Open Ballot Democracy: Deliberation and Accountability

by

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Preface

This thesis is foremost a vindication of the open ballot and a contribution to deliberative democracy. Open voting is now largely a relic of democratic life, yet I dispute that it should be irrelevant and assert that, in many ways, it is more democratic than the secret ballot. In doing so, I concur with J.S. Mill, who made a thorough defense of the open ballot during the 1860’s. Open voting maintains the public nature of the voting process; it signals that the preeminent act of self-government is not something that belongs to a single citizen. No individual “owns” their right to vote. As Mill notes, “In whatever way we define or understand the idea of a right, no person can have a right… to power over others,” that right is a public, shared power.¹ This normative ideal that the open ballot upholds, that political power must be publicly justified, is the same ideal that deliberative democracy seeks. I contend that open ballots sustain and enhance deliberative democracy’s search for a form of government in which free and equal citizens… justify decisions in a process in which they give one another reasons that are mutually acceptable and generally accessible, with the aim of reaching conclusions that are binding in the present on all citizens but open to challenge in the future.²

If the entire political process, deliberation and voting, is public, citizens will be able to hold one another accountable for their reasoning and agreements. My intent is to use “open ballot democracy” not only to explore a process of public reasoning and

decision-making, but also to highlight the shortcomings of secret ballots and our own political system.

Chapter 1 is a history of secret and open voting that looks at ancient Greece, Rome and the United States since the 1770’s. By understanding the history of voting methods, we can examine the different circumstances in which open ballots or secret ballots were used, and why the United States adopted the secret ballot in the late 1800’s. Chapter 2 turns to a discussion on democratic theory and voting. What can particular conceptions of democracy tell us about open and secret ballots? Does a particular voting method imply a certain conception of citizenship? Each of the democratic theories discussed have certain norms of political life that would be more compatible with a certain method of voting. This chapter will also explore the anxieties open ballots might cause in contemporary American life. For example, would citizens face intense pressure from their religious group to vote for a certain candidate? How might they react?

In Chapter 3, I explain central concepts of open ballot democracy and clarify its connections deliberative democracy. What obligations do citizens have toward one another? How do citizens hold one another accountable without creating discord? Which political virtues sustain deliberation in open ballot democracy? Finally, in Chapter 4, I depict open ballot democracy in more empirical terms. There are a number of changes to American government and society that might be necessary to allow an open ballot democracy to flourish. How will citizens deliberate and vote? Is open ballot democracy even plausible?
ONE

The Secret Ballot

Democratic practices of election and representation vary throughout the world. Within the United States, we have grown more familiar with the differences in voting methods used throughout the country since the problematic presidential election of 2000. Yet across the world, one principle of voting remains largely constant – secrecy of voting. Some communities continue to vote in more open ways – by caucus or town hall meeting – but for the vast majority of elections, especially at national and state levels, secrecy is standard. Although not codified in the U.S. Constitution, secret ballot elections are mandated by state constitutions or statutes.¹ Certain American states and municipalities introduced secret ballots as early as the 1770’s. It was not until a few Australian colonies adopted them in the 1850’s that a noteworthy trend toward secret balloting began. By the 1890’s secret voting was standard throughout the United States and Great Britain. During the twentieth century, nations transitioning to popular government adopted the secret ballot as a feature of democratic rule. More recently, provisions in the Afghan and Iraqi constitutions, as well as the proposed text of the European Union constitution, affirm secret balloting as a political right.² Despite the fact that citizens of democracy speak of the secret ballot as a common norm, its dominance is relatively recent. While the

¹ For example, Connecticut’s constitution says “The right of secret voting shall be preserved.” See Art. XI, Sec. V.
idea of secret ballots has existed as long as democracy itself – stretching back to the Greek city-states – only within the last 150 years did it attain popular use.

Prior to secret balloting, voting was often done openly, by voice, raised hands or a public casting of the ballot. The conditions under which these electors voted differed greatly from the way the West now conducts democratic elections, with universal suffrage and (often) plural societies. In the past, the franchise was often limited to men, propertied citizens, whites, or some combination thereof. The development of mass democracy in the past two hundred years is directly related to the transition to secret balloting. With voters from the lower classes added to the electorate, it was thought that political parties or influential citizens could manipulate their vote with money, food, drinks, or even illegal activity. Open voting made coercion, intimidation and bribery easy ways to get voters to the polls and ensure they voted for a particular party. The secret ballot was a response to these practices, a way of ensuring that all voters could cast their ballot without undue coercion or pressure.

While the secret ballot might be considered a static, unquestioned element of democracy, its usage is relatively new and integrally related to changes in democracy since the early 1800’s. The connections between an expanding electorate and ballot reform, as well as a brief overview of older voting systems, shall be the focus of this chapter. My aim is to explore the historical roots and justifications of the secret ballot, with a particular focus on how the rise of universal suffrage eroded and did away with open ballots. Democracy, in the context of this chapter, will refer to those political
systems whose “institutions amount to a large step toward” democratic ideals. Thus, while Greece and Rome are not the types of democracies we encounter in the modern world, they are important historical bases for democratic practices.

**Greece and Rome**

Citizens in ancient Greece and Rome voted by both open and secret methods, although the latter was only used where the fate of a single citizen was in question or electoral corruption became a notable problem. Greek city-states preferred open voting in conducting general political business. The citizen assembly in Sparta had limited, non-deliberative powers and only held votes to fill spots on the *gerousia*, or governing committee. By shouting in support, the Spartans voted for candidates as they passed in front of the body. To ensure an objective outcome, judges of the vote sat in a separate building where they could not see the candidates, and determined who garnered the loudest cheers. In particularly close contests, the assembly members physically walked to a section of the meeting space to express their will. Each of these methods exposed them to scrutiny by others, but it is not clear if the Spartans used these open voting methods as an opportunity to coerce others into voting for a particular candidate.

The Athenian assembly is an interesting case because open voting and secret ballots were each used at various times by the gathering of 6,000-8,000 citizens. Evidence from the fifth century B.C. suggests that votes were taken by *psephoi*, “balloting stones.” Citizens approached a set of two urns with a single pebble in hand.

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3 Robert Dahl uses the examples of ancient Athens and nineteenth-century America, which are now considered to have undemocratic aspects, but are nonetheless “actual” democracies. See Robert A. Dahl, *On Political Equality* (New Haven, CT: Yale University Press, 2006), 10.

A wicker funnel covered the openings of the urns but left enough room at the top so that each citizen could place his hand in and drop the stone into the appropriate urn, casting his vote. Although it is speculated that the monitor could hear which urn the stone was dropped into, this system was quite secret. While “it is true that the trend in any democratic society is towards the observance of greater secrecy in the recording of the vote,” the Athenian assembly later changed their procedure to a showing of hands (cheirotonia), a more obvious public display of one’s vote. The reasons for doing so were related to the growing size of the assembly; voting individually became a time-consuming process. By simply raising their hands instead, citizens could vote simultaneously. There is some academic disagreement as to how often open voting procedures were used. Some scholars believe that public, simultaneous, open voting only took place when an issue was of such importance that overwhelming popular support was desired.

Despite the disagreement over the circumstances under which open voting was used, the Athenian assembly followed strict, secret procedures for the punishment or exile of statesmen. Citizens wrote (or had someone else write) the name of the person to be banished on a piece of tile or pottery, and these ostraka would be cast into urns. Citizens could choose whether to publicize their vote, by holding up the tile, or maintain secrecy. In spite of this option, Athenian “democracy clearly subscribed to the principle that, when the fate of an individual citizen was in

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6 Staveley, *Greek and Roman Voting and Elections*, 84.
the balance, secrecy should be observed wherever possible.” Thus, in later Greek democracy, secrecy was extremely important when the vote could negatively affect a particular individual. In cases where Athenians voted openly, they “were prepared to accept – or perhaps preferred – open voting on questions of public policy, notwithstanding the possibility of pressure on some citizens or a ‘bandwagon’ effect.”

Open voting, whether it took place only on large issues or in normal procedures, reflected the belief that questions of great public importance merited an open decision-making process.

Differing from Athenian democracy, the Roman republic nurtured a more stratified, patrician structure of citizenship. Assemblies were convened only to vote on issues or candidates. Simultaneously, assemblies met throughout the regions of Rome, and citizens were assigned to a particular assembly by their tribe and social class. Within these groupings, each elector would individually, but publicly, proclaim his vote to an official recorder. The decision-rule for Roman elections was not winning a majority vote of all citizens, but rather winning a majority of the assemblies. Accordingly, the campaign system depended heavily on winning favor within particular assemblies. This was achieved by mobilizing the Roman social hierarchy. If a member of the elite favored a particular candidate, he would rally his clientele, the lower-class citizens dependent on his patronage, to vote for his candidate. Thus, social connections and political friendships between candidates and patrons were the primary means of winning elections.

8 Staveley, Greek and Roman Voting and Elections, 93. This was also true of the Athenian justice system, where juries secretly placed small discs in urns to indicate their judgment.
10 Ibid., 17.
Yet during the second century B.C., legislative records indicate that bribery became a more common tactic in campaigning.\textsuperscript{11} Some bribes were given directly as cash, while favors, gifts and lavish parties were also ways of getting votes. To counter such manipulations and the power of the aristocracy, laws were passed during the 130’s B.C. which introduced secret ballots for representatives, judicial proceedings and referenda. While Cicero acknowledged the ability of secret ballots to reign in the power of elites, he argued that the reforms went too far:

Everyone knows that laws which provide a secret ballot have deprived the aristocracy of all its influence. And such a law was never desired by the people when they were free, but was demanded only when they were tyrannized over by the powerful men in the state… Therefore means should have been found to deprive powerful leaders of the people’s undue eagerness to support them with their votes even in the case of bad measures, but the people should not have been provided with a hiding-place, where they could conceal a mischievous vote by means of the ballot, and keep the aristocracy in ignorance of their real opinions.\textsuperscript{12}

Although his argument is based upon the law’s negative effects on the aristocracy, he makes the important assertion that secrecy, while making elections fairer for the less powerful, also shields citizens from justifying their votes.

A central inquiry of this thesis – the controversy between freely voting one’s conscience and providing public reasoning for a vote – emerged in Cicero’s political discourse. Do citizen have an obligation to justify their votes to one another? Is this obligation more important than ensuring that each citizen can vote his conscience? The political debate about these specific issues and the secret ballot faded following

\textsuperscript{11} Staveley, \textit{Greek and Roman Voting and Elections}, 202.
\textsuperscript{12} Fergus Millar, \textit{The Roman Republic in Political Thought. The Menahem Stern Jerusalem Lectures} (Waltham, MA: Brandeis University Press, 2002), 165.
the end of the Roman republic. After this time, secret balloting was used sparsely\textsuperscript{13} until it reemerged in the nineteenth century.

\textit{The Australian Ballot}

When the United States and Great Britain began using the secret ballot in the late 1800’s, it was due in part to the success of secret voting in the Australian colonies. Agitation for the secret ballot actually began in Great Britain in the 1830’s, when reformers had started pressing for an end to open voting. Members of the Chartist movement, which proposed a number of political reforms, wanted secret voting to protect the lower classes from domination by elites and political parties. Despite setbacks in Britain at the time,\textsuperscript{14} the proposal first prevailed in Australia in 1856. The British Parliament eventually accepted secret ballots in 1872. As word about the success of secret ballot spread, most U.S. states adopted them between the presidential elections of 1888 and 1892.\textsuperscript{15} In order to best understand why the secret ballot was adopted in the United States and how it changed elections, we should be familiar with voting practices prior to the introduction of “the Australian ballot.”

For much of the first century in American history, voting practices among states and cities were idiosyncratic. This was especially true prior to the 1830’s. Some jurisdictions, primarily in Southern states, required voters to verbally declare the

\textsuperscript{13} There was little use of secret ballots during the medieval, Renaissance and Enlightenment periods because much of Europe’s power structure was based on heredity. The Florentine republics and Catholic Church continued to use secret ballots. French revolutionaries also used secret voting during the First Republic. See Bernard Manin, \textit{The Principles of Representative Government} (Cambridge, UK: Cambridge University Press, 1997), 61 and Katz, \textit{Democracy and Elections}, 18.

\textsuperscript{14} Prior to 1835, secret ballots were used in some local elections. This practice was ended in 1835 when Parliament passed the Municipal Corporations Act making open voting a uniform procedure. See L.E. Fredman, \textit{The Australian Ballot: The Story of an American Reform} (East Lansing, MI: Michigan State University Press, 1968), 2.

\textsuperscript{15} By 1892, thirty-eight of the forty-four states had adopted the secret ballot.
names of their preferred candidates. By 1832, all states required written ballots, and four had secret balloting written into the state constitution. While uniformity of voting practices appeared to be spreading, differences in how ballots were printed, distributed and made their way to the ballot box remained.

During this time, from roughly 1832 to 1892, political parties were responsible for printing and distributing ballots. Each party’s ballot listed the offices to be filled and the names of its own candidates. Ballots were often distinguished by color, size or print, allowing others to see which ballot an individual voters was casting. Although the actual extent of corruption in nineteenth century American politics has been contested, it is clear that the electoral system depended on active party apparatuses that would often engage in questionable activities. Among these activities, bribery, deception and intimidation were easier with open balloting. Party agents could watch whether or not the people they brought to the polls placed their party’s ballot in the box. Bribery was not uncommon, and campaigns often had large sums of cash ready for mobilizing voters on Election Day. In Connecticut, where nearly one out of five voters was willing to be bribed, a voter could earn anywhere between two and twenty dollars by selling their vote. Money was not the only thing used to bring voters to the polls. In some places, campaigns would get votes by giving

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18 Some literature characterizes this time as one of high levels of corruption, yet other analyses suggest that this is an exaggeration; most primary sources are suspected of featuring only second-hand accounts and partisan hyperbole. See Keyssar, *The Right to Vote*, 161 and Paul Kleppner, *Continuity and Change in Electoral Politics, 1893-1928* (Westport, CT: Greenwood Press, 1987), 169-171.
20 Ibid., 23.
away shoes and plates.\textsuperscript{21} During this period, bribes often attracted voters who would not go to the polls otherwise. This was especially true among the poor, for whom voting was an easy opportunity to make money a decent amount of money.\textsuperscript{22} These are more blatant examples of the abuses that open ballots permitted, while other strategies to turn out voters were more subtle or considered a part of the culture of elections.

Most elections were viewed as day-long spectacles, replete with parades, food, drinks and social gatherings. Whereas an election in contemporary times has a more functional, vote-and-depart tone, citizens of the mid-nineteenth century “came… ‘to meet each other and to vote,’ and in many cases to remain for hours in the first of these pursuits, availing themselves or not of the parties’ inducements to cast a particular ballot.”\textsuperscript{23} Enticement by food and drinks before voting was not uncommon, nor was betting on the outcomes of races. Political parties of the nineteenth century embraced these methods – which might now be considered controversial – as a normal means of getting voters to the polls. Mobilization was the primary function of political parties at the time, and they were quite good at it.\textsuperscript{24} Despite the presence of excessive or illegal means used to bring voters to the polls, the era was characterized by “the extraordinary achievement of American political parties in mobilizing voters, some of whom were ignorant of, uninterested in,

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\textsuperscript{22} Research shows that the decline of bribery after the secret ballot also coincided with a drop in the participation of poor voters, presumably due to the lost opportunity to make money. See Jac C. Heckleman, "The Secret Ballot and the Market for Votes: Economic Incentives of a Secret Ballot" (Ph. D. Dissertation, Economics, University of Maryland, 1994), 106.
\textsuperscript{23} Altschuler and Blumin, \textit{Rude Republic}, 75.
\textsuperscript{24} Manin, \textit{The Principles of Representative Government}, 206.
\end{flushright}
skeptical about, or even averse to political affairs.”25 Thus, elections in the United States prior to the Australian ballot were boisterous affairs, in part due to the ability of party activists to ensure that voters cast a ballot for their particular party.

Whether corruption was widespread, or merely a charge leveled by the parties against one another, the secret ballot became a popular anti-corruption measure and symbol of frustration with the political process. From disaffected Republicans to the agrarian Populist Party, supporters of the Australian ballot quickly ushered it through most state legislatures in less than four years.26 Thirty-eight states had adopted the Australian ballot prior to the presidential election of 1892, which showed a marked difference in tone compared to the previous presidential contest. L. E. Fredman attributes the secret ballot with producing more “factual arguments and fewer noisy processions,” as well as making Election Day “quiet and orderly.”27 Although parties continue even today to identify and mobilize supporters on Election Day, their role and tactics, as well as the political culture of elections, has changed considerably due to ballot reform.

