

Taking National Initiatives to the Next Level:

A 21st Century Political Communications System

by
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Representative democracies in the United States--and in every corner of the globe—are under attack. This time, it is not from ideologically motivated enemies from the left or right, nor does it flow from Marxist, Fascist or religious fundamentalist perspectives. Ironically, It arises from many staunch defenders of the democratic way of life: Citizens of representative democracies who know that it is time to remedy some fatal flaws. Indeed, if major alterations in the foundation of modern representative democracy are not made soon, there is enough evidence to serve as a warning that great ecological, political, economic and social disasters will be imminent.

I. CONDITIONS FOR EVOLUTIONARY CHANGE: THE CONVERGENCE OF NECESSARY AND SUFFICIENT CONDITIONS.

The two main banes of representative democracy are everywhere: an increasingly unaccountable elitism and deeply embedded and expanding political corruption. Though separate in concept, in reality they mesh as well together as fundamentalism and terrorism. And although the effects of elitism and corruption on representative democracy may not be as sensational as the effects of terrorism, they are far more corrosive and damaging.

(1) Democracy For the Few and By the Few:

In the past decade alone, there have been enormous scandals involving the topmost leadership of representative democracies throughout the world: the United States, France, Germany, the United Kingdom, Italy, Peru, Venezuela, Korea, Japan the list is almost endless. What they share in common is the extreme vulnerability of democratic prime ministers, presidents, senators and representatives to the influence, if not downright control, of big money either in the form of excessively wealthy individuals or gigantic national or global corporations who are allowed to finance political campaigns or "lobby" for legislation friendly to their interests.

Of course, this is inherent in the system itself. Charles Beard, in his classic work *An Economic Interpretation of the Constitution* (Beard 1907) made it crystal clear exactly who was involved in the framing and ratification of the United States Constitution in 1787-89. It was the wealthy mercantile and planter classes, in addition to the lawyer elite of early America, who envisioned the "manifest destiny" of the U.S. to stretch from the Atlantic to the Pacific and to become a major international commercial trader.

From the beginning, the business of American government was that of Big Business. The federal system was originally designed to ensconce a wealthy political and legal elite into centralized power and keep it there. That smallish clique was not beholden to big economic interests; they were one and the same.

Fast forward to last decade of the 19th century and the start of the 20th and what do we find: Precisely the same situation with only minor structural variations here and there. By

way of example, we find the Populist and Progressive movements railing against "monopolies," "trusts," "corruption of the democratic way of life," "oligarchy," and on. There were laments against the great divide between the wealthy and the laboring class and how the Rockefellers, Morgans, Carnegies, Vanderbilts and their friends were aggrandizing all political economic power to themselves.

Isn't that the same refrain today? Instead of railroads and the big banks and illegal collusions, now it is "PACs," and "the global economy" and global telecommunications oligopolies that seem to be the new villains. What makes this era's situation unique is that the "big" industrial and financial interests are no longer national in their visions, resources, strategies and tactics they are global. They have new advantages in avoiding taxation, exploiting labor, and influencing national "representatives" that would have boggled the minds of America's founding fathers and the reformers of the early 20th century.

In other words, the original corruptibility of the American political system has now reached degrees unimaginable even a century ago and, worse yet from a strictly American point of view, the financial and political gains being made by the American ruling class are now being diverted from their traditional mercantilist aim of expanding America's wealth. Under the present "New World Order" proclaimed by President George Bush, so-called "American" global corporations now drain American wealth to increase the worldwide wealth and power of a global political elite with "global reach." (Barnett and Mueller, 1974). They subjugate the sovereignty of the United States to new international agencies such as The World Trade Organization. The national representative democracy of the U.S.A. has become no match for an era, described by David Korten, as *When Corporations Rule the World*. (1992).

(2) Democracy For the Few

Obviously, then, American government, at the national level (with much the same being true at the state and local levels as well), does not represent the vast diversity of needs and interests that comprise 285 million American people. Nor does it represent them in their vast array of demographics.

Charles Beard was careful in the association he made between the demographical description of the founders of the American constitution and the economic interests that their new form of government favored. It is easy to connect these dots. The rich and powerful, when they control government, will pass policies and laws that unduly benefit themselves and are to the disadvantage to the rest. Elite rule favors elites. An anti-democratic elite established the American "democracy". Why should its policies favor the masses? Beard is careful to note a slight, but important qualification. Although their "economic interests" were primary and direct, they were not the only interests written into the Constitution. There were some democratic aspects included, if only to gain the ratification of the new form of government at the state conventions.

It was at a few key state conventions in which the vast majority of Americans were to have at least a small, but significant, say. And who were they? They were those Americans at the time who "owned" or worked their own small farms (though heavily mortgaged). Their view of government and what government should do and who it should benefit became

part of the process only after the Constitution was actually written. And the only benefit derived from their participation in the ratification process was to add a Bill of Rights guaranteeing various political freedoms to the citizenry. Nothing in the ratification process changed the basic structure of the Constitution, which put the established elite in permanent power.

