my remedies within the Australian legal system have been exhausted. I also concede that the applicant has been awarded the amount of costs that they claim from me , by the High Court of Australia.

(2) I say that notwithstanding that award, that the applicant is in no way entitled to such monies , nor is it entitled to inflict upon me any form of detriment because of my actions.

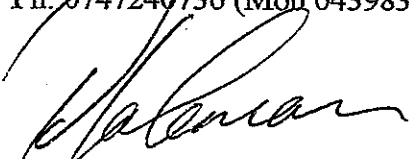
(3) Whilst my domestic remedies have been exhausted , this matter (my conviction and all detriments that have resulted from it) has been referred to the United Nations Human Rights Committee as a complaint communicated pursuant to my rights under articles 9(5), 15 , 19 and 21 of the International Covenant on Civil and Political Rights and the 1st Optional Protocol to that Covenant to which Australia is a signatory.

(4) This matter has not yet been heard by that committee, however , once a decision is handed down , Australia, being the state party and signatory , is bound to provide me with a remedy which will include removing any detriment to myself including any conviction, pains, penalties or forfeitures and which must also include compensation.

(5) Whilst I have been convicted and there is no domestic way of removing my conviction apart from Ad Homonem legislation, International law says that a person should not be held guilty of something that was not against international law at the time (article 15 ICCPR).

---

The Opponent's Address for service is : 15 Ethel st Hyde Park 4812 Qld  
Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com Date: 9/7/04



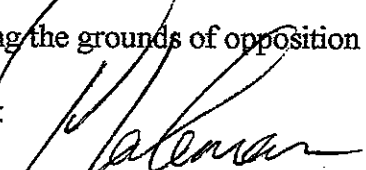
(6) I submit that I should not be bankrupted . I did nothing wrong .

(7) Given , if this matter is to be heard by this court that my application for an adjournment has been refused , then, I am faced with a fait accompli. I then submit the following:

**Quote : " All I did was read out the universal declaration of human rights without permission in Townsville on 20/12/98. I was charged , convicted, fined and gaoled. I am now to be bankrupted. With this comes a loss of social status and political status, I loose the right to stand for election to change the laws of the land and unseat my enemies. Phillip Ruddock as AG (no doubt acting in cahoots with John Howard) has waited over 16 months to reply to the UNHRC when the limit is 6 months. This has delayed any remedy I am entitled to . It has also meant that their contempt for free speech in the face of the UN may not adequately come to the fore before the election .Only fascists think it is right to treat a person who acted as I did- in the way I am being treated. The Nuremburg principles state that everyone has a moral choice, in this case anyone assisting the Townsville City Council in their current endeavor must consider whether it is morally right for them to do so, not just whether our local, national or state law permits it . I am in no way ashamed of my actions and I hold the applicant in contempt . I will eventually make fools of them all . I will not be defeated and I will be victorious. There will be free speech in this town and therefore, The Townsville City Council, especially its fascist mayor Tony Mooney, and John Howard and Phillip Ruddock -can get fucked!, further, anyone who thinks that what they are doing is right, can kiss my arse!"**

An affidavit supporting the grounds of opposition is filed with this notice.

This notice is filed by:

  
Citizen Patrick John Coleman 9/7/2004

---

The Opponent's Address for service is : 15 Ethel st Hyde Park 4812 Qld  
Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com Date: 9/7/04

FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE

No. BZ 322 of 2004

IN THE MATTER OF

PATRICK JOHN COLEMAN  
RESPONDENT

AND

THE TOWNSVILLE CITY COUNCIL  
APPLICANT

AFFIDAVIT

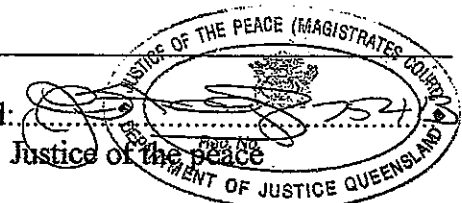
On the 9th day of July 2004 , I Patrick John Coleman , unemployed, of 15 Ethel st Hyde Park 4812 in the State of Queensland affirm:

- (1) I am the respondent in these proceedings.
- (2) On the 20th of December 1998 , I read out the Universal Declaration of Human Rights and said other things in a speech in the Flinders Pedestrian Mall Townsville.
- (3) On the 23rd of that month, I was charged with giving an unlawful public address pursuant to s8(2)(e) of Chapter 39 of the Townsville City Council by Laws.
- (4) After a trial on the 3rd of March 1999, I was convicted and fined \$300 or to face 10 days in gaol. I was ordered to pay \$3035 in costs to the Townsville City Council or face a further 101 days in gaol.
- (5) I appealed to the District Court and lost. I got arrested for not paying the fine and got 5 days in gaol, which I spent on hunger strike, before they released me 5 days early.
- (6) I appealed to the court of appeal , I lost. In his decision (Coleman v Sellars [2000] QCA 465 at par 10) Justice Pincus in the Majority said ".... The High Court could hardly have intended that Australian Courts should readily conclude that laws passing the legitimate end test are invalid, to put it shortly, they are unreasonable". Although laws that are said to be unreasonable do not pass such a test. However, the costs order was overturned.

Affirmed this 9th day of July 2004 at Townsville

Signed: *Patrick John Coleman*  
Patrick John Coleman : Deponent

Signed:



Address for service : 15 Ethel st Hyde Park 4812 Qld

Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com

Date:

9/7/04

(7) I appealed to the High Court to grant me special leave to appeal. The court said that basically that I was guilty of giving an unlawful public address and rightly convicted , because I could have given the speech without a permit if I stood on a milk crate holding an umbrella.

(8) In January 2003, I sent a communication to the United Nations Human Rights Committee under the First Optional Protocol to the ICCPR stating that my rights to freedom of expression under article 19, my right to freedom of assembly under article 21 and my right not to be convicted of something that was not against international law (the covenant) had been violated.

(9) This was designated Communication 1157/2003 (Coleman v Australia).

(10) The State Party did not respond till May 2004. I did not receive this until the 3rd week of June this year.

(11) The UNHRC has not heard this matter as yet, it will seek a further response from the AG's department.

(12) Whatever the outcome of these proceedings, I will be reporting these proceedings to the committee as evidence of detriment I have suffered and am about to suffer.

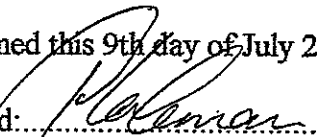
(13) When the committee hands down its decision in my favour I will seek to be completely cleared of any and all alleged guilt , convictions, fines, costs, forfeitures and any potential bankruptcy.


(14) I have no items of much worth , my possessions would not amount to more than \$300 if anyone would purchase them. I am unemployed , and getting work in a town where you are a criminal if you speak out of turn and lambasted accordingly over the front page and radio and television by the mayor of the local council- is quite difficult.

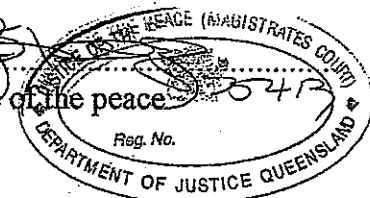
(15) All that can be taken from me is my physical liberty and my political liberty via the loss of my rights and liberties to stand for office. My rights are valuable to me and I wont let them be taken without a fight.

---

Affirmed this 9th day of July 2004 at Townsville

Signed:   
Patrick John Coleman : Deponent

Signed:   
Justice of the peace



---

Address for service : 15 Ethel st Hyde Park 4812 Qld  
Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com  
9/7/04

Date:

CREDITOR'S PETITION

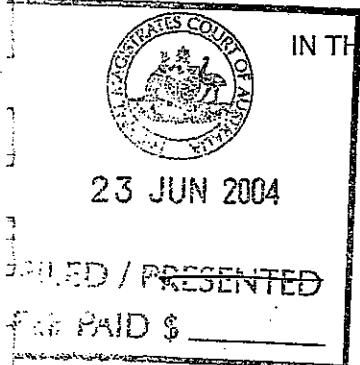
(rule 31.02)

FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE

BZ 322 of 2004

IN THE MATTER OF:

APPLICANT: TOWNSVILLE CITY COUNCIL  
RESPONDENT: PATRICK JOHN COLEMAN

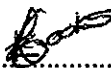


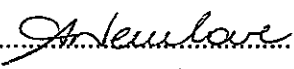
AFFIDAVIT

I, KYLIE LYDIA COOKS of c/- Harding Richards Lawyers, First Floor, 262 Old Cleveland Road, Cnr Harries Road, Coorparoo in the State of Queensland, solemnly and sincerely affirms and declares:

1. I am a Junior Legal Secretary in the employ of Harding Richards Lawyers, town agents for Boulton Cleary and Kern Lawyers, the solicitors for the Applicant Creditor.
2. On 22 June 2004, I did duly search both the computer records of the Federal Court of Australia and the Federal Magistrates Court of Australia, and did find that the respondent debtor has made no application in relation to bankruptcy notice number QLD90/2004.
3. All the facts and circumstances deposed to herein are within my own knowledge, save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my affidavit.

Affirmed by KYLIE LYDIA COOKS on 22 June 2004 at Coorparoo in the presence of:

  
.....  
Deponent

  
.....  
Solicitor/Justice of the Peace  
Commissioner for Declarations

AFFIDAVIT  
Filed on behalf of the Applicant Creditor

BOULTON CLEARY & KERN  
LAWYERS  
1 Sabina Street  
TOWNSVILLE QLD 4812  
Tel: (07) 4772 9200  
Fax: (07) 4772 9222  
Ref: PJH:55936

**AFFIDAVIT OF SERVICE OF BANKRUPTCY NOTICE**  
(rule 31.04(2))

FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE

BZ 322 of 2004



IN THE MATTER OF:

23 JUN 2004

APPLICANT:

TOWNSVILLE CITY COUNCIL

RESPONDENT:

PATRICK JOHN COLEMAN

FILED / PRESENTED

FE PAID \$

I, Anthony Vernon Longson, licensed Commercial Agent

OF 31 Walker Street, Townsville, in the State of Queensland,

MAKE OATH AND SAY AS FOLLOWS:

1. At 6:25 p.m. on Monday the ninth day of February 2004, I served Patrick John Coleman with a copy of Bankruptcy Notice No. QLD90/2004, signed by an Officer authorised by an Official Receiver, together with a copy of the High Court of Australia Order dated 26 June 2002 in Matter No. B14 of 2001 and stamped with the Court Seal and the Certificate of Taxation dated 11 September 2003 in Matter No. B14 of 2001, also stamped with the Court Seal, by delivering them to him personally at 15 Ethel Street, Hyde Park, Queensland, his place of residence.
2. I identified the person I served as the debtor by asking the person, "Are you Patrick John Coleman?" and by his responding, "Yes". I then asked him, "Are you the Patrick John Coleman referred to in the Bankruptcy Notice I have just given you?" and he responded, "Yes".
3. Annexed to this affidavit and marked with the letter "A" is a copy of the said Bankruptcy Notice signed by an Officer authorised by an Official Receiver together with a copy of the said judgment and Certificate of Taxation.
4. I have attained the age of 16 years.

SWORN by ANTHONY VERNON LONGSON

At Townsville in the State of Queensland

the 8<sup>th</sup> day of June 2004

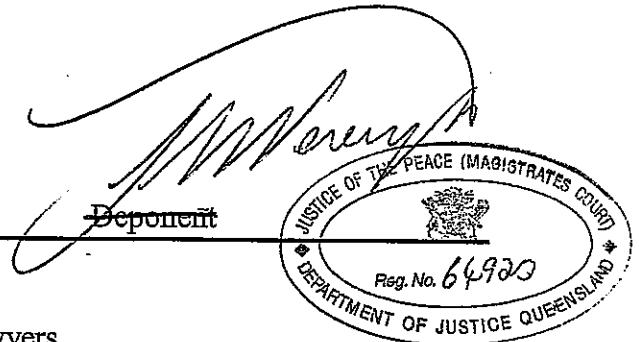
before me:

Authorised witness ~~DEPONENT~~

FILED BY THE APPLICANT  
ADDRESS FOR SERVICE:

Name of solicitor: Boulton Cleary & Kern Lawyers  
Address of solicitor: 1 Sabina Street, The Lakes, Townsville, Queensland  
Telephone & fax no of solicitor: T: (07) 4772 9200 F: (07) 4772 9222

Name of solicitor's town agent: Harding Richards Lawyers  
Address of solicitor's town agent: 1/160 Old Cleveland Road, Coorparoo, Queensland  
Telephone & fax no of solicitor's town agent: T: (07) 3394 3500 F: (07) 3394 3544



**AFFIDAVIT OF SERVICE OF BANKRUPTCY NOTICE**

(rule 31.04(2))

FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE

BZ of 20

IN THE MATTER OF:

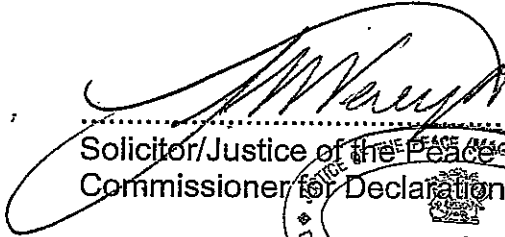
APPLICANT: TOWNSVILLE CITY COUNCIL

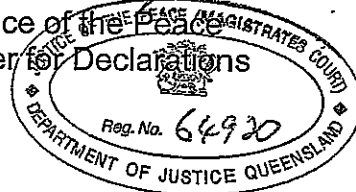
RESPONDENT: PATRICK JOHN COLEMAN

**CERTIFICATE OF EXHIBIT**

Exhibit A to the affidavit of **ANTHONY VERNON LONGSON** sworn at Townsville  
on 8/6/2004

.....  
Dependent

  
.....  
Solicitor/Justice of the Peace  
Commissioner for Declarations





*Bankruptcy Act 1966***BANKRUPTCY NOTICE**

This Bankruptcy Notice is prescribed, under subs. 41 (2) of the *Bankruptcy Act 1966* ("the Act"), by r. 4.02 of the Bankruptcy Regulations.

