

MEDIA RELEASE — 2014 HOUSE OF ASSEMBLY ELECTIONS

Apparent breaches of section 196 of *Electoral Act*

Section 196(1) of the *Electoral Act 2004* provides:

A person must not between the issue of the writ for an election and the close of poll at that election print, publish or distribute any advertisement, "how to vote" card, handbill, pamphlet, poster or notice which contains the name, photograph or a likeness of a candidate or intending candidate at that election without the written consent of the candidate.

Penalty: Fine not exceeding 300 penalty units or imprisonment for a term not exceeding 12 months, or both.

In the course of the House of Assembly election campaign, five apparent breaches of section 196(1) came to the attention of the Tasmanian Electoral Commission (TEC). These were as follows:

- An advertisement published in the *Mercury* on 10 March 2014 by the Palmer United Party purportedly authorised by Ms Jacquie Lambie. Ms Lambie has repudiated the authorisation, and the authority for the advertisement remains unknown to the TEC.
- A pamphlet, in the form of a letter signed by Clive Palmer MP, delivered on or around 10 March 2014.
- An advertisement published in both the *Sunday Examiner* and *Sunday Tasmanian* on 2 March 2014 authorised by Mr Sam McQuestin.
- A pamphlet delivered by Australia Post in the week prior to polling day authorised by Mr Sam McQuestin.
- A pamphlet delivered by Australia Post in the division of Bass in the week prior to polling day authorised by M Tighe for Right to Life Australia Inc.

Previous prosecutions for breaches of sections 196(1) have resulted in the imposition of monetary penalties of \$500 and \$850.

**YOUR VOTE IS
BIGGER
THAN YOU THINK.**

www.tec.tas.gov.au

The TEC notes that publishers and distributors, as well as advertisers, are responsible to ensure that section 196(1) is observed.

The TEC notes that Australia Post took immediate action to curtail distribution of the Right to Life pamphlet at the Electoral Commissioner's request, and of Mr McQuestin's pamphlet at his own request.

The TEC acknowledges that it has received correspondence from Mr Clive Palmer MP in which it is asserted that section 196(1) would operate to impede the implied right to freedom of political communication established by *Australian Capital Television v Commonwealth* (1992) 177 CLR 106.

Whether or not that proposition is correct, the TEC considers that it has a clear duty to comply with the *Electoral Act 2004* according to its terms. The validity or otherwise of the Act or any of its provisions is a matter for the courts. Accordingly, the TEC takes the view that all persons seeking to involve themselves in Tasmanian election campaigns have a responsibility to acquaint themselves and to comply with duly enacted Tasmanian electoral laws.

Having regard to the circumstances of each of the apparent breaches of section 196(1), the TEC has decided, in each case, that it will not seek to initiate proceedings against any person alleging a contravention of the Act. Instead, the TEC has decided to send letters of caution to each of Ms Jacqueline Lambie (as registered officer of the Palmer United Party), Mr Clive Palmer MP, Mr Sam McQuestin, Mrs Margaret Tighe, the publishers of the *Mercury*, *Sunday Tasmanian* and *Sunday Examiner* newspapers, and Australia Post.

ENDS — 4:00 PM Tuesday 1 April 2014

For further information — Julian Type ELECTORAL COMMISSIONER

**YOUR VOTE IS
BIGGER
THAN YOU THINK.**

www.tec.tas.gov.au