

Parliament of Victoria - Electoral Matters Committee**Inquiry into Electronic Voting**

Submission from Graeme Orr, Professor, University of Queensland School of Law.

1. My submission has one aim only. That is to suggest we hasten slowly down the path of electronic voting for electors generally. By which I mean for electors other than those with disabilities, whether physical or of extreme remoteness (eg Antarctic electors), where electronic options demonstrably improve accessibility.
2. The core of my submission is that electronic voting will transform the ritual – the experience and meaning – of voting at elections. And not necessarily for the better.
3. There is a huge literature on the promise and pitfalls of ‘e-voting’. See in particular Maurer and Barrat’s edited collection [*E-Voting Case Law: A Comparative Analysis*](#) (Routledge/Ashgate, 2015). It has chapters from over a dozen countries. I draw the committee’s attention to Greg Taylor’s chapter on ‘Electronic Voting in Australia’ which summarises the initiatives in this country, and the statute and case law relevant to them.
4. E-voting encompasses two quite different forms of voting. Via computers owned and run by an electoral commission, stationed in polling venues or public kiosks. And via the internet. Whilst both examples raise questions of risk (hacking, the integrity of coding) and faith in the electoral process, internet voting accentuates that risk.
5. Proponents of e-voting usually assume, without arguing, that it is inevitable. Often an analogy is made with the transition of money from tangible precious metals, via paper notes, through electronic transactions involving plastic cards and onto the swiping of apps on smartphones. As any parent will know, the tangibility of ‘cash’ is crucial in a child learning money’s role as a marker of value. We have no idea how moving to currency as *merely* numbers on screens will affect that education and acculturation process.
6. By analogy, moving away from the traditional solemnity of answering questions at a polling station and marking and depositing a tangible, paper ballot, will have unpredictable consequences for we come to understand the act of electing representatives.
7. Proponents of e-voting also usually assume, but with limited evidence, that it increases participation. It might in societies where voting was not easily accessible – eg poorer communities with limited resources to erect sufficient polling stations, or limited mobility. Outside such examples, there is little evidence to suggest that balloting is difficult to access in Australian or Victorian elections. On the contrary, Victorian elections now, de jure and de facto, allow easy access to pre-polling, postal voting *and* election day voting. Until Australia Post goes the way of the dodo, there is little reason to enable e-voting generally. Even then it ought only be an option to overcome tyranny of distance or infirmity, which were the original qualifications for postal voting.

8. If we moved from representative democracy to direct democracy – ie if we staged regular plebiscites and referendums on individual issues – then e-voting would be almost essential. But we vote on average about once every year, given the 4 year State, 3 year Commonwealth and 4 year local government cycles.
9. We vote at representative elections, by *coming together physically in a defined and narrow polling period*. This is something that ordinary citizens, political activists and the media appreciate, in both senses of the word. Cyberspace is everywhere and nowhere. E-voting via the internet is just another transaction in a swipable, instantaneous world.
10. As Carol Midgeley, columnist in the *London Times* put it: ‘The act of voting has all the glamour of queuing for a wee at a school jumble sale. This pedestrian ritual is one of the few things in the slick, stage-managed modern election that does not feel fake. [Marking a ballot with] something resembling the runty crayon you find at the bottom of your kid’s colouring box [has an authenticity]’.
11. I do not want to unnecessarily valourise the sausage sizzle and bunting, but these features of otherwise sanitised campaigns give more than colour to polling day. They are part of a larger, *communal, event*. One only has to think why our electoral commissions choose schools, where possible, for voting. Compulsory education, compulsory voting: schools, especially public schools, are a tangible reminder of the ideals of equality and citizenship, without being as austere as say voting in a government office or on a government website. Preserving polling day preserves the one day in any secular society where society comes together, and sees itself coming together.
12. Finally, internet voting (like postal voting) would undo the protections of the secret ballot, which Victoria pioneered in the 1850s. Given compulsory turnout, and given there are increasing numbers of young people not inspired by electoral politics, and immigrants from countries where elections are not free and fair, there is some risk that parents and spouses may effectively vote for their children or partners.
13. Please find attached a copy of an article I wrote ‘Convenience Voting: the End of Election Day?’ (2014). This expands on the points made above. It distils work in a book I wrote on elections as rituals. (Especially chapters on ‘The How of Voting’ and ‘The Where of Voting’ in [*Ritual and Rhythm in Electoral Systems*](#) (Routledge-Ashgate, 2015)).