To: PATRICK JOHN COLEMAN  
("the debtor")

of: 15 ETHEL STREET

HYDE PARK QLD 4812

**This Bankruptcy Notice is an important document. You should get legal advice if you are unsure of what to do after you have read it.**

1. TOWNSVILLE CITY COUNCIL  
("the creditor")

of: WALKER STREET

TOWNSVILLE QLD 4810

claims you owe the creditor a debt of \$19,883.08, as shown in the Schedule.

2. The creditor claims that the debt is due and payable by you.

A copy of the judgment or order relied upon by the creditor is attached. At the time of applying for this Notice, execution of the judgment or order had not been stayed.

3. You are required, within 21 days after service on you of this Bankruptcy Notice:

- (a) to pay to the creditor the amount of the debt; or
- (b) to make an arrangement to the creditor's satisfaction for settlement of the debt.

[NOTE: The number of days to be inserted is 21 or, if an order has been made under subparagraph 40 (1) (g) (ii) of the Act, the number of days constituting the time fixed by the order.]

4. Payment of the debt can be made to:

BOULTON CLEARY & KERN

of: 1 SABINA STREET  
THE LAKES

TOWNSVILLE QLD 4812

[NOTE: The address must be within Australia.]

5. **Bankruptcy proceedings may be taken against you** if, within the time stated in paragraph 3, above:
- (a) you do not comply with the requirements of either paragraph 3 (a) or paragraph 3 (b) above; and
  - (b) the Court (that is, the Federal Court of Australia or the Federal Magistrates Court) does not extend, or is not deemed to have extended, the time for compliance with this Bankruptcy Notice (see paragraph 6, below).
6. The Court may extend the time for compliance with this Bankruptcy Notice if, within the time stated in paragraph 3 above, you apply to the Court on one or both of the following grounds:
- (a) that you have instituted proceedings to set aside the judgment or order in respect of which this Bankruptcy Notice has been issued;
  - (b) that you have filed with the Court an application (on one or more grounds, apart from the grounds mentioned in paragraph 7, below) to set aside this Bankruptcy Notice.
7. In addition, within the time specified in paragraph 3 above, you may file an application to the Court for an order to set aside this Bankruptcy Notice on the specific grounds that:
- (a) you have a counter-claim, set-off or cross demand equal to or exceeding the sum specified in this Bankruptcy Notice as owing to the creditor; and
  - (b) in the action or proceeding in which the judgment or order mentioned in paragraph 2 of this Bankruptcy Notice was obtained, you could not have set up that counter-claim, set-off or cross demand \*.

\* This means that, because of a legal obstacle, you could not have raised that counter-claim, set-off or cross demand in defence of the creditor's court action against you. It is not enough if, for example, you simply neglected or overlooked the matter.

FOR OFFICIAL USE ONLY

Dated this 2ND day of FEBRUARY 2004

This notice was issued by the Official Receiver (or delegate or an officer authorised by the Official Receiver) for the Bankruptcy District of:

Queensland

address of Official Receiver:

ITSA – Queensland,  
Level 1, National Australia Bank Building,  
Ross River Road,  
Aitkenvale Qld 4814

  
JANE E. HOLLWAY

ITSA  
LEVEL 1, 315 ROSS RIVER ROAD  
AITKENVALE 4814

(signature or stamp of Official Receiver or delegate or authorised officer)

IN THE HIGH COURT OF AUSTRALIA  
BRISBANE OFFICE OF THE REGISTRY

B14 of 2001

BETWEEN PATRICK JOHN COLEMAN

Applicant/Appellant

AND NICHOLAS SELLARS (informant)

First Respondent

TOWNSVILLE CITY COUNCIL

Second Respondent

**CERTIFICATE OF TAXATION**

IT IS HEREBY CERTIFIED that the Bill of Costs of the Second Respondent against the Applicant pursuant to the Order of the Court dated the 26th day of June 2002 at Brisbane has been taxed and allowed at \$19,883.08.

Dated this 11<sup>th</sup> day of September 2003.



---

This Certificate was taken out by the Solicitors for the Second Respondent, King and Company Solicitors, Level 6, Quay Central, 95 North Quay, Brisbane Qld 4001.

IN THE HIGH COURT OF AUSTRALIA

BRISBANE OFFICE OF THE REGISTRY

NUMBER: B14 of 2001

BETWEEN:

PATRICK JOHN COLEMAN

Applicant

AND:

NICHOLAS SELLARS

First Respondent

AND:

TOWNSVILLE CITY COUNCIL

Second Respondent

ORDER

Justices: Gaudron and Gummow JJ

Date and Place of Hearing: 26 June 2002 at Brisbane

Date of Order: 26 June 2002

Where Made: Brisbane

Appearances: K G Horler QC  
E S Wilson  
For the Applicant

R V Hanson QC  
For the First Respondent

N M Cooke QC  
For the Second Respondent

THE COURT ORDERS THAT:

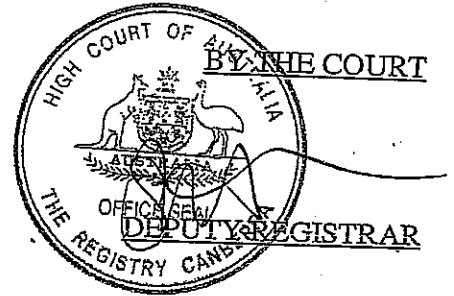
1. The application for special leave to appeal to this Court from the judgment and order of the Court of Appeal of the Supreme Court of Queensland given and made on the 21<sup>st</sup> day of November 2000 be and the same is hereby refused.

ORDER  
Filed on behalf of the Second Respondent

Page 1

King & Company  
Solicitors  
Level 6, 95 North Quay  
BRISBANE QLD 4000  
Ph: 07 3236 1199 : Fx: 07 3236 1885  
Ref: MFW:KLS:AA13732

2. The Applicant pay the First and Second Respondent's costs of and incidental to the within application.





23 JUN 2004

FORM 150

CREDITOR'S PETITION  
(rule 31.02)

FILED / PRESENTED  
FEE PAID \$ \_\_\_\_\_

FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE

BZ 322 of 2004

IN THE MATTER OF:

APPLICANT: TOWNSVILLE CITY COUNCIL

RESPONDENT: PATRICK JOHN COLEMAN

THE APPLICANT CREDITOR

NAME: Townsville City Council

ADDRESS: Walker Street, Townsville, Queensland

applies to the Court for a sequestration order under section 43 of the *Bankruptcy Act 1966* against the estate of

NAME: Patrick John Coleman

ADDRESS: 15 Ethel Street, Hyde Park, Queensland

OCCUPATION: Unemployed



FILED ON BEHALF OF THE APPLICANT

ADDRESS FOR SERVICE:

*Name of solicitor* Boulton Cleary and Kern  
*Address of solicitor* 1 Sabina Street, The Lakes, Townsville, Queensland  
*Telephone & fax no of solicitor:* T: 4772 9200 F: 4772 9222

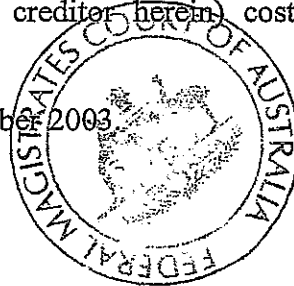
*Name of solicitor's town agent:* Harding Richards Lawyers  
*Address of solicitor's town agent:* 1/160 Old Cleveland Road, Coorparoo, Queensland  
*Telephone & fax no of solicitor's town agent:* T: 3394 3500 F: 3394 3544

1. The respondent debtor owes the applicant creditor the amount of \$19,883.08 for the Applicant Creditor's assessed costs of the respondent debtor's application to the High Court being matter number B14 of 2001 pursuant to the orders of the High Court of Australia dated 26 June 2003.
2. The applicant creditor does not hold security over the property of the respondent debtor.
3. At the time the act of bankruptcy was committed, the respondent debtor was ordinarily resident in Australia
4. The following act of bankruptcy was committed by the respondent debtor within 6 months before the presentation of the petition:

That the respondent debtor failed either to comply on or before 1 March 2004 with the requirements of a bankruptcy notice duly served on him on 9 February 2004 or to satisfy the Court that he had a counter-claim, set-off or cross demand equal to or exceeding the sum specified in paragraph 1 of the bankruptcy notice, being a counter-claim, set-off or cross demand that he could not have set up in the action in which the judgment referred to in the bankruptcy notice was obtained.

Details of the judgment upon which the bankruptcy notice was founded are as follows:

- Orders of the High Court of Australia in proceeding number B14 of 2001, dated 26 June 2002, that the Applicant (the respondent debtor herein) pay the Second Respondent's (the applicant creditor herein) costs of and incidental to the application.
- The certificate of taxation dated 11 September 2003.



DATED: 2 June 2004

SIGNED: .....

*Jeffrey Keith Guy*  
Jeffrey Keith Guy  
Boulton Cleary and Kern  
Solicitor for petitioner



**TO :**

**NAME:** Patrick John Coleman

**ADDRESS:** 15 Ethel Street, Hyde Park, Queensland

This petition has been set down for hearing by the Court at the time, date and place specified below. If there is no appearance by you or your legal representative at that time, the petition may be dealt with in your absence and a sequestration order made against you.

If you wish to appear at the hearing, you must file and serve a Notice of Appearance.

If you wish to appear at the hearing and oppose this petition, you must:

- (a) enter an appearance and file a Notice of Intention to Oppose this petition, in accordance with Form 149, and an affidavit supporting the grounds; and
- (b) serve a copy of each document on the creditor at the address for service stated below not less than 3 days before the date for the hearing of this petition stated below; and
- (c) attend at the Court on the date for the hearing stated below.

**TIME AND DATE FOR HEARING:** (to be entered by Registry)

**TIME:** 10.00 AM

**DATE:** 13 JULY 2004

**PLACE:** Federal Magistrates Court of Australia  
2<sup>nd</sup> Floor  
143 Walker Street  
TOWNSVILLE

**DATED:** 23rd June 2004

**SIGNED:**

 **REGISTRAR**

**THIS PETITION IS FILED BY:** Boulton Cleary and Kern  
by their town agents  
Harding Richards Lawyers

**THE PETITIONER'S ADDRESS FOR SERVICE IS:** 1 Sabina Street, The Lakes,  
Townsville, Queensland, 4812

**Note** A creditor is required to give a copy of this petition to the Official Receiver within 3 working days of presentation: see subregulation 4.05 (1) of the *Bankruptcy Regulations 1996*.

AFFIDAVIT VERIFYING PARAGRAPHS 1, 2 & 3 OF PETITION  
(rule 31.02)

FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE

BZ 322 of 2004

IN THE MATTER OF:



23 JUN 2004

APPLICANT:

TOWNSVILLE CITY COUNCIL

RESPONDENT:

PATRICK JOHN COLEMAN

FILED / PRESENTED  
FEE PAID \$

BRIAN STEPHEN GUTHRIE, Chief Executive Officer of Townsville City Council

OF 103 Walker Street, Townsville, in the State of Queensland

MAKE OATH AND SAY AS FOLLOWS:

1. I am the Chief Executive Officer for the applicant creditor herein, and I am duly authorised to swear this affidavit on behalf of the applicant creditor.
2. The statements contained in paragraphs 1, 2, and 3 of the petition signed and dated 2 June 2004 are within my own knowledge true.
3. The abovenamed respondent has not paid, nor made any arrangement to the applicant's satisfaction for settlement of the debt claimed in the bankruptcy notice herein issued on the application of the applicant and referred to in paragraph 4 of the petition.

