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Direct Democracy and the Internet

Dick Morris

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I. SUMMARY OF ARGUMENT

The Internet offers a potential for direct democracy so profound that it may well transform not only our system of politics but also our very form of government.

Since the 1960s, electoral politics in the United States has been dominated by television advertising. In 1996, $260 million was spent on TV ads by all state and federal candidates combined.[1]

But as the Internet is growing, the television audience is shrinking. Between 1978 and 1998, the percentage of American households who watch prime time television has shrunk from 90% to 45%.[2] In the four-year period from 1995 to 1999, the ratings of top television network news shows have dropped almost one-third from a 9 rating in 1995[3] to a 6.5 rating in 1999.[4] Recently, 33% of Americans reported that the Internet was their major source for news and only 26% of those who use the Internet for news also watch television to keep up to date.[5]

As the television audience shrinks and the Internet usership expands, politicians will follow their voters in shifting their focus from on-air to online. Like hunting lions who must follow the migration of the antelopes on whom they feed, political campaigns will have no choice but to transfer the bulk of their attention to the Internet. This trend will decrease the reliance on large financial contributors and

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* President, Vote.com.

1. *See* U.S. CENSUS BUREAU, STATISTICAL ABSTRACT OF THE UNITED STATES: 1999, at 593 (1999).

2. *See* DICK MORRIS, VOTE.COM xxi (1999).

3. *See Tops on TV*, NEWSDAY, May 17, 1995, at B2.

4. *See Nielson Ratings*, USA TODAY, Aug. 4, 1999, at 3D.

5. *See Online News: Users Up, Satisfaction Down*, CYBERATLAS, Sept. 19, 2000, *at* http://cyberatlas.internet.com/big_picture/traffic_patterns/article/0,1323,5931_464281,00.html.

will reverse the long-term trend toward more and more expensive campaigns.

Online voting is increasingly making its way into our political process. The 2000 Arizona Democratic Primary tallied 39,942 online votes, driving the voter turnout far above 1996 levels.[6] Increasingly, the franchise will move online and will likely generate greater voter participation.

At the same time that the political process itself moves away from television and towards the Internet, our very system of governance will also evolve toward a more direct form of democracy, reflecting the growing importance of the Internet.

Just as polling has forced elected officials to be more responsive to the currents of public opinion, so online voting through the Internet will make representatives and senators pay closer attention to the views of their constituents. Issues will be posed to voters online through private, profit-making websites, and, increasingly, via government sponsored referenda.

The trend toward direct democracy, so manifest in the last twenty-five years through voter initiatives at the state level, will move online. This will open the door for informal, private referenda involving millions of voters on federal issues and on state topics, even in jurisdictions that do not normally permit voter initiatives. While these privately sponsored referenda will not be legally binding, they will exert a powerful political pull on elected officials and decision makers at all levels.

The result will be a system of governance that pays closer heed to public views and that tethers more closely to the opinions of the people. Whether this greater public participation in decisions of government is desirable or not, it is inevitable as the Internet overcomes the logistical barriers that required delegation of decision-making to elected representatives in far-off Washington, D.C.

II. A BIT OF HISTORY

Thomas Jefferson was clearly an advocate of a democracy that would be as direct as possible. In an 1816 letter, Jefferson urged a

6. *See Arizonans Register Overwhelming Support for Online Voting*, Mar. 12, 2000, *at* http://www.election.com/us/pressroom/ pr2000/0312.htm.

"ward" republic system in which as many decisions as possible would be made at the town level through direct meetings and voter participation. Under such a system, "every man is a sharer . . . and feels that he is a participator in the government of affairs, not merely at an election one day in the year, but every day."[7] Extolling the town meeting form of government, Jefferson called it "the wisest invention ever devised by the wit of man for the perfect exercise of self-government, and for its preservation."[8]

The development of our representative form of democracy was, in large part, the brainchild of Jefferson's neighbor, successor, and close friend, James Madison. It was Madison who

> staked out a political position between Thomas Jefferson, Thomas Paine, and Patrick Henry on the left and John Adams, George Washington, and Alexander Hamilton on the establishment or nationalist side. He would not, for example, go so far as Jefferson, who sometimes insisted the whole adult population had the right and the wisdom to govern themselves. Nor, on the other hand, would he side with Hamilton, who initially favored a modified form of the British monarchy and who sometimes referred to the mass of common people as a "Beast."[9]

Madison's middle course is the form of government by elected representatives that we now use as our decision-making system at both the federal and state level.