CONVENIENCE VOTING

The end of election day?

GRAEME ORR

When and where we vote is a central element of the ritual of electoral democracy. Over the past decade there has been a significant shift towards 'convenience' voting in many western democracies; a shift which threatens to deconstruct the very notion of election day.

Convenience voting involves 'relaxed administrative rules and procedures by which citizens can cast a ballot at a time and place other than the precinct on election day'.¹ The idea is to offer electors numerous different paths to the ballot box besides the traditional practice of attending a local polling station on election day. The assumption is that increasing numbers of people are either so time-poor or unmotivated by electoral politics that turning out on election day is an unreasonable expectation.

Put more concretely, convenience voting encompasses two forms of early voting. The older form is voting by post. The more recent form is pre-poll, in-person voting. Convenience voting can also include absentee voting on election day itself (voting outside one's electorate, or even voting outside one's jurisdiction at an overseas consulate). Such absentee voting still involves voting at a polling station on election day itself, so while it affects the 'where' of voting, it is not a challenge to the 'when' of election day.

The contemporary shift to convenience voting is most prominent in the US, but it has also been a clear trend in other electoral systems, including Australia and the UK. In each of Australia and the UK's 2010 elections, just under one-fifth of voters opted for convenience voting.² This shift has involved reorientations in both legal and institutional practice, as well as voter expectations and behaviour. Its potential effect is profound.

Worldwide, debates about convenience voting have centred on its instrumental effects, in particular whether electoral integrity can be maintained while improving levels of participation. But the wholesale adoption of processes beyond the gathering of electors, in their community, to cast ballots on polling day also directly implicates the ritual experience of elections for both individuals and the social whole. Indeed it goes to the core of the idea of what an 'election' is.

Historically, electors gathered to vote in person — indeed by voice — at or after the hustings. Polling in pre-modern elections often occurred over more than one day, although these days were consecutive and often marked by a carnival atmosphere. Polling was

a physically concentrated and communal event. The staging of polling on consecutive days also recognised the efforts outlying electors had to make to ride up to the townships where polling occurred. The concept of convenience therefore is not entirely new: British men could vote by proxy.³ Nor is the language: a US proponent of making access to the ballot as convenient as possible quipped in 1948 that the idea was '[...]aws to make possible the economy of carrying the one or two ounce ballot to the polls instead of the 100 or 200 pound elector'.⁴

What is new is the expansion of legal, institutional and cultural practices to embrace convenience voting. This relatively recent movement is revolutionising the tradition of election day voting at local polling stations. In 2012 for instance, over half of those who voted in the US state of New Mexico used convenience methods. These votes were spread over a 28-day period prior to election day proper. In such a milieu, it is misleading to speak of a climactic polling day, the focus of the culmination of the electoral campaign. Rather there is a slowly unfolding polling month, intermingled with the campaign period, punctuated at its end by a close of polling and the count.

Polling alone: Voting by post

Postal voting, while not as old as the postal service itself, has a chequered lineage. Postal voting was first employed on any significant scale from the early 20th century. On the one hand, voting by post was simply a way of adapting the first mass communications system to the task of transmitting electoral choices. On the other hand, with the secret ballot barely entrenched in free and fair electoral practice, the introduction of postal voting was suspect for two integrity reasons. First, votes might be intercepted or impersonated. Second, although voting by mail is meant to be by secret ballot, electors in dependent relationships could not be guaranteed a conscience vote the way they could when polling in person. This was a particular fear for newly enfranchised women, younger people and servants. Such people might be suborned to vote as their husbands, parents or masters expected them to. Yet despite such problems, postal voting has tended to expand over time.