The Australian ballot made many previous types of corruption or swaying the vote uneconomical or impossible. The decision to adopt secret ballots asserted that individuals should vote on a voluntary basis and in a manner that was not subject to unwelcome coercion, force, or “obedience to the dictates of a tyrant majority or

25 Altschuler and Blumin, Rude Republic, 79.
26 The “Australian ballot” does not merely refer to the secrecy of the ballot. In general, it refers to government-printed ballots that list all the candidates for offices, regardless of party. Thus, it is also notable because it allowed split-ticket voting, which party-printed ballots ostensibly did not.
27 Fredman, The Australian Ballot, 83.
The secret ballot was a means of making each citizen an independent participant in the political process, rather than a potential target for corruption.

**Independence and Suffrage**

The central justification for the secret ballot is that it allows voters to make independent choices. There are two reasons, both central to the concept of democracy, that independence is important: equality and self-government. First, Robert Dahl notes that equality in voting means that “every member [of the demos] must have an equal and effective opportunity to vote.” This “effective” aspect means that each person may decide – without undesired or corrupting influence from others – how to vote. Dahl notes that political resources like “money, information, time, understanding, food, the threat of force, jobs, friendship, social standing” and other things, can be used to influence voters. Secret ballots protect “capacity of different citizens to employ their votes effectively.” A citizen may not be financially independent, for example, but will still be able to make an independent choice in an election, because no one with power over her will know how she votes. If all citizens are protected by the secret ballot, they all have an equal chance of casting an “effective” vote, their choices are independent of any other social disadvantage.

The second reason independence is important in democracy is that it allows citizens to be self-governing. Political actors must have the ability to make the decisions that will govern their polity. Beneath the idea of self-government is the presumption that citizens are substantially free from oppression or influence. If the

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30 Ibid., 53.
political resources that Dahl identified are used against voters, the result of their votes will not be self-government, but government by those who used those resources against them. Here, independence is what makes political actors free to “protect and advance their interests, goals, and ends.” Historically, this second reason for seeking independence – the desire that those who govern must have substantial freedom to make their own decisions – was extremely important in the early American period. Yet the roots of this idea were in the rise of parliamentary institutions in Britain.

The British elite believed that members of Parliament should remain free of influence from outside powers, like the monarchy. The British country elite criticized members of Parliament who received patronage from the Court as “corrupt,” because they disapproved greatly of their lack of independence from the executive. Reliance on the Court for patronage weakened the autonomy of Parliament as a separate institution. The ability to make decisions freely and independently was “represented only by the Country members… those willing both to enjoy no source of income but their estates, and to eschew either the possession or the pursuit of executive power.”

To govern or legislate requires independence. Political actors must be devoted to their own principles and interests of the represented community. Pursuing personal interests, or bending to outside pressures that dictate one’s views, violates the trust of the represented and weakens the idea of self-government. Only those who are not dependent or indebted to others, the theory presumes, are worthy of leading the

These ideas about self-government and independence also led to the belief that voting citizens must exhibit similar autonomy.

How can we measure who is independent enough to govern? A classical answer, one that lasted until the nineteenth century in the United States and Great Britain, posited that only a land-based aristocracy could capably govern. At the time, owning land was a common requirement for being allowed to vote because property was thought to provide the aristocracy with enough security to make independent judgments about public questions. English jurist William Blackstone, whose views on the subject were widely discussed at the time, defends the property requirement.

The true reason of requiring any qualification, with regard to property, in voters, is to exclude such persons as are in so mean a situation that they are esteemed to have no will of their own. If these persons had votes, they would be tempted to dispose of them under some undue influence or other…If it were probable that every man would give his vote freely and without influence of any kind, then, upon the true theory and genuine principles of liberty, every member of the community, however poor, should have a vote in electing those delegates, to whose charge is committed the disposal of his property, his liberty and his life. Blackstone makes a gesture toward universal suffrage as an ideal of self-government, but he ultimately determines that only through property qualifications can good government flourish. These justifications traveled the Atlantic to the American colonies, which also used property qualifications until the Revolution. Blackstone’s arguments were also incorporated into republican political theory. Republicans suggest that citizens need particular civic virtues, or “qualities of

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34 Keyssar, The Right to Vote, 10.
character,” to participate in self-government.\textsuperscript{35} During the early American period, republicans greatly emphasized the need for property qualifications to ensure a virtuous, incorruptible electorate. Property qualifications were in place until the beginning of the Revolution, when “many states in 1776 did perceptibly enlarge the basis of consent” by replacing property qualifications and enfranchising citizens who paid taxes or fought for independence.\textsuperscript{36} The experience of revolution made strict, property-based curbs on the franchise difficult to maintain because there were many citizens without property who fought in George Washington’s army. The desire for an independent electorate, however, retained its saliency and was achieved through other means, like taxpaying requirements.\textsuperscript{37}

Independence was used to justify a number of exclusions in American history. Many groups, including women and nonwhites, were denied the right to vote based on their lack of “qualification” for governing. Women fit well into the dependence category because, “in Blackstonian fashion, [they] could be controlled by men and thus could not be responsible political actors.”\textsuperscript{38} African-Americans were also denied suffrage in many Northern states prior to the Civil War because they were thought to lack civic virtue.\textsuperscript{39} Despite the explanation that it resulted in more responsible political actors, independence was primarily defended as a way to deny the vote to subjugated classes, genders and races. This is why, even after the Revolution, the governing elite were careful not to define the vote as a natural right. They feared that

\textsuperscript{36} Wood, \textit{The Creation of the American Republic}, 167-168.
\textsuperscript{37} Keyssar, \textit{The Right to Vote}, 13-17.
\textsuperscript{38} Ibid., 174.
\textsuperscript{39} Ibid., 55.
“the universalist implications of natural rights claims” would lead to calls for female or African-American suffrage.\textsuperscript{40} Thus, even after the decline of property rights, independence continued to be used in ways that slowed down American democratization.

The extension of the franchise during the middle part of the nineteenth century, by dropping taxpaying requirements, was a strong rebuke to those who wished to maintain a small, virtuous electorate. By 1855, “there were few formal or explicit economic barriers to voting,” which meant that suffrage was extended to most white males, regardless of social class.\textsuperscript{41} The addition of the poor and the working class to the electorate was an important part of the rise of mass party politics. The Democrats and Whigs (later, Republicans) sought to mobilize voters using the means discussed above, including bribes, gambling, and “treating” them to food and drinks.\textsuperscript{42} These actions by parties were not necessarily grave offenses at the time. Intense electoral competition and mobilization was the nature of democratic politics and both parties used questionable tactics for fear of “being outhustled and outmaneuvered by activists on the other side.”\textsuperscript{43} Although rarer than the other methods of voter manipulation, violence and intimidation did occur, especially in urban working class areas.\textsuperscript{44} Therefore, the extension of suffrage to lower classes coincided with the decline of the republican ideal of virtuous, self-governing citizens. Yet reformers retained the ideal of individual independence. With their success in

\textsuperscript{40} Keyssar, The Right to Vote, 13. For more on restrictions to voting, see Keyssar’s third chapter of The Right to Vote, “Backsliding and Sideslapping.”

\textsuperscript{41} Ibid., 29. Not all white males had the right to vote. Some states and municipalities were stricter than others, but there was extensive progress toward universal white male suffrage in the nation as a whole.

\textsuperscript{42} Altschuler and Blumin, Rude Republic, 73.

\textsuperscript{43} Ibid., 75.

\textsuperscript{44} Ibid., 176.
lobbying for the secret ballot, the expanded size and economic diversity of the electorate was reconciled with the ideal of voter autonomy. Secret ballots were a simple, procedural solution the conflict between democratic suffrage and republican independence. As Albert O. Hirschman puts it, “The gradual establishment of universal suffrage in Western Europe and the United States went hand in hand with the transition from the open to the secret vote.”

The secret ballot prevents voters from being courted by bribes or fearing reprisals while voting, and thus results in a more legitimate election process. The polity can be sure that the outcome of the election is based on the true will of individuals, rather than pressure from political resources like money, threats or social status. But secret balloting does not only enhance an individual’s opportunity for self-government, it also produces equality of votes. As discussed at the beginning of this section, independence allows voters an equal opportunity to cast an effective vote. Despite social inequalities, the secret ballot maintains each person’s equal ability to vote his or her conscience. Ironically, the Anglo-American theory of independence was long used to uphold inequality through property and taxpaying requirements. In the end, the fight for voter independence produced substantial electoral equality. These achievements of the secret ballot – self-government and equality – should not be taken for granted, yet these were not the only effects of the secret ballot.

The Isolated Voter

The secret ballot improved democracy by ending bribery and coercion, and therefore, was a success as a voting procedure. Yet by altering the practice of

democracy, the secret ballot also changed political culture, general “attitudes towards
the political system and its various parts, and attitudes toward the role of the self in
the system.”\textsuperscript{46} The most immediate effect of the secret ballot was on elections
themselves. Andreas Teuber stresses that elections are much less boisterous and
communal than they used to be. Borrowing Jimmy Carter’s words, he says that voters
now face a “lonely decision” at the polls, where voting is an individual experience. In
eliminating the exciting public nature of elections, the secret ballot was “severe cure”
to prevent bribery and coercion.\textsuperscript{47} Elections before 1892 stimulated a mood of
celebration among voters and drew a large proportion of the electorate to the polls. In
elections today, those things have been replaced by predictable monotony and lower
voter turnout. This is not to say that voting lacks meaning, or that it cannot induce a
sense of civic duty and participation. But these experiences and emotions are often
filtered by the voting booth, where one makes his or her mark on the political process
alone, cut off from fellow citizens. No back-and-forth argumentation, wrangling (the
respectable sort, of course!), or sense of celebration typifies the actual voting
experience any longer. As Teuber concludes, “Elections are now more orderly, better
administered, less fraudulent than they were in the 19\textsuperscript{th} century. But they are not
nearly so well attended nor so much fun.”\textsuperscript{48}

Voting individually, isolated from other citizens, has also changed the way we
view the right to vote. While voting secretly was originally just a tool to fight
corruption and make voters more independent, it has been incorporated into the larger

\textsuperscript{46} Gabriel Almond and Sidney Verba, \textit{The Civic Culture: Political Attitudes and Democracy in Five
\textsuperscript{48} Ibid.
culture of American individualism and used to justify political isolation. Alexander Keyssar claims that an “individualistic conception of the right to vote,” makes sense “given many features of the nation’s history.” Although he lacks a complete explanation of other these features, the secret ballot seems to fit into such an historical narrative. We understand voting individually much the same way we understand the Bill of Rights – as protections of individual liberty. It is not surprising that many Americans feel they have a right not to discuss their political beliefs or justify their electoral choices, with secret ballots they do not have to. This is not to say that all voters approach the voting booth selfishly, or that forms of citizen participation and civic-mindedness do not exist. But the secret ballot grants the ability to retreat into oneself, to avoid justifying one’s political choices, and puts the individual above the community.

But how might one conceive of a non-individualist right to vote? A non-individualist attitude toward voting would loosen the link between having a vote and the belief that having a vote frees us from our obligations to the political community. For contrast, imagine a democratic people whose right to vote was thought of as a sense of duty to the community and one sought to gain knowledge from fellow citizens. Active participation in a thoughtful political community would perhaps overcome the belief that we have an inalienable right to vote without justification or discussion. Ideas, in such a culture, would not be tested merely in the individual mind, but through public processes and deliberation. “Non-individualist” perhaps

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49 Keyssar, *The Right to Vote*, 300. One of these factors was the Supreme Court’s ruling in *Reynolds v. Sims* (1964) 377 U.S. 533, which affirmed the principle of one person-one vote.

might simply mean removing one’s blinders and considering that internal instincts might not always lead to the best decision, or the most democratic one. The secret ballot, specifically, makes such an approach to democracy problematic; it allows citizens to vote as if their action only affects themselves.

As I argue in this thesis that the secret ballot restricts the deliberative potential of democracy, I will keep the importance of political independence in mind. If open ballots cause some citizens to lose their ability to vote as free and equal citizens, then the purpose of open ballots, to enhance democracy, fails. How could a political system with wide disparities in social equality, such as the United States, have free and fair elections without the secret ballot? Is it possible to create a more open, deliberative democracy and preserve independence? These questions shall be central concerns of this thesis.
TWO

Modes of Politics in Democratic Theory

At the time that John Stuart Mill published *Considerations on Representative Government*, the secret ballot, or what he merely calls “the ballot,” was being debated in British academic circles and gaining ground in popularity. In his work, ten years before the secret ballot was adopted in 1872, he lays out a striking critique of secret voting, focusing primarily on its protection of self-interest. Although he admits that there are problematic elements to voting openly, such as bribery and social pressure, he believed that “a much greater source of evil is the selfishness, or the selfish partialities of the voter himself.”¹ For Mill, the secret ballot provides ample cover for individuals to seek their personal good through voting, whereas the scrutiny of the public would keep citizens accountable to the greater good. For these reasons, the selfishness and protectiveness that the secret ballot permits, Mill argues that those who support the secret ballot carry the burden of proof for its use. He sees open voting as an exceedingly better method, one that will lead to the public good rather than private interest, and that “the cases which admit of a departure from [open voting] must be of a strikingly exceptional character.”²

Considering these ideas in a contemporary setting, many people would summarily dismiss Mill’s argument as unrealistic and undemocratic. The place of the secret ballot in democratic culture has been secured by generations of its use. I would safely say that if American voters were to agree unanimously on a few political ideas,

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¹ Mill, *Considerations on Representative Government*, 115.
² Ibid., 209.
secret ballots would very well be one of them. Thus, in taking up Mill’s argument in this day and age, I find the burden of proof upon myself. This is so, in part, because the conditions of democracy have changed dramatically since Mill’s time. Although he supported universal enfranchisement, it had not yet come to pass, and as explored earlier, mass suffrage was perhaps the primary factor that made the secret ballot necessary. Because social inequality remains today, coercion and pressure are still pertinent concerns. Although these worries are sensible, Mill’s theory of voting should not be swiftly discounted; we did in fact lose something when ballots were made secret.

Mill’s critique of the secret ballot, and ideas about voting from various democratic theories, shall be the launching point for my work. Because Mill is primarily identified with liberal thought, it seems peculiar that he would burden citizens with justifying their vote to others. Nadia Urbinati, in her work on Mill’s democratic theory, notes that he “worked out a notion of liberty that is exquisitely political and consistent with a form of government whose legitimacy is based on the public control of power” and “a discursive approach to politics.” In this way, Mill was neither a republican nor a liberal in the strict sense that we now use those terms, but rather believed that citizens should engage in self-government and also have a rich sphere of autonomy. Nevertheless, under the contemporary form of liberalism in the United States, we have lost citizen accountability for public power.

Many citizens rhetorically use liberalism’s negative rights – freedom from public interference in their lives – to justify any number of actions they believe to be

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their own business. Research suggests that voters have a willful aversion to justifying their political beliefs or engaging in political discussions with friends, co-workers, and others who might disagree with them. Because of the individualist right to vote and reluctance to share political thoughts, it seems unlikely that American society could re-imagine voting as an act of public duty, as Mill perceived it.

Currently, American attitudes toward democracy and constitutional freedom, make open ballots an unfeasible reform. That fact is obvious. It does not, however, answer whether or not open ballots would are better suited for other conceptions of democracy.

My approach to this topic depends on the idea that voting is a method of enacting the public will, the wishes, desires, preferences, beliefs or compromises of citizens. Public will can be formed in a number of different ways. It can be a simple aggregate of private preferences, or a result of discussion and unanimous agreement. The essential idea is that public will, however created, should become the public outcome. In many democratic theories, the process of will-formation is vital to democracy itself. In deliberative democracy, for example, citizens discover one another’s beliefs and justifications, and take them into account when voting. Thus, citizens form public will through discussion and enact it through voting; it becomes the public outcome. My suggestion is that secret voting can distort public will, and can even harm the process of will-formation itself. I will elaborate on these ideas using different democratic theories with distinct types of will-formation.

We will be concerned with two important aspects of each theory, (a) whether will-formation is done in the public sphere, through communication, or instead by

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4 Conover, Searing and Crewe, "The Deliberative Potential of Political Discussion," 54.
aggregating individual preferences and (b) what are the main principles of public life.