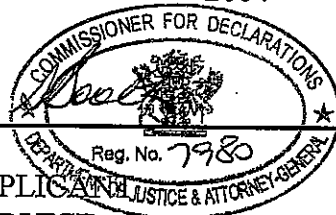
SWORN by BRIAN STEPHEN GUTHRIE

at Townsville in the State of Queensland

the 10<sup>TH</sup> day of JUNE 2004

before me:

Authorised witness



Deponent

FILED BY THE APPLICANT  
ADDRESS FOR SERVICE:

Name of solicitor: Boulton Cleary & Kern Lawyers

Address of solicitor: 1 Sabina Street, The Lakes, Townsville, Queensland

Telephone & fax no of solicitor: T: (07) 4772 9200 F: (07) 4772 9222

Name of solicitor's town agent: Harding Richards Lawyers

Address of solicitor's town agent: 1/160 Old Cleveland Road, Coorparoo, Queensland

Telephone & fax no of solicitor's town agent: T: (07) 3394 3500 F: (07) 3394 3544



PARLIAMENT OF AUSTRALIA • THE SENATE  
SENATOR THE HON MARGARET REYNOLDS  
LABOR SENATOR FOR QUEENSLAND  
CHAIR CAUCUS STATUS OF WOMEN COMMITTEE

13 September 1996

Cr. Tony Mooney  
Mayor of Townsville  
Townsville City Council  
P O Box 1268  
TOWNSVILLE NQ 4810

Dear Councillor Mooney,

I write seeking a review of present Council policy concerning access to the Flinders Street Mall centre stage by community groups.

I understand that Council is currently refusing to grant permits to special interest, religious or political groups wishing to use the centre stage for peaceful assembly. May I respectfully suggest that this course of action possibly contravenes Queensland Anti-Discrimination guidelines, as well as ALP policy opposing discrimination on the grounds of religious, race or political preference.

Current procedure would seem to provoke a conflict of policies as Council and mall traders, on one hand, attempt to attract custom back to the city to boost local business and, on the other hand, deny certain ratepayers access to facilities they have contributed towards providing.

Furthermore, there is an onus on Council to ensure an equality of rights for all sections of the community. Visitors to our city centre would also welcome a range of activities from light entertainment to the highlighting of socio-political concerns of local residents.

Therefore, for social justice and economic reasons, I urge Townsville City Councillors to reconsider this current inequitable policy of denying access to the centre stage to certain special interest, religious and/or political groups.

Yours sincerely,

**MARGARET REYNOLDS]**



LEGISLATIVE ASSEMBLY OF

*Queensland*

*Legal, Constitutional and Administrative Review Committee*

g:\lcarc\administration\letters\coleman, p - 16 march.99.doc

Reference:

16 March 1999

Mr Pat Coleman  
112 Corcoran Street  
CURRAJONG QLD 4812

Dear Mr Coleman

I refer to your letter dated 12 March 1999 in response to the committee's letter to you of 4 March 1999. In your letter you state that the failure of the committee to request the government implement a Queensland Bill of Rights is "absolutely the most disgusting thing" that you have heard of. You also ask that the bill of rights debate be reopened and that "this time everyone be let in on the caper". I feel that I should further explain the committee's reasoning for not recommending that Queensland adopt a bill of rights and the inquiry process which the committee undertook in relation to this issue.

I presume that you have fully read our report on the preservation and enhancement of individuals' rights and freedoms and, in particular, our reasoning in chapter 4 as to why we believe that *practically* a bill of rights would not operate to provide individuals with an effective basis upon which they can challenge legislative or governmental action which infringes their rights. In that chapter we also observed that even if a Queensland Bill of Rights was capable of achieving this aim, we do not believe that it would be able to do so without inordinate legal, social and economic costs.

As is evident from our report, we came to this conclusion after considering the bill of rights option in some detail. We not only looked at the theoretical and idealistic underpinnings of a bill of rights but also studied the day-to-day operation of bills of rights in other jurisdictions.

Our research established that a bill of rights (in whatever form) not only has the potential to have a significant impact on Queensland's existing constitutional arrangements but that a bill of rights might also have other consequences, the extent of which are impossible to predict. These 'other consequences' relate to matters such as litigation generated, court time utilised and the impact on existing areas of the law.

Page 2 continued/.....

Moreover, the experience in other jurisdictions with bills of rights (particularly Canada) demonstrates that a bill of rights, rather than upholding the rights of those *most* in need of further rights protection, may in fact have the opposite effect and benefit those *least* in need. The prohibitive cost of enforcing one's rights under a bill of rights (whether constitutional or statutory) has the potential to effectively see a bill of rights restricted to wealthy and corporate citizen. Yet the *public* costs associated with a bill of rights will be costs borne by all members of society.

In your latest letter you suggest that our review was not open to the public. In fact, we did call for public submissions on this inquiry and received 67 submissions in response from individuals and groups representing a diverse range and concentration of interests and views. We seriously considered all of these submissions. We also noted the wide range of views on the issue of a bill of rights expressed by rights advocates. After considering these submissions and views in conjunction with our other research we came to, what we believe to be, the soundest conclusion bearing in mind the social, economic and political considerations for all members of society.

In our report we discussed the various laws, mechanisms and systems which operate in Queensland to protect individuals' rights and freedoms. We recognised that the current web of rights protection formed by these mechanisms, whilst complex, protects (or at least provides a safety net for protecting) individuals' rights and freedoms, albeit to differing degrees and with different levels of enforceability.

Whilst we did not see that a bill of rights was a desirable means by which to improve the current situation, we did see that a starting point to further preserve and enhance individuals' rights and freedoms was to unravel this current web of rights protection. The complexity of this web no doubt makes it difficult for citizens to identify the existence, source and extent of their rights and we firmly believe that knowing one's rights is a precondition to being able to assert them. For this reason, we made a number of recommendations aimed at ensuring widespread rights education and produced our handbook *Queenslanders' Basic Rights* which attempts to explain in one simple document the source, nature and extent of citizens' rights in Queensland.

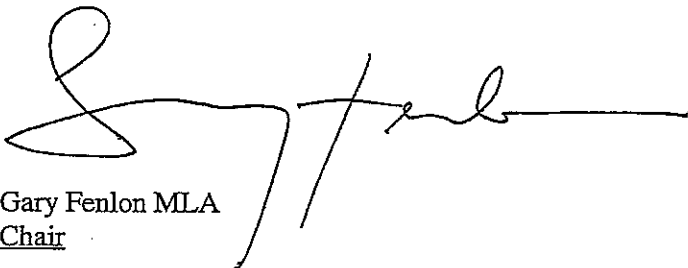
As is evident from Part 4 of our handbook we agree that there is room for enhancing the protection offered to certain rights. In that part we encourage ongoing rights debate by suggesting a number of steps that citizens might undertake to have the law and/or policies changed where they feel that their rights are not adequately protected by the law. Indeed, since the tabling of our report we have continued to foster debate on rights issues. For example, we invited Justice Tony Fitzgerald AC, a clear advocate for a bill of rights, to launch our handbook last December.

We continue to receive wide-ranging positive feedback regarding our handbook and its aim.

As advised in our letter of 4 March 1999, we will be in contact with you regarding any action we propose in relation to local government law making once we hear from the Minister responsible for local government.

In the meantime, we have placed your name on our mailing list as you requested. All committee publications are also available from the committee's web page on the Internet at <http://www.parliament.qld.gov.au/committees/legalrev.htm>.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gary Fenlon', written over a horizontal line.

Gary Fenlon MLA  
Chair



**TOWNSVILLE CITY COUNCIL**  
ADMINISTRATION BUILDING, WALKER STREET,  
TOWNSVILLE

All communications to be  
addressed to:  
The Chief Executive Officer  
P.O. Box 1268,  
Townsville, Qld. 4810.  
Telephone: (07)4727 9000  
Fax No.: (07)4727 9053

In reply please quote ref.:  
PA:hb

11 December 1998

Mr Pat Coleman  
2/27 Marcel Street  
KIRWAN QLD 4817

Dear Mr Coleman

Thank you for the material provided to the Council in relation to peaceful protests and demonstrations.

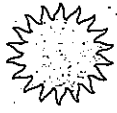
The material has been distributed to the Councillors and relevant staff for their information.

Your efforts to bring this matter to the Council's attention is appreciated.

Yours sincerely

B.G. GUTHRIE  
CHIEF EXECUTIVE OFFICER

common\coleman.doc



MAX: 31 MIN: 23  
Details on Page 32

# Townsville Bulletin




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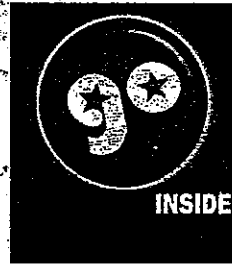
Freight extra



**Class of 2002**  
PAGE 22



**Croc targets Adelaide**  
SPORT  
townsvillebulletin.com



**INSIDE**

**SAVVY Cheers to beers**  
The North's Own Website

# BANKRUPT THEM

By TONY RAGGATT

**BANKRUPTCY** proceedings are to be filed against two political activists and an environmentalist for unpaid legal debts to the city of more than \$100,000.

The Townsville City Council resolved to take the action last night after a recommendation to proceed with the legal moves by its manager of legal services.

The proceedings will be brought against Nelly Bay development opponent Julie Walkden and political activists Pat Coleman and Billy Tait. None of the three could be contacted for comment last night.

## Council's tough plan to call in debt

Mayor Tony Mooney said the council was prepared to protect people's right to speak out but would not pay the legal bills of people who made vexatious complaints.

"People have every right to voice opposition, to take the council on, to take the Government on ... but we

are not talking about that situation here," he said.

"We are talking about people who have taken vexatious matters up to delay projects ... to cause havoc in the community."

The complaint against Ms Walkden, the arch-rival of the abandoned Magnetic Quay resort and marina



Julie Walkden



Pat Coleman



Billy Tait

project, dates back about a decade. Ms Walkden went to court to challenge development approvals and had legal costs of the council awarded against her.

Or Mooney said ratepayers were owed about

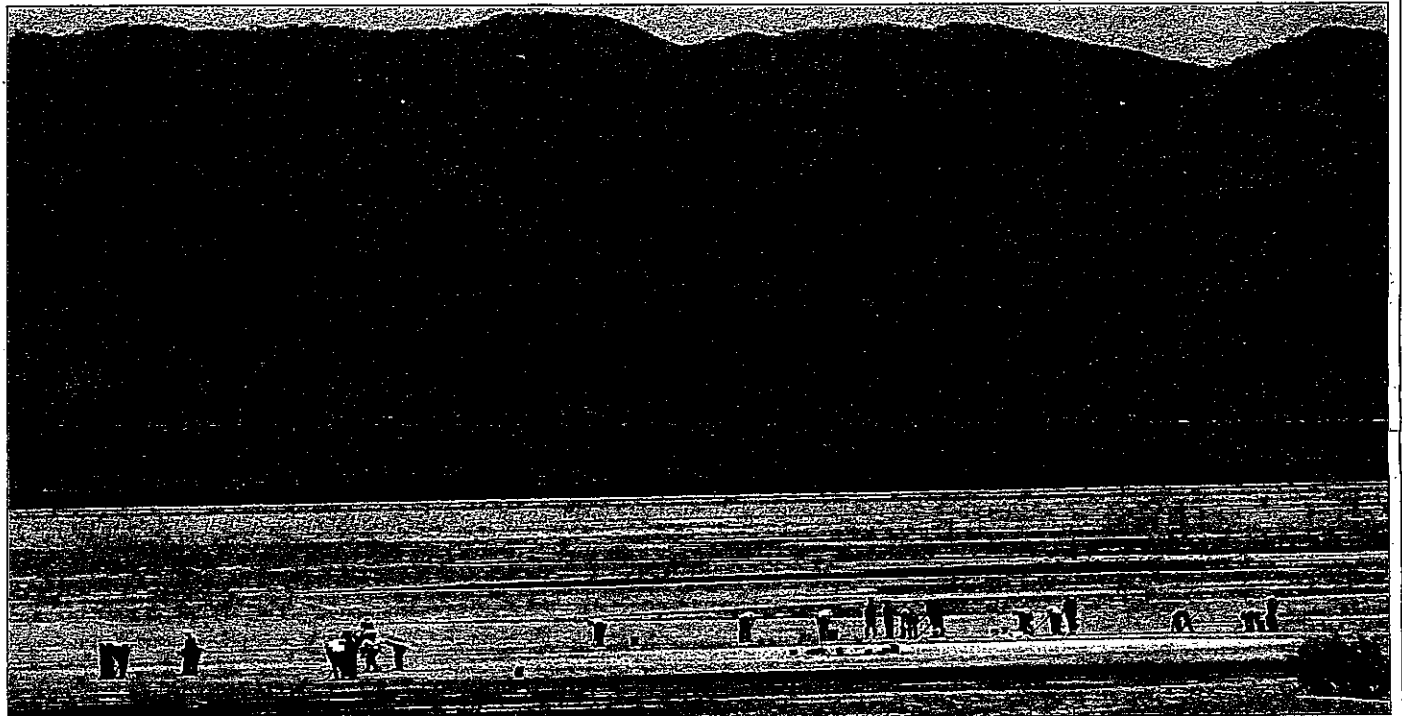
\$60,000 in costs from Ms Walkden. More recently, activist Pat Coleman unsuccessfully challenged council laws preventing him from canvassing in Flinders Mall, taking his complaint to the High Court of Australia.