In the vast land of Australia, civilian postal voting was debated as early as the 1860s in South Australia and trialled as early as 1890. Because of concerns for the secrecy of the 'Australian' ballot, the South Australian Bill initially only covered seamen, although

REFERENCES

1. Paul Gronke et al, 'Early Voting and Turnout' (2007) 40 *PS: Political Science and Politics* 639, 639.
2. Mostly postal or pre-poll. The figure was 18 per cent in the UK: The Electoral Commission (UK), *Report on the Administration of the 2010 UK General Election* (July 2010) para 5.10. The figure was 19 per cent in Australia: Australian Electoral Commission, *Annual Report 2010–11* (AEC, 2011).
3. In theory, British electors still can, though they rarely do except for unexpected infirmity: *Representation of the People Act 1983* (UK) Sch 4.
4. George Miller, *Absentee Voting and Suffrage Laws* (Daylton, 1948) 15.

the eventual *Absent Voters Electoral Act* made postal voting available to any elector who would be outside their state electoral district on polling day.⁵ At national level, electors were able to postal vote from 1906.⁶ At that stage, it was restricted to those who were to be at least seven miles from a polling station on election day. Applications to claim a postal vote had to be witnessed by what was a deliberately limited class of officials. The point of such rigmarole was to keep postal voting on a short leash. Postal voting was initially constructed as a privilege, rather than as a right.

But over time, eligibility requirements for postal voting loosened, to include a wider variety of electors. Postal voting in Australia was first extended to include infirm voters, so that postal voting came to be relied upon by many elderly people. Then religious reasons were included (especially for Jews and Seventh-Day Adventists given Australian elections are held on Saturdays). Prisoners retaining the franchise could also vote by post. Today, Australians can postal vote at national elections for a host of reasons. These include that an elector, on polling day, is going to be eight kilometres from a polling station, needed for work or at risk of losing casual work hours, ill or infirm, or simply outside their electoral district.⁷

Despite casting a wider net, such eligibility rules still assume that postal voting is a dispensation, to overcome a physical limitation on getting to a polling station on election day, rather than a true entitlement or 'convenience'. However in an increasing number of jurisdictions, eligibility for postal voting has been broadened so that anyone can seek a postal vote, without needing a reason. In 2014, Queensland legislated so that every elector could vote by post, by applying at any time up until Wednesday evening before polling day.⁸ This follows the lead of several US states, one of which began, in 2013, to automatically send every elector a postal ballot, while retaining the option of voting in person.⁹ Such generous reforms expand postal voting well beyond a privilege and render it a matter of general legal entitlement.

The expansion of postal voting does not end there. If postal voting is a reliable option, to be accessible to all, why not simplify elections and make the post the *only* option? After all, as long as electors still have to apply for postal votes, or enter a special register of postal voters, some of the promise of 'convenience' is lost. Postal voting for those who are not isolated or infirm then becomes a lifestyle question; a choice to get voting out of the way before polling day via a trip to the postbox rather than the polling station. All-mail voting has been trialled or implemented in local government elections in the south and west of Australia, also following overseas leads.¹⁰

There is an administrative attraction to conducting elections entirely by post. Unsurprisingly, all-mail elections were initially driven as a cost-cutting measure. Only later did such reforms come to be offered as a possible panacea for low turnout.¹¹ As it happens, touted benefits in turnout have proven patchy. There is evidence, for instance, of an increase in middle

class turnout. If true, this risks skewing elections in favour of social and ethnic groups that are already overrepresented at the ballot box.¹² Postal voting in any event is of little convenience to itinerant or homeless people lacking a postal address.

In less salient or high profile races, notably at local government level, there is also evidence of a novelty effect. That is, the delivery of a postal ballot to every registered elector's mailbox initially triggers a greater propensity to vote, by arousing curiosity, flattery or simply lowering the 'transaction costs' of locating and travelling to a polling station. But after a couple of elections the novelty wears off and turnout subsides again.¹³ British experience has also been that improved rates of turnout may come at the cost of corruption. A UK elections judge concluded that all-mail local elections had rendered 'wholesale electoral fraud both easy and profitable'.¹⁴

Ignoring for a moment the pragmatic debate between levels of turnout and integrity, there is something to be said for the experience of postal voting. Older people are likely to continue to embrace it. It appeals to those who remain au fait with stamps and postboxes, are well organised and who trust the postal service to be timely and efficient. Political parties like postal voting, especially given Australian law allows party activists to be involved in the process of handing out and collecting application forms for postal votes.