To begin, I will discuss these topics in relation to civic republican, communitarian
and deliberative theories of democracy, which I will collectively refer to as
“interactive theories.” These theories share “the original meaning of democracy in
terms of the institutionalization of public use of reason jointly exercised by
autonomous citizens.”

Because interactive theorists value the public interest and the
convergence of citizen ideas, open ballots are well-suited for these modes of politics.
Open ballots maintain the public spirit of the political process. Through these
theories, we can see how the secret ballot can weaken the community’s ability to
enact the public will.

Following these theories, I will return to liberal political theory. Certain
variations of liberal thought offer distinct challenges and perspectives in regards to
voting and political life. Importantly, the modern combination of political liberalism,
constitutional democracy and cultural individualism favors the secret ballot more than
interactive theories of democracy. Because it strongly defends the rights and
perspectives of individuals and creates a robust private sphere, liberal political theory
requires a more thorough discussion.

Republicanism, Communitarianism and Deliberative Democracy

Although there are differences between each interactive theory, the use of
public dialogue, reason, deliberation, storytelling and listening gives them a common
tie: politics is an act between citizens. These theories interpret politics as an
intersubjective activity, which Jürgen Habermas describes.

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5 Jürgen Habermas, quoted by Seyla Benhabib, "Introduction," in Democracy and Difference:
Contesting the Boundaries of the Political, ed. Seyla Benhabib (Princeton, NJ: Princeton University
Political opinion and will-formation is not limited to the formation of compromises but also conforms to the model of public discourses oriented to the rational acceptability of regulations in the light of generalized interests, shared evaluative orientations, and justified principles. This noninstrumental conception of politics is based on the idea of the communicatively acting person.”

Habermas identifies this quality as a cornerstone of the republican tradition in democratic thought, which in part traces its history to Jean-Jacques Rousseau’s *On the Social Contract*.

**Civic Republicanism**

Rousseau sought a conception of politics that grants freedom through self-government. This notion of freedom, “positive freedom,” seeks to realize the will of the political community through public administration. The public will is developed through the communication of free and equal citizens. A central aspect of republican theory is the concept of legitimacy. Because each citizen of the polity has a role in self-government, the outcomes of the government are recognized by its members.

Citizenship in the political community connotes self-understanding as a political actor and the duties that come with that role. As equal trustees of the political body, individuals must have “a sense of belonging, a concern for the whole, a moral bond with the community whose fate is at stake.”

In Rousseau’s conception of republicanism, the public must seek the “general will,” the common interest of the citizens as a political community. While

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8 “The commitments which bind us to the social body are obligatory because they are mutual.” Jean-Jacques Rousseau, *The Social Contract and Other Later Political Writings*, ed. Victor Gourevitch (Cambridge, UK: Cambridge University, 1997), 61.
9 Sandel, *Democracy's Discontent*, 5.
individual beliefs and private preferences may accord with the general will, the good of the community is not merely the sum of individual advantages and disadvantages. As Thomas Paine suggests, the sole purpose of government is to pursue that public good. A republic is not merely a type of government, it is the “purport, matter, or object for which government ought to be instituted, and on which it is to be employed, res-publica, the public affairs, or the public good.” Thus, as a social whole, citizens seek the general will through communicative action.

Being part of the decision-process not only serves an individual’s instrumental purposes or fulfills citizenly duties, but develops him or her as a citizen. As mentioned in Chapter 1, republican political life develops and depends on civic virtues, “the qualities of character that self-government requires.” Thus we can see that in republicanism, communication and the social bond of politics create a public will that is not based on the atomized interests of individuals, but one in which “free and equal citizens reach an understanding on which goals and norms like in the equal interest of all.”

Communitarianism

Communitarianism synthesizes and rejects certain elements of both republicanism and liberalism for its conception of politics. Although not starkly opposed to the existential nature of negative rights, communitarians believe that political decision-making should not be divorced from the context of “a concrete,
Citizens constitute their political reality through community, a process of collective self-understanding and sharing. Alasdair MacIntyre captures these ideas by noting that insofar as we are social beings, our lives take the form of shared, interconnected narratives. Of key importance for MacIntyre is the idea of intelligibility; as beings with common language and understanding, we are capable of learning about others and ourselves.\textsuperscript{15} Communitarianism confronts liberalism on this front. Strict adherence to a doctrine of individual liberty leaves little room for our associations as an ethical community, a community with at least some overarching values or virtues that tie citizens together.

Michael Walzer notes that communitarianism seeks to challenge the ease with which our social relationships and obligations can be discarded or thought to have no ethical content.\textsuperscript{16} Even negative rights, the trumps individuals have against the power of the state, must be legitimized as an ethical choice of the community. Natural, prepolitical rights, they assert, are arbitrary unless affirmed and upheld by the political community. Constitutional rights, therefore, are not incompatible with communitarian thought, so long as they are accurate reflections of overarching values. Politics are a central part of social self-understanding, and communitarians argue that intersubjective means are necessary for us to form clear conceptions of how we define our community and its aspirations. Although collective sovereignty is not as strongly configured as it is in republican theory, communitarianism tempers the notion of individuals as isolated selves.

\textsuperscript{14}Jürgen Habermas, \textit{Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy} (Boston: MIT, 1996), 280.
\textsuperscript{15} Alasdair MacIntyre, \textit{After Virtue}, 2nd ed. (Notre Dame, IN: Notre Dame, 2003), 216.
Deliberative Democracy

Deliberative democrats similarly appropriate elements of liberalism and republicanism in developing their theory. Deliberative democracy gives priority to both negative rights and self-government. Habermas notes that deliberative democracy draws its search for legitimate outcomes from the republican tradition, where the community creates and enacts the public will. Liberal constitutional protections, such as speech, religion, and association, provide the necessary framework for discussion and action that create political will.\(^{17}\) As Seyla Benhabib notes,

> The deliberative theory of democracy transcends the traditional opposition of majoritarian politics vs. liberal guarantees of basic rights and liberties to the extent that the normative conditions of discourses, like basic rights and liberties, are to be views as rules of the game that can be contested within the game but only insofar as one first accepts to abide by them and play the game at all.\(^{18}\)

But where is the game played? Some deliberativists, like Habermas envision deliberation in formal political structures, like representative bodies, as well as dispersed deliberation in civil society. Others, like Jane Mansbridge and Joshua Cohen promote a stronger, more expansive vision, where deliberation takes place “in a far wider range of political and civic associations, including corporation and labor unions, professional and residential associations, and even families and friendship circles.”\(^{19}\) Despite these differences, deliberative democrats seek public well-formation through reason and justification.

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17 Habermas, *The Inclusion of the Other*, 248.


19 Gutmann and Thompson, *Why Deliberative Democracy?*, 32.
Deliberative democracy encourages citizens and representatives to construct the public will by discovering and evaluating other views. Amy Gutmann and Dennis Thompson believe that deliberation allows us to go beyond our interests and belief systems. Because “few people are inclined to be wholly altruistic when they are arguing about contentious issues of public policy,” the deliberative process “[encourages] participants to take a broader perspective on questions of common interest.” Deliberative democracy uses citizen and representative argumentation to shape the public will, or a public conception of the good. Thoughtful involvement and an intersubjective approach to opinion-making make political outcomes more accurate reflections of public will.

Open Ballots and Public Will

Republican, communitarian and deliberativist thought each approach politics from a community-oriented point of view. In these conceptions, the public interest is shaped through an intersubjective process of communication and concern for the polity. Each theory may show tendencies toward different political processes and voting rules, but within each of them we can begin to see a distinct tension with the atomized politics of the secret ballot. Because politics is not merely a process within a single individual, but one of public interaction, the method of political decision should be similarly public. A distinction between open discussion and private voting weakens the idea that we act as a political community. A unified political process of discussion and voting offers continuity and a clear indication that our deliberations will shape the political outcome.

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20 Gutmann and Thompson, Why Deliberative Democracy?, 10-11.
The secret ballot creates a fundamental disconnect in the political process that damages the goals and benefits of deliberation. Discussion, articulation and sharing stories are public acts which are meant to serve a substantive purpose in will-formation. But by making politics a distinct two-step process, public will-formation and private voting, discourse loses its significance. A secret ballot establishes an element of distrust between citizens, a suspicion that privacy will provide cover for individuals to vote in a way that is best for them. In the interactive theories, voting should authorize political power based upon publicly developed or understood ideas. Public discussion becomes a superfluous activity if citizens do not have faith that it will matter when decisions are made. Although some voters may be receptive to new ideas and arguments, the only way to gage whether citizens vote their professed values or not is to make the process an open one.

An open ballot is not merely compatible with these theories in the procedural sense of politics, but also in the normative goods associated with them. Hannah Arendt places great emphasis on the public aspect of political action because citizens can display courage, glory and other civic virtues. The publicity of political action can also inspire cynical or corrupted citizens to remain loyal to public ethics and the search for the public good. Arendt notes that political action has an “inherent tendency to disclose the agent together with the act, action needs for its full appearance the shining brightness we once called glory, and which is possible only in the public realm.”21 By using speech, action and votes, whether on the winning or losing side, we can fully represent our ambitions for the public good. Standing for a political cause heightens the quality of our political community and its ideas, as well

as raises our self-worth as a contributing citizen. To be identified with one’s action gives the individual citizen moral depth and political courage that would otherwise be unavailable with a secret ballot.

Arendt makes a second point about speech and action which the secret ballot prevents – action loses its coherence without speech. By disconnecting discussion and voting, the latter act loses its substantive content; the words used to justify our position are lost. A vote is a one-dimensional entity, it cannot fully express the intricacies and nuances of our political attitudes. As the preeminent political act in democracy, voting can “[become] relevant only through the spoken word in which [a citizen] identifies himself as the actor, announcing what he does, has done, and intends to do.”22 A simple, anonymous “yes” or “no” vote is incapable of expressing any of these things. Disconnected from speech, the act of voting cannot clearly express to a representative or another citizen what we think about issues, policies, candidates or political parties.

It might seem silly to place a “comments” box next to each line on a ballot, but this would be one step closer to fully informing representatives of what citizens expect when they grant political authority. For example, haughty politicians should know that they were elected simply because the voters picked the lesser of two evils. By contextualizing their vote, citizens would be able to better articulate their expectation of leaders and ambitions for the political community. Otherwise, the transfer of political authority sends politicians an incomplete, black-and-white, expression of will. Even if politicians and political parties are thought to aggregate

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interests and ideas, unique individual perspectives and nuanced opinions are lost in the immensity of mass politics.

Thus, anonymity in voting damages a interactive process of will-formation. An open ballot would reconnect what are essentially two very different aspects of the political process – will-formation and voting – and make them each more meaningful than they were before. A contextualized vote has both intrinsic and instrumental worth. First, the voter is able to stand, speak and act publicly to justify his or her values. Second, policymakers and fellow citizens can then fully understand and react.

Liberalism

The need to focus more intently on liberalism comes primarily from its privileged place in American (as well as Western) politics and government. Although the American political tradition has distinct strains of liberalism and republicanism dating to the founding and early years of the Constitution, the liberal tradition grew progressively more dominant. Liberalism, however, is a wide-ranging philosophy that encompasses a number of theories. While they are distinct theories, political liberalism and economic liberalism are to some extent “mutually reinforcing,” and are certainly factors in the shaping of American attitudes toward politics and government. These two liberalisms will be treated separately in this section, but it is relevant to keep in mind the overarching similarity that I seek to highlight: each form of liberalism is largely harmonious with the secret ballot. The third liberal theory I discuss, the political thought of John Rawls, may better suit open ballots.

24 Russell Hardin, Liberalism, Constitutionalism and Democracy (New York: Oxford University, 1999), 8.
Political Liberalism

Political liberalism, beginning with John Locke, “rejects the idea that society should be politically ordered in such a way as to realize a particular vision of the appropriate moral ends of human life.”\textsuperscript{25} It does this by creating a distinction between public and private life, and maintaining those distinctions through a set of rights. In private life, citizens can pursue their own religions, financial interests, moral goods, friendships and terms of association. Individual rights, like freedom of religion, give citizens “the protection of the government [and from the government] as long as they pursue their private interests within the boundaries drawn by legal structures.”\textsuperscript{26} In political liberalism, the primacy of the private sphere is extremely important. In a liberal political system, it is “what is done under such a government by private agency that is the beauty and the good of liberalism.”\textsuperscript{27}

Political authority should not act on behalf of a single group’s moral ends because it may violate the rights of other citizens to pursue their moral good. To prevent this type of situation, political liberalism guarantees a broad private sphere for citizens to seek their ends and interests. In this way, “political liberalism is a response to moral pluralism. It does not break with the ideal of truth, but it seeks to build moral and political community only on those truths that can be and are shared by all its members.”\textsuperscript{28} Yet political liberalism does not have the kind of robust public sphere where citizens should seek out one another’s views. This is a reason that political liberalism is often criticized, its citizens are “rights-bearing citizens,” who

\textsuperscript{26} Habermas, \textit{The Inclusion of the Other}, 240.
\textsuperscript{27} Hardin, \textit{Liberalism, Constitutionalism and Democracy}, 6.
\textsuperscript{28} Moon, 8.
can enjoy liberty without feeling particularly compelled to engage in public action. Public talk and discovery other views, in liberalism is generalized, or dispersed in civil society. As J. Donald Moon notes, “Political liberalism is deeply committed to overcoming injustice and creating a community whose norms are affirmed by all its members. But it has no formula to guarantee that result.” The privileged place of the private sphere prevents liberalism from imposing this formula on the community.

Thus, even though liberalism has a community-wide value, justice, citizens are not compelled to seek it out. As we shall see, people tend to see the public/private distinction and their set of rights as a justification for keeping even their politics in the private sphere.

In a study of the deliberative habits of American (and British) voters, researchers found that “many of [the] discussants had a strong sense that their stands on public issues are fundamentally private matters.” There are a number of compelling arguments that such an individual on the basis of privacy. For example, if an individual’s political beliefs are based on an unpopular religious doctrine, he or she might avoid political discussions as a matter of religious privacy. These individuals see political discussion and involvement as voluntary activities; they may participate as much or as little as they like. Ultimately, rights to privacy and expression (and therefore, non-expression) permit them to conceal their perspectives. Some of Mill’s thoughts on personal autonomy might support this idea. Mill notes our opinions and beliefs are part of the “inward domain of consciousness,” they are not

29 Habermas, *The Inclusion of the Other,* 240.
30 Moon, 101.
31 Conover, Searing and Crewe, "The Deliberative Potential of Political Discussion," 54.
subject to criticism from others. We might then believe that we have the freedom to hold back our political ideas from others, inasmuch as our beliefs are products of our individual thought-process or moral belief systems.

Perhaps citizens who do not want to disclose their political beliefs are not merely asserting a right not to speak because it is not any one else’s business. The “right to my vote and my views” attitude may be a way for people to defend themselves from negative social effects. They may genuinely feel that such expressions can damage their private relationships. This kind of reason for declining to talk about politics gives us a more tangible example of how the secret ballot supports political liberalism in its defense of the private sphere.

A citizen in a liberal society may hold back political expression to keep his or her opinions from being known by a number of people, perhaps most pressingly, his or her employer, religious group, family or social circle. Power structures, whether they are legal, social, economic or familial, might be the underlying reasons some citizens would not want their views to be known to the general public. A personal example may better demonstrate this point. While campaigning for a local congressional candidate, I was told by one voter that, although she strongly supported the candidate I represented, she would not post a campaign sign in her yard, saying “I like to stay friendly with my neighbors.” She perceived a political lawn sign as a potential source of conflict. Whether she was concerned about the social effects, or retaliation against her property, she figured a sign might harm her normal, neighborly relations. In highly partisan political climates this might be a very common reaction.

33 While Mill is not a political liberal, his thoughts here provide an interesting justification for keeping political views, like our other thoughts, private.
By guarding our ideas about public policy as private matters, we acknowledge that our views might negatively or unnecessarily hurt an important aspect of our lives.