Or Mooney said Mr Coleman owed the council and ratepayers legal costs borne by the council of more than \$40,000 as well as running up a Legal Aid bill himself of more than \$100,000.

He accused Mr Coleman of making it clear in leaflets and pronouncements that he did not care how much his actions would cost the community.

Or Mooney said Mr Tait had likewise taken on vexatious matters against the Council and the council and owed the council about \$10,000 in legal costs. "I think it's time for the council to make a stand," he said.

## Oil clean-up harnesses old-fashioned elbow grease



**POLLUTION IN PARADISE** ... volunteers work frantically along Shelly Beach to clean up oil that was dumped in Cleveland Bay and carried in by wind and tides from the channel separating the mainland and Magnetic Island. Full report — Page 7, Editorial — Page 8

Photo: SCOTT RADFORD-CHISHOLM s1922134



1 Feb 94  
T-D

"Shah with 'return' text" ...

# Voices raised over speaker's stone

By CHARLES BOSTON

TOWNSVILLE City Council has been accused of squashing freedom of speech in the city mall.

But the council says it wants to save shoppers and passers-by from being hassled by political zealots.

"Freedom of speech is restricted in every democracy by the rights of others," Councillor Jack Wilson said yesterday.

The council recently received a flood of letters asking it to relax its restrictions on public speaking in the mall for a year-long trial period.

Groups such as Townsville Community Legal Service and North Queensland Conservation Council also complained that the council's planned speaker's stone in the mall was wrapped up in rules and regulations.



**GAGGED ... Daniel James criticises what he says is restriction on free speech in the mall**  
Photo: SCOTT RADFORD-CHISHOLM

Speakers would not be able to use the stone on Sundays — market day — or hand out pamphlets, and would be limited to 30 minutes talking without amplification.

Mr Wilson said the council generally discouraged mall speakers

but would watch and see how the speaker's stone was received.

"I think it's a step forward for people to express their opinions," he said.

He added the council was worried about the nuisance that could be caused by activists.

Townsville legal services principal solicitor Robert Daly said people had been arrested for exercising freedom of speech in the mall. The speaker's stone was a good idea but the restrictions were unreasonable, he said.

## Bush centre prepares to go mobile

(7)

Jan 99



**North Queensland Conservation Council inc.**

Townsville Environment Centre, 340 Flinders Mall

P.O.Box 364 Townsville 4810

Phone (07) 4771 6226 Fax (07) 4721 1713

nqcc@byte-tsv.net.au



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## MEDIA RELEASE

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# Let's debate about our right to debate

The North Queensland Conservation Council condemns the attempts of Townsville City Council to restrict people's rights to free speech.

The Council plans to restrict people's rights to speak publicly to one place in the mall and to certain times. for example not on Sundays.

"While we welcome the concept of a speakers stone, the NQCC is very concerned that the City Council is using it to restrict people's rights," Dr Carol Booth, coordinator of North Queensland Conservation Council said.

"We are particularly concerned that there will be no right to speak on Sundays when the Mall is actually alive with people," Dr Booth said.

"We are also concerned that the Council has engaged in no public consultation on this matter. Surely a matter so fundamental to our political system is deserving of public debate.

"Governments are often very fearful of freedom of speech, and so it is up to the people to carefully guard and assertively exercise their rights" Dr Booth said.

"We urge the council to facilitate public debate about this very important issue."

Contact Carol Booth on 4771 6226 for comment

**FEDERAL MAGISTRATES COURT OF AUSTRALIA  
AT BRISBANE**

No. BZ 322 of 2004

**IN THE MATTER OF**

**PATRICK JOHN COLEMAN  
RESPONDENT**

**AND**

**THE TOWNSVILLE CITY COUNCIL  
APPLICANT**

**NOTICE OF INTENTION TO OPPOSE APPLICATION OR PETITION**

I Patrick John Coleman, the person named as a <sup>respondent</sup> creditor, intend to appose the petition on the following grounds :

(1) I concede that there has been a final order of the High Court of Australia against me and that my remedies within the Australian legal system have been exhausted. I also concede that the applicant has been awarded the amount of costs that they claim from me, by the High Court of Australia.

(2) I say that notwithstanding that award, that the applicant is in no way entitled to such monies, nor is it entitled to inflict upon me any form of detriment because of my actions.

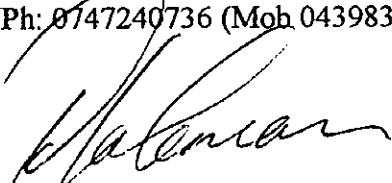
(3) Whilst my domestic remedies have been exhausted, this matter (my conviction and all detriments that have resulted from it) has been referred to the United Nations Human Rights Committee as a complaint communicated pursuant to my rights under articles 9(5), 15, 19 and 21 of the International Covenant on Civil and Political Rights and the 1st Optional Protocol to that Covenant to which Australia is a signatory.

(4) This matter has not yet been heard by that committee, however, once a decision is handed down, Australia, being the state party and signatory, is bound to provide me with a remedy which will include removing any detriment to myself including any conviction, pains, penalties or forfeitures and which must also include compensation.

(5) Whilst I have been convicted and there is no domestic way of removing my conviction apart from Ad Homonem legislation, International law says that a person should not be held guilty of something that was not against international law at the time (article 15 ICCPR).

---

The Opponent's Address for service is : 15 Ethel st Hyde Park 4812 Qld  
Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com Date: 9/7/04



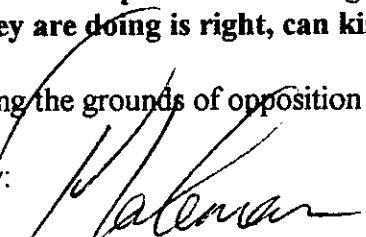
(6) I submit that I should not be bankrupted .I did nothing wrong .

(7) Given , if this matter is to be heard by this court that my application for an adjournment has been refused , then, I am faced with a fait accompli. I then submit the following;

**Quote : " All I did was read out the universal declaration of human rights without permission in Townsville on 20/12/98. I was charged , convicted, fined and gaoled. I am now to be bankrupted. With this comes a loss of social status and political status, I loose the right to stand for election to change the laws of the land and unseat my enemies. Phillip Ruddock as AG (no doubt acting in cahoots with John Howard) has waited over 16 months to reply to the UNHRC when the limit is 6 months. This has delayed any remedy I am entitled to . It has also meant that their contempt for free speech in the face of the UN may not adequately come to the fore before the election .Only fascists think it is right to treat a person who acted as I did- in the way I am being treated. The Nuremburg principles state that everyone has a moral choice, in this case anyone assisting the Townsville City Council in their current endeavor must consider whether it is morally right for them to do so, not just whether our local, national or state law permits it . I am in no way ashamed of my actions and I hold the applicant in contempt . I will eventually make fools of them all . I will not be defeated and I will be victorious. There will be free speech in this town and therefore, The Townsville City Council, especially its fascist mayor Tony Mooney, and John Howard and Phillip Ruddock -can get fucked!, further, anyone who thinks that what they are doing is right, can kiss my arse!"**

An affidavit supporting the grounds of opposition is filed with this notice.

This notice is filed by:

  
Citizen Patrick John Coleman 9/7/2004

---

The Opponent's Address for service is : 15 Ethel st Hyde Park 4812 Qld  
Ph: 0747240736 (Mob 0439839121) Email: howardsafreak@hotmail.com Date: 9/7/04

**Subject:** Re: RE Communication 1157/2003 Coleman v Australia

**From:** "Paul Oertly" <poertly@ohchr.org>

**Date:** Fri, July 28, 2006 11:16 pm

**To:** pat.coleman@townsville.greens.org.au

**Cc:** "Markus Schmidt" <mschmidt@ohchr.org> ([more](#))

**Priority:** Normal

**Options:** [View Full Header](#) | [View Printable Version](#)

Dear Mr Coleman

As you requested, I can advise that the Committee has reached its decision on your case. In accordance with standard practice, the decision will be despatched by hard copy in the course of the next weeks to you and to the State party once the text is finalised in order that both parties are apprised at equivalent time.

With best wishes  
Paul Oertly

pat.coleman@towns-  
ville.greens.org.  
au

07.07.2006 05:12

[poertly@ohchr.org](mailto:poertly@ohchr.org)

To

cc

Subject

RE Communication 1157/2003 Coleman  
v Australia

Dear Mr Oertly

Can you inform me as to whether my communication is on the agenda for the current sitting of the committee, and, whether I may be informed of the date the decision will be made if this occurs?

I would also respectfully ask, whether it is at all possible that I may be able to obtain an electronic copy of the decision sent to this email when it is handed down ?

Yours Faithfully

Patrick Coleman  
3/53 Ford st Hermit Park 4812  
QLD Australia  
PH: + 61 439839121

UNITED  
NATIONS

CCPR



**International covenant  
on civil and political  
rights**

Distr.  
RESTRICTED\*

CCPR/C/87/D/1157/2003  
10 August 2005

Original: ENGLISH

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HUMAN RIGHTS COMMITTEE  
Eighty-seventh session  
10 – 28 July 2006

**VIEWS**

**Communication No. 1157/2003**

<u>Submitted by:</u>	Patrick Coleman (not represented by counsel)
<u>Alleged victims:</u>	The author
<u>State Party:</u>	Australia
<u>Date of communication:</u>	14 January 2003 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 14 February 2003 (not issued in document form)
<u>Date of adoption of Views:</u>	17 July 2006

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\* Made public by decision of the Human Rights Committee.

*Subject matter:* Conviction and sentence for expression of political speech in pedestrian mall without permit necessary under council bylaw

*Procedural issues:* Admissibility *ratione personae* - sufficient quality of victim - substantiation, for purposes of admissibility – admissibility *ratione materiae*

*Substantive issues:* Freedom of expression – permissible limitations

*Articles of the Optional Protocol:* 1 and 2

*Articles of the Covenant:* 9, paragraphs 1 and 5, 15, paragraph 1, 19 and 21

On 17 July 2003, the Human Rights Committee adopted the annexed draft as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1157/2003. The text of the Views is appended to the present document.

[ANNEX]

## ANNEX

Views of the Human Rights Committee under article 5, paragraph 4, of  
the Optional Protocol to the International Covenant on Civil and Political rights

Eighty-seventh session

concerning

**Communication No. 1157/2003\***

Submitted by: Patrick Coleman (not represented by counsel)

Alleged victims: The author

State Party: Australia

Date of communication: 14 January 2003 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 17 July 2006,

Having concluded its consideration of communication No. 1157/2003, submitted to the Human Rights Committee by Patrick Coleman under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication and the State party,

Adopts the following:

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\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Alfredo Castillero Hoyos, Ms. Christine Chanet, Mr. Maurice Glèlè Ahanhanzo, Mr. Edwin Johnson, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Michael O'Flaherty, Ms. Elisabeth Palm, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Hipólito Solari Yrigoyen, Ms. Ruth Wedgwood and Mr. Roman Wieruszewski.

Pursuant to rule 90 of the Committee's rules of procedure, Committee member Mr. Ivan Shearer did not participate in the adoption of the present decision.

The text of an individual opinion signed by Committee members Mr. Nisuke Ando, Mr. Michael O'Flaherty and Mr. Walter Kälin is appended to the present document.