There is even a certain personal ritual to sifting through the (otherwise largely junk) mail of the modern postal system, to find one's ballot paper, then leaving it beside the phone for a day or two before deciding to complete it. Postal voting may thus offer an unhurried act of electoral choice, carried out in the comfort of one's own home. Families and housemates might be prompted to discuss the election or the value of voting in a way that they would not in the quiet of the polling station. One analysis suggested that US electors who chose to postal vote had slightly more, rather than fewer, political conversations.¹⁵ While this correlation may be confounded (the more politically motivated are more likely to know about postal voting) it does suggest that voting 'alone' need not be a more isolating experience than the secrecy of the voting compartment on polling day.

Yet to vote-by-mail is also to be deprived of the communal experience of the polling station. That experience might be less of a joy if one is frail; although it is the elderly who tend to be most appreciative of the virtues of face-to-face interaction, most notably in shopping. But the question is not just one about individual 'convenience'. As the early law shaped it, postal voting was not a lifestyle option, but a necessity available only to those electors who demonstrably needed it. If taken up by a critical mass of people, the open-slayer entitlement to convenience voting, including postal voting, risks undermining the communal ritual of voting in person on polling day itself. It denudes the numbers of people gathering to poll in person, and encourages cost-cutting

5. *Absent Voters Electoral Act 1890* (South Australia). The measure had a four-year sunset clause.

6. *Commonwealth Electoral Act 1906* (Australia) Part X.

7. *Commonwealth Electoral Act 1918* (Australia) Sch 2. The same criteria apply to permit early voting.

8. *Electoral Reform Amendment Act 2014* (Queensland).

9. Maine, Maryland and South Dakota provide postal voting as of right; Colorado delivers postal votes without request.

10. Notably Oregon and Washington in the US; there have been trials in UK council elections.

11. Matt Qvortrup, 'First Past the Postman: Voting by Mail in Comparative Perspective' (2005) 76 *The Political Quarterly* 414, 415 and 418–9.

12. *Ibid* 417–8.

13. *Ibid* 418. See also Julian Type, 'Compulsion and Problems in Local Government Turnout: Some Tasmanian Devilled Detail' (Electoral Regulation Research Network conference, University of Queensland, 1 November 2013).

14. *Simmons v Khan* [2008] EWHC B4 (QB).

15. Sean Richey, 'Who Votes Alone? The Impact of Voting by Mail on Political Discussion' (2007) 40 *Australian Journal of Political Science* 435.

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administrators to wind back polling station hours and locations to save money.

With apologies to Robert Putnam, we might call postal voting 'polling alone'.¹⁶ The contemporary spread of postal voting is a curious manifestation of the push for convenience voting, given that, in the electronic age, postal services are struggling to survive and the humble envelope and letter are derided as 'snail mail'. But postal voting would just be the tip of the phenomenon of polling alone, if internet-based electronic voting were to spread.

None of this is to say that completing a ballot, perhaps over a cup of tea in the familiarity of one's kitchen, is not a ritual of sorts. It may, for some, feel like a moment where two worlds intersect: the domestic and the affairs of state. For others though, the postal ballot might be an afterthought, another piece of paperwork, along with a pile of bills, to be dispatched in front of the television. The key here is to avoid hyperbolic judgements that are more reflective of personal prejudices than a nuanced reading of the dynamics of human experience.

When a conservative British columnist wrote that postal voting made voting 'a much more frivolous exercise', on a level with someone filling in 'their pools [lottery] coupon, their mail-order for a new barbecue', he did so with a class-tinged sneer.¹⁷ Paying a bill or buying something as sociable as a barbecue are hardly 'frivolous' exercises for the average person. Similarly, when an American conservative complained that postal ballots reduced voting to 'the equivalent of sending in a Publishers Clearing House contest form',¹⁸ he seemed to forget that postal voting is *more* involved than ordinary voting, given the formality and delay of the application process and declaration forms. Formality, after all, tends to signal seriousness and solemnity. Conversely, there is no reason why attending a polling station should not be both pleasant and colourful, yet simultaneously — in the act of casting the vote — serious. Rather, the concern I have is the extent to which convenience voting (voting anytime, from anywhere) elides and dilutes the communal importance of the experience of election day.

Getting in early: Pre-polling

Aside from voting from home by post (or, in a brave new world, via the internet), the other popular form of convenience voting is pre-polling. Pre-poll voting in-person is also commonly known as early-voting.