If the government were to require that the votes of each citizen be published in an almanac, would this be a violation of the distinction between private and public life? When it comes to voting, where is the line? When our political beliefs differ from other citizens who are important to us somehow, voting privately gives us a means to vote our conscience without fearing retribution or estrangement. A private voting booth allows citizens to stay true to their own principles; they do not have to consider the social consequences. A recent example concerning religious membership and abortion rights exhibits the tension between private association and political stances. In 2004, presidential candidate John Kerry was warned by a number of Catholic bishops that, as a supporter of abortion rights, he could not take Holy Communion in their churches. If we were to expand Kerry’s dilemma to the entire electorate, we can see how open ballots might result in a number of conflicts between public policy and private religion. The result could potentially be many empty pews or many empty polling places, neither of which would be a desirable outcome under liberal democracy.

The last three decades of American politics have been marked by an increasing tension between religion and politics. The potential conflict between these two spheres could become such that participation in one might become mutually exclusive with the other, or perhaps more drastically, people might start voting exactly how their churches expect them to. The secret ballot serves as a buffer
between the political leanings of a congregation and the actual votes of its members; strong religious affiliation and freedom of conscience can coexist.

Such tensions are not limited to confessional concerns. Similar situations are imaginable in other aspects of daily life. If an individual’s employer leans toward one political party or candidate, an employee may fear termination or mistreatment for voting the other way. Meanwhile, voting for a perceived racist or sexist candidate may make for uncomfortable work relations, or send quite an unwelcoming message to the new minority family in the neighborhood. In extreme cases, our general well-being and livelihood could be threatened, depending on the level of controversy.

These examples above, about religion and employment, reveal the complicated relationship between politics and private life. Just as political liberalism does, the secret ballot provides a buffer between the political and private spheres. When some voters say that it is their right not to share their political views, they might be expressing a valid concern for their career, friendships, church affiliation, union membership or even personal safety. The secret ballot and right to “political privacy” allow other areas of life to remain free of political controversy or perceived hypocrisy. Through this, we can see how the secret ballot is well-suited to political liberalism and its public/private distinction.

_Economic Theories of Liberalism_

In an aggregative democracy, each citizen’s interests are weighted equally in “the understanding that adult members are the best judges and most vigilant defenders
of their own interests.” In an election, each citizen registers his or her preferences, which are equally weighted with other citizens’, and the aggregate of preferences becomes the political outcome. Aggregative democracy rests on the same premise as economic liberalism. Individual actors will respond to shifts in the political system as if it were a market. Political parties, candidates and policies that best fit a citizen’s set of preferences, interests or beliefs receive his or her electoral support.

Comprehensively, by winning majority or plurality support, victorious parties and candidates will shape institutions and policies in accordance with the aggregated public will.

Theorists who support this model contend that it efficiently turns individual preferences into collective action. Joseph Schumpeter argues that democracy is fundamentally limited in its ability to bring citizens to agreement. He suggests that communicative politics and public deliberation are not as transformative as other thinkers believe, saying: “Rifts on questions of principle… cannot be reconciled by rational argument because ultimate values – our conceptions of what life and society should be – are beyond the range of mere logic.” For Schumpeter, aggregative democracy allows us to bypass the complexity and impossibility of trying to find common agreement. Because each citizen has his or her own values and interests, trying to find a robust, agreeable public conception of the good is likely to fail or be too difficult to undertake. Therefore, secret ballots are well-suited for aggregative

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democracy; the theory presumes that citizens vote in favor of their individual beliefs and interests, so voting as an individual is not problematic.

The following example, however, raises doubts about Schumpeter’s conclusion. Imagine that there are two voters waiting in line at a polling place and three candidates running for governor of their state. Voter A is from a working class background and it is in her interest to vote for the populist candidate who promises income redistribution. Voter B is relatively wealthy and sees it in her interest to vote for the candidate who wants to cut taxes on high incomes. Let us assume that there is a middle-of-the-road candidate who seeks to balance the interests of the privileged and underprivileged. There is broad consensus that he is the best candidate because of his balanced approach. Assume that Voter A and Voter B agree that he would be best for both of them; neither woman would stand to gain or lose much from him winning. Each woman promises the other that she will vote for him. Yet when each woman goes to vote by secret ballot, she cannot be sure that the other will vote for this middle ground candidate or be a “rational actor” and vote in a self-interested way.

The suspicion that others will vote at your expense might cause you to vote self-interestedly. The secret ballot functions as a large-scale, complex version of the Prisoner’s Dilemma game, where no one can be sure whether others will seek their own interest or do the socially beneficial thing. This raises an interesting point about aggregative democracy. If our two voters, A and B, had to vote in front of one another, would they vote for the moderate candidate? Because it causes distrust, is the secret ballot the cause of rational-choice voting? The secret ballot makes any agreements reached before voting tenuous at best. Participants cannot be sure that
their promises will actually be carried out in the voting booth. Thus, we might wish to revisit Schumpeter’s assertion about the impossibility of reaching agreements. Perhaps citizens can find consensus on issues, but act in their rational interest only because they cannot trust each other. If aggregative democracy is a normative vision, where people should vote based on their own interests, there is no tension with the secret ballot. But if citizens can reach agreement, and the community believes this is good, the secret ballot destabilizes these agreements by creating mistrust.

**Rawlsian Liberalism**

John Rawls’ approach to political liberalism is distinct because justification of political authority is essential. Like other political liberals, Rawls tries to accommodate pluralism in society with a form of justice, or neutral principles, that competing moral doctrines can accept. But in his vision, relations between citizens proceed from a basis of mutual respect and acceptance of political equality. Citizens must recognize the shared nature of public power. Like the interactive theorists, Rawls imagines that citizens would seek out the claims of the community to make decisions about public authority and justice. He suggests citizens must be capable of bracketing their comprehensive doctrines, their religious or moral belief systems, when they enter the public sphere. Thus, the public sphere is not a place of aggregated individual wills, but a site of public dialogue between people of different moral doctrines. On decisions regarding public authority, “We must justify our use of our corporate and coercive power… in the light of public reason.”

Arguments must be based on what we discover in the public sphere, not our private beliefs.

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In Rawls’ system, justification and will-formation would be frustrated by the secret ballot; citizens would not have to publicly account for their vote, and could vote based on their own moral doctrines rather than the publicly-developed concept of justice. As a liberal, Rawls fears that public authority will be used to seek the ends of a particular comprehensive doctrine, so public action must be justified. Rawls suggests that citizens have an obligation to consult the public sphere and pursue justice. Friction between politics and the private sphere may be common, yet this does not mean that we are free from justifying our public actions with public principles.

**Open Ballots and the Public Justification of Power**

For the most part, these three theories of liberalism do not give us a unified answer about the suitability of the secret ballot. While Rawls’ theory suggests that politics should remain in the public sphere, political liberalism and aggregative democracy are each compatible with the secret ballot. In political liberalism, the secret ballot allows citizens to prevent their political beliefs and freedom of conscience from interfering in their private lives. Unfortunately, this correspondence between the secret ballot and political liberalism, however, may give rise to political privacy.

In Chapter 1, we discussed two views on the right to vote, an individualist and non-individualist conception. Republicanism, communitarianism and deliberative democracy each seek a non-individualist interpretation of voting. Although all citizens have the right to vote, the vote was not given to individuals for their own use, but to pursue self-government for the community. A process of collective self-
understanding or deliberation will create “thick” public will, made up on various opinions about the good of the community. In contrast, political and aggregative liberalism do not have strict expectations for how citizens will use their vote, and ultimately accommodate an individualist conception of voting. Political liberalism’s emphasis on absolute rights and a strong private sphere do not accommodate a thick public will because citizens claim a right to political privacy. According to Habermas, “Individual private rights safeguard a sphere in which private persons are absolved of the obligation to account publicly for everything they do.”

Thus, Mill’s anxiety about the secret ballot – that it would steal public accountability for power – is realized under political liberalism. Mill, like Rawls, believed that political authority should not be used arbitrarily for any particular person’s moral or personal interests. Yet, with secret voting and political privacy, Americans are now unaccountable to one another in justifying public power.

Although we have seen the tension between some forms of liberalism and a demanding public sphere, I would suggest that individual freedom is not inconsistent with political discussion and the open ballot. By better understanding some of Mill’s political theory, we can discover how both individual liberty and public duty are priorities in his theory. His arguments about the secret ballot give us a larger picture of how we might come to see voting and public life differently, yet consistent with principles of freedom.

Mill’s central concern was that the right to vote would become something “owned” by each individual. Everyone could vote however they please, free from justifying their vote to any power or person. The presumption that we may vote

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37 Habermas, *Between Facts and Norms*, 313.
freely, and go unquestioned by any person is a dangerous principle. What if an
oppressive majority wins an election and refuses to give a reason for their actions?
Would the minority want to continue to live in this kind of democracy? Can we say,
as a matter of principle, that no citizen, under any circumstance, must justify their
vote? No, living in a democracy means sharing public power, and sharing justification
for its use. Voting must normatively be considered a public act or an act in the public
interest because of the coercive powers that result from it, as Rawls notes. We cannot
claim the right to the vote as a way of advancing our own moral doctrines. If we
imagine voting as a trust, as Mill does, we can distinguish why voting is not fit for the
private sphere. In his discussion of voting, he notes that

In whatever way we define or understand the idea of a right, no
person can have a right… to power over others; every such
power which he is allowed to possess is morally, in the fullest
force of the term, a trust. But the exercise of any political
function, either as an elector or as a representative, is power
over others. Those who say that the suffrage is not a trust, but a
right, can scarcely have considered the consequences to which
their doctrine leads.38

But how else can the right to vote be understood? Each citizen has a vote and
can use it in the decision-making process. Yet for Mill, the fact that each citizen has a
vote does not prevent other citizens from having a voice when he or she casts it.
Urbinati explains how mill believed we can have the liberty of our vote, but not as
something that we selfishly own.

Mill realized that a discursive approach to politics demands a kind of
liberty whose is interaction and cooperation without necessarily
excluding interference. A free and open process of consent formation
occurs among individuals who exchange, influence, and thus

38 Mill, Considerations on Representative Government, 113.
‘interfere’ with one another’s opinions, but who do not perceive this as amounting to a lack of liberty.\textsuperscript{39}

Political privatism has no place in Mill’s conception because collective liberty requires citizens who engage with one another, giving and demanding reasons for public power.

Each citizen may have an individual vote, yet we must realize that political community is made possible only by the common recognition of individuals within it. If government is instituted to “preserve and enlarge freedom” that humans have prior to the state, voting should not be considered a natural right of man in the same way that we might consider property or expression a natural right.\textsuperscript{40} The franchise does not exist prior to politics. Thus, in the Lockean sense, we cannot claim a right to something we never had before consenting to live as political beings. An election is an inherently public convention, and only premised on living within a social context. Although the individual may be seen as the best protector of freedom, a voter should defend freedom in principle, and not merely from self-interest.

If we take make the secrecy of a vote a maxim, we may then legitimize an outcome that denies some citizens’ basic rights without explanation. Public discussion and voting allows people who feel oppressed to appeal to other citizens. A polity that loses its sphere of public justification will become estranged from itself; coercive force will seem puzzling or arbitrary. The danger of the secret ballot, political liberalism and aggregative democracy is that each presumes the individual is

\textsuperscript{39} Urbinati, \textit{Mill on Democracy}, 1.
the most important unit in political society. Yet, ultimately, they do not compel individuals to reach out to one another as political actors or holders of mutual power.

The interactive democratic theories point to an open ballot because self-government means seeking out others to create the public will. But public deliberation can only be truly meaningful or transformative when connected to a voting process which is also public. Continuity between acts of politics allows citizens to form an active link between public will and action. Liberalism provides a more complex case than other democratic theories, but ultimately, I would argue that even the public/private distinction implies a public place for certain activities, and the public reasoning between holders of political power must be part of this sphere. Open ballots maintain the public nature of self-government. Citizens must realize that the great collective power they hold over one another comes with the great responsibility to justify the use of power.

From this discussion of many democratic theories, we shall turn to the specific ways that a deliberative conception of democracy, with open ballot, provides accountability and rich public process of decision-making.
THREE

Exploring Open Ballot Democracy

Does a citizen have the right (or duty) to question another about his or her vote? Can we successfully live in a society where political dialogue engages—not just policymakers and vocal citizens—but each and every voter? From the perspective of an “open ballot democracy,” the answers are each an emphatic “Yes!” Through interactive theories of politics, as discussed in the previous chapter, we can see how political outcomes depend on processes that are broadly intersubjective. Through the rest of this thesis, open ballot democracy will be depicted as a form of deliberative democracy. Although I have distinguished deliberative democracy from political liberalism, it is a broadly liberal theory in which rights are important preconditions for discussion. Seyla Benhabib notes that it shares with the “liberal tradition the assumption that moral respect for the autonomous personality is a fundamental norm of morality and democracy.” Thus, as I hope to show, open ballot democracy is not an illiberal or coercive theory of democracy. Rather, it relies on the notion that free citizens reasoning and making decisions together can maintain respect for individuals and bonds of community.

Within a deliberative framework, the open ballot plays an important role in creating and sustaining public dialogue. By encouraging justification and the use of public reasoning, open voting strengthens democratic legitimacy and deliberation. The ideas elaborated in the first half of this chapter, citizen accountability, agreement

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1 Benhabib, "Toward a Deliberative Model of Democratic Legitimacy," 78.
and transparency, shall help complete a picture of what an open ballot democracy might look like and explain its benefits for political communities.

The content of this chapter envisions deliberation and decision-making on a fairly theoretical level. In the following chapter, I will discuss a more realistic, measured approach to open ballots. For now, it is best to imagine discussions and decisions happening between small groups of citizens, like a neighborhood association or town meeting. In order to better frame this chapter, a few initial principles must be discussed.

Notably, citizens are imagined to discuss political issues rather than the election of representatives. This is done to insulate my discussion from questions concerning representative theory, such as the debate on whether representatives are considered trustees of the public good, or delegates of those they represent. More importantly, single issues allow voters to discuss topics in more complex ways than merely being “for” or “against” something, as they are for specific candidates.

In order to understand how open ballots create a seamless process of decision-making, by integrating deliberation and voting, I must first elucidate how decisions would be made in such a system. Jane Mansbridge presents two types of decision-rules common in democracy, majority rule and consensus. Majority rule is a quantitative method that measures each vote equally, in order to produce a decision, even when interests conflict. In contrast, consensus is “a form of decision making in

\[\text{footnote}{\text{2 See Hanna Pitkin, } \textit{The Concept of Representation} (Berkeley, CA: University of California Press, 1967), 112-143.}
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\[\text{footnote}{\text{3 Majority rule is used in what Mansbridge calls adversary democracy, whereas a consensus approach is favored in unitary democracies. (I shall have probably introduced these terms in an earlier chapter, perhaps incorporating them into my Ch. 2 discussions of aggregative democracy and communicative politics.)}
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which, after discussion, one or more members of the assembly sum up prevailing sentiment, and if no objections are voiced, this becomes agreed-on policy." Groups use this model when they anticipate general agreement. The kind of process I propose falls between these two approaches and appropriates the advantages of each.

The weakness of strict, procedural majority rule is that it tends to validate majority sentiment with too much ease and insufficient public scrutiny. Using majority rule, members of the political community can move forward with a vote before substantive deliberation takes place. Thus, even though majority rule can provide fair outcomes by quantitative measures, it raises important objections from a deliberative perspective, which desires that political results come from at least some communication, and not merely procedure. Being that the purpose of open ballots is to produce greater public reasoning, a strict adherence to majority rule, in which the majority proceeds without adequately justifying its choices, does not offer a substantially improved community dialogue.

On the other hand, a consensus approach tends to obscure the differences in peoples’ positions and may privilege the “need” for consensus over a potentially conflict-ridden debate. The concern here is that an individual against a proposal that seems widely popular may not have good reason to raise his or her voice in

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5 Considering the association between majority rule and the secret ballot in adversary democracy, it is no surprise this is so.
6 When majority rule takes priority over discussion, it violates important aspects of deliberative democracy, such as the priority of communicative action over procedural efficiency. Iris Marion Young discusses this very clearly: “The goal of deliberation is to arrive at consensus; even when this is not possible and participants resort to voting, their result is a collective judgment rather than the aggregate of private preferences.” I would note that her formulation differs from mine slightly, inasmuch as I would suggest that voting be required (for reasons explained above). Iris Marion Young, “Communication and the Other: Beyond Deliberative Democracy,” in *Democracy and Difference: Contesting the Boundaries of the Political*, ed. Seyla Benhabib (Princeton, NJ: Princeton University Press, 1996), 122.
opposition. If my position on an issue is part of a small minority, but I also value the consensus of the group, I may not speak up. But if I know a vote will be taken and my opposition will be registered that way, I might be more willing to explain my vote. Thus, while the process and goal of consensus is valued, voting is a more formal way for citizens to register their support or opposition. This middle approach I propose, what I will call “inclusive majority rule,” would seek agreement through discussion, but in the end require an open vote so that those who dissent do so formally, and are not merely overlooked by a rush to decision or an emphasis on consensus. Inclusive majority rule implies a greater level of discussion and back-and-forth argumentation than simple majority decision-making.