Was the idea of direct democracy rejected because it was undesirable or infeasible? Because of the logistic impossibility of direct democracy at a national level in an age before mechanized transportation or communication, Jefferson's concept of town meeting government was, perforce, closely linked to his notion of localized power. As John Adams noted: "in a large society, inhabiting an extensive country, it is impossible that the whole should assemble to make laws. The first necessary step, then, is to delegate power from the many to a few of the most wise and good."[10]

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7. THOMAS JEFFERSON, WRITINGS 1380 (Merrill D. Peterson ed., 1984).
8. *Id.* at 1399.
9. THOMAS E. CRONIN, DIRECT DEMOCRACY: THE POLITICS OF INITIATIVE, REFERENDUM, & RECALL 18 (1999).
10. John Adams, *Thoughts on Government*, *in* IV THE WORKS OF JOHN

In rejecting local governance and embracing the need for powerful national institutions, Madison and the other Framers were implicitly turning down direct democracy and embracing representative government. The impossibility of a national direct democracy prevented any serious consideration of the merits of direct as opposed to representative governance.

During the first years of the nation's history, direct democracy was extended with the constitutional amendment requiring direct popular choice of presidential electors in 1804.[11] After April 8, 1913, U.S. Senators, formerly chosen by state legislatures, were also directly elected by voters.[12] With the expansion of the franchise to those without property, to women, and to racial minorities, the degree of democracy has increased throughout our history.

During the populist era at the end of the nineteenth century, direct democracy began to come, once again, to the forefront through state laws establishing the right of public initiative, recall, and referendum.[13] The People's Party platform, adopted at their first national convention in Omaha, Nebraska in July 1892, advocated "the legislative system known as the initiative and referendum."[14]

Influenced by the growing suspicion of trusts and monopolies, which dominated the legislative process at all levels—particularly in the U.S. Senate—state after state passed legislation allowing for direct popular decision making (see Table I). Thus, twenty-seven states and the District of Columbia, representing fifty-two percent of the nation's population, permit popular initiative or referendum.[15]

ADAMS 193, 194-95 (1851).

11. *See* U.S. CONST. amend. XII.
12. *See* U.S. CONST. amend. XVII.
13. *See* CRONIN, *supra* note 9, at 43-54.
14. *Id.* at 45.
15. *See* U.S. CENSUS BUREAU, *supra* note 1.

TABLE I: STATE ADOPTIONS OF INITIATIVE AND REFERENDUM, 1898-1992[16]

Year of Adoption	State(s)
1898	South Dakota
1900	Utah
1902	Oregon
1904	Nevada (referendum only)
1906	Montana
1907	Oklahoma
1908	Maine, Missouri
1910	Arkansas, Colorado
1911	Arizona, California, New Mexico (referendum only)
1912	Idaho, Nebraska, Nevada (initiative only), Ohio, Washington
1913	Michigan
1914	North Dakota
1915	Kentucky (referendum only), Maryland (referendum only)
1918	Massachusetts
1959	Alaska
1968	Florida (constitutional initiative only), Wyoming
1970	Illinois (constitutional initiative only)
1977	District of Columbia
1992	Mississippi

Voters began to use their new powers of initiative and referendum in the early years of the twentieth century. Between 1910 and 1920, over 250 propositions reached state ballots and the frequency of referenda continued at this level through the 1930s.[17] But

16. *See* CRONIN, *supra* note 9, at 51.

17. *See* Todd Donovan & Shaun Bowler, *An Overview of Direct Democracy in the American States*, *in* CITIZENS AS LEGISLATORS: DIRECT DEMOCRACY IN THE UNITED STATES 1, 10 (Shaun Bowler et al. eds., 1998).

enthusiasm cooled after World War II and fewer than ninety initiatives appeared on all state ballots combined in the 1960s.[18]

The process of direct democracy picked up momentum in the 1970s when it became a vehicle for those seeking to cap taxation at the state and local level. California's Proposition 13, which limited property taxes in 1978,[19] and Massachusetts's Proposition 2½, which capped them at 2.5% in 1982,[20] catalyzed widespread use of the initiative process.