In other words, "representative democracy," from the beginning, did not mean to include in any of its branches the direct will of the people of the United States. And the Bill of Rights did not do that either. Thus, it is hardly surprising that if one looks at the social and economic backgrounds of American political leaders and Supreme Court justices, that the common thread is their either being raised in wealthy surroundings, working for those with wealth or gaining wealth through some other means. The vast majority of working Americans (the poor, the lower classes, the working stiffs, the lower middle class) have never been "represented" in the national government of the United States of America directly and only in a minority of instances by those who originated in those strata.

However, class is only one group that finds itself pretty much left out of any direct power sharing in the government of the U.S.A. Much the same has been true throughout American history concerning other major demographic characteristics, like race, sex, and age. Even in 2002, over 200 years since the inception of the U.S. government, if one looks at presidents, Congressmen or federal judges, one is sure to notice that women, blacks, Hispanics, and young people are few and far between. Presently, only 4% of the U.S. Senate is not white...and about the same percentage prevails as governors of the 50 states. This is not an accident. It is by design.

Does this mean that we need a mirror image of the demographic profile of the U.S.A. in the presidency, Congress and the court system to be "representative" of the populace? Well, no, not precisely, although none other than John Adams himself wanted the legislature to be an "exact miniature" of the public at large. However, can one seriously argue that: women and men do not see the world differently or that black and Hispanic Americans think differently about social and economic reality as white Americans? Do young people think like the elderly? Modern social science has proved over and over again that the answer to these questions is clear: sex, race and age make a world of difference in values, viewpoints, and ways of thinking.

In order to be truly democratic, any government "by the people" must resemble "the people." Throughout American history, American government has not been even remotely close to looking like the true diversity of America. We know that the same is true of "representative democracies" everywhere. Everywhere men dominate. Everywhere older men dominate. Everywhere there is a small "political class" that comes from similar backgrounds and has similar educational experiences that dominate the political economy. That is part of the reason why everywhere representative democracy is in deep trouble.

II CITIZENS INITIATIVE AS THE NUCLEUS OF EVOLUTIONARY CHANGE IN REPRESENTATIVE DEMOCRACY

(A) At the State and Local Levels

Of course, American representative democracy has changed a great deal for the better since the inception of the second national American government (The Articles of Confederation, a much more decentralized, less powerful national government, was the first). After all, when the founders finished their work — even after the first Congress — there were far greater democratic deficits in the system than at present: (1) those who owned no real property could not vote; (b) women could not vote; (3) blacks were considered property, not citizens.

Since then, we have seen the kinds and numbers of people considered to be voting citizens increase dramatically. The first part of the 19th century saw the gradual disappearance of the property qualification to vote throughout the U.S.A. It was on a state-by-state basis. The Civil War produced the Civil War Amendments (XIV in particular) which theoretically made black Americans first class (It took *Brown v. Board of Education* and a grass roots Civil Rights Movement in the 1950s and 1960s to make that into a reality). Amendment XIX gave women the right to vote for federal officials after decades of serious struggle replete with protest marches and imprisonment. But it was not until the 1960s, and the Women's Liberation Movement, that women became a major factor in the electoral arena, producing far more female Congresspersons, judges and activists.

All this prolonged political and legal maneuvering resulted in substantial differences in policy at the federal level. In truth, black Americans and American women are far better off today economically and socially than ever before (though much remains to be done). However, the root of the problem which dwells deep within the very structure of representative democracy remains untouched. Having more people participate in an elite controlled system may make it less of an oligarchy, but it does not actually make it more democratic.

Effective control of the system remains in the same hands and minds, as it was when the system was installed. The system of American government is still by and large a government "of the few, by the few and for the few." (Parenti 1999; Dye and Ziegler 2000). Now, more citizens get to elect who those few are.

Perhaps the greatest pro-democratic structural change in American governance came about a century ago as perhaps the major contribution of the Progressive movement. This was the transplant of the Swiss method of direct lawmaking into the U.S.A. at the state and local levels of government — mostly in Western states. (South Dakota was the first in 1898). Called "citizen initiatives," this change in American democracy allowed average working class citizens themselves to set a political agenda and make law without having to go through elected representatives and executives. All they had to do was to collect a certain percentage of signatures of other average citizens on a petition agreeing that a proposed law be put on the ballot and then have a majority of voters vote for it at the next election. This process is sometimes called "direct democracy" because citizens themselves are the lawmakers and legislators. It is akin to the way the Athenian assembly worked in the 4th century B.C. There, legislators were chosen at random from the citizenry. There was no election process.

Any citizen could be a lawmaker by chance, which was a truly "representative" system in which all "citizens" could participate.

The citizen initiative process has become a major addition to and enrichment of American democracy throughout the 20th century. At the present time, some 24 states make it available to its citizenry and countless cities and towns throughout the country permit it as well. Its proponents see it as perhaps the best way for citizens to "go around" or "overcome" legislative resistance to the will of the people. It is seen as just about the only way available to the average citizen to "balance" or "check" the influence of the "special interests" of rich or well-organized groups that have traditionally had such disproportionate influence over legislators and governors...or of a political class that is so different from the mass of citizens by virtue of their upbringing, sex or age.