### Views under article 5, paragraph 4, of the Optional Protocol

1. The author of the communication, dated 14 January 2003, is Patrick John Coleman, an Australian national born on 22 November 1972. He claims to be victim of violations by Australia of article 9, paragraphs 1 and 5; article 15, paragraph 1; article 19 and article 21 of the Covenant. He is not represented by counsel.

#### Factual background

2.1 On 20 December 1998, the author delivered a public address at the Flinders Pedestrian Mall, Townsville, Queensland, without a permit. Standing on the edge of a water fountain in the mall with a large flag with a pole over his shoulder and then moving on to a concrete table close to the fountain, he loudly spoke for some 15 to 20 minutes on a range of subjects including bills of rights, freedom of speech and mining and land rights. On 23 December 1998, he was charged under section 8(2)(e) of *Townsville City Council Local Law No 39* ("the bylaw"), for taking part in a public address in a pedestrian mall without a permit in writing from the town council.<sup>1</sup> On 3 March 1999, the author was convicted in the Townsville Magistrates Court for delivery of an unlawful address and fined \$300, with 10 days imprisonment on default, plus costs.

2.2 On 7 June 1999, the Queensland District Court dismissed the author's appeal against conviction, rejecting the argument that, although acting alone, the author was protected by section 5(1) of the *Peaceful Assemblies Act 1992* (Queensland).<sup>2</sup> On 29 August 1999, he again delivered a speech at the same pedestrian mall. He was arrested pursuant to a warrant for non-payment of the original fine within a three month period and held in police custody for five days. For sitting on the ground and refusing voluntarily to accompany the police, he was charged with obstructing police under section 120(1) of the *Police Powers and Responsibilities Act 1997* (Queensland). On 2 September 1999, the author was transferred to Townsville Correctional Centre. The Centre's General Manager exercised his delegated authority under section 81 of the *Corrective Services Act 1988* to approve five days early discharge for the author, which resulted in release the same day.

2.3 On 6 December 1999, the author was convicted and fined \$400, with 14 days imprisonment on default, for obstruction of police. On 21 November 2000, the Queensland Court of Appeal, by a majority, dismissed his appeal against the original conviction under the bylaw, overturning the costs order. Assisted by legal aid, the author argued that the bylaw's prohibition amounted to an unconstitutional limitation of freedom of speech on political

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<sup>1</sup> Section 8 of the bylaw provided at the material time as follows:

"(1) This bylaw does not apply to the setting up and use of booths for religious, charitable, educational or political purposes or of a booth to be used at or near a polling place for, or for a meeting in connection with, an election in respect of either House of the Commonwealth Parliament, the Legislative Assembly or a Local Authority.

(2) No person shall – (e) take part in any public demonstration or any public address.

(3) A person who desires to obtain a permit for the purposes of this bylaw shall make application in writing therefore in the prescribed form. The application shall be lodged with the Council [which may grant a permit, with or without conditions, or refuse it] .....

<sup>2</sup> Section 5(1) provides "A person has the right to assemble peacefully with others in a public place".

issues. The court's majority considered that the purpose of the bylaw served the legitimate end of preserving users of the small area of the pedestrian mall from being harangued by public addresses. The bylaw was also reasonably appropriate and adapted to serve that end as it covered "a very limited area, leaving plenty of opportunity for making such addresses in other suitable places". On 26 June 2002, the High Court in turn denied the author's further application for special leave to appeal.

### The complaint

3.1 The author argues that his conviction and sentence for breach of the bylaw amounts to violations of articles 9, paragraphs 1 and 5, 15, paragraph 1, 19 and 21 of the Covenant. As to article 9, paragraph 1, he argues that the procedure for procuring a permit is arbitrary and entirely within official discretion. No procedure is set out and no grounds need to be provided for a decision. A denial of a permit is not limited to the grounds set out in article 19, paragraph 3. A permit may be revoked at any time. Similarly, the absence of criteria for a decision mean that the procedure cannot be considered "prescribed by law" under article 9, paragraph 1. The author also claims compensation under article 9, paragraph 5, on the basis of his allegedly unlawful detention. On article 15, he claims that he was found guilty even though had he conducted himself in the way he had with another person accompanying him, he would have been protected by section 5(1) of the *Peaceful Assemblies Act 1992*.

3.2 On article 19, the author asserts that, during his prosecution, no evidence was provided by the City Council that prosecution was necessary for any of the reasons set out in article 19, paragraph 3. He argues that he had a right to impart oral information, that he conducted himself in peaceful and orderly fashion and that he was not stopped by police present, who simply videotaped him. There were thus no permissible grounds of limitation in article 19, paragraph 3, that would apply. A permit cannot be required as a precondition for the exercise of this right. As to article 21, the author argues that he had a right to assemble with fellow citizens in a public area, whom he addressed in his speech. He cites in support the Committee's Views in *Kivenmaa v Finland*,<sup>3</sup> where the Committee found in favour of a group of individuals who had hoisted a banner criticising a visiting head of state.

### The State party's submissions on admissibility and merits and author's comments

4.1 By submission of 21 May 2004, the State party disputed both the admissibility and merits of the communication. Firstly, the State party argues the communication is inadmissible *ratione personae* insofar as it is directed against Sergeant Nicolas Selleres of the Queensland police, the Townsville City Council and the State of Queensland, these parties not being States parties to the Covenant. Secondly, in relation to the claims under articles 9, paragraph 5, and 15, the State party argues the author is not sufficiently personally affected to qualify as a victim, for admissibility purposes. On article 9, paragraph 5, he makes no reference to any act or omission of the State party, making no reference to any existence of lack of an enforceable right or remedy. Rather, he simply claims compensation as a remedy. In relation to article 15, the State party contends that the author's argument that if he had read out his speech with another person, the speech would have been protected under the *Peaceful Assembly Act 1992*, is irrelevant. The criminal offence with which the author was charged was an offence at the time of commission, and no question of retrospectivity arises.

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<sup>3</sup> Case No 412/1990, Views adopted on 10 June 1994.

4.2 Thirdly, the State party argues that the claims are insufficiently substantiated, for purposes of admissibility and/or inadmissible *ratione materiae*, comprising simply a series of assertions. In addition to the arguments already set out, the State party adds, on article 9, paragraph 1, that the author makes arguments solely in relation to the procedure for granting a permit, rather than in relation to his arrest and detention. On the claim under article 19, the author's contention that the City Council did not advance any reasons during the prosecution showing its necessity, in terms of article 19, goes simply to the trial conduct. This failure does not itself demonstrate that the bylaw failed to satisfy the requirements of article 19. As to the claim article 21, the State party argues that there was no assembly in the present case; the Magistrates Court finding, and as confirmed on appeal, that nobody stood and listened to what the author was saying, so as to constitute a gathering. The fact that other people were passing through the mall is not sufficient to constitute an assembly.

4.3 On the merits, the State party submits that the complaint, in relation to article 9, has insufficient evidentiary foundation to enable proper consideration of the merits and in any event has not been violated. An assertion that the permit procedure was arbitrary has no impact on the arrest of a person in accordance with the sentence imposed for breach of the bylaw. The author did not show that his detention was marked by capriciousness, unreasonableness and lack of proportionality so as to bring it within the scope of the article. The arrest was made, pursuant to a judicial warrant, in accordance with normal police procedure applicable to fine defaulters. The fine and default sanction of imprisonment was imposed by the Magistrates Court after the author specifically rejected a community service option or good behaviour bond. The District Court, on appeal, considered the sentence appropriate. Moreover, the author was released after serving half his sentence.

4.4 On article 9, paragraph 5, the author makes no allegations that reveal a violation of the right to claim compensation before a domestic authority for unlawful arrest. As to article 15, the State party also contends that the claim has insufficient evidentiary foundation to enable proper consideration of the merits and in any event has not been violated. The author argues that if circumstances had been different, he would not have been convicted under the bylaw. This does not address any act or omission of the State, nor does it suggest that the crime of delivering an unlawful address was not an offence when it was committed.

4.5 On article 19, the State party also contends that the claim has insufficient evidentiary foundation to enable proper consideration of the merits and in any event has not been violated. The State party argues that the restriction on speech is plainly provided for by law in the form of the bylaw. The town council adopted a policy in relation to the mall in question in April 1983, approving use of the mall for public forums and being designed to maximise the use of the mall for public benefit without unduly affecting public enjoyment of the area. The permit system allows the council to consider whether a proposal is likely to impact on the public amenity enjoyed by small number of users (such as undue noise, crowding, impact on commercial activity or safety hazards). The restrictions in place were aimed at orderly use of the mall by the public as a whole. In any event, the State party notes that the permit system is not required for the use of booths or meetings, as exempted in section 8(1) of the bylaw (see footnote 1). Thus, there is no a blanket restriction on the right to freedom of expression.

4.6 As to article 21, the State party argues that "assembly" necessarily requires that more than one person gathers. It invokes academic commentary to the effect that "only intentional, temporary gatherings of several persons for a specific purpose are afforded protection of

freedom of assembly".<sup>4</sup> In the State party's view, the author's address did not satisfy this requirement. The Magistrates Court considered that there was no "company of persons gathered together for the same purpose", finding it "quite obvious" that "there was absolutely no assembly or gathering of persons at any stage". The District Court, on appeal, agreed the author was "acting alone". The Court of Appeal, in turn, confirmed that members of a speaker's audience, passively listening, cannot be considered to be taking part in it.

#### **Author's comments on the State party's submissions**

5.1 By letter of 18 June 2004, the author responded, disputing the State party's submissions. As to admissibility *ratione personae*, the author confirms that he regards Australia as the State party responsible for the acts of subordinate officers and governments, also invoking article 50 of the Covenant. He notes that following the events for which he was convicted, following public interventions, the town council decided to erect and has erected a "speaker's stone" in the mall. He also notes that the town council and police sought to recover substantial costs incurred in the proceedings, failure of payment of which would lead to bankruptcy proceedings against him. He notes that bankruptcy would also result in his loss of political rights to run for elected office which he currently enjoys.

5.2 As to his individual claims, the author argues, under article 9, paragraph 5, that he unsuccessfully pursued all available domestic remedies against his conviction and thus no compensation can be procured in Australia; rather, he would be regarded as a vexatious litigant. He thus asks the Committee to order compensation for the violations suffered. Under article 15 and 19, he argues that as under international law he was permitted to engage in the peaceful conduct he did, his conviction was not properly grounded in law, as required by article 15.

5.3 By letter of 27 July 2004, the author provided a sequestration order of the Federal Court, sequestering his estate subsequent to the author's bankruptcy.

#### **Issues and proceedings before the Committee**

##### **Consideration of admissibility**

6.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with article 93 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 On the State party's objection to the communication's admissibility *ratione personae*, the Committee notes that, both on ordinary rules of State responsibility and in light of article 50 of the Covenant, the acts and omissions of constituent political units and their officers are imputable to the State. The acts complained of are thus appropriately imputed *ratione personae* to the State party, Australia.

6.3 On the claim under article 9, paragraph 5, the Committee notes that the author seeks compensation for the underlying alleged violations of articles 15, 19 and 21 of the Covenant, rather than in respect of a failure of the national authorities to provide compensation for his arrest for failing to pay the initial fine imposed by a court by way of sentence. This separate

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<sup>4</sup> Nowak, M.: *CCPR Commentary* (1<sup>st</sup> edition, NP Engel, Kehl), at 374.

claim under article 9, paragraph 5, is therefore insufficiently substantiated, for purposes of admissibility, and is thus inadmissible under article 2 of the Optional Protocol.

6.4 As to the author's claim under article 15, the Committee notes that the offence for which the author was convicted was a criminal offence at the time of the conduct in question, and thus this claim is also inadmissible under article 2 for insufficient substantiation. As to the claim under article 21, the Committee observes that the author was, on the evidence found by the domestic courts, acting alone. In the Committee's view, the author has not advanced sufficient elements to show that an "assembly", within the meaning of article 21 of the Covenant, in fact existed. This claim is, accordingly, also inadmissible for insufficient substantiation, under article 2 of the Optional Protocol.

6.5 In the Committee's view, the author has sufficiently substantiated, for purposes of admissibility, the claims under articles 9, paragraph 1, and 19, and proceeds to its examination on the merits.

### Consideration of the merits

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, as provided in article 5, paragraph 1 of the Optional Protocol.

7.2 The Committee notes that the author's arrest, conviction and sentence undoubtedly amounted to a restriction on his freedom of expression, protected by article 19, paragraph 2, of the Covenant. The basis for restriction, set out in the bylaw, was prescribed by law, which leads to the question of whether the restriction was necessary for one of the purposes set out in article 19, paragraph 3, of the Covenant, including respect of the rights and reputations of others or public order (*ordre public*).