**Citizen Accountability**

The concept of accountability is widely discussed in representative theory. Accountability means that someone “will have to answer to another for what he does.” In representative government, citizens use elections (or other means of removal) to ensure that an individual entrusted with political power will face consequences for not performing his or her duty in a satisfactory way. Simply put, the “principle of accountability specifies that officials who make decisions on behalf of other people” must give public, justifiable reasons for their actions. In representative theory, the concept of accountability comes from the fact that the will of the people is being enacted through someone bound to the community. Yet the concept of

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8 Pitkin, *The Concept of Representation*, 55.
accountability should not be applied only to those who represent other citizens; citizens must also justify the use of political power. While voting, the peoples’ choices bind one another to the outcome of an election; they authorize government to use the power of the community. Whether voting on a referendum or for a representative, citizens make choices that affect the entire community, and those votes should accordingly be explained or given context, so that other members can understand them. As discussed in the previous chapter, communicative democratic theories call for public reasoning and justifications for the use of political power to legitimize outcomes, and inasmuch as all voting citizens are political actors, justification should extend to citizens as well. Although common citizens are not representatives in the typical use of the word, the actions of the political community represent all members, regardless of whether one was in favor of or against the outcome of an election.

When citizens ask one another to explain their votes, they are asking critical questions to ensure that political power remains in the public sphere. This is the principal reason for having “citizen accountability” — it upholds the notion that the use of power itself must be held accountable. If the decisions of a group of voters can have a coercive effect on the whole community, to pay more taxes or register for military service, for example, how can others ensure that such decisions are not arbitrary, that they are backed by public reasoning? Open ballots allow citizens to question one another and come to understand how and why political power or public policy is constructed in a certain way. The loss of accountability was a vital reason Cicero and Mill cited in their opposition to secret ballots. For Mill, voting “should be
performed under the eye and criticism of the public; every one of whom has not only interest in its performance, but a good title to consider himself wronged if it is performed otherwise than honestly and carefully."\(^{10}\) Mill’s non-individualist conception of voting is rooted in the need for justification. Despite his commitment to autonomy in the private sphere, he “could not subject [voting] to the same principle that governed individual life.”\(^{11}\) Public acts require open justification and reasoning that is rooted in a thoughtful conception of good or justice, not poorly considered whims or private ambitions. These latter are the types of attitudes toward voting that Mill wishes to prevent.

Yet the idea that citizens have a duty to answer to one another, though it may bring about more justification and thoughtfulness, requires critical exploration. How can we successfully protect individual perspectives while also upholding careful, community-centered justification? For citizens of most democratic polities,\(^{12}\) accountability does not have the consequences that it connotes for representatives; we are never up for reelection to the polity. In a democratic community, should citizens lose their voting rights if they are unwilling to justify their choices? Perhaps, normatively, yes. If a citizen wishes not to vote at all, this does not pose a problem. He or she is not seeking to affect public authority. Yet an individual who wishes to

\(^{10}\) Mill, Considerations on Representative Government, 114.

\(^{11}\) Nadia Urbinati explores the contradiction between Mill’s desire for justification and his commitment to personal liberty. She notes that these values do not conflict in the public sphere. The autonomy he discusses in On Liberty, relates to the individual and his or her ability to act freely, so long as it does not harm others. Voting, however, given that it can cause harm, is not merely a private concern. Urbinati, Mill on Democracy, 111.

\(^{12}\) In Greece, citizens were held accountable for a decree they sponsored “if it violated an existing law, was procedurally flawed, or was deemed damaging to the interest of the people.” Even if the law passed and yet was later judged unconstitutional, they could be prosecuted. In the fourth century B.C, this method of accountability, graphe paranomon, was used as a method of political attack or a weapon for personal feuds. See Jon Elster, "Accountability in Athenian Politics," in Democracy, Accountability and Representation, ed. Adam Przeworski, Susan C. Stokes and Bernard Manin (Cambridge, UK: Cambridge University Press, 1999), 253-278.
vote but not give a public account for why he or she would dispose of public power in a certain way should not be able to mutely enact that vision. This assertion might seem downright alarming to those who see the right to vote as a fundamental individual right. But in an ideal polity, where individuals are free of threats, is it too much to ask that there should be a balance between an individual’s right to vote and the public’s right to justification?

Although Mill does not specifically address required justification as a formal procedure, he attempts to weigh the individual and collective interest in the vote, saying “The suffrage is indeed due to him, among other reasons, as a means to his own protection, but only against treatment from which he is equally bound, so far as depends on his vote, to protect every one of his fellow citizens.”\textsuperscript{13} The fact that citizens have an individuated right to vote should not shield them from the idea that they hold one another’s liberties, duties, property and – in certain cases – lives in balance when they vote. We hold representatives accountable because they hold political power over us; they represent our sovereignty. But in very similar terms, we hold power over one another, and though we act as individuals, there is a responsibility to recognize that we each exercise a part of the collective power. To put the issue at hand in Kantian moral terms, can all members of a political community will that individuals be free to make decisions without regard for others or the greater community? In a democratic system of rights, liberties and collective sovereignty, the clear answer is no. The vote is sometimes considered a means for individuals to protect their liberties, but Mill critically reformulates this idea, saying “power over others… is morally, in the fullest force of the term, a trust” and that “the exercise of

\textsuperscript{13} Mill, \textit{Considerations on Representative Government}, 113.
any political function, either as an elector or as a representative, is power over others.\textsuperscript{14} The vote should not merely be conceived in individuated terms; its power makes it a fundamentally public affair. Realistically, however, legally mandating that those who vote must remain accountable and justify their actions might either infringe on citizenship rights or simply be ineffective. Thus, although the idea of accountability has a legitimate political claim to make, can we mandate accountability?

A central problem is how to judge what an appropriate public reason is. Is there a minimum level of public justification that each citizen should give in order to be able to vote? If a majority were to set the standards of justification very high, they could easily disenfranchise members of the community who are not able to adequately articulate their views or find public speech particularly difficult.\textsuperscript{15} Yet, if standards were set too low, justification might simply be inconsequential. What is to stop a person from merely mimicking the reasoning given by their friends or political allies?\textsuperscript{16} Thus, even if it were ideally right to compel justification, the concept has its limits; it could either diminish political equality, or, perhaps, not even be effective at truly engaging the public. Nevertheless, I would argue that open ballots and accountability could move citizens to respond to one another and deliberate naturally, without having unfair effects.

\textsuperscript{14} Mill, \textit{Considerations on Representative Government}, 113.
\textsuperscript{15} Jane Mansbridge notes that, while a political community may embrace free speech and “openness,” some citizens are going to be better than others at public argumentation or commanding the agenda. See \textit{Beyond Adversary Democracy} (New York: Basic Books, 1980), 116.
\textsuperscript{16} This does not rule out the possibility that citizens might defer to friends or other people who have more information or know a particular issue very well. Yet those who defer to others should have a reasonable justification for doing so, they should not simply imitate an argument because they had not cared to study an issue.
The knowledge that one’s vote will be scrutinized by others will give each citizen a greater reason to base his or her vote on public reasoning. In addition, by using public principles to justify their view and persuade others, citizens have the opportunity to transform opinions and gain allies. With secret ballots, we can remain behind the veil of the voting booth, choosing not to disclose our reasoning. We can base our vote on whatever we wish. With open ballots and an expectation of accountability, citizens would have a vital opportunity to show that their argument is compelling and how it ties into persuasive perceptions of the public good. Mill declares that “To be under the eyes of others – to have to defend oneself to others – is never more important than to those who act in opposition to the opinion of others, for it obliges them to have sure ground of their own.”\(^{17}\) Civic privatism helps people avoid conflict, but it also directs voters away from potentially transformative political discussions. If an individual votes in favor of a ban on affirmative action and, when called to account by a fellow citizen, remains silent, she declines to engage in a process of public reasoning that can transform opinion. In an open ballot democracy, challenges to one’s vote are ideal opportunities to engage other citizens. Voters have good reason to see their fellow citizens as prospective allies, not political adversaries. When the stakes on an issue are high or a polity is clearly divided, the knowledge that one’s vote will be known to all might inspire voters to think more seriously about their reasons for voting a certain way, and encourage them to explain their vote.

More importantly, perhaps, is the type of political and social life envisioned in open ballot democracy. In imagining open ballot theory as a form of deliberative democracy, I use the expansive vision for deliberation that is supported by

\(^{17}\) Mill, *Considerations on Representative Government*, 118.
This form of deliberative democracy – sometimes called associative democracy – suggests that deliberation should not be limited to occasional town meetings. “Because most citizens live most of their lives in civil society outside of conventional politics,” these deliberativists “seek to… better equip citizens to deliberate in politics.” Some of these issues will be discussed more thoroughly in the following chapter, but it is essential to point out that deliberative democracy depends on citizens who are accustomed to deliberative decision-making or organization through pseudo-government bodies, neighborhood groups, civic associations or their workplaces. It is insufficient to simply assert that people will use the opportunity to justify their vote because they wish to change someone’s mind. Rather, they would do so as active citizens in an ongoing social and political system where discussion is valued.

To this point in the discussion of accountability, I have not yet given it a certain place in the chronology of deliberation and voting, but there is an important reason I have not done so. We might expect that, after an election, citizens will approach one another and ask why they voted in a certain way, questioning them and holding them to account. This more traditional, post-election setting for accountability is important, but, as implied above, is important because it changes the entire political process. While accountability seems to occur only after an election, it actually alters citizens’ total approach to voting and deliberation. Accountability has the same effect on representatives as it does to citizens. Representatives are affected

18 See page 27.
19 For more on associative democracy, see Cohen, "Procedure and Substance in Deliberative Democracy," 110-113.
20 Gutmann and Thompson, Why Deliberative Democracy?, 35.
by accountability all the time, not merely during elections. Hannah Pitkin notes that the real good of elections “is not in the controls or accountability which they impose on the representative; those are merely a device, a means to their ultimate purpose, which is a certain kind of behavior on the part of the representative.”

With open ballots, the effect would be on the behavior of voters, whose political choices have become part of ongoing public discourse. Although an election might lead to a political settlement for the time being, the intervening period creates a new opportunity for political discussion and changes in political opinions leading up to the next election. Consequently, citizen accountability should not be seen as one simple aspect of open ballot democracy, but the cardinal feature that promotes public justification.

This is not to say that the concept does not have certain problematic elements. First, a generalized idea of accountability does not explain exactly who questions whom. Who cares how you or I, in particular, vote? Who are we accountable to? Would our family members, neighbors, employers, coworkers or coreligionists be most likely to ask for our justification? It is very likely that groups or individuals that hold strong social or economic influence in our lives would be most interested in how we vote. Considering the argument for secret ballots, this fact presents a grave threat to a citizen’s willingness to vote differently from the important people or associations in their lives. Thus, while the theory of accountability might seem normatively positive, a possible result of open ballots would be that certain individuals would face more intense pressure than others. Open ballots might make

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21 Pitkin, *The Concept of Representation*, 57.

22 These questions are examples of an ongoing inquiry of representative theory: What is the relevant constituency? See Ibid., 144-147.
them feel more accountable to friends than the general public. Would those with strong-willed families or employers have less political efficacy? Does this diminish political equality? An answer to this tension between the ideals of autonomous voters and open voting might be discovered in Mill’s political theory, which sought to protect individual perspectives.

The version of politics offered by Mill combines a “transformative” view of participation with a priority for autonomy. Although Mill believed that the privatized beliefs were a greater danger than “fear of consequences at the hands of others,” deliberative processes would allow citizens to develop skills of judgment, dialogue and persuasion. According to Urbinati, he also believed that through political education, individuals would build a political character capable of withstanding private influences. This republican conception of politics allows Mill to move forward with his argument for open ballots, in spite of objections concerning the power of certain groups. Thus, the ability to withstand social pressure was contingent on citizen education and a societal commitment to political equality. In her discussion of Mill and open ballots, Urbinati writes,

he opposed influence over people’s will when it occurred within a structurally hierarchical society, a society still shaped by forms of despotic relationships. His faith in the educational function of public communication should be considered alongside his mistrust of the Platonist top-down strategy of enforcing the good. Mill’s defense of the open ballot hinges on the… belief that communicative practice helps individuals control the external world and make their public life more secure and reasonable… [Communication] is the only nonrepressive political tool available to curb the selfish side of human behavior.25

23 Mill, Considerations on Representative Government, 115.
24 Urbinati, Mill on Democracy, 107-108.
25 Ibid., 115-116.
In Mill’s work, the importance of open ballots and public accountability outweighed the possibility that citizens would fall victim to pressure. He considered selfish interests much more dangerous. He also believed that a discursive political process would develop the type of citizenship necessary for citizens to say “no” to social pressure in favor of their political obligations. Therefore, while open ballots entail the possibility of coercion, the deliberative process they guarantee is the only way for citizens to learn to resist social pressure.

Yet even if people were to hold one another accountable fairly and respectfully, being held accountable might increase the stubbornness of individuals in admitting a mistake. If a citizen votes for a candidate who governs poorly or a policy that fails to achieve its goal, is he or she more likely to continue standing by their choice or disavow it? Jon Elster believes people would choose the former, saying,

> Suppose I vote for somebody and he turns out to perform badly. To vote against him next time around would be to admit I made a mistake. Even if I only admit it to myself, it’s still unpleasant. Thus, to avoid cognitive dissonance, I might persuade myself that he hasn’t done so badly after all and vote to reelect him. This is obviously a speculative argument. I am on firmer ground, I think, when asserting that we are reluctant to admit mistakes to others.26

Would open ballots make changing our mind about a candidate or policy even more difficult? With secret ballots, we at least have the ability to “cover up” our mistakes, even though Elster’s cognitive dissonance might set in. Open ballots make such admissions public business; rather than making the public more amenable to listening to different arguments and changing their opinions, they might ossify our positions for the sake of pride.

On the contrary, however, publicity could make some individuals more likely to change their position through association with others. Through discussion, people could discover that others share the same situation, feeling let down by a candidate or policy result. They could find solidarity in admitting to their “mistake” and voting to change course. Another factor to consider is that citizens use discourse and reason to pursue a conception of the public good. Citizens who participate in a public political process engage in a mutual search for a “judgment” rather than a personal “preference.”27 A citizen who is devoted to a public search for consensus – being open-minded and thoughtful about political choices – should not fear that his or her “bad” vote necessarily reflects poorly on him or herself. In a deliberative process, citizens respect one another for their approach to politics, not merely the correctness of their particular choices. Although stubbornness can be a true problem in politics, this is precisely the sort of trouble that accountability is for – to engage stubborn citizens and appeal to their sense of commitment to the public good. Admitting a mistake is easier when others can appreciate that there is respectable reasoning behind it.

Although accountability has considerable ability to induce public reasoning and thoughtful consideration, there are weak aspects that can limit its ability to get all citizens to engage in the discursive process. Yet the best way to combat stubbornness or the unfair social pressure is to ensure that a deliberative democratic process functions well. Political education, through a richly deliberative public and civil sphere, can make citizens autonomous and responsible political actors. Open ballot democracy does not come without its potential weaknesses. Citizen accountability

requires citizens to approach politics with more restraint and respect than with secret ballots.

**Deliberation and Transparency**

Underlying a deliberative theory of politics is the understanding that citizens will discover new ideas, perspectives and interests through face-to-face discussion. New information allows citizens to change their preferences, and, perhaps more importantly, to discover the preferences of others. Bertrand de Jouvenel postulates that in a graph showing intensity of feelings on a particular issue, most citizens would fall somewhere in the middle and do not feel very strongly about the topic, while the few citizens with very intense feelings would lay to the sides. The graph would have the general shape of a Bell curve. In an adversarial political system, the groups at the fringes are capable of creating noise and outside pressure in such a way that their small numbers have “multiplier potential,” and can bring enough support to their side to win on an issue. Jouvenel wishes us to “stress that the ‘majority’ notion is of no help here,” yet Jouvenel’s characterization, I believe is contestable.