In Australia, the very infirm and some prisoners may be attended to, where they dwell, by electoral staff through 'electoral visitor' services or mobile polling booths. This kind of pre-polling is a matter of physical necessity rather than convenience.

The vast majority of pre-polling however involves voters still attend polling stations, just not on election day. This helps those electors who will be leaving the country or state just before polling day or those working all Saturday away from a polling station. But the great bulk of pre-polling is for convenience. The typical pre-polling centre is a government office or town hall, designated to handle early voting. Unlike postal voting, pre-polling centres are not cost-cutting measures. They require dedicated personnel to assist electors, the outfitting and even hiring of dedicated premises, and the coordination of a plethora of ballots and electoral rolls. Pre-polling in person is thus still a physically communal act. What it shares with postal voting however is the ability to vote in advance. Together, postal and pre-polling help deconstruct election day as a singular event, dispersing it over several weeks.

Early voting is attractive for staunch partisans: if you always vote for the same party, why wait until election day? A swinging voter on the other hand might feel cheated if they vote early and miss some late-breaking political events or policies. Perhaps that is a risk that individuals should be allowed to take. The trap of voting too early, however, is not just a risk for individuals. It raises questions about the deliberative purpose of elections, as the staged culmination of a period of contestation and reflection. As Dennis Thompson puts it:

Simultaneity [ie voting on the same day] promotes fairness by increasing the chances that each citizen will have access to the same information and the opportunity to participate on equal terms in an important democratic rite. ... In general the more temporally concentrated an election, the more adequately it expresses on equal terms the will of all voters.¹⁹

Parties however promote early voting, conceiving it as a kind of insurance. (Think of the phrase 'vote early, vote often', without the corrupt second half of the slogan.) Especially in voluntary voting systems, there is an incentive for all sides of politics to marshal supporters to pre-poll, as this 'banks' those votes regardless of the weather or other exigencies of polling day. In addition, at least in the US, an increasing driver of pre-polling is fear of potential voter suppression, a

16. Robert Putnam, *Bowling Alone: The Collapse and Revival of American Community* (Simon and Schuster, 2000).

17. Tom Utley, 'Weddings, Funerals and Elections Need Ritual to Give them Dignity', *The Daily Telegraph* (UK), 8 April 2005, 26.

18. John Fund, 'The Disappearance of Election Day', *National Review Online*, 1 October 2012.

19. Dennis Thompson, 'Election Time: Normative Implications of Temporal Properties of the Electoral Process in the United States' (2004) 98 *The American Political Science Review* 51, 62.

fear prominent amongst progressives and in minority communities. These concerns feed off several issues, notably voter ID laws (which are being introduced in Queensland) and inadequate polling day facilities.

The queues on polling day may be a small chore for some. Such queues, however, risk disenfranchising those who cannot wait, especially where elections are held on weekdays, as in the US and UK. In the words of an American Federal Court, 'many individuals have a limited window of opportunity to go to the polls. ... Life does not stop on election day'.²⁰ In 2012 one in seven US electors reported waits of over half an hour; the very worst counties had queues lasting four to six hours.²¹

But the answer to such snarls should be to invest in more polling stations and staff rather than to further undermine the idea of election day as a public gathering. Early polling stations are just as susceptible to excessive queuing as polling day venues.²² (Indeed as early voting gains in popularity those problems can only increase, since it is even harder to plan for demand across days or weeks than for a single election day.) Despite some problems in the 2012 US general election, almost 80 per cent of Americans who voted on election day reported that their polling station was 'very well run'.²³

A critique of convenience voting

Before Australia adopts wholesale convenience voting, it is worth considering carefully what might be lost in the process. Although there have not been many explicit critiques of convenience voting, a notable exception is Scottish researcher, Heather Green. Writing in the context of the Blair government's promotion of postal voting, she observed that:

Central to this model is the premise that voting, for all its public consequences, can properly be regarded as a private act, at least as regards the manner of its execution by the individual elector. ... The idea that voting should be a minimal inconvenience overlooks the civic nature of the act of voting.²⁴

Of course the reverse premise, that something must be physically or emotionally taxing for it to be valued, does not follow either. Voting can be both a cornerstone civil right *and* reflect elements of a civic responsibility. The implicit assumption behind many reforms to make voting easier is that potential electors are abstaining due to the inconvenience or transaction costs associated with the 'when' (and 'how' and 'where') of voting. As Green acerbically notes, the problem of voter apathy is more a question of addressing the 'why'. The demotivation of electors has much more to do with moribund politics and distrust of professional politicians and parties, than the time it takes to visit a polling station.

