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Submission to the Joint Standing Committee on Electoral Matters

Inquiry into the Commonwealth Electoral Amendment (Lowering Voting Age and Increasing Voter Participation) Bill 2018

Dear Committee

I am an Associate Professor of Constitutional Law at Monash University. I make this submission in my personal capacity.

I support extending voting rights to 16 and 17 year olds, for the reasons outlined in Professor George Williams' submission to this Committee dated 28 June 2018.

However, I would like to respectfully disagree with Professor Williams' support for the Bill's provisions making voting for 16 and 17 year olds voluntary. The Bill should not include provisions that make voting for 16 and 17 year olds voluntary.

The Second Reading Speech for the Bill argues:

“This will serve as a grace period for young people, allowing them to familiarise themselves with our electoral process without fear of being penalised. It will facilitate greater civics education and allow teachers to bring process - not party politics - into the classroom in a tangible way.”

Professor Williams argues that:

“There should not be any rush to introduce the vote for 16-year-olds. At least initially, they should be given the option of voting, rather than it being made compulsory. The vote should only be extended to young people with the desire to take a direct part in our democracy.”

Voluntary voting for 16 and 17 years is problematic for two key reasons:

- First, it treats one class of voters differently to all other voters for no reason other than their age. There is no material difference between a 17 year old and an 18 year old that could justify the law treating a 17 year old voter differently to an 18 year old voter. Treating 16 and 17 year old voters differently to other voters simply because of their age is inconsistent with the values and purposes underlying the *Commonwealth Age Discrimination Act 2004*, which states as among its purposes: “ensur[ing], as far as practicable, that everyone has the same rights to equality before the law, regardless of age, as the rest of the community”, and “promot[ing] recognition and acceptance within the community of the principle that people of all ages have the same fundamental rights”.

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- Secondly, and most significantly, making voting for 16 and 17 year olds voluntary poses a risk to Australia's very successful system of compulsory voting. Any arguments that could be made in support of making voting for 16 and 17 year olds voluntary are equally applicable to voters who are 18 years old, 28 years old or 88 years old. Making voting for 16 and 17 year olds voluntary would put a hole in Australia's system of compulsory voting. That system of compulsory voting has served Australia very well. Putting any holes in that system is dangerous because it would provide ammunition for those who wish to see Australia's compulsory voting system replaced with a voluntary voting system.

I do not support the Bill's proposed exemption of 16 and 17 year olds from penalties for failing to vote. Voting should be compulsory, and the ordinary consequences for failing to vote should be applicable. 16 and 17 year old drivers are not exempt from penalties for breaches of road rules. Those penalties are far more severe than the \$20 fine for failing to vote.

If the Committee is concerned that the \$20 fine for failing to vote may be unduly onerous for some 16 and 17 year olds, the Bill could be amended to empower the Electoral Commission to waive or reduce the fine in cases of genuine financial hardship.

If the Committee is concerned about the wisdom of lowering the voting age to 16 years or wishes to take a particularly cautious approach to doing so, the Committee should consider lowering the voting age to 17 years at the stage. The question of lowering the voting age to 16 years could then be revisited after Australia has had some experience of 17 year olds voting.

I would also like to put on record my agreement with Professor Williams' suggestion that if the Committee does not support extending voting rights for elections to the House of Representatives and the Senate to 16 and 17 year olds, the Committee should consider at least supporting extending voting rights to 16 and 17 year olds for special ballots such as referenda and plebiscites.

I trust this submission is of assistance.

Yours sincerely

Luke Beck