The truth of the matter is that initiative is very popular among the people of those states which provide for it and is even popular among some states and cities that do not. There are many data to prove that this is so.

First, the use by citizens has been great throughout the century and data indicate that its greatest use was coming near the latter part of that century as state Political Action Committees (PACs) and global economic interests began to diverge ever more from the will of ordinary citizens at the state level. In other words, there is a trend towards greater use of initiatives in those states in which it is available, particularly in the latter part of the 20th century.

Second, the use of initiatives has never been revoked in any place where it is allowed. This shows that it enjoys popularity even when not used very often or when initiatives go down to electoral defeat (which occurs a great deal).

Third, public opinion polls routinely indicate that the general public rates it very highly, particularly in states where it is part of the political system. The range is usually somewhere between a 60-80% in favor of the process. Alan Kay's deliberative poll on this issue found that 64% wanted binding national referenda on major issues (Kay 1998, 178). The issue as to whether or not to adopt the initiative at the state level was the major issue of the 1978 state constitutional convention in Hawaii. The first public opinion polls commissioned by newspapers early in 1978 showed that less than 50% of the public knew what it was. Once the issue came to be discussed in the mass media and in the campaigns of those running to be delegates to the constitutional convention, public opinion shifted strongly in favor of the process.

It was within this political context that we developed the first scientific deliberative method of public opinion polling, called Televote. In the Televote method, we provided a randomly selected group of 400 citizens with a mail brochure that described: (a) the citizens initiative process (including indirect initiatives, where the legislature becomes involved as well); (b) facts about its usage in America (historical and comparative); and (c) equally balanced arguments for and against its initiative. We then gave the respondents as much time as they wanted to read the brochure, think about it, and to talk about it with their friends, neighbors, family and co-workers. The result was that 86% of this scientific sample of informed and deliberative citizens came out in favor of the process. (Slaton 1992; Becker and Slaton 2000)

(B) At the National Level

Even though the same has been at least as true at the national level, with a national political class in control of all three branches of government and both national and global economic forces having tremendous influence over the U.S. government, there has not been a well organized movement to change our constitution to include this form of direct democracy in the 20th century. Actually, as far as we know, this issue has never been brought to the attention of the American public as an authentic national issue despite its great success at democratizing state and local government.

Of course, the major reason for this is that America's national political class remains, as it has always been, extremely cliquish, clubby and anti-democratic. No one in the Democrat and Republican parties running for President has ever made such a proposal in his platform. Almost no one running for Senator or Representative in those parties has made this an issue.

Furthermore, the mass media and public educational systems in the United States do not advocate or teach the virtues of direct democracy at the national level. In fact, if direct democracy is ever mentioned as a possibility for inclusion in the American system of government nationally, only the "problems," "deficiencies," and "dangers" of initiatives will ever be mentioned. In other words, the political class also includes journalists, educators, and academics within its ranks.

For example, books that champion this directly democratic process are hardly ever reviewed on mass-market television and, as far as we can determine, even in professional political science journals. At the same time, when a major journalist or two write books that are highly critical of citizen initiatives, they get at least some reviews and media attention, if not downright adulation. (Schrag 1996 and Broder 1999). So, despite a few, isolated attempts to start a national s initiative movement, they have hardly gained an inch of ground or a ray of visibility.

(C) Evaluating Proposals for Reform of the Representative System at the National Level

The fact that the representative system of the United States is in deep trouble, being profoundly corrupted by money and being largely unrepresentative of the American people, does not go unnoticed by many in politics, the media and Academe. Those who seek to "reform" it, however, are in the true quintessence of reform movements not interested as much in making the system more democratic as in making it appear to be more democratic.

For example, one major area of "reform" has been around for over a century. Its core belief is that the "representative system" can be insulated from the corruption of Big Money. It has led to a flurry of laws in the early part of the 20th century like the Tillman Act (1907) and the Corrupt Practices Act (1925), both of which prohibited corporations from donating money to candidates for federal positions (Congress, the Presidency). Although these laws were in place for decades and decades, they did little to discourage all manner of fraudulent practices, leading finally to the scandals and disgraces of the 1972 presidential campaign of President Richard Nixon and the so-called "Electoral Reform Act of 1974" which brewed such "remedies" as Political Action Committees and "soft money." Both of these tonics have

become toxins of corruption. The reason is simple enough: electoral processes for government must inevitably lead to corruption by money to get elected and then stay in power.

At present, "campaign finance reform" still is on the back burner in Congress. And why not? Both Republicans and Democrats in both houses, and both Republican and Democratic presidents, enjoy the fruits of this poisonous tree. Thus, new ideas and proposals are seeded, but wither on the vine. The American public, although understanding that such a situation exists, seems powerless to do anything or even think about it right now. The consequence of this is that what we really have in Congress right now is similar to what novelist Gore Vidal calls "The Corporate Party." Ross Perot, in his 1992 presidential campaign, also said that we had only a one party system, "the Republicrats" who were good people ruined by a "bad system." (Perot 119 1993). Perhaps this helps account for the fact that Congress returns over 95% of its membership in contested elections which has led some people to claim that the only party in Congress is "The Incumbent Party."