Consider the issue of abortion in the context of current U.S. debates. There are a number of people on each side of the issue that have fervent opinions on the matter, but also a number of people in the middle who Jouvenel would call “less intense.” These people might be better characterized as “barely pro-choice” or “somewhat pro-life.” Most opinion polls point to a divide over abortion that covers a plurality of

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opinions, and it appears there is no majority of one opinion.\textsuperscript{30} Typically, these differences break down into component questions about parental notification, rape, incest, and which trimester(s) an abortion can be performed in. Yet due to a number of factors,\textsuperscript{31} the multiplier effect among them, the debate is framed as a “pro-choice/pro-life” binary. If citizens were to gather and discuss abortion thoroughly, to share their opinions and be open to new ideas, they would perhaps discover that the din of activists on the left and right actually misrepresent a significant middle ground on abortion. Deliberation allows citizens to discover one another’s preferences and perhaps build agreements on them.

An open ballot, deliberative process creates “transparency” between discussion and decision. As we saw above, in the section on aggregative democracy, pre-vote agreements are put in jeopardy if citizens cannot trust one another. In contrast to secret ballots, open ballots allow citizens to develop an agreement and see it enacted through a public voting process. An open vote frees the political process of, what Cicero called, “hiding-places.”\textsuperscript{32} Consider a town meeting where citizens discuss and generally seem to agree on a balanced approach to an issue. By using open ballots (or public voting), citizens can ensure that the principles discussed or agreements met while deliberating are affirmed by the vote. The knowledge that the entire political process is transparent helps ensure that the agreements reached by deliberation will not break down when a vote is taken.

\textsuperscript{30} See http://www.pollingreport.com/abortion.htm for a variety of polls showing the fractious breakdown of public opinion.

\textsuperscript{31} The two-party system should be considered a strong factor here. Within parties, the multiplier effect may have a greater effect. In the Democratic Party, for example, those who favor no limits on abortion may have disproportionate strength. They influence the party platform through organization and fervor, rather than large numbers.

\textsuperscript{32} Millar, \textit{The Roman Republic in Political Thought}, 165.
As discussed in Chapter Two, open voting also gives voters the ability to understand the context of each other’s vote, the principles they used to come to a decision. These contexts, the reasons a person did or did not vote a certain way, can serve as the basis for future agreements or revisions to a policy. For example, members of a town decide, by a close vote, to start a new program to stop drunk driving. Some of the voters in the majority express their wariness about the cost, but think the measure sounds promising. Two months later, the program is even more expensive than originally estimated. Those who were against the plan in the first place would seek out support from those who doubted it. A transparent political process gives members of the first-round minority enough knowledge about their peers to effect a policy change.

Reframing Disagreement

While political communication can encourage agreement, studies suggest that some political disagreements will survive deliberative processes. Minorities do not change their opinions merely to conform to the majority view. This fact is important in the discussion of open ballots for a number of reasons. First, it shows that citizens should expect to encounter continuous disagreements on certain issues. In some cases, it will be difficult to build a consensus-majority when feelings are strong and citizens are divided. Second, it notably shows how individuals maintain political independence, as discussed in Chapter 1. When differences are expected and tolerated, citizens will feel free to vote with their best approximation of the public good. These are the issues that I wish to explore here: how the “fact of disagreement”

should be perceived and coped with in a society where political difference pervades
the public sphere. How should the polity proceed when citizens do not agree? Can
conflicting morals be accommodated without compromising values? What qualities
of citizenship will enable democratic government to flourish in spite of disagreement?
Open ballot democracy is not a method for “solving” the problems of pluralism.
Rather, as a form of deliberative democracy, it anticipates intense differences in the
hope that, even face-to-face, citizens will be able to acknowledge and address
political disputes with respect and fairness.

Differences of opinion are a norm of democratic life – where there are distinct
people, there will be distinct opinions. In contemporary America, the public is
accustomed to living with competition and cleavages, yet they are currently
channeled into secondary groups, like parties and interest groups. These groups
“organize disagreement along the lines of opposed political values and sensibilities,
and contribute to that competition which is one of the essential aspects of politics.”
This competition between parties is synonymous with disagreements between
citizens, and so the clash of ideas primarily takes place in legislatures and city halls
rather than community meetings. Citizens are not accustomed to hashing out their
political differences amongst themselves, and perhaps they would not want to. The
media often portrays division as a destructive element of politics. Headlines like “The
Democrats’ Disarray on Iraq” or “Republicans See Divided Party and Trouble in ’08”
indicate that unity is a political ideal while divisions are viewed as wholly

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35 I would not say that parties perfectly reflect the variation of opinions in society, especially in a two-party system. The parties may lead opinion as much as they are led by it. Nevertheless, parties are an apt metaphor for public disagreements.
unproductive. Rarely are disagreements celebrated as an opportunity to forge a compromise or discover ways of working together in spite of differences. This is precisely what open ballot democracy would mean for citizens – not a democracy where differences are mediated through other institutions or avoided – but one in which citizens take on the task themselves.

The experience of difference has a powerful effect on individual perspectives as well as collective outcomes. Journalist James Surowiecki argues that, while diverse groups (where disagreement is likely) make consensus more difficult to achieve, the results of such discussions are typically better than in homogeneous groups. When members of a group think about a problem the same way, they fail to critically examine the weaknesses in their thinking. He argues that this was the problem with the 1961 Bay of Pigs invasion, “The people who planned the operation were the same ones who were asked to judge whether it would be successful or not. The few people who voiced caution were quickly silenced.” The team lacked someone to ask relevant questions that would have led to more complete information or a better assessment.

Surowiecki’s thoughts about diverse opinions are a contemporary rendering of Mill’s argument for free expression in *On Liberty*. In politics, silencing dissenting opinions or new perspectives is foolish: “If the opinion is right, [the people] are deprived of the opportunity of exchanging error for truth; if wrong, they lose, what is

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37 I think parties and other groups would continue to exist, I am not trying to solve for their dissolution. Yet on an immediate level, people would have to wrestle with their disagreements face-to-face.
almost as great a benefit, the clearer perception and livelier impression of truth produced by its collision with error.” Democracy is, therefore, not only a fair way to make decisions, but also wise. By harnessing diversity and different information, the public can strengthen its judgments. This transformative power of disagreement is also relevant for individual political beliefs. Research suggests that individuals who encounter political disagreement think about their preferences more often and are more likely to change them than those who socialize in homogeneous environments. This suits the goals of open ballot democracy very well: citizens who encounter diverse views will become more adept at judging the public good, rather than trying to apply their rigidly-held personal preferences.

A public that carefully agonizes over its disagreements will not necessarily produce the “best” or “right” outcomes, but this process can yield two things that uniformity of opinion cannot: a better understanding of the majority position, or a new, transformed opinion of the public good. Where would democracy be today if it were not for those, like Martin Luther King, Jr. or Abraham Lincoln, who asked the difficult questions that divided us? Democracy is about the conflicts we have and the hope that we come down on the side of justice, the good or the practices that allow us to achieve our ends. Yet the questions remain: How does the public work out its disagreement? What if there are profound divisions in the populace?

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39 This is also the republican perspective on free speech – whereas in a system of liberal rights, freedom of speech is reserved to individuals as bearers of prepolitical rights, republicans theorists defend it for contributing to the competition of ideas. Mill, *On Liberty*, 16.


41 Gutmann and Thompson note that “deliberative democracy has no problems saying that what they majority decides, even after deliberating, need not be right. A majority acts wrongly if it violates basic liberty by requiring a minority to worship as they do.” *Why Deliberative Democracy?*, 135.
Moral Conflicts

Open ballot democracy must take the problem of moral pluralism seriously. First, disagreement should be separated into two categories, (a) when citizens disagree on ends, and (b) when they disagree on the means to a shared end. Concerning the latter type, disputes about means are often easier to settle via compromise than disagreements about moral ends. Although there may be different philosophies on how to attack a problem, ironing out differences is a more straightforward task when a clear goal has been set. In his book on compromise in politics, J. Patrick Dobel says that those who enter the political sphere with a set of ends, people he calls “individuals of integrity,” are there in order to achieve those ends. For any sincere political actor, his or her “commitments generate imperatives to act and bring about enduring good as defined by their conceptions of right and to engage obstacles to achieve those results.”

Political actors may encounter deep disagreement about how to achieve a collective end – some may have to accept significant differences from their ideal solution – but if the end is important enough, their disagreements will not prevent them from finding a resolution. This is the nature of political compromise, a willingness to recognize that although the public outcome may not seem perfect from an individual moral perspective, it can nonetheless be

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42 An example would be different approaches to health care. Many Americans and political elites might identify the lack of health care coverage for 45 million Americans as a significant problem, but there are very divergent perspectives on how to deal with it. Proposed solutions range from neoliberal market-based reforms to government-run universal health insurance.

43 His notes on integrity in this section are interesting, and somewhat alter a traditional view of political integrity. For Dobel, integrity is not rigid adherence to a position or strict interpretation of a moral principle. “Such a notion of integrity makes it a passive and protective endeavor, rather like virginity, something one protects which, once violated, can never be recovered. I think real personal integrity in political life more resembles love, an active engagement of care and concern for the world that takes risks and actions.” J. Patrick Dobel, Compromise and Political Action: Political Morality in Liberal and Democratic Life (Savage, MD: Rowman & Littlefield Publishers, Inc., 1990), 41-42.
reconciled with one’s original ends or public principles developed through deliberation.

On some political questions, citizens will not agree on ends because their justifications are based on incompatible moral doctrines. When this is the case, it does not rule out the possibility that some fair solution can be created. Citizens can agree to disagree on moral grounds, and still seek accommodating, if not perfect, solutions. Gutmann and Thompson call this an “economy of moral disagreement,” whereby “political opponents search for fair terms of social cooperation even in the face of their fundamental (and often foundational) disagreements.”44 People should not avoid topics that they disagree on but, through deliberation, discover the content of their disagreements – the justifications and rationale behind various positions.45 By better understanding the issues that divide them, citizens can try to minimize their exact points of disagreement and search for suitable solutions. For example, citizens opposed to sexual education in public schools form a substantial, energetic minority in a local school district. Although there is enough public support to simply mandate sex education, the majority could choose to make the program into a highly-suggested after school program. An approach like this recognizes that significant disagreements exist, but does not expect either side to give up their fundamental moral commitments.

44 Gutmann and Thompson, Why Deliberative Democracy?, 134.
45 „Because reasonable differences will persist, democratic government and their citizens should learn from the way they are expressed and dealt with. By their nature, reasonable differences contain partial understandings.” Ibid., 29.
Solutions to moral pluralism, like the one above, require citizens who are willing to engage one another in reasoned, respectful arguments. When citizens justify their positions “on moral grounds, [they] should seek the rationale that minimizes rejection of the position they oppose.” Doing so will reduce the personal tensions that could erupt during deliberation, but it more importantly signals that individuals respect one another as citizens with their own moral positions. Vilifying political opponents or taking more extreme positions than necessary indicate an unwillingness to recognize the legitimate claims of others.

To lie or misrepresent one’s views in order to achieve a personally desired outcome undermines the objective of discursive politics. Mark Warren suggests that “The effectiveness of strategic uses of speech, including lying, requires prestrategic commitments to reaching an understanding. Such commitments would be destroyed… should strategic speech become the norm.” A consensus-based political process means that citizens must take all reasonable arguments into consideration, yet strategy tests the limits of consensus and blurs our understanding of what is “reasonable.” If citizens do not honestly express their concerns or give truthful information, the polity’s outcome will not be the best approximation of the public interest. When a certain group takes an extreme position to bring the polity closer to its conception of the good, it manipulates the consensus process for its own interest and skews the outcome. If this group presents its argument as reasonable from its own moral perspective, the other citizens may feel compelled to take the group’s claim

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46 This above example is also a good illustration of how inclusive majority rule, by making consensus a priority, can promote more agreeable policies than simple majority rule procedures.
47 Gutmann and Thompson, Why Deliberative Democracy?, 153.
into account. A second problem is the effect of strategy on legitimacy. Citizens who do not trust one another to use expressive speech, their sincere arguments, will perceive the consensus outcome as illegitimate. Merely a perception of strategic participation can undercut the goals of an open ballot, deliberative process.49

How does the public guard against strategic speech or other tactical political moves? To begin with, it is relatively difficult to know when a person is using strategic means; this is why it can be effective. Dobel suggests that only a citizenry that actively questions others and pursues public justifications can gather enough information to counteract the risks that come with political compromise.50 On a fundamental level, political agreements do come down to trust, but individuals, through deliberation, will have tools to investigate different views and make a decision with comprehensive information. A polarized discussion process, whether due to strategic reasons or real moral conflict, can be guarded against by institutional design as well. Groups that have access to well-researched information and can find expert answers are better equipped work through polarization and strategic

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49 Using a majority vote for a decision-rule also poses the small problem of strategic voting. Consider this situation: a town’s budget is up for approval, and the three spending plans vary in size: small, medium and large. The town is mostly divided between those who want a medium and large budget, but there are a few people who are committed to keeping the budget small. If those citizens vote for the small budget, they fear the large plan will win a majority. By voting for the medium budget they would be able to defeat their least favorite alternative. What should they do, defeat the large budget or vote for the small budget they ideally want? If we want voters to express their honest opinions in their words and in their vote, majority-rule situations like these become problematic for voters. There is a procedural way to escape the problem, instant runoff voting (IRV). Citizens rank their choices in order of preference. When the votes are counted, the measure or candidate with the fewest votes is eliminated, and those votes are transferred to the next-preferred choice. Ultimately, the process will always lead to a majority winner and voters do not have to think strategically about their votes. In our example, the medium budget would probably still win, but the voters who wanted the small budget would be able to express their real preferences. This voting method is used in Ireland, Australia, San Francisco, and Burlington, VT, in addition to other cities and many universities. See Steven Hill, Fixing Elections: The Failure of America’s Winner Take All Politics (New York: Routledge, 2003).

50 Dobel, Compromise and Political Action, 51.
positioning. Where claims can be made on empirical data or professional opinions, citizens can avoid political hyperbole in favor of public justification and reliable knowledge.

In the end, some disagreements will be answered by majority vote, and those who dissent from the outcome will hopefully be able to see that the result was based upon public justification. Some battles will inevitably have to be played out on the political field. As Surowiecki notes,

democracy is an experience of not getting everything you want. It’s an experience of seeing your opponents win and get what you hope to have, and of accepting it, because you believe that they will not destroy the things you value and because you know you will have another chance to get what you want.

Decisions made democratically are often not binding for all time, and the minority will have to organize and argue as best they can to achieve majority status. While there are ways to accommodate moral disagreement, there is no easy way to avoid it. The deliberative process gives citizens a way to find a majority that is joined by more groups or has at least considered the objections of dissenters.

The assertion that open voting methods are superior to secret ballots is derived from the notion that, in a fundamental way, citizens share responsibility for public power. That same spirit of common fate is necessary whether citizens agree or disagree. Open ballot democracy, like other forms of democratic rule, requires qualities of citizenship that allow people with different views to navigate their differences and sustain a rich public sphere.

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51 Gutmann and Thompson, *Why Deliberative Democracy?*, 54.
Civic Virtue

Alasdair MacIntyre’s conception of virtue illuminates how the qualities of citizens uphold democratic practices. He explains that virtues are “those dispositions which… sustain practices and enable us to achieve the goods internal to practices.” This “sustaining” nature is what gives virtue its importance in democratic theory; virtues are not merely individual attributes that are useful in particular situations. Civic virtue is architectonic to successful self-rule. Nancy L. Schwartz notes the centrality of virtue in the Florentine republics of the early Renaissance saying, “political virtù was that public action that created a republic of free citizens and saved it from destruction in time.” But virtue, as MacIntyre notes, does not only grant longevity of a practice, it allows us to seek the intrinsic goods of that practice. To apply this idea to open ballot democracy, civic virtues will guide the public in sustaining dialogue and help it achieve its purposes, namely, a deliberative conception of the public good. There are many virtues that allow democratic governance to flourish, but three to be explained here, mutual respect, courage and open-mindedness, are fundamental to discovering the public good and sustaining community in spite of moral pluralism.