7.3 The Committee notes that it is for the State party to show that the restriction on the author's freedom of speech was necessary in the present case. Even if a State party may introduce a permit system aiming to strike a balance between an individual's freedom of speech and the general interest in maintaining public order in a certain area, such a system must not operate in a way that is incompatible with article 19 of the Covenant. In the present case, the author made a public address on issues of public interest. On the evidence of the material before the Committee, there was no suggestion that the author's address was either threatening, unduly disruptive or otherwise likely to jeopardise public order in the mall; indeed, police officers present, rather than seeking to curtail the author's address, allowed him to proceed while videotaping him. The author delivered his speech without a permit. For this, he was fined and, when he failed to pay the fine, he was held in custody for five days. The Committee considers that the State party's reaction in response to the author's conduct was disproportionate and amounted to a restriction of the author's freedom of speech which was not compatible with article 19, paragraph 3, of the Covenant. It follows that there was a violation of article 19, paragraph 2, of the Covenant.

7.4 In view of this finding under article 19, paragraph 2, of the Covenant, the Committee need not separately address the author's claim under article 9, paragraph 1.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the

facts as found by the Committee reveal violations by Australia of article 19, paragraph 2, of the Covenant.

9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including quashing of his conviction, restitution of any fine paid by the author pursuant to his conviction, as well as restitution of court expenses paid by him, and compensation for the detention suffered as a result of the violation of his Covenant right.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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## APPENDIX

**Concurring opinion of Committee members Mr. Nisuke Ando, Mr. Michael O'Flaherty  
and Mr. Walter Kälin**

While we concur in the result that the Committee has reached in this case, we reach that conclusion for different reasons than those employed by the majority. In our view, it is important to note the existence of a permit system in this case, which enables the State party's authorities to strike a balance, consistent with the Covenant, between freedom of expression and countervailing interests. The author, however, in declining to seek a permit, accordingly deprived the State party's authorities of the opportunity to reconcile the interests at issue in this particular case. We regret that the Committee has not weighed this aspect of the case in its reasoning. We would note, in addition, that the decision should not be read as a rejection of permit systems that are in place in many States parties to strike appropriate balances not only in the area of freedom of expression, but in other areas such as freedom of association and assembly. On the contrary, the establishment of such systems, in principle, is wholly consistent with the Covenant, and has additional advantages of fostering clarity, certainty and consistency, as well as providing an easier means of review by the local courts and in turn the Committee of a decision by the authorities to decline a particular exercise of the right, rather than being left, as in this case, with an assessment of the raw primary facts standing alone. It is of course clear that such a permit system must allow for full enjoyment of the right in question, and be administered consistently, impartially and sufficiently promptly.

In this case, however, on the basis of the posture of the case as it is before the Committee, we would emphasise the following elements. The author's arrest, fine and imprisonment for failure to pay the fine are, in combination, the State party's response to the conduct engaged in by the author – in sum, these actions are a considerable infringement of the author's right to freedom of expression which must be justified in the light of the requirements of article 19 of the Covenant. In our view, the totality of the State party's action lies in such disproportion to the author's original underlying conduct that we are not satisfied that the State party has shown the necessity of these restrictions on the author's expression. The reasons advanced by the State party for the restriction, while wholly legitimate, are not in themselves sufficient to show their necessity in each case. It is the absence of the demonstration of the necessity in the present circumstances for the substantially punitive reaction of the State party to the author's conduct that accordingly leads us to agree with the Committee's eventual conclusion.

[signed] Nisuke Ando  
[signed] Walter Kälin  
[signed] Michael O'Flaherty

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]



**LIZ CUNNINGHAM MP**  
Member for Gladstone

Electorate Office:  
191 Philip St  
Gladstone, Q, 4680.

P.O. Box 1592,  
Gladstone. 4680.

Phone (07) 4978 4650  
Toll Free 1800 810 547  
Fax (07) 4978 4459

6 December 2006

Mr P Coleman  
Unit 3  
53 Ford Street  
HERMIT QLD 4812

Dear Mr Coleman

Please find attached a copy of the Attorney-General's response to my correspondence on your behalf.

I forward it to you for your information.

Kind regards

A handwritten signature in cursive script that reads "Liz Cunningham".

Liz Cunningham MP  
Member for Gladstone





Hon Kerry Shine MP  
Member for Toowoomba North



Queensland  
Government

In reply please quote: 2006/07364 J/06/07035

Attorney-General and Minister for Justice  
and Minister Assisting the Premier  
in Western Queensland

27 NOV 2006

Ms Liz Cunningham MP  
Member for Gladstone  
PO Box 1592  
GLADSTONE QLD 4680

30 NOV 2006

Dear Ms Cunningham *Liz*

Thank you for your letter dated 17 October 2006, forwarding a submission received by the Honourable Mike Reynolds MP from his constituent, Mr Coleman.

By way of background, in 1999 Mr Coleman was convicted in the Magistrates Court in Townsville of infringing By-Law 8 of chapter 39 of the By-laws of the Townsville City council. Relevantly, the By-law provides: "(2) No person shall .....(e) take part in any public demonstration or any public address ... in or upon a pedestrian mall without a permit in writing from the Council." Mr Coleman was convicted in the Townsville Magistrates Court for delivery of an unlawful address and fined \$300 with 10 days imprisonment on default, plus costs.

The District Court dismissed Mr Coleman's appeal against conviction. Mr Coleman again delivered a speech at the mall, and was arrested for non-payment of the original fine and held in police custody. He was charged with obstructing police under section 120(1) *Police Powers and Responsibilities Act 1997*. On 21 November 2000, the Queensland Court of Appeal dismissed his appeal against the original conviction.

The Court of Appeal's majority considered that the purpose of the by-law served the legitimate end of preserving users of the small area of the pedestrian mall from being harangued by public addresses. For this reason the right to freedom of political speech implied into the Constitution by the High court, had not been breached. On 26 June 2002 the High Court refused leave to appeal.

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50 Ann Street Brisbane  
PO Box 149 Brisbane  
Queensland 4001 Australia  
Telephone +61 7 3239 3478  
Facsimile +61 7 3220 2475  
Email [attorney@ministerial.qld.gov.au](mailto:attorney@ministerial.qld.gov.au)  
Website [www.justice.qld.gov.au](http://www.justice.qld.gov.au)  
ABN 65 959 415 158

Mr Coleman took the matter to the UNHCR. The UNHCR delivered its views on 17 July 2006 and determined that Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR) had been breached. Article 19 (2) provides that: "Everyone shall have the right to freedom of expression..." Article 19(3) states that the right may be subject to certain restrictions necessary to protect rights in a democratic society.

Set out below is a suggested response to Mr Coleman:

*"Thank you for your email of 16 October 2006 addressed to Federal and Queensland Parliamentarians, about the views of the United Nations Human Rights Committee (UNHRC) on your application concerning the right to speak in the Townsville City Mall.*

*I am advised that the Townsville City Mall has a permit system to allow free speech and that this has been specifically adopted to balance the rights of freedom of speech against the rights of citizens to use the mall for other purposes.*

*As it is the State of Australia and not Queensland, which is a party to the International Covenant on Civil and Political Rights, it is the responsibility of the Commonwealth to respond directly to the UNHRC. I am advised that the Commonwealth Attorney-General's Department is currently drafting a response which, when finalised, will be made available on its website at <http://www.ag.gov.au/agd>.*

*Your submission has been forwarded to the Commonwealth Attorney-General's Department so that your further views may be considered in the preparation of that draft response.*

*I trust this information is of assistance."*

Yours/sincerely



Hon Kerry Shine MP  
**Attorney-General and Minister for Justice  
and Minister Assisting the Premier in Western Queensland**

**From:** Edwards, Jon (Sen K. Nettle) <Jon.Edwards@aph.gov.au>

**To:** nigel.sim@townsville.greens.org.au

**Subject:** Pat Coleman answer to Question on Notice

**Date:** Thu, 17 May 2007 12:22:57 +1000

Hi Nigel,

Can you pass this answer on to Pat asap? Thanks

JON

**Jon Edwards**

Advisor

Senator Kerry Nettle

Australian Greens Senator for NSW

111-117 Devonshire St

Surry Hills

Sydney NSW 2010

Canberra 02 6277 3501

Sydney 02 9690 2038

Mobile 0428 213 146

**QUESTIONS ON NOTICE**

International Covenant on Civil and Political Rights

(Question No. 2617)

Question

Senator Nettle (New South Wales) asked the Minister representing the Attorney-General, upon notice, on 7 November 2006:

(1)

Is the Minister aware that in a session of the United Nations Human Rights Committee (UNHRC), held in July 2006, a unanimous decision was handed down against Australia (Coleman vs Australia, Communication No. 1157/2003) for a violation of Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

(2)

Is the Minister aware that the person whose rights were violated, Mr Patrick Coleman a Townsville resident, was convicted, fined and gaoled for reading out the Universal Declaration of Human Rights and for criticism of the Government's treatment of Indigenous people, without a permit under a council bylaw.

(3)

Is the Minister aware that Mr Coleman was bankrupted as a result of the costs of defending this matter and lost his right as a citizen to stand for political office.

(4)

Is the Minister aware that the UNHRC has stated that Mr Coleman's conviction must be quashed, all costs be returned to him and that Mr Coleman must be compensated for the loss of liberty resulting from his arrest and imprisonment.

(5)

Is the Minister aware that the UNHRC has found that the Commonwealth is liable for the actions of the agents of all levels of government who may have violated the covenant.

(6)

Is the Government going to withdraw Australia from the first Optional Protocol to the ICCPR; if not, does the Minister regard Australia as being obligated to uphold and implement the decision of the committee in this matter.

(7)

Given that Mr Coleman has not been contacted by the Government or by any of its agents, what measures will the Government take to: (a) have Mr Coleman's conviction quashed; (b) return all costs to Mr Coleman; (c) overturn Mr Coleman's bankruptcy; (d) compensate Mr Coleman for his arrest and imprisonment; and (e) make sure that Australian law complies with Article 19 of the ICCPR and allows for peaceful non-violent political expression without permission or sanction.

Answer

Senator Ellison (Western Australia—Minister for Justice and Customs)—The Attorney-General has provided the following answer to the honourable senator's question:

---

(1)

I am advised that Mr Coleman has made a communication to the UNHRC (Communication No. 1157/2003) under the Optional Protocol to the ICCPR and the UNHRC has responded to it. The views of the UNHRC in relation to a communication do not constitute a binding decision.

Additionally, it is not correct to describe the views of the UNHRC in relation to Mr Coleman's communication as unanimous. Three UNHRC members issued a separate opinion which concurred with the conclusion of the majority of UNHRC members but for different reasons.

(2)

I am advised that on 3 March 1999 Mr Coleman was convicted in the Townsville Magistrates Court for an offence under a Townsville City Council bylaw which prohibited taking part in a public demonstration or public address in the Flinders Pedestrian Mall in Townsville without a permit from the Council, and ordered to pay a fine of \$300, with 10 days of imprisonment on default, plus legal costs.

I am advised that prior to Mr Coleman's communication to the UNHRC this charge was the subject of legal proceedings in Australia including an unsuccessful appeal by Mr Coleman against his conviction to the Queensland District Court and then the Queensland Court of Appeal, and an unsuccessful application made by Mr Coleman for special leave to appeal to the High Court of Australia.

I am further advised that Mr Coleman was subsequently arrested pursuant to a warrant for non-payment of the fine, was charged with obstructing police during this arrest and was held in police custody for 5 days.

(3)

I am advised that Mr Coleman made further submissions to the UNHRC relating to the communication on 18 June 2004 and 27 July 2004, which contained copies of court documents. I am advised that these documents indicate that a sequestration order was made against Mr Coleman by the Federal Magistrate's Court in relation to legal costs of the Townsville City Council which the High Court ordered be paid by Mr Coleman in relation to Mr Coleman's unsuccessful application for special leave to appeal referred to in the answer to question 2 above.

(4)

I am advised that the views of the UNHRC in relation to Mr Coleman's communication were that Australia is under an obligation to provide Mr Coleman with an effective remedy, including quashing of his conviction, restitution of any fine

for his detention.

(5)

I am advised that the views of the UNHRC in relation to Mr Coleman's communication were that in the context of an alleged violation of the ICCPR by Australia, acts and omissions of constituent political units of Australia and their officers are imputable to Australia.

Notwithstanding this, in responding to the views of the UNHRC the Government must recognise the realities of the Australian constitutional system which mean that issues in this matter fall within the jurisdiction of the Queensland Government.