There have been some interesting and perhaps useful reform ideas experimented with at the state level on campaign finance reform and, in fact, there is a current movement towards "clean" campaign finance reform that is actually "state funded campaign financing." The idea here is to allow candidates to opt out of the private funding system and to get a very low number of small contributors that opens the coffers of some state money to run legislative and gubernatorial campaigns. This has begun to work in several states with positive results, i.e., people are being elected without being beholden to big corporations, special interest groups or wealthy individuals. Thus, the debate is being widened during elections, in the legislative committees and plenaries, and even new kinds of policies are emerging from these governments.

All this is good news indeed. Once again, though, these reforms are strictly within the confines of improving the "representative" part of "representative democracy." at the state level. But neither one single national politician, nor one political leader in the "Incumbent Party" nor one major national news organization promotes this idea to improve our national "representative" system. Not one.

D. Lawmaking as the Best Democratic Change Agent

Truth be told, the best way to democratize the legislative process at the national level is by adapting the state-type s initiative for use by American citizens on national issues. It gives real power to citizens to change things that the political elite does not wish to change. Data indicate that liberals and conservatives can come to agreement on certain kinds of critical issues via initiatives that never happens in legislatures (legislative term limits, limits on taxation, medical marijuana, restraining urban sprawl, et al.) When the arteries in a human body are irreparably clogged, there is only one best way to go to make the body survive: heart bypass surgery. This is precisely the role of initiatives in modern representative democracy: It is an excellent way to get the blood flowing again in the democratic body politic.

III MORE OF THE SAME AT NATIONAL LEVEL WILL NOT DO

So does this mean that we advocate (a) copying one or a composite of all state s initiative processes and (b) beginning a national movement to amend the U.S. Constitution via its two formal methods? The answer is "No" on both counts.

Opponents of initiatives make a lot of unfounded and spurious criticisms of the process and its results. That's the nature of politics. In all candor, though, some of the criticisms do have merit and are made by those who are friends and allies of the initiative process. We will just handle a few of them that are relevant to the solutions we propose below.

(1) Too Easy and Too Many? Too Hard, Too Few?

Switzerland uses initiatives at the national level on a very regular basis. In any given year, there are many of them for citizens to vote on. This is part of the reason that the voting turnout there on instituted ballots has plummeted in recent years to around 40% (getting perilously close to American levels of interest). Thus, there may be some demonstrated relationship between the number of issues on a ballot over the years and the interest and desire of citizens to vote on them or not.

There are several aspects of this problem. The general tendency of those who see this as a problem see the solution to lie in the percentage of names of registered voters who voted in the last election it takes to get a proposition on the ballot. If one raises the percentage, and makes it harder, then there will probably be fewer for citizens to deal with. The underlying assumption is: the fewer, the better. Conversely, in some American states, where the percentage is relatively high, people there want it lowered so that there will be more initiatives on the ballot.

So, what's the right proportion? Is there a best-case formula? Probably not. It is more of a question of values: Do you really want to empower citizens to make laws directly? Then keep the percentage relatively low, like 1-2%

(2) Poorly Drafted

Another major problem that both friends and foes alike find in many s initiatives is that they are frequently difficult for the average citizen to understand. There are many reasons for this.

First of all, it must be remembered that under the present form of initiatives, that a small group of people who want this law passed by the citizenry is, by itself, a "special interest" group and a group of advocates. They are not objective about what they want. They have a personal stake in it. Thus, since it is so emotionally driven, there may well be too much in it to digest easily or it may have flaws in it that such people are either not likely to see or who feel that it must be part of the initiative even though it may be contradictory or too complex.

There are some institutional safeguards against this in most places. In other words, before a 's petition is accepted and put on the ballot, it usually must go through some official

scrutiny. A good deal of this, however, is to determine whether the proposition has any illegal or unconstitutional aspects to it. They are not usually officially edited for clarity or consistency.

(3) Subject to the Power of Money

It is amusing when opponents of initiative point out that in modern times the initiative process is no longer the grass roots organizational process that it was early in its history. After all, contemporary California is a state that is much larger in size than most nations (certainly Switzerland). So, if one needs to get 1 million signatures on a petition in a circumscribed period of time of several months, it is very difficult to do this with volunteer help alone.

Thus, many initiatives these days in the USA need to hire firms that employ people to gather the names on petitions. This is surely no worse a process than political parties paying people to get out the vote. Then there is the problem of advertising. In the modern era, word of mouth, flyers and local newspapers do not spread political ideas and arguments. The media of choice is television. Under the American system of corporate controlled television, this means that one must pay for very expensive TV ads, whether the campaign is for an elective office or for an initiative proposition.

If we are talking about big media campaigns, we must be talking about Big Money support. This means that wealthy individuals, large corporations, or other large ideologically driven organizations will have inordinate influence on the content of the discussion and debate over the proposition.