Among the qualities necessary for open ballot democracy, mutual respect is a foundational virtue; it is how citizens carry out democratic equality, through their recognition and actions toward one another. Arendt describes respect as “a regard for the person from the distance which the space of the world puts between us, and this

52 MacIntyre, After Virtue, 219.
regard is independent of the qualities which we may admire or of the achievements which we may highly esteem.”\textsuperscript{55} If, as Arendt defines it, respect is independent from other attributes that we find desirable, like good judgment or a similar moral viewpoint, mutual recognition will be constant, even in situations that provoke fundamental public disagreement. Within deliberative settings, respect will maintain political dialogue that is concerned with the public good and with navigating diverse claims. Mutual respect is the “moral value of choosing moral values,” meaning that, alongside their other values, citizens have made a moral decision to cooperate in the public sphere and recognize the moral claims of others.\textsuperscript{56} Citizens who approach politics this way, and who encounter others who do, will show respect through the way they justify their views and listen to the concerns of others.

There is a limit to mutual respect, however. Citizens who advocate violence, exclusion or discrimination against certain groups, whether based on personal, racial, political, religious or sexual grounds, are undeserving of respect because they do not show it themselves. Mutual respect is reciprocity in action. Dialogues that degrade the citizenship or humanity of others “cry out for a democracy to confirm its commitment to the principles of nondiscrimination and equal opportunity in their core form.”\textsuperscript{57} Mutual respect is a democratic virtue in part because it is consistent with these foundational values of democratic life; democracy is not blind or neutral toward positions that denigrate individuals.

\textsuperscript{55} Arendt, \textit{The Human Condition}, 243.
\textsuperscript{56} Gutmann and Thompson, \textit{Why Deliberative Democracy?}, 80.
\textsuperscript{57} Ibid., 28.
Discursive practices also depend on the willingness of citizens to voice their disagreement. While, according to Arendt, all public speech or action is courageous, those who rise in dissent, facing opposition or judgment, display the distinct courage necessary for democratic deliberation. As discussed above, disagreement in politics tests the public’s rationale – it can highlight weaknesses or moral oversights. For this reason, the willingness to speak up is, in MacIntyre’s sense, a virtue because it adds to the goods implicit in the practice of discussion. Courage, does not, however, apply to political speech that is not reasonable or does not respect others. An individual’s justifications must fall within the bounds of mutual respect in order to truly contribute to public deliberation.

Finally, if courage is the virtue of the speaker, open-mindedness is the corresponding value of those who are listening. Citizens must be willing to be moved by others. Although steadfastness is often cast as a political virtue, Albert O. Hirschman suggests that the public “should maintain a degree of openness or tentativeness in their opinions and be ready to modify them as both a result of the arguments… and, more simply, in the light of new information that will be developed in the course of public debates.” While people may come to disagree on an issue, they should not enter into dialogue with antagonistic or entrenched attitudes. Citizens will often proceed from different perspectives, but their final opinions should harden only through debate and the exchange of ideas. This is fundamental in an open ballot
democracy. If citizens enter with firm opinions, an open ballot process will result in either stalemate or a procedural majority/plurality decision that does not address various moral claims. Neither of these situations is superior to outcomes decided by the secret ballot.

Perhaps the best way to understand the type of citizenship necessary to sustain open ballot democracy and its core principles is to understand political friendship (philia politikē). Both open ballot democracy and political friendship depend on the notion that we are not merely estranged, autonomous beings. Danielle S. Allen promotes the Aristotelian conception of political friendship because, like citizens, “friends have a shared life – not a ‘common’ nor an identical life – only one with common events, climates, built-environments, fixations of the imagination, and social structures.” A democratic system based upon the idea of shared power should have an equivalent standard of citizenship. Because, as democratic citizens, we live together and share power, we are not only obliged to answer to one another, but also to approach the political sphere with the best of intentions toward each other and the community. Friendship and virtue, as distinguished from rights and duties, are positive terms of citizenship, feelings of affinity and conscious goodwill. Political friendship, then, is “recognition that a core citizenly responsibility is to prove oneself trustworthy to fellow citizens” through equitable acts of virtue. While an open ballot democracy protects the formal rights of individuals to participate in public life, citizens themselves must uphold the bonds that make substantive moral discussions and decisions possible. The three political virtues discussed above are elaborative of

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62 Ibid., xxii.
political friendship, they describe and support it. Not all citizens are angels, nor will they each treat one another as political friends, yet a polity with friendship as its enduring standard can strive for that ideal and achieve the goods of deliberation.
FOUR

A New American Democracy?

How might the American republic find its way back to open ballots? First, we must realize that people do not see democracy merely as a type of political system, described by its major institutions; it is also a set of important social and cultural practices.¹ We understand democracy through its “ritual.” Specific practices – advertising, conventions, polling places, voting booths, election night results – are democracy. Open ballot democracy, as I depict it in this chapter, is a radically different set of practices and understandings about political life. It is meant to alter how citizens see themselves and others in the political sphere, how they contemplate political questions, and how political equality is achieved. Some of these themes were discussed in the previous two chapters on more theoretical or idealized levels. In the first two sections here, political equality and independence, citizen accountability, and face-to-face deliberation will be grounded in specific institutions and processes. In the final section, the current state of American political society will be evaluated in light of its readiness for open ballots and deliberation.

Background Institutions

Our new democratic system must be able to guarantee the constitutional rights necessary for free and equal participation in the public sphere. Although voters engage in transformative political discussions and hold one another accountable, they must retain the right to deliberate and vote as autonomous citizens. Although civic

virtue is an important foundation for fair and open dialogue, there must be actual protection of political rights. These protections fall into two distinct but interconnected categories. First, government must ensure that citizens are protected in essential areas of the private sphere – housing and employment, for example – by nondiscrimination laws. Second, they must have a substantially equal opportunity to enter and affect the public sphere. In each field, government must actively protect these rights.

Considering the problematic history of open ballots in nineteenth century America, an obvious responsibility of the government, will be to investigate and prosecute cases of bribery and intimidation. In addition to possible fines and jail time, such violations should result in a loss of voting rights for a certain period, depending on the severity of the crime. \(^2\) Electoral corruption is a particularly shameless violation of democracy that should lead to temporary loss of participation rights. When this type of crime is committed, the targeted individual is not the only victim. It is a serious offense to the entire polity. Corruption weakens legitimacy and circumvents the main process through which people affirm their citizenship and freedom.

State and federal government must legislate against political discrimination in housing, employment and public accommodations. The goal is to assure voters that announced votes will not affect these important areas of their lives. Such legislation could be modeled on current laws prohibiting discrimination of race, religion, gender or disability. \(^3\) This approach is not perfect, however. Antidiscrimination laws can

\(^2\) It would be at the individual state’s discretion whether other felonies would result in a loss of voting rights as well.

\(^3\) An exception to this law would be for specifically partisan or political employers, who use political viewpoint as an important qualification for employment. For example, a Democrat could not sue the
only attack objective discrimination, actions which fit a set of prosecutable criteria. Persons who face subtle discrimination, “when an individual or [group], on the basis of their subjective perceptions, define their situation as discriminatory” will not be able to appeal to the law for protection, and may subsequently feel pressured to vote a certain way. Realistically, most employers and property owners would have little or no interest in individuals’ political positions. In many places, for example, voters publicly register with particular political parties without fear that this information will cause bias against them. Further, the specific process I propose in the next section does not make an individual’s votes a freely accessible part of the public record. In general, nondiscrimination laws will serve two purposes. They will be used to prosecute overt cases of political discrimination, and also serve as a signal that the community will not tolerate any threats to political freedom.

Government will also have to secure rights that enable effective political participation. Cass Sunstein elucidates the importance of rights for democracy and membership:

Many rights are indispensable to democracy and to democratic deliberation. If we protect such rights through the Constitution, we do not compromise self-government at all. On the contrary, self-government depends for its existence on firmly protected democratic rights. Constitutionalism can thus guarantee the preconditions for democracy by limiting the power of majorities to eliminate those preconditions.

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 Republicans for not being hired if the party has a “bona fide occupational qualification reasonably necessary to the normal operation of [its] particular... enterprise.” This exception exists in the Civil Rights Act of 1964, Tit. VII, Sec. 2000e-2e.


 There are twenty-seven states that register voters by party. Although the number of unaffiliated voters has increased in the past twenty years to about 24 percent, a large majority remain affiliated with one of the two major political parties. See Marc Ambinder, "A Nation of Free Agents," The Washington Post, Sept. 3, 2006, B2.

Guaranteeing a set of rights that allow effective participation is essential for an open ballot system to work without disadvantaging some voters. Among the preconditions for full participation, freedom of expression is one that is particularly vital. Current jurisprudence on freedom of expression in the political sphere is antithetical to a political process based on fair citizen-to-citizen justification. In *Buckley v. Valeo* (1976) the Supreme Court struck down several provisions of federal campaign finance laws, declaring that

> a restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached.⁸

Although some parts of the law were upheld, the system largely left access to mainstream commercial political speech – television, radio, newspapers – to market forces. This means that underfunded candidates and parties do not only have to compete with better funded ones, but that prices for ad space are set by competition from private commercial purchasers as well – all of which gives well-funded candidates and causes an advantage in mass outreach.⁹ The standards established by the Supreme Court gives those successful in the economic market a greater chance for success in the market of ideas.

The effectiveness and centrality of face-to-face discussion is weakened if certain groups have an innate advantage in the arena of political communication.

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⁷ Sunstein notes that there are several necessary preconditions that the government must secure in order for there to be free and equal citizens. First, citizens must have bodily integrity, including “a modest minimum of food, medical care, and shelter.” Second, government must sustain an opposition to caste systems, in which systematic inequalities degrade equality of citizenship. Third, equality of opportunity should be secured through a right to education. See Ibid., 137-141.

⁸ 424 U.S. 1 (1976). The Court also recently reaffirmed these principles in the case *Randall v. Sorrell* 548 U.S. ___ (2006), which struck down significant parts of Vermont’s strict campaign reform laws.

First, elite groups can define the political agenda through mass outreach, taking this job away from the people. Second, citizens should be exposed to diverse viewpoints, not the "loudest" ones, if they are to make fully-informed evaluations of the public good. Citizenly reasoning, not scripted media campaigns, should be the primary basis for individual decisions. By equalizing political efficacy through new campaign restrictions, citizens will have a wider ability to discuss and understand other points of view, especially those that do not have strong financial support. Sunstein suggests that "freedom of political expression" must be understood in a new way, one that does not link social privilege with political advantage.\textsuperscript{10}

Stricter campaign laws, free access to media outlets, publicly-funded campaigns\textsuperscript{11} and interest-group spending restrictions are a few examples of ways to enhance substantive freedom of expression. This approach would, of course, require a new juridical understanding of political expression; the jurisprudence set forth in \textit{Buckley} would have to be discarded. A new standard in which "campaign finance laws [are] evaluated pragmatically in terms of their consequences for the system of free expression," would give underprivileged voices a chance to compete.\textsuperscript{12} With this system we could more be confident that political outcomes are a result of well-reasoned deliberation on a more complete range of perspectives. The purpose of this new approach would not be to achieve perfect equality of political speech, but equality of opportunity. Groups that organize themselves at the grassroots level

\textsuperscript{10} T. M. Scanlon: "It seems clearly mistaken to say that freedom of expression never licenses government to restrict the speech of some in order to allow others a better chance to be heard." Quoted by Sunstein, \textit{The Partial Constitution}, 387 n. 45.
\textsuperscript{11} Perhaps the time allotted to each candidate or party would be proportional to support in the previous election.
\textsuperscript{12} Sunstein, \textit{The Partial Constitution}, 224.
should not be shut out of the political mainstream by an incidental lack of financial resources. While inequality is a pervasive obstacle to attaining free expression, solutions can reasonably prevent these inequalities of the economic sphere from becoming entrenched in the public forum.

**Deliberation and Decisions**

Before discussing exact structures and procedures for deliberation and voting, I should distinguish a few important ideas and expectations. The primary focus here is on deliberation and elections, not the reorganization of political units. Some of the ideas I have discussed in the previous chapter are most relevant for town meetings, or otherwise ideal deliberative situations.\(^{13}\) The town meeting, however, is not the primary form of governing in United States of course, even at the local level. Most American elections involve candidates for offices that represent large numbers of citizens, too many to fit in one meeting room for a discussion and election. But issues of representation and scale should not necessarily prevent formal deliberation about candidates and issues. In a project that they call “realistic utopianism,” Bruce Ackerman and James Fishkin propose a detailed plan to institutionalize deliberation in American democracy.\(^{14}\) “Deliberation Day,” as they call it, will be my primary model for establishing deliberative voting groups. Before explaining why I chose this model and how it relates to open voting, I will first explain their proposal.

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\(^{13}\) I refer here to a free process of discussion and decision on a particular topic. For most decisions, citizens typically vote on a candidate or referendum. Their choices are limited; they do not have the luxury of shaping a policy or adding amendments, they will simply be voting for or against particular candidates and referenda.

\(^{14}\) Ackerman and Fishkin, *Deliberation Day*, 13.
Deliberation Day is a proposed two-day national holiday that occurs roughly two weeks before a national election. Each day, half of the electorate is invited to take part, and everyone who participates receives $150 for attending a day-long session. In schools, community centers, universities and churches, citizens would gather. In small groups of fifteen, participants watch a town square-style debate between the presidential and/or congressional candidates. The citizens then discuss the issues that were raised by the candidates during the debate. As a group, the deliberators will develop a list of questions about the candidates and their platforms, and vote on the two top questions that they want to know more about during the next phase of Deliberation Day. Participants then attend a 500-person “citizen assembly” where representatives of the campaigns respond to the questions generated in the smaller groups. After lunch, citizens return to their small groups to discuss what they heard in the assembly and further issues or questions they want more information on. The next large session would touch on these topics. At the end of the day, citizens return once more to their small groups for a forty-five minute discussion about their impressions and lingering questions about the candidates. During the two weeks leading up to the election, the effects of “DDay” would “cascade” through the families, workplaces, the campaigns and the media. Ackerman and Fishkin expect DDay would greatly heighten citizens’ level of attention and knowledge about the

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15 A two-day event allows all citizens to participate if they wish, without shutting down all business and services.
16 Ackerman and Fishkin believe that while the number of representatives required might top thirty-thousand, there are more than enough local and state officeholders, party loyalists, union representatives and churchgoing activists to fill these ranks. This would strengthen the organizational ties between presidential campaigns and local communities; recruitment and training of these representatives would be a huge priority for campaigns.
17 Ackerman and Fishkin are particularly adamant that lunchtime will be an excellent time for informal discussions and the development or deepening of new friendships. See Deliberation Day, 34.
18 Ibid., 92-93.
election and that campaigns will emphasize issues and positions that voters identified as important. Meanwhile, citizens who do not attend the event will benefit from conversations among their friends, family and coworkers, as well as the media’s coverage of citizen-identified priorities.\textsuperscript{19}

Ackerman and Fishkin provide a well-planned structure for democratic deliberation before an election. Holding a deliberative session two-weeks prior to an election gives citizens time to digest information, think through issues, evaluate candidate responses and spread the insight they have gained. The dual structure of small groups and large assembly allows citizens to both discuss issues in a conversational setting, as well as channel their deliberation to the campaign representatives. Ultimately, the people will share the job of setting the public agenda with the campaigns. The creators of DDay envision the rest of the election proceeding as normal, with regular polling places and secret ballots.\textsuperscript{20} How would open ballots fit into a process such as this? Exactly how do we tie together citizen deliberation and voting?

In my conception, Deliberation Day takes place in its original form, explained above. Holding a separate event just for deliberation will allow citizens to converse without the prospect of voting at the end. Their remarks and commitments can remain tentative and congenial, actual decisions will not come for another two weeks. Election Day itself will be strikingly different from the way we now understand it. On the first Tuesday in November, in morning and evening sessions, the citizens who participated in the Deliberation Day would reconvene in their groups, where their

\textsuperscript{19} See Chapter 2 (“The Holiday”) in Ackerman and Fishkin, \textit{Deliberation Day} for detailed justifications of specific aspects of their proposal.

\textsuperscript{20} Ibid., 38-39.
political friendships and discussions began two weeks earlier. Voters who did not participate in DDay will be evenly distributed into the already-established groups. While anyone can abstain entirely from political participation and voting, those who choose to vote are required to participate in the deliberative sessions on Election Day. The point of these required sessions is to introduce citizens to diverse perspectives and encourage them to participate in a process of public reasoning. During the deliberative portion, no one will be required to contribute, but they will at least have to listen to other voters discuss the candidates and issues.