Australia provides a salutary lesson. We have historically enjoyed turnout in the 95 per cent range, on the back of compulsory voting laws. Registration, turnout and valid voting in the past decade have, however, declined by between 5 and 10 per cent. Compelling people to enrol and vote carries with it

the logic that neither task should face hurdles (hence Australians can register online, queues at polling places are negligible and voter ID laws are only just being experimented with). To chase some of that declining turnout, which is particularly marked amongst youth, convenience voting rules have been extended so that postal and pre-poll voting is all but a right. Turnout has not noticeably improved. This is unsurprising. The 'convenience' of convenience voting may primarily be a nod to the busy lives of the middle-class and middle-aged, and not a panacea for the goal of equal participation across ages and classes.

The deeper concern is with configuring the vote as a piece of private political capital, based on an unexamined premise of electors as consumers.²⁵ This much is implicit in the 'customer-focused' and 'client-centred' rhetoric of contemporary electoral commissions. Yet there is evidence that electors themselves are not always interested in having their lifestyles accommodated, and that many value the ability to participate in person.²⁶ Reflecting on the importance of the physical aspect of voting in person, one US woman recently related the story of her 81-year-old mother abjuring her postal ballot, to attend the polling station for the final time in her life.²⁷

Green gives a picturesque example of the blurring of the boundaries between commercial and civic life: the trialling of voting kiosks in shopping centres in the UK. Her complaint amounts to this: the ballot box, a 'closet of prayer' to quote the poet Les A Murray,²⁸ ought not be brought into contact with the shopping mall, a temple of consumerism. A shopping mall of course is a quintessentially public place in many contemporary communities.²⁹ Indeed a fair number of Americans vote inside commercial premises. So, while there may be a symbolic slippage in such examples of convenience voting 'taking the ballot box to the people', they do not necessarily take the experience of voting out of the public space, so much as into a different kind of public space. Polling day in Australia is overwhelmingly conducted in school (or in some cases church) halls. Education and voting are compulsory aspects of Australian citizenship, so the ritual of voting at schools ties the physical act to a place that symbolises both community and the passage from childhood to a rights (and obligations) bearing adulthood.³⁰

Polling stations also generate theatre on election day, as activists, electors and would-be politicians mingle together to vote and exchange last minute messages and pleasantries. The public accessibility of polling stations allows news media to capture and reflect back to us, via images and sounds of the tangible proceedings, the sense that election day is a moment when the parts come together to form the whole.

Convenience voting has, to date, had the greatest impact in the US. This is understandably so, given America's problems with low voter turnout and the differential impact of decentralised administrative resources on poor and minority communities. In his treatment of the issue, John Fortier argues that election day risks becoming a thing of the past as America

20. *NAACP State Conference v Cortés*, 591 F. Supp. 2d 757, 765.

21. Charles Stewart III, 'A Voter's Eye View of the 2012 Election', MIT Political Science Department, Working Paper 2013-11.

22. Bob Pool, 'L.A. County's Early Voters Don't Escape the Lines: It's not Election Day, but the Wait is still Five Hours to Cast a Ballot', *Los Angeles Times*, 2 November 2008, B1.

23. Stewart, above n 21.

24. Heather Green, writing as Heather Lardy, 'Modernising Elections: The Silent Premise of the Electoral Pilot Schemes' [2003] *Public Law* 6, 7.

25. *Ibid* 10.

26. As evidenced by the continuing popularity of polling stations, even in jurisdictions with open-slathe postal and early voting.

27. Carla Hall, 'Out Here: One Vote, In Person', *Los Angeles Times*, 6 November 2012, A12.

28. Les A Murray, 'My Ancestress and the Secret Ballot, 1848 and 1851' in *Subhuman Redneck Poems* (Farrar, Strauss and Giroux, 1996).

29. The founding father of the shopping mall, Victor Gruen, envisioned malls as a kind of ideal communal space. He later renounced what they became.