(4) Goodbye, Deliberation

Perhaps the major victim of this infusion of money is the deliberative process that has been assumed to be the way the public has thought about and come to conclusions on the merits of the ballot propositions. Whether this has ever been true is arguable. However, in modern times, it has become painfully clear that the deliberative process is riddled with infirmities. Perhaps the greatest is that the use of huge financial resources allows certain parties and interests to dominate the political debate from beginning to end by winning "the telecommunications war." Darrel West and Burdett Loomis, two experts on the subject, put it like this:

Increasingly, we see large, well-funded interests crowding out small consumer groups, public interest groups, political parties, and even broad-based social movements. As always, some groups are better organized and have access to better resources than others. In an era of instantaneous communications and an onslaught of information, financial resources are more important than ever. From the AARP to Zenith, major interests can commission polls and research studies, run ads, sponsor phone banks, contribute generously to charities, and organize affiliated tax-exempt groups. All this puts them in a strong position to influence policy making. In many respects, this new group activism deeply affects and may even threaten the viability of representative government." (West and Loomis 1999, 8)

This situation is exactly the same, these days, with both initiatives and referenda, particularly at state levels where most "public debate" takes place via warring ads on TV. The contemporary mass media, in particular television, is corporate owned and controlled by large corporations whose only concern is to charge as much for these ads as the market will bear. There is no more concern about the truth or deceptiveness of these ads as there is for the truth or deceptiveness about ads for SUVs, insurance or toothpaste. It is an unmoderated debate whose breadth, depth and veracity are dictated by political consultants whose sole concern is to "win." Indeed, these consultants intentionally cloud much of the advertising, i.e., "public discussion", in an effort to confuse the public in a way that will be favorable to their "side." This confusion, if spread among segments of the population favorable to the other side, will cause people to stay away from the polls on this issue. That may help that side win, but it surely is not a help in improving, clarifying and enriching the public discourse on the issue.

So, does this mean that the one with the most money wins all the time, most of the time, some of the time, none of the time? The answer is complicated. Two political scientists who have studied the impact of hugely uneven expenditures by one side over the other at the state level over many years put it like this:

"To summarize, the empirical literature on money's relationship to direct legislation outcomes confirms that the effects of money are important but limited. Money is sufficient to qualify measures for the ballot. It is necessary but not sufficient to pass new laws by initiative, although it may be used to great effect to defeat ballot proposals. Research on the sources of campaign contributions concludes that resources mobilized by groups are more successful at passing new initiatives, while resources mobilized by economic interests allow them to block new initiatives and preserve the status quo." (Garrett and Gerber in Waters 2001, 82)

The point is: money matters a lot in many different ways in the very success or failure of initiatives. This is not something that should be ignored.

(5) The Amendment Process as Political Suicide

The Founding Fathers of the U.S. Constitution were surely political marvels. Even though they believed they were constructing a document and set of institutions for the ages, and they were surely not short on the strengths of their own egos, they were aware of the fact that their document wasn't and couldn't be perfect. However, it could be made more perfect when changing times showed the need for adjustments.

Thus, as in The Articles of Confederation, they provided for a process whereby the very essence of the government they created, could be altered by future generations. We call this "the amendment process" and, as was intended, it is a very torturous and steep climb. Nevertheless, as most Americans know, the U.S. Constitution has been amended nearly 30 times over the past 200+ years. Some of these amendments have been very significant. One of them, the prohibition of alcohol, was so inept, that it was reversed by a subsequent amendment.

So, the question is: how could a national movement be started that would provide for national initiative through the explicit amendment processes set forth in the body of the Constitution? The answer to this has already been answered. It cannot be. The reason for this is that the American political, economic and media establishments would never let this happen. It would be a virtual miracle for 2/3s of state legislatures to pass such an amendment. Indeed, as many observers have noted lately, the opposite is happening in state legislatures around the country. In other words, state legislatures are doing everything within their power to kill, maim and cripple the power of s initiatives within the states in which they are legal, i.e., raising the number of signatures required, making the process more cumbersome and expensive, etc.

Ergo, to even try to mount a national campaign to pass an amendment to the United States Constitution via Congress or the state legislatures would be to contemplate political suicide. It would be tantamount to driving one's car off a cliff to prove you can fly.

The only way for a s initiative to be integrated into the U.S. Constitution will be for a grassroots movement to occur at the national level that will use the very same "first principles" that brought about the original U.S. Constitution itself. The people of the United States must demand such an amendment themselves based on the principle that they, and they alone, are the sole repository of the power to create and change the very structure of the government itself.

IV HOW PHILADELPHIA II DIRECT DEMOCRACY INITIATIVE PROCESS DEALS WITH THESE PROBLEMS

The first and only serious movement towards a national s initiative process is presently underway under the name of The National Initiative for Democracy (NI4D) which is sponsored by The Democracy Foundation. Spearheaded by a former U.S. Senator, Mike Gravel (D, Alaska, 1969-81), it is unique in many ways.

The chief reason for this is that it seems to address just about all the major problems in the initiative process discussed above. Here is a description of the national s initiative process that they include within the framework of The Democracy Amendment they want the people of the United States to pass via direct election. This would require more than 50% of voters in the immediate past presidential election to cast a ballot in favor of this Amendment within a seven-year time frame.