In the ten years from 1983 to 1993, 291 initiatives made their way to statewide ballots.[21] In the 1990s the trend has continued with seventy-three initiatives appearing on state ballots in 1994 alone.[22]

In Oregon, initiatives have become so popular that they proliferate on state ballots. Table II illustrates the breadth of the current initiative process.

TABLE II: INITIATIVES ON THE 2000 BALLOT IN SELECTED STATES

State	Number of Measures	Most Important Measures
Colorado[23]	6	Citizen management of growth Medical use of marijuana Background checks at gun shows Women's Health Information Act
California[24]	8	Campaign contribution/spending limits Probation/treatment for drug possession

18. *See id.*

19. *See* Proposition 13, *in* CALIFORNIA BALLOT PAMPHLET, GENERAL ELECTION (enacted as CAL. CONST., art. XIIIA, §§ 1-6 (1978)).

20. *See* Proposition 2½, (codified at MASS. GEN. LAWS ANN. ch. 59, § 21C (West 2000)).

21. *See* Donovan & Bowler, *supra* note 17, at 109.

22. *See id.*

23. Secretary of State Referenda List, *2000 General Election Ballot Initiatives*, *available at* http://www.sos.state.co.us/pubs/elections/2000_ballot_initiatives.htm (as of Oct. 23, 2000).

24. Ballot Measure-CA Secretary of State, *General Election 2000*, Nov. 7, 2000, *available at* http://www.ss.ca.gov/elections/elections_props.htm.

		School vouchers
Massachusetts[25]	8	Directly determine tax rates and reductions Limit voting rights of incarcerated felons Health insurance coverage for all state residents Treatment programs for drug offenders
Oregon[26]	25	Restrict tobacco settlement proceeds to low-income health plans Prohibition against double taxation Taxpayer protection initiative Repeal mandatory minimum sentencing Performance pay for teachers Amendment to preserve self-government Ban body-gripping animal traps Background checks at gun shows Public funding for candidates who limit spending Prohibition of sanctioning homosexuality in schools
Washington[27]	6	Ban body-gripping animal traps Charter schools

III. THE ARRIVAL OF THE INTERNET

While voter fascination with direct democracy through state initiatives and referenda has grown palpably in recent years, Internet use has also spread throughout the United States. By the end

25. Secretary of State, *Information for Voters 2000, available at* http://www.state.ma.us/ sec/ele/elebalm/balmidx.htm (updated Dec. 22, 2000).

26. Secretary of State, *2000 General Election Statewide Measures, available at* http://www.sos.state.or.us/elections/nov72000/ 2000genmea.htm (last updated Aug. 14, 2000).

27. Secretary of State, Vote 2000: Statewide Ballot Measures, available at http://www.secstate.wa.gov/vote2000/measures (Sept. 28, 2000).

of 2000, there were an estimated 136 million Internet users nationally, roughly thirty-six percent of total global Internet use.[28]

The 2000 presidential election saw two seminal developments in the Internet's growing political impact. Arizona Senator John McCain, faced with the need to catch up with George W. Bush's fund-raising advantage and early lead, turned to the Internet to raise funds. Reaching out to supporters online after his stunning upset victory in the 2000 New Hampshire primary, McCain was able to raise almost $10 million through Internet appeals, with cash coming in at a rate of $500,000 per day according to top McCain campaign officials.[29]

In March 2000, Arizona held the first statewide primary that permitted Internet voting. A total of 39,942 Arizona Democrats went online to cast their ballots in the state's preferential presidential primary, the largest turnout since the state began holding primaries in 1984.[30] Arizona's State Democratic Party Chairman, Mark Fleisher, said that Internet voting was "the first thing to come along to motivate people to vote since the repeal of the poll tax."[31]

Conducted by Election.com, the Arizona primary allowed voters to cast ballots via the Internet for a four-day period around the regularly scheduled primary date of March 10, 2000.[32] Of the 85,970 Democrats who voted, forty-two percent voted through the Internet.[33] While the Arizona primary was held after the Democratic nomination had been decided as a practical matter, the Internet turnout still exceeded the 12,844 who voted in the 1996 primary.[34]

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28. *See The World's Online Populations*, CYBERATLAS, Feb. 5, 2001, *at* http://cyberatlas.internet.com/big_picture/geographics/article/0,1323,5911_151151,00.html.

