

**OPEN VOTING IN GENERAL ELECTIONS:
THE DARK SIDE OF PUBLIC VOTING**

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[Draft]**

I will discuss voting methods in the electorate, not in parliaments, committees, juries or other small sized bodies. I wish to argue that we should not use open voting in general elections. Admittedly, reinstating open voting is nowhere on the agenda in the real world, —at least as far as I am aware. In academic circles, however, the proposal to "unveil the vote" has received some attention (Brennan and Pettit, 1990).¹ Furthermore the ideal of deliberative democracy, which many theorists endorse —including me—, might seem to imply open voting. If participants in a collective decision disclose their individual positions in the course of discussing a given issue, why should they have to keep their final individual determinations secret? One can certainly separate the deliberation from the decision stage, subjecting each to different rules. However, the reasons for separating the two stages and for subjecting the latter to the rule of secrecy are not self-evident. They need articulating. Finally in light of the wide appeal enjoyed today by the notion of "transparency", it is not altogether fanciful to suppose that we might at some point hear calls to make everyone's vote transparent in order to keep it honest.

I shall focus on three reasons why open voting in general elections has long been undesirable and still is: 1) subjecting people's votes to the control of their social

¹ When I decided to write on this topic, I did not anticipate that Steve Holmes would come close to supporting open voting. I am less than excited at the prospect of having to disagree with my dear friend, but it's too late now to change my stance. This was bound to happen in such a conference. My points are tentative, however, and I'm open to conversion...

environment, 2) increasing the importance of private rewards and punishments in elections, 3) increasing the political impact of socio-economic inequalities.

I. Placing voters under the control of their social environment

In theoretical discussions of the subject, ranging from Cicero, to Montesquieu, to Rousseau, to the Mills, father and son, open voting designates a system in which information about how each person votes is made available to all other voters. This is what I mean by public voting here.²

One key feature praised by its supporters is that open voting subjects each individual voter to the control of the public. Here is what J. S. Mill wrote, for instance, after emphasizing that voting is a duty, not a right:

the duty of voting, like any other public duty, should be performed under the eye and criticism of the public; everyone of whom has not only an interest in its performance, but a good title to consider himself wronged if it is performed otherwise than honestly and carefully.³

Note that here Mill characterized the public as a unified agent, with people seeing at one with each other and speaking in one voice.

A bit later, in mentioning the high hopes one might place in a system of open voting, Mill noted:

Cases exist —they may come to be more frequent—in which almost the only restraint upon a majority of knaves consists in their involuntary respect for the opinion of an honest minority.⁴

On Mill's view, then, under a system of open voting, the controlling public was comprised of the majority and the minority. In other words, the public was the entire electorate.

² I will use public voting and open voting interchangeably.

³ J.S. Mill, *Considerations on Representative Government*, ch. 10, p. 300.

⁴ J.S. Mill, *op.cit.*, ch. 10, p. 307

Supporters of open voting analyze the beneficial effects of such control by the general public in two ways. One view holds that voting under the eyes of others incentivizes voters to take into consideration the good of all when casting their votes as each fears the blame of those that his vote might harm. Each voter is thus led to vote for the common good rather than for his own good. On another view open voting incentivizes each voter to cast his vote in such a way that his vote can be justified to all, even though it does not manifestly further the common good. Thus, Brennan and Pettit argue that open voting induces voters to vote in "a discursively defensible manner".

To vote in a discursively defensible manner is to vote in such a way that you are able to argue with others, at least to the extent that they are in a similar position, that they should follow the same path. It is to be able to represent your vote as an universalizable act: an act which is right not just for you, but for anyone in the same sort of circumstances. If you are able to represent your act in this light then normally you must be able to show that it is supported by considerations, which are as relevant for your audience as they are for you. Such considerations must subsume interests that are common to all, and not just your particular concerns. They must be considerations of the common good. They must bear, if not on matters of people's general welfare, at least on matters that all can recognize as relevant and important.⁵

Such arguments then rest on the premise that open voting is synonymous with voting under the eyes and control of all others. To be sure, these arguments do not require that everyone actually keep an eye on the voting records of everyone else. The generalizing influence of open voting works with just anybody being able to look up the voting record of anybody else. This appears to be a reasonable assumption since by construction the information about how each person votes is made available to all others without any limitations.