The Democracy Amendment establishes a direct democratic structure, i.e., national initiative, within an act, or law, called The Democracy Act. This devises an entirely novel citizen initiative process designed to ameliorate all the problems discussed in Section III above so as to permit and encourage the American people to exercise their sovereign power as citizen lawmakers as effectively as possible. In many ways, it is a 21st century superstructure for "The Legislature of the People."

Perhaps its basic tenet is that this s lawmaking structure is part of the national government because all of the process is facilitated by a new national governmental agency. This is called The Electoral Trust.

As in all citizen initiatives, and rightly so, the process must be initiated, or started in motion, by citizens. However, in The Democracy Act, we find there are three ways for citizens to jump-start this process into motion.

First, a small segment of citizens can sign a petition and submit it to any particular legislature they choose (Congress, state legislature, city council). That legislature must then examine it and determine whether they will certify it as a citizens' initiative at the next election. This might be called a citizens' initiated referendum or is a modified form of what is usually called an indirect initiative.

The second method is the tried, true and traditional method of citizen initiative where a small group of like-minded citizens write up a petition with a proposed law on it. They must then go forth and induce a certain percentage of other citizens who voted in the last election to sign it thereby denoting their desire to submit this proposed law to the rest of the citizenry at the next election for general approval or disapproval by the citizenry as legislature. For proposed laws, 2% of voters in the last election are required to get the proposed law on the ballot. For constitutional or charter amendments, 4% are required.

The third option is quite innovative. After the sponsoring citizens group comes up with its idea of what kind of law or constitutional amendment they want the citizens of that polity to vote upon, they submit their petition to The Electoral Trust along with a "polling plan." This plan will set forth the survey and polling design that they intend to implement in order to get at least 50%, of what we assume would be a highly representative sample of the public, to agree that such an initiative should go on the ballot for the next election. The Electoral Trust can approve or disapprove of the "polling plan." If it approves, then the poll is taken and if 50% of those polled say "aye," the public will get their chance to make it into law.

Via this last method, even before the initiative goes up for a vote by the citizens in general, the general public must have a say as to whether or not they want to even discuss it. The aim of this is to make sure that a small group of organizers and petition signers do not clog up the daily business of citizens — making a living and raising a family — with issues that are of little interest to the general population. In many ways, this new option allows for a "public agenda" type of initiative process.

Once any of the above three methods of "qualifying" an initiative are successful, the Electoral Trust must appoint a "Hearing Officer" to hold and supervise public hearings, where various viewpoints and arguments will be made through a vast array of experts and citizens. This all goes onto the "Public Record."

The next step in this highly sophisticated, thoughtful procedure is to convene a group of randomly selected citizens to serve on a "Deliberative Committee." These citizens will be paid well for their services and will receive technological support that is adequate to their task, which is to review the "Public Record" on the issue. They can accept the ballot initiative as written or by a two-thirds vote; they can amend its title and/or content.

Once the Deliberative Committee finishes its work, their recommendation goes to Congress (or state legislature or city council, as the case may be), which must vote on the recommendation within sixty days. However, the legislative vote is only "advisory" to the

general public, who has the final say in an election. This election is funded and supervised by The Electoral Trust and if more than 50% or more of the voters say "yes" to it, it becomes the law of the land.

A very important provision in this people's Amendment to the Constitution is that it's communications to the public are funded by the Electoral Trust (from the treasury of the government). There can be no money contributed by any corporations, associations, PACs, etc. at any stage of the process. Only individuals can contribute money for or against.

So, what we have is an entirely new kind of direct democratic political process, one that deals with every problem that has cropped up in the United States experience with citizen initiatives at the state level over the past hundred plus years. In addition, this process takes in to account the fact that an entirely new system of political communications is necessary to serve the public interest. As the blueprint of a structure, The Democracy Act deals in one way or another with just about every flaw in the initiative process. But will "the devil be in the details?"

V OPERATIONALIZING THE DEMOCRACY ACT: A 21ST CENTURY POLITICAL COMMUNICATIONS SYSTEM FOR A 21ST CENTURY DEMOCRACY

Perhaps the most comprehensive, thorough and insightful review of the initiative process was undertaken in the early 1990s by The California Commission on Campaign Financing (Center for Responsive Government 1992). In general, their analysis of the problem and their recommendations for improving the process have been the best up to this point in time. The Democracy Act, however, takes their recommendations into new territory because it suggests an entirely new form of political communications to involve and empower the public.

For example, in looking through the California Commission's proposals for change, the only change in the existing political communications system is in the "pamphlets" that states mail to citizens to educate them of the content of the initiative by giving them some basic facts and to present them with pro and con arguments. Oh, if only public education was that simple.

We have known for a long, long time that a grave infirmity of American democracy, whether it be in the representative process itself or any direct democratic facet of it, is in the political communications system: the newspapers, radio, television, the entire structure of what passes for "debate" on issues; the poor public feedback mechanisms, etc. Many years ago, the famed political journalist, Walter Lippman, wrote a pivotal book called *Public Opinion* (1921). In it, he coined a political theory of representative democracy that prevails among American elites to this very day and defines the highly undemocratic political communications system that our media and political class like to call "free" (the famed sportswriter A.J. Liebling's famous quotation comes to mind, i.e., "freedom of the press belongs to him that owns the press.")