30. Graeme Orr, 'The Ritual and Aesthetic in Electoral Law' (2004) 32 *Federal Law Review* 425.

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moves towards a system of many mini-election days leading up to the main event. He speculates about whether this generates less 'psychological value for the nation', and whether it dilutes the intensity of the election period.³¹ One *Washington Post* editorialist rhapsodised, a little oxymoronicly, that queuing on polling day is 'a wonderful and boring thing, voting together'.³² (As if it were an expression of we-ness, in a society otherwise organised around appeals to 'your' convenience.) To a colleague of that writer, however, it 'was inevitable that Election Day would become a relic of community solidarity'.³³

We should be wary of buying into reactionary narratives about preserving some uniquely pleasant civic experience of polling day, particularly where such an experience is not accorded to everyone equally. Similarly, we should beware of partisan interest in levels of turnout, or of elitist judgements about what is valuable being masked as arguments about ritual. Elections would be flimsy rituals if they could not accommodate a measure of difference and experimentation in their organisation.

But there is a baby and bathwater dimension to the relationship between convenience voting and the role of polling day. If delivering convenience voting becomes our main goal, polling day will be diluted. If that happens, the very focal point of every election will be diffused. Convenience voting risks contributing to electoral apathy, not overcoming it, because it undermines the ritual potential of elections to 'give us an opportunity to feel part of something bigger than ourselves'.³⁴ This echoes Bennett's broader observation that political rituals are often (wrongly) seen as 'unfortunate departures from true political norms', leading to reform proposals for better political education or more participation that 'perpetuate the very problems they address by distracting attention from the underlying realities of political processes'.³⁵ Voting in person also involves the public witnessing itself in action. This is important both in a symbolic sense but also, potentially for faith in the integrity of the electoral process. Electors and the media can physically see the level of turnout, something that is not possible with, postal or online voting.

If we, as a society, are to prioritise convenience voting over communal polling, it is preferable that it not happen by stealth. There has been little consideration given to the experiential and ritual dimension of the shift to convenience voting as a right. Attention, instead, has focused on instrumental questions of

turnout and ballot integrity. Polling in person on election day is more than an empty ritual; it may be a richer form of participation.³⁶ There is an important distinction — both symbolic and real — between polling day as a communal event, and the elongated process by which individuals vote over many days or weeks, ensconced in their own homes or pre-polling in electoral offices. '[V]oting together openly on the same day is different from the private transaction' of voting by mail.³⁷

There is an analogy with how news was once received in a kind of collective time, through a morning paper or the evening bulletin, but is now consumed on the run, in snippets at any moment of the day or night. Having a single and highly public polling day is also part of a tangible and visible rite of passage for young political activists. Election days, as one British Labour MP put it, present an 'exciting sort of programme — chasing around cars with loudspeakers, knocking on doors, persuading people to vote and actually seeing you can make a difference. There is not much point in joining up if you are not going to see any action'.³⁸

While the law must allow for electors who cannot vote on polling day, convenience voting should not expand to swallow up the very notion of polling day itself. Rather than focusing more resources on convenience voting, the voting experience might be made more welcoming by declaring election day a holiday, making polling stations friendlier and minimising queues on polling day.

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This article is adapted from *Ritual and Rhythm in Electoral Systems* (Ashgate, forthcoming 2015)

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31. John C Fortier, *Absentee and Early Voting: Trends, Promises, and Perils* (American Enterprise Institute, 2006) 60.

32. Hank Stuever, 'The Prized Token of Sticking Together on Election Day', *The Washington Post*, 4 November 2008, C01.

33. Ann Gerhart, 'Why Election "Day" Doesn't Exist Anymore' *The Washington Post*, 6 November 2012, A04.

34. Gregory Rodriguez, 'Restoring the Lost Thrill of Election Day', *Los Angeles Times (Online)*, 4 October 2010.

35. W Lance Bennett, 'Myth, Ritual and Political Control' (1980) 30(4) *Journal of Communication* 166, 178.

36. Qvortrup, above n 11, 416.

37. Thompson, above n 19, 58.

38. John O'Farrell, quoted in Brian Wheeler, 'Save the Polling Booth?', *BBC News (Online)*, 24 March 2004.