29. *See* David McGuire, *McCain Net Guru—Campaign Proves Webs' Political Value*, NEWSBYTES, Mar. 10, 2000.

30. *See* Election.com, *supra* note 6.

31. Scott Thomsen, *Arizona Will Pioneer Internet Voting in March: Democratic Primary Tests Online Balloting*, CHATTANOOGA TIMES, Dec. 5, 1999, at A18, *available at* LEXIS, Nexis Library, News Group File; *see also* Associated Press, *Arizona Demos to Pioneer Voting Via Internet*, DESERT NEWS, Dec. 5, 1999, at A21, *available at* LEXIS, Nexis Library, News Group File.

32. *See* Election.com, *supra* note 6 (indicating that the Internet vote was held between March 7 and 11, 2000).

33. *See id.*

34. *See id.*

Vote.com, the author's website, opened the door to informal, privately sponsored voting when it went online in November 1999. In its first eleven months in operation, 1.1 million people registered their votes on the site and cast a total of fifteen million votes on state and federal issues. Each day, Vote.com posts a new national political issue and invites its users to log on and vote. Several times each week, the site posts referendum topics on issues in each of the fifty states. On the nonpolitical side, Vote.com offers issues each week for consideration in sports, entertainment, business, technology, health, travel, gay issues, family, environment, and travel.

Each vote on Vote.com triggers an e-mail that Vote.com sends to the voter's senators and representatives. Vote.com also sends e-mails advising other significant decision makers—in and out of government—of the balloting results. The largest turnout has been on the issue of gay marriage. As of February 19, 2001, a total of 185,171 supported the right of gays to marry, while 389,102 registered their opposition.[35]

The popularity of referendum voting on Vote.com illustrates the potential for widespread participation in Internet direct balloting on issues. According to *PC Data*, Vote.com had over one million unique visitors during August 2000 who returned an average of fourteen times during the month. The site ranked far above any other political website, and its traffic placed it in the top 500 websites in the world (excluding the ubiquitous pornography sites).

IV. THE FUTURE OF INTERNET POLITICS

As the public shifts its focus from television to the Internet, the locus of political campaigning will also change. The campaign of the future will be conducted through electronic blasts back and forth between candidates as they vie for votes in our competitive political process.

35. *See Should Same-Sex Couples be Allowed to Marry?*, VOTE.com *at* http://www.vote.com/vResults/index.phtml?voteID=1649219&cat=6834282 (last visited Feb. 19, 2001).

A. E-mail

Direct mailings to voters have been largely discarded by statewide or national campaigns in favor of television advertising aimed at the broad mass of voters. The cost per envelope—almost forty cents when all is considered—is just too high to compete with the cost of advertising in even the least expensive of media markets.

For example, were one to mail all voters in an inexpensive television market like Jackson, Mississippi, one would spend about $80,000 to reach all 200,000 voters in that market. Even a targeted mailing aimed at swing voters would cost upwards of $30,000. On television, $30,000 in Jackson, Mississippi will buy about one thousand points of television advertising—enough to reach every voter eight to ten times with a thirty second advertisement, a far better buy than sending out one mailing.

But with e-mail, the mathematics changes dramatically. With no cost for postage or handling and instant delivery, e-mailing is far more immediate, intimate, and inexpensive than any other form of electoral communication. Once a candidate has an e-mail list for her district, she can reach her voters as often as she wishes with whatever content she wants. As broadband Internet access increases, she can even send streaming video, very much like the political ad of today, all with no cost.

Now that over one hundred million Americans have e-mail addresses, the potential for targeted, free communication via e-mail is enormous.[36] It is now little used because no candidate has a good e-list of her voters. Since no telephone books for the Internet exist and the portals, like America Online (AOL), are bound by privacy policies not to release their lists, there is no easy way to acquire the e-mail addresses of one's voters.