In essence, Lippman's thesis is that the American people cannot, no matter what, define what is in the "public interest." It is too diverse, too self-interested, and too myopic to see the bigger picture of what is good for all. Only informed, educated, specialized elites can

do that. However, this being a "democracy," broad public assent must be obtained for whatever steps this national elite decides upon. The role of the mass media is to "manufacture consent" of the public for such policies. Noam Chomsky, in his book *Manufacturing Consent*, calls this "the propaganda model of democracy." (Chomsky and Herman).

As all analysts of citizen initiatives in America concede, the deliberative process for initiatives is hopelessly inadequate. What they don't address is that the American political communications system in which initiatives must operate is a top-down, one-way elitist system. It gives the appearance of democratic informed discussion, but that is far from true. It currently deploys all the bells and whistles of 21st century information and communications technologies, but sets them into a 19th or early 20th century mind-set.

What is needed to breathe new and vigorous life into citizen initiatives is an entirely new system of communications not with citizens but among citizens. What is needed is a two-way, multi-lateral system of information, opinion, deliberation and decision-making that supports and expands the initiative process, not the old system that constrains and undermines it.

The process conceived by The Democracy Act does that. What it does not do is to operationalize its concepts consistent with research that has successfully designed and tested features and parts of a new democratic political communications system. We will help do that now.

(1) Scientific Deliberative Polling

As we saw above in The Democracy Act, one of the first steps The Electoral Trust might have to take is to conduct a "poll" of the American public to see if the proposed initiative can get a 50% approval rating before it is allowed to "qualify" for the s initiative process. The question is: What kind of poll?

Clearly, a "polling plan" will not be sanctioned that puts up a website and allows a large self-selected sample of citizens to click on the "yes" button. Should the Electoral Trust commission some modern day big time news-polling conglomerate to conduct one of its off-the-top-of-the-head standard "scientific" polls that asks the respondents over the phone for a quick and unthoughtful response? Again, the answer should be "no way."

The "yes" answer should be reserved for some method or a combination of methods that have been invented, tested and re-tested since the early 1970s called "scientific deliberative polls." There are several models of "scientific deliberative polls" that have been developed and employed extensively throughout the United States, Europe, and Australia. These methods of "polling" vary from small stratified random samples of citizens (12-24), interacting face-to-face, to randomly- selected samples of 1200 answering survey questions from the convenience of their homes after discussion and deliberation with family, friends, co-workers, and neighbors. All the models of scientific deliberative polling have the following common features:

- 1) they use either random or stratified samples of citizens;
- 2) some are face-to-face meetings, some are electronic only, some mix the two;

- 3) undisputed factual information is provided on issues;
- 4) pro and con arguments are given for a variety of alternatives to the issues;
- 5) time is given for discussion of the issue with others and for personal deliberation.

Some of the models strive for consensus. Others simply focus on the differences between uninformed opinions and opinions developed after access to facts, expert testimony, and interaction with others on the issue. These are all features that we believe ought to be components of polling done by the Electoral Trust. Examining some of these models and their findings offers direction for the improving and enhancing public participation in a democratic society. All these experiments in scientific deliberative polling though executed at different times, in different countries (US, NZ, UK, Germany, Denmark, Australia to name some), using differing methodologies — have lots in common.

First and foremost, each of these projects have been highly successful by showing how well their system works in actual practice. These are inventions, just like the plane and the automobile. The inventors try to see if the device works. In all cases, they work pretty much as hypothesized. Where there are unforeseen consequences (aside from those in conformity with either Murphy's Law or the Law of Unintended Consequences), they are usually serendipitous. In other words, despite some technical glitches, almost all surprises are positive.

Secondly, each scientific deliberative polling method found that ordinary citizens had far beyond a minimal capacity to understand complex, sophisticated and highly technical issues. Third, they all found that real citizens, unlike Walter Lippman's theoretical ones, strived very hard to find the common good and, contrary to Lippman's philosophy, took other positions and minority interests into account. In other words, they were fair and civic minded. Imagine that!

Fourth, all experiments asked participants to evaluate their degree of satisfaction with the process and/or their willingness to participate again. Large super-majorities of the participants in all the methods were very favorable to the process expressing high levels of gratification that they were even asked to participate.

Fifth, one of the projects made it a point to test whether the deliberative process changed previous opinions of the citizens by asking the same questions before the process began and again after it was completed. There was almost always some change, however in many cases the attitudinal changes were startling. This set of tests shows quite conclusively that the output of deliberative polls is not only quantitatively different from what the large media and public opinion polling conglomerates mislabel as "public opinion," but qualitative as well.

Sixth, all the project designers came to the conclusion that if these new models of deliberation do not lead to an increased voice for citizens and begin to affect policy decisions, then citizens, no matter how enjoyable or satisfied with the process, will feel that the process is just another attempt at political manipulation by elites. Thus, they will lose interest in them.

Finally, most project designers have found what Dr. Peter Dienel, the inventor of the German variant called "planning cells," refers to as the "ripple effect." After citizens have

participated in these exercises, they are motivated to become more informed on such issues and in planning processes and encourage others to participate. Follow-up questionnaires have confirmed this in a number of projects.

