



**INSTITUTE OF MUNICIPAL MANAGEMENT
QUEENSLAND INC.**

9 August 1996

The Research Director
Legal, Constitutional &
Administrative Review Committee
Parliament House
BRISBANE QLD 4000

Dear Sir

TRUTH IN POLITICAL ADVERTISING

I have become aware of your Committee's issues paper produced on the above topic and although I understand that the formal closing date for lodgement of submissions has passed, I would like to offer the following comments on behalf of the Institute.

As you may be aware, the IMM is the professional association of local government managers in Australia. The Queensland Division's particular interest in your Issues Paper is based on the fact that many of our members act as Returning Officers in both local government, state and commonwealth elections. This exposes them from time to time to disputes between candidates on the very matters raised in your paper. Consequently the interest of our members is stirred in any proposals that are likely to impact on their functions, either for better or for worse.

Local Government elections in Queensland do not experience the extent of Party Political activity encountered by the other levels of government but nevertheless the political processes that arise even between independent candidates produce the kinds of problems addressed in your paper.

Emphasising that the Institute's interest is in the possible impact on administrative processes involved in the conduct of elections, the following comments are offered:-

1. Little objection could surely be made to the general principal that political advertising should be based on truth.

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2. The main question appears to be how does a Government legislate to enforce such a code of conduct and how do you make it work in practice.
3. Much of the material produced in election campaigns is adversarial and by its nature contestable. Therefore it is not always easy to determine whether the issues are ones of "truth", "accuracy" or "interpretation".
4. Such determination is surely a judicial function. Any proposed mechanism to deal with such matters should recognise this and not seek to complicate election procedures further by trying to set up administrative structures to deal with this aspect. For example, suggestions that Returning Officers be delegated authority to determine issues relating to how to vote cards and electoral material would produce immediate problems associated with their administrative independence.
5. The whole question of political advertising, public debate and defamation is one of considerable complexity when taken in the context of elections and when the element of defence based on the "public interest" is thrown in, the scene is set for long and involved judicial processes.
6. Because such issues may not in the normal course of events be capable of resolution easily and because they will arise in the course of an election campaign period which can often be relatively short, any mechanism proposed for their resolution will need to permit expeditious proceedings.
7. If it is intended to legislate for circumstances permitting the challenge of political advertising then the legislation should be accompanied by a simple accessible and inexpensive judicial process that can produce determinations summarily and that can order actions or sanctions of immediate effect.
8. The decision of such a process should be final and binding so that it is not unnecessarily prolonged or frustrated by appeals and litigious argument.
9. The answer might be viewed in staged terms involving a "referee" process as a precursor to a formal judicial process; but this would need to be expeditious. For example the protagonists could be called before a referee within two days of a complaint being made and if no resolution is obtained on the day of that meeting, the judicial process invoked before a Magistrate the following day. To be effective, time frames of this nature would be essential.

The Institute and its members have a close interest in seeing that disputes over such matters are resolved amicably, expeditiously, and separate from the election administration process. We would therefore be pleased to participate further in the development of legislative principles and specific provisions should the opportunity arise.

Yours faithfully

A handwritten signature in black ink, appearing to read 'G R Kellar', written in a cursive style.

G R Kellar
PRESIDENT