However, it is inevitable that soon campaigns will choose to communicate with voters through massive e-mails. One can imagine the closing days of a presidential campaign of the future (perhaps as soon as 2004 and certainly by 2008). Campaigns will issue forth e-mail volleys attacking, parrying, and counter-thrusting up to the moment of Election Day morning. Entire campaigns, which now

36. *See The World's Online Populations*, *supra* note 28.

take weeks or months to unfold, will take place at the click of a mouse.

B. The Voluntary Campaign

Current campaigns are based on the premise of involuntary communication. A voter is sitting in her living room watching her favorite show on television when suddenly she is assaulted by a political ad. Had she realized that one was about to come on, her time would have been better spent hunting for a beer and sandwich in her refrigerator. But, with no notice, the campaign projects its message into her home. She has no choice but to watch.

But whether a campaign of the future chooses to publicize itself through banner advertising or e-mails, it is only by clicking on the banner, logging onto the campaign website, or opening the e-mail that the voter will receive the message. It will be a voluntary act. The era of the involuntary campaign communication will come to a close.

Campaigns will have to focus their attention on becoming sufficiently attractive to win the voters' attention rather than mapping out uninvited intrusions into their lives. Through humor, incentives, and attractive messages, campaigns will have to lure the voter to pay attention.[37]

The skills that are now most richly rewarded in the current era of involuntary communications—repetition and condensation—will be anathema in the new era.[38] Repetition, the cornerstone of media advertising, is a turnoff on the Internet. Who would voluntarily log onto the same material to get the same message day after day? Even the most devoted of partisans will demand new information to command their attention. Condensation, a skill necessary in an era of thirty-second spots, will not wear well in the Internet era either. Elaboration, new material, and interesting exploration of ideas will be the keys to winning and keeping voters' attention as a campaign progresses.

37. *See* MORRIS, *supra* note 2, at 95.
38. *See id.* at 93.

C. The Pluralism of Information Flow

Most media is stratified into vertical monopolies. Everyone who lives in Baltimore must read the *Baltimore Sun* if they read any local daily newspaper at all. Even in cities with some journalistic pluralism, the choice is usually limited to only two or three daily newspapers. Electronically, the nation is divided into media markets with only a handful of television stations and a few dozen radio stations competing in each market. Nationally, the menu is a bit larger with the addition of national cable stations and national newspapers, but the range of inputs available is still sharply limited.

In this monopolistic environment, editors, publishers, producers, and station executives exercise huge power over what information is seen or heard. By slanting their coverage one way or the other, they can often determine the outcome of local election contests with only the paid advertising of the other side to stand in their way.[39]

With the advent of the Internet, all this is changing. A Baltimore voter can as easily access the *New York Daily News*, the *San Francisco Examiner*, the *Los Angeles Times*, and the *New York Times* as she can the *Baltimore Sun*. Instead of getting the news vertically—all the news the local editor sees fit to print—the Internet user gets it horizontally—all the political stories in the nation in whichever news outlet happens to run them.[40] For example, the author's weekly column in the *New York Post* typically gets almost as many readers online from around the nation as it does in the print version of the newspaper in the New York area.

This democratization of the flow of information is rapidly eroding the power bases of journalistic baronies from that of the *Manchester Union-Leader* in New Hampshire to that of *The New York Times* in the nation's largest city.

D. The Decreasing Importance of Money

The recent rapid growth in the cost of political campaigning is largely due to the increased spending on television advertising. With the television audience cut in half, politicians are compensating by

39. *See id.* at 89.
40. *See id.*

spending two or three times as much money to reach them.[41] In the 1980s, it was common to run a political advertisement for about 500 to 700 rating points[42] per advertisement. Now it is more common to run an advertisement for 1000 to 1200 points before pulling it from the air.

But soon television advertising and the spending that it catalyzes will reach the point of diminishing returns. No longer will it pay to spend more and more to reach fewer and fewer voters. Just as radio advertising has fallen out of favor as the prime means of political communication because more than one voter in three never listens to the medium, so too will television be forced from its central place on campaign budgets.