At an appointed time, or by three-quarters show of hands, discussion will be ended and the voting process will begin. The supermajority requirement to end discussion ensures that a small number of citizens can keep deliberation going if they feel that they have more to contribute, or if some in the majority want to give others a fair chance to be heard. The high threshold is a procedural means to ensure that a simple majority cannot silence their opponents. When the time does come to vote, the foreman or moderator will pass out a ballot to each citizen. Sitting together, without barriers, but largely on their own, each person will mark his or her ballot completely. Rather than using a show of hands, ballots are marked individually to give all voters a genuine, personal opportunity to decide how they wish to vote. This ensures that they are not caught up in a “group moment.” They can also be certain that a ballot they marked themselves will be given to election authorities. To make

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21 Original DDay groups are 15 citizens. For Election Day, these groups could be capped at 20 or 22. Since most of the members have had experience deliberating, they would be equipped to accommodate a few more. If all the original groups are filled, new 15-person groups can be started. The smaller size will be better-suited for people who are not bringing in experience from DDay.

22 It should also be noted that anyone who practices the fair deliberation will not cut off discussion simply because three-quarters of the participants are in agreement or are decided.
their votes public to one another, the voters go around in a circle, once for each office or question on the ballot, and each citizen will state their vote aloud. The foreman will mark responses on a “group ballot,” which is a tally-sheet for their collective results. With everyone present, the foreman will collect the individual ballots and verify the totals of the group, to ensure that the individual ballots and voiced totals match up. Anyone who misrepresented his or her vote would promptly be exposed. To finish their day, voters walk with the foreman to deliver the ballots to the precinct’s election authorities and, to borrow Ackerman and Fishkin’s citizenly words, “there will be nothing left to do but to shake hands.”

Admittedly, this process seems rather tedious. But it maintains dual commitment to the collective nature of self-government and each citizen’s independent right to vote. I should also acknowledge that this process of Election Day deliberation will not allow citizens to have extremely long, substantive discussions about all contests or questions on the ballot. Actual deliberation, perhaps, can never live up to our ideals for it. Always, time is the most limiting factor. A weeklong national holiday for deliberation would be wonderful, but problematic for economic and logistical reasons. Three to four hours of discussion (with breaks) on Election Day would give voters enough time to address the most important races or biggest

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23 In considering how to institutionalize open ballots, I had a difficult time deciding whether votes should become part of the public record, or if the open ballot should be limited to deliberative groups. A public record of voting seems to be the normative answer, because we bind all other citizens in the polity when we vote; each citizen should be able to hold any other accountable. However, I felt that a closed deliberation-vote was better for two reasons. First, the other deliberators have an opportunity to hear our full reasoning, whereas other people may not. If we simply look someone’s vote up on the internet, we know their vote, but not their justifications. Second, I was cognizant that voting could become a media spectacle if the information was too easily accessible. For instance, people might be fascinated with how celebrities or officially nonpartisan citizens, like news anchors, vote. A vote that is limited to other deliberators is adequate for justification, accountability and publicity, but does not take the paradigm of open voting unreasonably far. Ackerman and Fishkin, Deliberation Day, 37.

24 See Ackerman and Fishkin’s discussion on the civic holidays. Ibid., 18-23.
issues. In fact, many issues will be relevant for a number of different campaigns. Considerations about health care, education, foreign policy, taxes, energy and social issues will be pertinent for presidential, senatorial and congressional races, and some will extend to state races as well. Meanwhile, political parties would hone their messages on the issues that are most likely to be addressed during deliberations. Holding Deliberation Day two weeks prior to the Election Day is also an effort to economize on time while increasing deliberative engagement. If the effects of DDay are as influential as Ackerman and Fishkin hope, the amount of time deliberating on Election Day will be sufficient for people to hold meaningful discussions before voting.

In short, I do not claim that the process laid out above is perfect. It, too, is an exercise of realistic utopianism.

25 A few words should be said about the expected role of parties in such an electoral system. Although I have emphasized the need for open-mindedness and even tentativeness in deliberative situations, this does not rule out the usefulness of parties as a way to represent and organize divisions in the polity. Political parties do, however, “have their own dynamics of development and will be greatly shaped by the culture in which they must operate.” See Gabriel Almond and Sidney Verba, Comparative Politics: A Developmental Approach (Boston: Little, Brown and Company, 1966.) Thus, if deliberation does become a central part of the political system, we could expect parties to change in a few ways. First, parties must essentially be thought of as large versions of a single individual. Each party should at least acknowledge diverse viewpoints within their coalition and general electorate. This would be essential to pleasing party members and creating a governing majority. Second, parties would need to focus more on issues and less on candidate personalities. Bernard Manin suggests that, because of television and radio, our democracy runs more on personality than it does on platforms. We are becoming an “audience democracy” that does not focus very much on actual issues. This would change with deliberation. If citizens spoke seriously, and collectively identify a set of problems, they could hold candidates’ to high standards about proposed solutions. Third, the parties would be well-advised to strengthen local organizations. Citizen-to-citizen communication and the quality of local party representatives would be extremely important ways of generating a good response on DDay and votes on Election Day. See Manin, The Principles of Representative Government, 235.

26 Having Deliberation Day two weeks before the election will energize the last two weeks, when the campaigns are wrapping up, and most voters are actually thinking about the election. Having the event earlier might increase deliberation initially, but then a “drop off” of deliberation might occur before Election Day.
Talking about the Future: Social Capital in America

Americans’ social and political lives are becoming increasingly isolated. This is one factor that stands in the way of open balloting becoming the standard for U.S. elections. Society is moving away from the types of institutions and social life that bring people together in the civic sphere and teach them skills of social interaction and cooperation. This section explores these complexities, as well as the detrimental effects the internet might have on democracy.

When Alexis de Tocqueville described American political life in the 1840’s, he was astounded by the involvement of the people in community groups and associations. In his words,

> No sooner do you set foot upon American ground than you are stunned by a kind of tumult; a confused clamor that is heard on every side… Everything is in motion around you… The great political agitation of American legislative bodies… is a mere episode, or a sort of continuation, of that universal movement which originates in the lowest classes of the people and extends successively to all the ranks of society.  

Involvement in civic associations, as Tocqueville saw it, was at the root of America’s vibrant democratic life. Robert Putnam’s evaluation of the American people based on membership in civic associations reveals a notable decline in such participation with social clubs, sports leagues, unions, PTA’s and service organizations in the last forty years. The consequence is a loss in “social capital.”

Through community-based organizations citizens learn values like trust and reciprocity that are necessary for cooperation and collective decision-making. We learn how to make mutually-binding

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decisions and develop lasting relationships – similar to political friendships – with others in our group. These experiences, Putnam suggests, teach us to go from ‘‘I’ to ‘we.’’29 This idea is important for our discussion here: open ballots are a similar effort to bring atomized citizens to a public conception of ‘‘we.’’

In this sense, an electorate rich in social capital is accustomed to seeing beyond individual interests. Like the virtues identified earlier, the skills and values learned in civic life will sustain public-minded processes and outcomes. If Putnam’s pattern of declining social capital is diminishing Americans’ capacity to sustain rich, democratic citizenship, this should be considered a hazardous sign for anyone trying to construct a more public-minded political process. Citizens would possibly either reject open ballots and required deliberation as intrusive violations of their political rights, or simply find the process too frustrating. If the first deliberative Election Day ended with news stories about tense confrontations, miniscule turnout or people walking out of deliberation sessions, not only would electoral outcomes lack legitimacy, but the process itself would be doomed. Open ballot democracy may depend on at least some previous ability to think in non-individualist terms. I am certain there are many Americans who would accept and even embrace such a process. Yet the overall corrosion of social capital is a warning sign about our ability to act and think collectively.

There is one other problem related to social capital that makes the prospect of open ballots seem unfit for current American life. Robert Wuthnow, in his analysis of how social capital has declined, observes that the weakening of social networks has

hit underprivileged and minority Americans hardest.\textsuperscript{30} To the extent that people learn useful skills and values through their social networks, this poses a particular problem for marginalized groups. Low levels of trust, efficacy and participation skills might put people at a disadvantage in an open ballot process. There are two distinct worries here. One is that they would choose not to participate. Racial minorities and citizens without higher education already tend to vote less frequently than more privileged groups.\textsuperscript{31} If participation in deliberative voting further drives away groups with low social capital, those who do vote would be unrepresentative of the general public. Electoral outcomes would likely be skewed toward groups with high social capital. This would be completely antithetical to the goals of an open process. And even if marginalized groups participated, they might be overshadowed by the “cultural capital” of more privileged groups: “leadership skills, the ability to speak comfortably in medium-sized groups, familiarity with organizational rules, and the capacity to make small talk about the right subjects.”\textsuperscript{32}

This confounding problem – social inequality – must be addressed, in order to secure political equality. One of Sunstein’s important preconditions for establishing a more deliberative democratic life is an “opposition to caste.” He asserts that “the most important and general step is… to eliminate second-class citizenship” by addressing such fundamental problems as “lack of opportunities for education, training, and employment; inadequate housing, food, and health care; vulnerability to crime, both public (through the police) and private; incentives to participate in crime; and teenage

\textsuperscript{31} Ibid., 87.
\textsuperscript{32} Ibid., 80.
pregnancy and single-parent families.” Not surprisingly, many of these same problems are cited by social capital theorists as factors that inhibit social networking in marginalized groups. For example, people who do not feel safe in their neighborhoods will not become actively involved in community projects or associations. An open ballot democracy may not be beneficial to the whole public until all citizens have the opportunity to be full members in it. A first step toward shoring up the deliberative potential of American citizens is to address the social problems that inhibit full citizenship. The loss of social capital may have various causes – some unrelated to government responsibilities – but government nonetheless has a role to play in securing social and cultural capital through equal opportunity and social justice.

Beyond strengthening the social goods that lead to secure citizenship, political life in the United States needs to be preserved from the effects of technology and media. From massive news outlets to upstart internet blogs, the Information Age is damaging American tolerance for diverse views and constructive discourse. While television is still the dominant place to get political news, Democrats and Republicans largely watch different channels. Meanwhile, the internet’s advancements increasingly allow people to filter their online experiences. We are able to seek out the types of news we want to see, the opinions we want to read and the people we want to connect with. All of these abilities are abnormal in democratic life:

“Unplanned, unanticipated encounters are central to democracy… [they] involve

33 Sunstein, The Partial Constitution, 343-344.
34 Wuthnow, "United States: Bridging the Privileged and the Marginalized?,” 101.
topics and points of view that people would not have sought out and perhaps find quite irritating” but “they are important partly to ensure against fragmentation and extremism.” As we pick and choose what to see, we encounter less and less evidence that we are a diverse people with diverse views. Without perceiving these things, how can we adequately learn about our society’s needs and perspectives? Sunstein suggests that blogs and news outlets with contrasting political slants should establish links to one another, so that opposing viewpoints can be accessed and understood. Perhaps the centrality of the internet is one further reason to ensure that traditional forms of social capital and citizen-to-citizen interaction remain strong.

Unfortunately, some are proposing that the internet replace the last collective space where, in theory, all citizens come together: the polling place. The internet has revolutionized political campaigns and outreach, and, with better security technology and a desire to make voting easier, home computers could soon be the next voting booths. Currently, although the secret ballot separates us in the act of filling out our ballots, we are at least assured a moment of collective spirit when we gather to vote. Losing this last material act of mass civic engagement would be a devastating blow to the notion of democratic community.

Ultimately, reclaiming democracy from its current individualistic incarnation is not a single-step process. It will take work in neighborhoods, schools, churches and homes to develop citizens who are responsible to, and engaged in, their political communities. Perhaps these are the places where open voting or increased

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37 Sunstein, Republic.Com, 8-9.
38 Ibid., 186-190.
39 For an examination of the issues surrounding internet voting, see R. Michael Alvarez and Thad E. Hall, Point, Click, and Vote: The Future of Internet Voting (Washington, DC: Brookings Institution Press, 2004).
deliberation must start – where the bonds of friendship, family and small community will sustain dialogue and disagreement. People must be aware of how their lives can shape or damage democratic values. As Dobel said, integrity in public life takes “risks and actions.”40 Citizens who believe in creating a vibrant, pluralistic deliberative democracy must be willing to join in many causes, social and political, to build their conception. Ackerman and Fishkin suggest that Deliberation Day is exactly the type of risky venture that could do wonderful things for democracy.

We might think about expanding the face-to-face models of interaction that exist today, or used to exist a generation ago. Walzer suggests that political parties restore the previously important role of nominating conventions, and expand the system of party caucuses. In Iowa, there is not much deliberation – people tend to know who they are voting for prior to caucusing – but they nonetheless openly reveal their support for a candidate in front of their friends and neighbors.41 Walzer notes, “Caucuses and conventions are like parties generally: citizens come with the power they can muster, and the mustering of power involves them more deeply in the political process than voting alone can ever do.”42 To restore face-to-face democratic action, citizens must turn their concern and passion into action and leadership, in their schools, political parties, neighborhoods and nations. Realistically, open ballots may not be in America’s future. Nor may we see Tocqueville’s tumult and clamor in all their glory. But we would do well to keep these ideals in mind.

40 Dobel, Compromise and Political Action, 41-42.
41 Ackerman and Fishkin, Deliberation Day, 349 n. 4.
42 Walzer, Spheres of Justice: A Defense of Pluralism and Equality, 308.
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Epilogue

When I began thinking about the topic of open ballots and democracy, I did not anticipate creating institutions and procedure for open ballot voting. My intention was to raise normative questions about the tension between liberal privacy and the public sphere, whether citizens should be accountable to one another, and how open ballots could contribute to deliberative politics. Yet by addressing specific ways of institutionalizing these ideas, I hope to have shown that the idea of an open ballot democracy is not entirely implausible. We might have the advantages of open ballots – a public political process, deliberation, and accountability – without the dangers so often identified with them. Mill was not blindly for open ballots; he realized their dangers and sought to address them. He believed that pursuing social justice would reduce the risks of open ballots and, in doing so, create free and equal citizens who could engage in public reasoning.¹ His concept of liberty, and one I have tried to elaborate on in this thesis, is not freedom from the public sphere, but the freedom to act in the public sphere with a set of individual rights. Other citizens may “interfere” with our beliefs and opinions on public matters without denying our liberty to have a voice and a vote.² Through this thesis, I hope to have vindicated Mill’s argument that the secret ballot would lead to individual “ownership” of a vote and of political views. His definition of liberty is foreign to our understanding of liberal democratic

¹ Urbinati, Mill on Democracy, 190-191.
² Ibid., 3.
life, in part because of the secret ballot and individualistic conception of the right to vote.

This thesis is also, in part, a social critique, about a people who must resort to secrecy in voting because they are too unequal, and too afraid of one another, to meet in their act of self-governing. When voting, we are shielded from the public sphere, the place where we are supposed to encounter our plurality and come to a common understanding about the use of public power. The secret ballot, although it eased the tension between a large, socially diverse electorate and the ideal of independent voters, has become a refuge for political privatism and self-interest. Plainly, these are not qualities on which to base citizenship and democratic life.

In the previous chapter, I made several prescriptions for reengaging citizens with one another. Largely, they were changes to American social and political institutions that would be able to restore social capital and political skills. Open ballots may not have a future in American government, but their can teach us, as individuals, lessons about citizenship. When a citizen steps into the voting booth, he or she should take a moment to ponder what the act of voting means for the political community, how his or her choices will affect such fundamental notions as freedom, equality, justice, opportunity, tolerance, peace, and the continuity of the political community itself. In society, citizens should seek out others they do not agree with and engage in a reasoned discussion, discovering the content of their differences and the common ground they can find. By confronting disagreement, we become better citizens, not worse. What we learn will become part of our decision-making process, our evaluation of what is best for our town, state or nation. A conscientious people
can have the benefits of an open ballot democracy if they learn to trust each other, to search out the public will through interaction. By doing all of this – learning and judging the public will, and at times voting against their self-interest – individuals will make sacrifices for democracy. These individual actions are vital, “a democratic sacrifice opens up a covenant so that those who benefit from a sacrifice see themselves as recipients of a gift that they must not only honor but also reciprocate.”3 Wherever there are good citizens who make sacrifices and others who join in such covenants, there will continue to be democracy.

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3 Allen, *Talking to Strangers*, 111.
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