However, the universal character of openness is deceptive. Making available the voting records of millions of people produces a huge amount of information. As a member of the controlling public each person is allowed to consult a very large number of voter files. But she cannot consult them all, so she has to pick some. It seems highly unlikely that she picks at random. Why would she wish to find out about the vote of just any random person from amongst millions? In reality she would wish to find out about people she knows. She would consult the voting records of specific and predictable categories of people, such as friends and acquaintances, family members, professional relations or neighbors. Thus, with open voting you vote under the control of selected

⁵ G. Brennan and P. Pettit, "Unveiling the vote", *British Journal of Political Science*, 20 (3), Jul. 1990 p. 324

publics. Your controllers self-select: you vote under the eyes of people who are interested in you. In practice, this means that open voting does not place each voter under the control of the general public, but under the control of his social environment.

Why is this undesirable? Subjecting the vote to any kind of control necessarily implies a loss, as individual freedom is thereby curtailed. This loss may be justified, however, if there are strong reasons to think that the lesser amount of freedom better achieves some other important goal such as promoting collective decisions in line with the common good. Now there is no reason to suppose that people's friends and acquaintances, families, professional relations or neighbors are any less selfish, incompetent or malicious than they are. So by strengthening the influence of their social environment on people's freedom of voting we would only lose.

II. Increasing the importance of private rewards and penalties in elections

As noted earlier, under open voting not everybody is going to access the available information about how people vote. Only those motivated will do so. Amongst those candidates running for office figure prominently. For candidates information about people's votes is critical. So if this information is available, then candidates are sure to access it.

Parenthetically, it is odd that Mill shouldn't say anything about the impact of open voting on electoral campaigns, —as far as I am aware. I have no explanations for such silence. It calls for further research.

Returning to the mode of voting, open voting arms candidates with a powerful instrument for securing votes. It enables candidates to strike bargains with individual voters, offering a personal reward if the voter votes in the desired way and threatening sanction if he does not. Since open voting makes compliance easily verifiable, such bargains would stick. One might respond that this would amount to vote buying and that vote buying can be legally prohibited.⁶ This might true in theory, but in practice such prohibition would be hard to enforce. Short of a very intrusive government, not all interactions between candidates and voters may be monitored. Besides, politicians have innumerable ways of rewarding or punishing voters, some of them hard to categorize —think of tax auditing for instance. Finally, even with secret

⁶ See Brennan and Pettit, 1990, pp. 328-331

ballot politicians have displayed remarkable ingenuity in devising ways of rewarding or penalizing voters. There are countless colorful examples of such techniques. One can only imagine what candidates would invent if voting bargains were made more effective by the use of public voting.

Some theorists claim that the secret ballot privatizes the vote. Actually quite the opposite is true. It is only under public voting that the vote may effectively be employed for private gain. The secret ballot is an obstacle to such practice.

III. Increasing the political impact of socio-economic inequalities

This argument is by no means novel. The observation that open voting favored the higher classes drove popular demands for the tabellerian laws in Ancient Rome. Cicero's rhetoric about the *boni viri* should not obscure the fact that what was in question was the influence of the wealthier strata of the population.

The argument, however, has lost none of its force. An action performed in public is more susceptible to influence by other agents than an action performed in secret. Therefore those with the most resources are in a better position to influence the behavior of others if such behavior takes place in the open than if it is performed in secrecy. I see no way of escaping that inference.

Admittedly, this is trite. But it is no less true and important in politics for being a platitude.