(6)

The Government does not intend to withdraw Australia from the first Optional Protocol to the ICCPR. While views expressed by the UNHRC in relation to communications submitted to it by individuals under the Optional Protocol to the ICCPR are persuasive, they are not binding. However, the Government is currently considering its response to the views of the UNHRC in response to Mr Coleman's communication and will make this response public once it is finalised.

(7)

The Government is currently considering its response to the views of the UNHRC in response to Mr Coleman's communication and will make this response public once it is finalised. The Government is consulting the Queensland Government in the course of developing its response.



ATTORNEY-GENERAL  
THE HON ROBERT McCLELLAND MP

06/14379  
MC08/1576

27 FEB 2008

Mr Pat Coleman  
3/53 Ford Street  
HERMIT PARK QLD 4812

Dear Mr Coleman

I am writing in reply to your email dated 29 January 2008 about your communication to the United Nations Human Rights Committee.

The response of the previous Government to the Committee relied on the fact that the permit system provided for under a by-law of the Townsville City Council was a permissible restriction on the right to freedom of expression in article 19 of the International Covenant on Civil and Political Rights (ICCPR).

The response noted that the by-law is designed to balance the rights of individuals to exercise freedom of expression with legitimate community interests, in particular those of other users of the pedestrian mall to which it applies. These interests include those of the public in having a shopping environment that is free from undue interference, those of traders in ensuring that potential customers have access to their shops, those of others who may wish to legitimately use the public space for other activities such as public markets, and those of others who wish to exercise their right of freedom of expression but whose ability to do so would be impaired if one individual was able to monopolise use of a particular space.

The response also noted that the by-law requires a permit in a relatively small area and leaves other areas of the city of Townsville available for public speeches.

Finally, the response noted that you declined to seek a permit as required by the by-law, thereby depriving the appropriate authorities of the opportunity to grant or deny you a permit.

I confirm the commitment of the Government to respect and uphold all human rights that are provided for in international law that is binding on Australia, including the right to freedom of expression in the ICCPR. However, in light of the considerations outlined above, I am satisfied that the response of the previous Government to your case was appropriate.

You may be aware that the Government proposes to undertake an Australia-wide consultation to determine how best to recognise and protect human rights and responsibilities in Australia. Once the details for the consultation process have been settled they will be widely advertised in order to encourage the broadest possible participation by the Australian public in this question of national importance. You may wish to make your views on human rights in Australia known as part of the consultation process.

Yours sincerely

A handwritten signature in black ink, appearing to read "Robert McClelland". The signature is written in a cursive style with a long, sweeping flourish extending upwards and to the right.

Robert McClelland

UNITED  
NATIONS

CCPR



**International Covenant  
on Civil and  
Political Rights**

Distr.

GENERAL

CCPR/C/85/D/1022/2001

23 November 2005

Original: ENGLISH

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**Communication No. 1022/2001 : Belarus. 23/11/2005.  
CCPR/C/85/D/1022/2001. (Jurisprudence)**

Convention Abbreviation: CCPR

Human Rights Committee

Eighty-fifth session

17 October – 3 November 2005

ANNEX\*

Views of the Human Rights Committee under article 5, paragraph 4,

of the Optional Protocol to the International Covenant

on Civil and Political Rights

- Eighty-fifth session -

**Communication No. 1022/2001**

Submitted by: Mr. Vladimir Velichkin (not represented by counsel)

Alleged victim: The author

State party: Belarus

Date of communication: 9 May 2001 (initial submission)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 20 October 2005



Having concluded its consideration of communication No. 1022/2001, submitted to the Human Rights Committee by Vladimir Velichkin under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication, and the State party,

Adopts the following:

### **Views under article 5, paragraph 4, of the Optional Protocol**

1. The author of the communication is Mr. Vladimir Velichkin, a Belarusian national born in 1960. He claims to be victim of violations of Belarus of his rights under article 19, paragraph 2, of the Covenant. He is not represented by counsel.

#### **Factual background**

2.1 The author claims to be a human rights activist from Brest (Belarus). On 23 November 2000, he requested the authorization of the Executive Committee of the City of Brest to organize a meeting with 10 participants, to celebrate the 52nd anniversary of the signature of the Universal Declaration of Human Rights (UDHR), on 10 December 2000, near the "Pushkin" Public Library in the Centre of Brest.

2.2 On 4 December 2000, the Chief of the Executive Committee of Brest rejected his request for such a meeting in the centre of Brest, but authorized a meeting at the "Stroitel" Stadium. The Committee based its decision on a previous Executive Committee's decision of 12 October 1998, pursuant to which all meetings had to take place in the Stadium, and that the Stadium was declared to be a "permanent place" for the organization of meetings and assemblies.

2.3 At 11 a.m. on 10 December 2000 (a Sunday), the author stood in front of the CUM (Central Universal Store) in the centre of Brest and began to distribute leaflets of the UDHR, to "remind the citizens of this date and of their rights". Next to him stood four other individuals who carried posters and who also, according to the author, distributed the text of the Declaration. The author contends that he acted in conformity with article 34 of the Belarusian Constitution. (1)

2.4 At around 12.30, a policeman allegedly approached the author, presented himself as a district inspector, and asked him to stop distributing leaflets and to leave. The author refused, invoking article 34 of the Constitution. Shortly afterwards, another man approached him, and after identifying himself as the Chief of the Leninsky District Police Department in Brest, invited the author to stop distributing leaflets. He explained that the author was holding a non-authorized meeting ("picket"), and asked him to leave.

2.5 As the author again refused to leave, a police car arrived and he was asked by the policemen to climb into the car. He obeyed and at around 12.50 he was brought to the Leninsky District Police Department, where he was charged with two administrative offences under articles 166 and 167 of the Administrative Offences Code (breach of the order for organization and conduct of assemblies, meetings, street parades and demonstrations, and insubordination to a lawful instruction or request of a police officer while he executes his duty to protect the public order). He was placed in a temporary detention until 11 a.m. the following day, 11 December 2000, when he was brought to the Leninsky District Court of Brest. According to the author, the examination of his case started at 2 p.m., but due to procedural violations (allegedly, he was not informed of his rights by the police

upon arrest), the judge ordered his release and returned the indictment act to the Police Department. According to the author, he was thus unlawfully deprived of liberty for 25 hours.

2.6 On 15 January 2001, the Leninsky District Court of Brest decided to fine the author the equal of 20 minimum monthly salaries (72 000 BLR), on charges of "conduct of a meeting on a place non authorized by the Brest City Executive Council", in violation of the provisions of article 11, part 1, of the Law on Assemblies, Meetings, Street Processions, Demonstrations and Pickets (Law on Assemblies).

2.7 The author claims that his acts did not constitute an administrative offence. He invokes article 2 of the Law on Assemblies, which gives the definition of picket. Accordingly, a picket constitute "the expression in public, made by a citizen or a group of citizens, of a socio-political, collective, individual or other interests, or the contestation, including by hunger strike, in relation to all type of problems, with or without use of placards, posters or other means". He affirms that on 10 December 2000, he did not express his personal opinions on any issue but simply disseminated 53 copies of the UDHR. According to him, Belarusian law does not provide for any authorization by the authorities in order to disseminate information contained in printed papers having printing identification data, such as the UDHR leaflets he was distributing.

2.8 Mr. Velichkin further explains that as he did not violate the Law on Assemblies, he considers the police requests to have him stop distributing leaflets and to leave the scene to be unlawful. In addition, according to him, article 166 of the Administrative Offences Code engages the responsibility only for insubordination against a lawful police instruction or request.

2.9 On an unspecified date, the author appealed against the decision of the Leninsky District Court of 15 January 2001 to the Brest Regional Court. On 13 February 2001, the Brest Regional Court upheld the District Court's decision to fine the author. The author then appealed to the Supreme Court (on an unspecified date). On 3 April 2001, the Supreme Court rejected his claim.

### **The complaint**

3. The author claims that he is a victim of his right to disseminate information, in violation of article 19, paragraph 2, of the Covenant and article 34 of the Belarusian Constitution.

### **State party's observations and author's comments**

4.1 In a Note verbale of 6 February 2002, the State party observes that the Supreme Court of Belarus has proceeded to a verification of the author's case. It recalls that in November 2000, the author had requested an authorization of the Brest Executive Council to organize a meeting near the Public Library, to commemorate the 52nd anniversary of the signature of the UDHR. On 4 December 2000, the Brest City Council authorized the author to organize this meeting in the Stroitel Stadium; this decision was based on a previous decision of the City Council (of 15 December 1998).

4.2 Notwithstanding, on 10 December 2000, in violation of the City administration's decision, Mr. Velichkin unlawfully organized a meeting ("picket") on one of the Brest main streets (prospect Masherova). He refused to comply with numerous police demands to interrupt the meeting. These circumstances were confirmed in court by witnesses' testimonies and the photographs of the meeting.

4.3 In light of the above, the domestic courts correctly assessed that the author's acts revealed the elements of the administrative infraction of articles 167-1 (breach of the order for organization and conduct of assemblies, meetings, street parades and demonstrations) and 166 (insubordination to a lawful instruction or request of a police officer while he executes his duty to protect the public order) of the Code of Administrative Offences (CAO).

5.1 By letter of 13 March 2002, the author challenges the State party's contention that he organized an illegal meeting and had unsubordinated to police instructions. He reiterates that his acts did not disclose the elements of the administrative infraction under article 167-1 CAO and invokes the definition of meeting ("picket") pursuant to article 2 of the Law on Assemblies.

5.2 The author explains that he was not the organizer of a meeting held near the Central Universal Store in Brest on 10 December 2000. He contends that when he was refused the right to organize the meeting near the Pushkin Public Library, he renounced the idea, thus complying with the decision of the Brest Executive Council; he explains that he decided not to organize a picket at Stroitel Stadium, because it would not « meet the object set" due to the absence of visitors at the site. Notwithstanding, on 10 December 2000, wishing to remind his co-citizens of the commemorative date of the signature of the UDHR and of their rights, at 11 a.m., he distributed leaflets with the UDHR text to passers by. In doing so, he did not commit any breach of the public order nor did he create any threat to the health or life to others. Finally, he reiterates his allegation that he is a victim of violations of his right to impart information, as protected by article 19, paragraph 2, of the Covenant.

### **Issues and proceedings before the Committee**

#### ***Consideration on admissibility***

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

6.2 The Committee notes that the same matter is not being examined under any other international procedure of investigation and settlement, and that available domestic remedies have been exhausted. It considers that the conditions set forth in paragraphs 2 (a) and (b) of article 5 of the Optional Protocol have been met.

6.3 The Committee considers that the author has sufficiently substantiated his claim under article 19, paragraph 2, for purposes of admissibility. It concludes that the communication is admissible and proceeds to its examination on the merits.

#### ***Consideration on the merits***

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as required under article 5, paragraph 1, of the Optional Protocol.

7.2 The author has claimed that his right to freedom to impart information under article 19, paragraph 2, was violated, since when he distributed the text of the UDHR in the centre of Brest on 10 December 2000, he was arrested and subsequently fined to the equal of 20 minimum monthly wages. The State party has replied that the author violated the provisions of the Administrative Offences Code, because the Executive Council of Brest had designated another venue for the conduct of his meeting, that the author had gone on to organize the meeting in the City centre and had refused to conform to police instructions. From the material before the Committee, it transpires that the author's activities were qualified by the courts as "participation in an unauthorised meeting" and not as "imparting of information". In the Committee's opinion, the above action of the authorities, irrespective of its legal qualification, amounts to a de facto limitation of the author's rights under article 19, paragraph 2, of the Covenant.

7.3 The Committee recalls that article 19 of the Covenant allows restrictions only as provided by law and necessary (a) for respect of the rights and reputation of others; and (b) for the protection of national security or public order (ordre public), or of public health or morals. It further recalls that

the right to freedom of expression is of paramount importance in any democratic society, and any restrictions on the exercise of this right must meet a strict test of justification. (2) In the present case, however, the State party has not invoked any specific ground on which the restrictions imposed on the author's activity which, whether or not it took place within the context of a meeting, it is uncontested did not pose a threat to public order, would be necessary within the meaning of article 19, paragraph 3, of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the Covenant, is of the view that the facts before it disclose a violation of article 19, paragraph 2, of the Covenant.

9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mr. Velichkin with an effective remedy, including compensation amounting to a sum not less than the present value of the fine and any legal costs paid by the author. The State party is under an obligation to take measures to prevent similar violations in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views.

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[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice Glèlè Ahanhanzo, Mr. Edwin Johnson, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rajsoomer Lallah, Mr. Michael O'Flaherty, Ms. Elisabeth Palm, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan Shearer, Mr. Hipólito Solari-Yrigoyen, Ms. Ruth Wedgwood and Mr. Roman Wieruszewski.