Thus, scientific deliberative polling needs something like The Democracy Act to flourish, since citizens will see that their deliberations will have a significant impact. And The Democracy Act needs some variation of scientific deliberative polling as its preferred method in "The Polling Plan" to determine whether or not a majority of Americans want this particular kind of initiative to be deliberated and voted upon by the American public. This is too crucial a step in the new process to be left to the superficial, uninformed or dis-informed kinds of public opinion that today pass as being a product of science.

(2) The Electronic Town Meeting Process

Shortly after we had invented one of these methods, a mail-telephone scientific deliberative poll called Hawaii Televote (1978), we came to understand that all methods of public opinion polling need to be nested within a comprehensive political communications process in order to be effective. For example, as we explain in *The Future of Teledemocracy* (2000), it was only by working closely with the CBS TV affiliate in Honolulu, that the results of the very first Televote impacted so heavily upon the Hawaii State Constitutional Convention of 1978. Later Televotes were introduced to the general public by full-page formats in daily newspapers in our New Zealand, Honolulu and California experiments. Thus, it dawned on us that the scientific deliberative poll, by itself, was a superior method of locating and measuring public opinion, but that it was much more powerful when linked into a longer, multi-media design. An isolated public opinion poll is one thing; being the core of an extensive public engagement system is quite another.

We think it was Amitai Etzioni who coined the phrase "electronic town meeting." He used this concept in an interactive TV experiment in a public housing project in New York City in the early 1970s. We used it in a much broader sense to describe a lengthy public discourse through a wide variety of media over a long period of time that had a scientific deliberative poll as its centerpiece. In a sense, it was like placing an Athenian assembly within a modern political communications matrix that connected a vast geographic space. Each had its own process and dynamic and each had its own pivotal function in democratizing the society.

The Televote recruited a random sample of citizens who were to read a colorful, graphically attractive brochure, take as much time as they needed to think about the issue, talk to all kinds of friends, neighbors, family members, co-workers, and then give their opinion. This whole process took about a month. But what about the rest of the citizens? All they would get, at the end, was some more "public opinion" from a small group of their fellow citizens. True, the quality and direction of this "public opinion" might have surprised many. But there was no role for them in the process other than to passively learn about what others thought. That's an important part of democracy. But it's only a small part.

What is even more important is to participate in the process itself. A "strong democracy": (Barber 1984) requires widespread involvement of citizens who actively seek out information and want to share their ideas...and ultimately VOTE on the matter at hand.

However, a lot of experience with democratic "action research" proves the obvious: the percentage of citizens who want to be actively involved on any given issue will vary greatly. Sometimes, a small minority may be the only ones really interested in some issue. Sometimes, it can be a top-heavy majority. But in all these situations, the group will be a "self-selected sample," just as in any election.

Thus, what an "Electronic Town Meeting" (ETM) does is to wed the best of the characteristics of scientific deliberative samples and a lengthy public electronic forum that occurs while the scientific sample is doing its deliberating. Thus, when the results are made known, a significant percentage of the general public will have been engaged in the same discussion as the random or stratified sample.

Better yet, they will interact in several ways: the random sample will be aware of some or all of the components of the ETM since they will not be sequestered away from the political communications system of the greater society. The general public discussion could easily influence the deliberation of the random sample and its final decisions. Furthermore, the opinions of the random sample, when released, and particularly if they show a large consensus among this close approximation of the demographics of the polity, can lead to quick and positive political action.

Thus, from our point of view, The Electoral Trust, once a citizens' initiative has qualified under any of the three methods available, must then convene another form or forms of scientific deliberative polling to serve as the nucleus of a comprehensive ETM that will interface the public and the sample. This is a multi-media operationalization of the Electoral Trust's duty to hold "Public Hearings" by using a random sample of citizens to serve as a screening process.

We are not trying to sell our idea of an Electronic Town Meeting as being the only valid way to initiate and manage such a discourse. In fact, we foresaw a future competition between different ETM organizations and saw that dynamic as "electrifying democracy." (Becker 1991). Our model, however, was designed by a wide array of experienced ETM theorist-practitioners at a conference sponsored by The Markle Foundation in Snowmass, Colorado in 1994. This was an improvement on the design for "the next generation of ETMs" constructed by a similar group of experts in this field at Ft. Mason, San Francisco in 1993.

In Conclusion

We see a remarkable confluence of new democratic energy at this conference. Thinking about what 18th century elite-dominated representative democracy needs to transform itself into a 21st century participatory form has been going on for decades. Social scientific experimentation in how to do that has also been going on for decades.

The Democracy Act has provided a realistic form of direct democracy for a huge nation state, one that can propel the United States back into world leadership in the invention of democratic forms of governance. We hope we have been able to flesh that out a bit with our experience in wedding new participatory theories of democracy with new technologies and techniques.

With a full arsenal of scientific deliberative polling and ETMs, the new national initiative movement cannot be dismissed as dreamers and utopians. The designs and systems

to be used are already in place, waiting to be deployed as part of the new 21st century American democracy envisioned by The Democracy Foundation.

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