When campaigns shift from television to the Internet, budgets will inevitably drop. The Internet is, of course, relatively inexpensive.[43] Advertising on the Internet can never get too expensive because of the rapid multiplication of outlets and sources. In an environment where it takes capital or government approval to open a newspaper or run a television or radio station, there is an artificial scarcity of supply that forces up advertising costs. But when anyone can start a website—and millions have—it will be difficult to command top dollar for Internet advertising. Already, the predictions of rapid increases in spending on Internet advertising have not been fulfilled. In 1998, Americans spent $1.92 billion on Internet advertising and the total increased to $3.5 billion in 1999 (see Table III). It is clear from Table III that by 2000, a leveling trend is evident.

41. *See id.* at 53.

42. One rating point means that one percent of a television market's audience has seen the advertisement once.

43. *See* MORRIS, *supra* note 2, at 57 ("These days, Internet advertising is not very expensive. Advertisers pay from $5 to $30 on average for every thousand visitors to the Web site who see their ad.").

TABLE III: ONLINE ADVERTISING DOLLARS

Year	Amount Spent ($)	Increase (% over previous year)
1997[44]	907 million	
1998[45]	1.92 billion	112%
1999[46]	3.5 billion	82%
2000 Projection[47]	5.3 billion	51%

The variant in Internet campaigns will not be how much money a candidate has to force herself on voter attentions through involuntary advertising on television, but how attractive, informative, and entertaining her campaign is and how much attention it attracts voluntarily.

The decrease in the power of large financial donors and special interests that must inevitably flow from the decreasing importance of money in the Internet politics of the future will be a welcome development for our democracy.

V. HOW THE INTERNET WILL CHANGE GOVERNANCE

The impact of the Internet will not be confined to politics, it will change considerably how we govern ourselves as well. It will likely usher in a new era of more direct control of public decisions by the voters themselves and will probably further constrain the discretion of our elected officials in making decisions adverse to those sanctioned by public approval.

This trend toward direct democracy has, of course, already come far in the past thirty years. The amount of information available to the public has proliferated through the growth of all-news cable stations, in-depth media reporting of public affairs, and the proliferation

44. Matt Richtel, *Advertising: A Group Cites Some Progress in Convincing Companies To Peddle Their Goods on the Internet*, N.Y. TIMES, May 4, 1999, at C9.

45. *See id.*

46. *Predicted Ad Explosion Will Add to Clutter*, CYBERATLAS, Aug. 18, 2000, *at* http://cyberatlas.internet.com/big_picture/demographics/article/0,1323,5941_440981,00.html.

47. *See id.*

of Internet public affairs sites. At the same time, many observers have noted how the advent of modern polling and the widespread dissemination of its conclusions have weakened the independence of elected officials and forced them to take greater account of how their voters feel about current issues.[48] This combination of more information and greater polling has made public opinion much more of a factor in legislative decision-making than it ever was.

The Internet will accelerate both the greater flow of information and the increased reliance on public opinion in legislative decision-making.

News websites cover political information and public affairs far more extensively than even the most thorough of newspapers and certainly in vastly greater depth than any television news programming. Indeed, if one were to compare, on a typical day, the number of stories covered in the pages of *The New York Times*—arguably the most inclusive of newspapers—with the public affairs stories reported online, the Internet user has access to a far wider range of information.[49] Compare, for example, the stories covered in *The New York Times* and those covered online on August 6, 1999.[50] *The New York Times* covered the following topics:

- FCC Will Permit Owning Two Stations in Big TV Markets
- Some in GOP Join Democrats on HMO Bill
- SEC Fines a Bear Stearns Unit in Fraud Case after Long Inquiry
- Senate Confirms UN Appointment after 14 Months
- Tax Cut War Games
- Senators Say Errors Plagued U.S. Investigation of Possible Nuclear Spying by China
- Congressional Pact Alters Energy Department to Protect Nuclear Secrets
- Accord on Developing Land Beside the Grand Canyon[51]

48. *See* MORRIS, *supra* note 2, at 29-30.
49. *See id.* at 183.
50. *See id.* at 183-84.
51. *See id.*

In addition to those already listed above, the following articles on national news—*not* covered in the *Times* on August 6, 1999—appeared on AOL that day:[52]

- Hatch Wants Probe of Clinton Judges
- States Seeing Worse Drought
- Deadline for Boeing 737 Repairs Met
- Afghan Arms Investigation Dropped
- Anthrax Vaccine Costs Pentagon
- More State Changes in Unwed Births[53]

By including all stories that were sent out by the wire services and every story that appeared in any newspaper of note on a given subject, the Internet makes available a wealth of information and data that dwarfs what is provided by any single news organization. Without limitation of space or airtime, the Internet is making it possible for Americans to become vastly better informed about politics and issues.

