

The Secretary
Joint Standing Committee on Electoral Matters
Parliament House
Hobart Tas 7000
electoralmatters@parliament.tas.gov.au

Re: Electoral Amendment Bill 2024

Dear Ms Webb,

The Liberal Party strongly supports the proposed amendments to Section 196 of the Electoral Act.

The overhaul of Section 196 was an election commitment made by the Liberal Party during the 2024 election campaign.

This was prompted by the farcical situation of a clearly satirical video produced by [The Juice Media](#) making national news after being ordered down by the Tasmanian Electoral Commission, because at one point is used an image of the Premier.

In our view, Section 196 is nothing more than a protection racket for incumbent members of Parliament.

No other state or territory has a similar law, for good reason. It is anti-free speech and very likely (were it ever to be tested) a breach of the implied right to freedom of political communication under the Australian Constitution.

Under our electoral system incumbency is already a significant advantage, with sitting members of Parliament able to use their entire term to promote themselves and increase name recognition.

It is grossly unfair and anti-democratic that as it currently stands, Section 196 then protects sitting members of the Parliament (in either House) from also being held to account against their actions during an election campaign.

For example, even the simple act of pointing out on social media the way that a particular member of Parliament voted on a piece of legislation is prohibited.

Additionally, in the digital age Section 196 is becoming increasingly unworkable and difficult for the Tasmanian Electoral Commission to police.



For example, I am advised that during the 2024 state election campaign, all the major parties made regular complaints to the Electoral Commission about Section 196 breaches by their opponents on digital media such as Facebook, Instagram, TikTok and YouTube.

Unfortunately, this resulted in a significant amount of time being wasted by the Electoral Commission policing the issue and determining the outcome, sometimes with contradictory rulings. I want to be clear I make no criticism of the Commission for this, rather it was the inevitable result of a law which has no place in our 21st century democracy.

Section 196 has also resulted in the situation where while it is not permitted to print an advertisement with a name or likeness of a candidate, it is okay to put an ad on TV or radio, because that has been determined not to breach the section.

Following new rulings during the 2024 election campaign, this then meant that an advertisement with a likeness or name could be broadcast on television, but not on YouTube or TikTok where the Electoral Commissioner found the videos to be in breach.

It makes absolutely no sense.

Section 196 as drafted also sees work-arounds like using the term "Leader of the Opposition" or "Member for xyz"; or attempts at "likenesses which aren't likenesses".

For example, some members of the committee may recall the 2021 election campaign where a Labor Party advertisement featuring the back of a bald head with a Liberal logo was ruled a breach of section 196 as it was a "likeness" of then Premier Peter Gutwein.

Our election campaigns should be a level playing field for all, not a contest weighted in favour of incumbents and an arms race to request take-down orders of otherwise legitimate election material.

I urge the Committee to recommend passage of the legislation.

Yours sincerely,

CHARLES (SAM) MCQUESTIN
State Director