The text of an individual opinion signed by Committee member Ms. Ruth Wedgwood is appended to the present document.

## APPENDIX

### **Individual opinion by Committee member Ms. Ruth Wedgwood**

The city authorities of Brest, in Belarus, arrested a young human rights advocate, Vladimir Velichkin, for conducting a prohibited "meeting" outside a store. The "meeting" consisted of distributing copies of the Universal Declaration of Human Rights to fellow citizens passing by on the sidewalk. Four other persons also distributed copies, and carried posters.

The Committee has found that this action by Belarus was an unreasonable interference with the author's "freedom of expression" and his right to "impart information," protected by article 19(2)

of the International Covenant on Civil and Political Rights.

But in addition, there was a further violation of article 21 of the Covenant, namely, the author's right of peaceful assembly. A state can impose reasonable restrictions on public assemblies in the interests of public safety and public order, and to protect the rights and freedoms of others. Belarus has not attempted to offer any explanation for the Brest authorities' flat ban on all public protests and gatherings, even of a modest size, in areas within the city center.

The author had originally requested permission to gather outside the confines of the Pushkin Public Library. The city of Brest instead has insisted that all protests, demonstrations, and picketing must be confined to a remote sports stadium. Needless to say, a state has no legitimate interest in banning public gatherings merely to limit their influence.

[signed] Ms. Ruth Wedgwood

[Done in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

#### Notes

1. Article 34 of the Constitution reads as follow:

"(1) Citizens of the Republic of Belarus shall be guaranteed the right to receive, store, and disseminate complete, reliable, and timely information on the activities of state bodies and public associations, on political, economic, and international life, and on the state of the environment.

(2) State bodies, public associations, and officials shall afford citizens of the Republic of Belarus an opportunity to familiarize themselves with material that affects their rights and legitimate interests".

2. See, inter alia, Communication No. 574/1994, Kim vs. the Republic of Korea, Views dated 3 November 1998 and Communication No. 628/1995, Park vs. the Republic of Korea, Views dated 20 October 1998, and Communication No. 780/1997, Vladimir Laptsevich v. Belarus, Views adopted on 20 March 2000, paragraph 8.2.



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Office of the United Nations High Commissioner for Human Rights  
Geneva, Switzerland

**RESPONSE OF THE AUSTRALIAN GOVERNMENT**  
**TO THE VIEWS OF THE COMMITTEE IN**  
**COMMUNICATION NO. 1157/2003 COLEMAN V AUSTRALIA**

1. The Australian Government presents its compliments to the members of the Human Rights Committee.
2. The Australian Government has given careful consideration to the views of the Committee adopted on 17 July 2006 concerning Communication No 1157/2003 Coleman v Australia, which have been published by the Australian Government. The Australian Government provides the following information in response to the Committee's views.

*Articles 9(1), 9(5), 15 and 21*

3. Australia welcomes the Committee's finding that the author's allegations of a contravention by Australia of article 9 paragraph 5, article 15 and article 21 of the International Covenant on Civil and Political Rights ('Covenant') were not sufficiently substantiated, and the Committee's finding that it was not necessary to address the author's claim in relation to article 9, paragraph 1.

*Article 19(2) – Freedom of Expression*

4. The Australian Government does not accept the Committee's view that the reaction to the author's conduct amounted to a breach by Australia of article 19(2) of the Covenant. The Australian Government reiterates its submission that section 8(2)(e) of *Townsville City Council Local Law No 39* ('the Council By-Law') is a restriction on freedom of expression which is provided by law and necessary for the protection of public order and therefore permitted by article 19(3)(b) of the Covenant.
5. The Australian Government does not dispute that the author has the right to freedom of expression under article 19(2) and that the application to him of the Council By-Law amounted to a restriction of that right. However the Covenant does allow restrictions on the right to freedom of expression which comply with article 19(3). The critical issue in this case is therefore whether the restriction

imposed on the author by the Council By-Law was permissible under article 19(3).

### ***Legality of a Permit System***

6. The Australian Government agrees with the statement contained in the concurring opinion of Committee members Mr. Nisuke Ando, Mr. Michael O'Flaherty and Mr. Walter Kälin that it is wholly consistent with the Covenant to have in place a permit system to strike appropriate balances between freedom of expression and countervailing interests. The Council By-Law, which attempts to regulate the use of the Flinders Pedestrian Mall in Townsville, Queensland, for public speeches or demonstrations, represents such a permit system.
  
7. Such a permit system is designed to balance the rights of individuals to exercise their freedom of expression and the legitimate countervailing interests of the community generally, and in particular other users of the pedestrian mall. Examples of interests of others which would be adversely affected by an unrestricted right for individuals to stage public addresses or demonstrations in a pedestrian mall include:
  - interests of the public in having a shopping environment which is free from undue noise or interference;
  - interests of traders and shop owners in ensuring that potential customers have access to their shops and a pleasant environment in the mall is maintained;
  - interests of other individuals or groups who may wish to legitimately use the public space for other activities such as public markets, public entertainment, community groups, special events, fundraising campaigns, information booths for charity organisations etc; or
  - interests of other individuals who may also wish to exercise their freedom of expression (i.e. preventing one individual from monopolising use of a particular space or curtailing other persons with differing views from presenting their message).
  
8. It may in some circumstances be necessary to regulate the exercise of individuals' rights to freedom of expression within a pedestrian mall to protect these interests in order to respect the legitimate rights of other users of the

pedestrian mall and to maintain public order within the pedestrian mall. Therefore the Australian Government submits that the existence of a permit system, although amounting to a restriction on freedom of expression within the pedestrian mall, is permitted under article 19(3).

### ***Legality of Townsville City Council By-Law***

9. The Australian Government acknowledges that the mere existence of some permit systems which are of extremely broad application may amount to an unacceptable restriction on freedom of expression.<sup>1</sup> By contrast, the Council By-Law only requires a permit in a relatively small public area and leaves other areas of the city available for public speeches. The Council By-Law also allows a political speech such as the one given by the author to be given within the pedestrian mall without a permit, provided the speech is given from a booth set up for political purposes.<sup>2</sup>
10. The permit system established by the Council By-Law is not therefore a permit system which is so broad that its mere existence constitutes an infringement of freedom of expression. In other communications the Committee has held that the right to freedom of expression, although including the author's freedom to choose the medium of expression, does not guarantee an unfettered right to use a particular premises or area.<sup>3</sup> Similarly in *Auli Kivenmaa v Finland*,<sup>4</sup> which the author relied upon in his submissions, the Committee noted that a requirement to provide prior notification of a demonstration would not necessarily result in a violation of the freedom of opinion in article 21 of the Covenant and may be compatible with the Covenant.
11. The Australian Government therefore agrees with the comments of the Committee members in the concurring opinion that the establishment of a permit system is wholly consistent with the Covenant.

### ***Legality of the Application of the Permit System to the author's case***

12. In determining whether the restriction on the author's right to freedom of expression constituted a breach of article 19(2), the Australian Government believes that the critical issue is not whether the requirement to obtain a permit

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<sup>1</sup> See for example the case of *Lovell v. City of Griffin*, 303 US 444 (1938), which prohibited distribution of 'literature of any kind' anywhere within the city without a permit.

<sup>2</sup> By-law 8 clause (1) of the *Townsville City Council Local Law No 39*

<sup>3</sup> *Ernst Zündel v. Canada* – Communication No. 953/2000, Canada, 29/7/03, UN Doc CCPR/C/78/D/953/2000

<sup>4</sup> Communication No. 412/1990, Finland. 10/06/94, UN Doc CCPR/C/50/D/412/1990



was permitted under article 19(3), but whether the application of the permit system by the authorities to the particular circumstances of the author's case was permissible under article 19(3).

13. As the concurring opinion points out, the author declined to seek a permit and therefore did not afford the authorities the opportunity to grant or deny a permit. In fact, in proceedings in the District Court of Queensland, where the District Court dismissed an appeal by the author against his conviction against the Council By-Law, as well as in correspondence with various authorities concerning the conviction, the author maintained that he did not or should not be required to obtain a permit. The Townsville City Council ('Council') has advised the Australian Government that as at December 2003, the author had never applied for a permit under the Council By-Law, despite having given a number of public addresses in the pedestrian mall.
14. Additionally, the author states in his response to Australia's submissions to the Committee that during 1998 he had begun a "petitioning campaign" calling for a "trial of free speech, including the setting up of stalls to hand out material and for the council to allow people to speak without permission anytime they want". Correspondence from the Council to the author reveals that the author had previously engaged in activities in the mall as part of his free speech campaign, which were seen by the Council (and allegedly by members of the general public) as disruptive and detracting from the enjoyment of the mall by the general public, particularly during the mall's busiest days, such as days on which the "Cotters Market" were held. The Council had, as a result of Mr Coleman's campaign, agreed to introduce a designated podium to allow persons to give addresses. However, the Council believed it was still necessary to enforce the Council By-Law to protect the interests of other users of the mall.
15. The address giving rise to the author's complaint was given on 20 December 1998, a day when the "Cotters Market" were taking place at the pedestrian mall. The Council has indicated that "Mr Coleman would be likely to receive a permit if he applied for one for a day other than a Cotters Market day, and that Council would be likely to arrange for an alternative venue to the Flinders Mall if Mr Coleman remained committed to making the address on a Cotters Market day".
16. This reveals that the Council's position was not to deny the author's freedom of expression by arbitrarily or capriciously refusing to grant him a permit, or to prevent him from speaking in the mall under any circumstances. On the

contrary the Council did try to accommodate the author's desire to hold public addresses in the mall, but wished to retain some control over these activities in the form of enforcing the Council By-Law and requiring a permit. The author however opposed and resisted any form of restriction or regulation on his right of freedom of expression, and appears to have taken the position that this right allows him to take part in a public address without any restriction or regulation whatsoever. This position is clearly inconsistent with the Covenant and the decisions of the Committee which establish that the right of freedom of expression is not absolute and restrictions on this right are permissible provided they comply with Article 19(3).

17. The Australian Government also notes that the detention of the author which eventually resulted from the offence was not merely a result of the author giving a public address without a permit, but was a result of the author's refusal to pay the fine imposed for this offence by the Queensland Magistrate's Court. In the author's conviction in the Queensland Magistrate's Court, the prosecution submitted that a fine should be imposed due to the contempt with which the author treated the Magistrate's Court proceedings. Nevertheless the Magistrate canvassed a number of alternative sentencing options permitted under Queensland law including probation orders or community service orders. These alternative options were refused by the author, apparently based on his belief that he should be entitled to give public addresses in the mall without requiring a permit. The author had also refused offers from other people to pay the fine on his behalf. The author's failure to pay the fine of \$300 resulted in his arrest on 8 August 1999 for failure to pay the fine. During that arrest for failure to pay the fine he also resisted arrest and was charged with obstructing a police officer.
18. The Australian Government respectfully submits that the Committee did not give sufficient weight to these factors in reaching its decision. The Committee's decision appears to be on the basis that Australia's response to the author's infringement of the Council By-Law was disproportionate. However, the Australian Government submits that consideration should be given to the overall circumstances of the case, including the author's previous history of engaging in public addresses without obtaining a permit (including allegedly in a manner which disrupted public order in the mall), the author's refusal to accept that a permit was required, the author's refusal to cooperate with the Council or the Queensland Police in attempting to accommodate him and provide an appropriate forum for him to exercise his freedom of expression and the author's conduct in refusing to consider non-monetary sanctions.

19. Based on these factors the Australian Government believes that the treatment of the author was not disproportionate. Although the author's right to freedom of expression was restricted by the application of the Council By-Law, the restriction imposed by the Council By-Law was legitimate and necessary to protect public order in the mall and the rights of other users of the mall and the general community. The author's breach of the by-laws ultimately resulted in his arrest, fine and imprisonment for 5 days for failure to pay the fine. A fine of \$300 could not be considered disproportionate, and the decision of Queensland authorities to imprison the author for non-payment of the fine appears to be influenced by the author's repeated history of breaching the Council By-Law both before and after the occasion the subject of the author's complaint, and the author's persistent refusal to accept the legitimacy of any sanctions for his disregard of the Council By-Law. The Australian Government therefore submits that the author's treatment was a proportionate response and was therefore not in violation of Article 19 of the Covenant.
20. In view of the fact that the Australian Government does not accept that it has violated its obligations under any provision of the Covenant, it does not accept the Committee's view that the Australian Government should quash the author's conviction, provide the author with restitution of the fine and court expenses paid by the author or provide compensation for the author's detention.
21. The Australian Government avails itself of this opportunity to renew to the Human Rights Committee the assurances of its highest consideration.