The Internet will also stimulate the subservience of politicians to public opinion. Many have lamented that polling makes politicians bend to the winds of public sentiment. But the Internet will make their lack of independence even more palpable.

The truth, however, is that politicians routinely ignore polls. Consider all the issues that command a clear majority of the voters in virtually every poll but are not adopted by the legislative bodies these same voters elect. From the right, the list includes constitutional amendments to ban flag burning, allow school prayer, issue vouchers for aid to private schools, and require a balanced budget, as well as legislation to ban partial-birth abortion, enact term limits, and reform tort laws. From the left, the list of popular legislation that is routinely defeated includes stricter gun controls, Medicare funding for abortion, and a host of other causes.

But elected officials will find it much more difficult to ignore a popular referendum. Even a nonbinding online vote is more powerful than a poll and is much harder to ignore. A poll is anonymous.

52. *See id.* at 184.
53. *See id.*

The client usually does not disclose her identity. The voters who are polled do not know the final results. Only the small percentage of polls that end up in the newspapers are even known by the public. A very small percentage of the public is ever polled and only a few hundred or thousand are surveyed in each instance.

But a referendum is held in public by the public. Voters know they are being consulted, know how they voted, become engaged in the decision, and will vent their anger at any of their elected representatives who ignore their wishes. When a politician defies a poll, she may be blamed for taking the wrong position, but she cannot be faulted for ignoring the will of the people. When she ignores a referendum, however, a vote actually cast by millions of her constituents, the very fact that she did not listen to the people assumes more importance than the substantive disagreement over the issue itself ever would.

Just as Vote.com now encourages over one million voters to register their opinions on the issues of the day, websites all over the world will increasingly offer online voting on important issues. Further, just as tens of millions of people flock to the polls to vote on state initiatives and referenda in jurisdictions that permit them, so will tens of millions of constituents vote online on important issues.

In the future, every major public policy debate will be heavily influenced by a massive online expression of public sentiment through the Internet. When the next decade's issues equivalent to those such as the possible impeachment of Clinton, the ratification of NAFTA, or the government shutdowns of 1995, tens of millions will go online to vote. Their votes will be the central influence in the outcome of the debate.

While these votes will not be legally binding in most cases, they will be politically binding. An elected official who ignores the articulated concerns of a large majority of her voters time after time should plan to embark on a new career after the votes are counted in the next election.

A. The Influence of Special Interests

As the Internet drives a swing in the political process toward direct democracy, special interest groups will find that they have to

lobby us—the voters—rather than Congress to get their way.[54] This will, of course, not doom them to impotence but will catalyze an entirely different financial focus. Instead of spending money wining, dining, and donating to politicians, special interest groups will have to cultivate public opinion and stimulate voters to participate in online referenda.[55]

As we have seen, the decreasing importance of television advertising will make this task more difficult for them. They will have to compete on more equal terms with public interest groups, since money will not buy them the kind of access to the average voter on the Internet that it purchases on television. Membership organizations such as the National Rifle Association and the Christian Coalition on the right and the National Organization of Women on the left will have an edge.[56] Organizations that rely on checkbooks—like the left-wing trial lawyer groups and the right-wing Chambers of Commerce—will have much less power. The amount of money an organization has will mean less than the size of its membership in the new world of Internet politics.

B. Will Voters Abuse Direct Democracy?

Of course, there will be examples of abuse when direct democracy goes too far. However, we will still have the courts, the Bill of Rights, and the Constitution to hold the whims of the electorate somewhat in check.

More importantly, there are numerous examples of the *vox populi* reining itself in and delegating its power to experts.[57] The increasing reluctance of the U.S. electorate to intervene in microeconomic management and its greater willingness to let the Federal Reserve do the directing is a good example. Another is the popular consensus that wars should be left to generals without political interference. If the electorate is willing to delegate decisions over such basic issues as war and the economy to experts, it is likely that direct democracy will lead to a variety of instances in which the voters step aside and listen to those who are better informed.

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54. *See id.* at 60.
55. *See id.* at 59.
56. *See id.*
57. *See id.* at 27-36.

Inevitably, after a period of enthusiasm for the direct power of voting over the Internet, the pendulum will swing back again and voters will begin to have a greater respect for authority and a more pronounced willingness to delegate decision-making to the experts.

C. Voting Online

Clearly, the franchise itself will soon be exercised over the Internet. The high turnout and enthusiasm kindled by the Arizona Democratic Primary of 2000—where half the voters participated online[58]—will be replicated in many additional states as Internet participation rises.

The heralded digital divide, in which minorities and poor people are shut out of participation over the Internet will fade into the past as soon as Internet access is divorced from personal computers. Wireless access through cellular phones and pagers will soon propel Internet participation by more people at the lower end of the economic spectrum. But the real breakthrough will come when the Internet and television merge. When the average family can access the Internet through their TV sets, even the poorest of communities will enjoy a very high level of Internet participation.

The political battle to extend the franchise to the Internet is likely to be a hard fought one. Just as many political elements opposed the motor-voter bill because they feared a higher turnout, so will elements in both parties be nervous at the vast expansion of the electorate that the Internet will herald. Particularly as the under thirty-year-old voters increase their turnout as elections come to their world through the Internet, a new and unmeasured force will enter into our political system.[59] In recent years, voter turnout among younger voters who have not been to college has been very low.[60] Internet voting will bring the process of politics within clicking range for this politically uninvolved but technologically proficient generation.

When voting online becomes part of a seamless web of participation through online voting on issues, the electorate will find a new

58. *See* Election.com, *supra* note 6 (noting that forty-two percent of voters vote online).
59. *See* MORRIS, *supra* note 2, at 63-65.
60. *See id.*

enthusiasm for the political process. The Internet will allow such intimacy and involvement in decision-making at even the most local levels and it will catalyze a vast new expansion of political participation.

VI. THE GLOBAL PERSPECTIVE

As the global financial markets have found their collective voice through fast-moving, worldwide financial markets, there is an urgent demand for a political mechanism that can keep pace with their financial power. Democracy needs a global voice to compete with the demands and perspectives of the purely for-profit orientation of the markets.

As more and more of our important political and economic decisions are made by supernational entities such as the North Atlantic Treaty Organization (NATO), the European Union (EU), the International Monetary Fund (IMF), the World Bank, and the World Trade Organization (WTO), there is an emerging political vacuum. As the nation-state cedes its decision-making power to these global or continental organizations, the ability of democracy to govern is severely eroded. Particularly since many of the nations included in these organizations lack even a pretense of allowing democratic participation, many people feel that technocrats and bureaucrats are taking over.

This concern fuels the increasingly robust, antiglobalization demonstrators who reliably follow these global organizations from meeting to meeting and provoke confrontations with police forces around the globe. Their palpable frustration at not having a democratic forum to use in impacting the decisions of these powerful organizations that run the globe mounts with each confrontation.

The Internet will rapidly move into this breach. As more of the world logs on, the Internet will provide a forum for global democracy long before the nations accept any formal arrangement for measuring the opinion and voice of their peoples. Increasingly, the key decisions of the European Community, for example, will be subjected to the scrutiny of Internet referenda among the people of the continent. Lacking any formal mechanism for speaking out—beyond elections to the weak European Parliament—voters will

flock to the Internet in increasing quantities to register their opinions on the crucial issues that effect their lives.

Vote.com has recently expanded into the United Kingdom, Japan, Korea, Argentina, and Australia, and will soon open sites in France, Germany, Spain, Mexico, and a host of other nations. As this venture, and others, provides an opportunity for a global forum, democracy will move throughout the planet via the Internet.

Even in nations with totalitarian systems, the Internet will offer a kind of fifth column for democratic expression that will be increasingly virulent. Despite the efforts of closed societies to stamp out the Internet, their economic need to go online will inevitably lead to a democratic opening through Internet participation.

More importantly, the Internet will provide a central nervous system for the global body politics. Through its electronic linkages, voters will bind together with people from other lands to create a global political entity that has never existed before. Bypassing national representatives and speaking directly to one another, the people of the world will use the Internet increasingly to form a political unit for the future.

Democracy is on its way.