

## *The Right To Know and The Right To Vote<sup>1</sup>*

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The creation of the Constitution stands at the forefront of American accomplishment. The successful governance of an increasingly complex state through the legal mechanisms of that Constitution ranks in turn as one of humanity's singular feats. Both acts, writing the document and using it to provide a set of consistent but evolving political rules, have been predicated on the same grand idea. Central to the thinking underlying the Constitution, and conspicuously visible as an article of political consensus in the 200 years of its history, has been faith in the democratic process.

That faith has not gone untested, nor has the exercise of constitutional rights always been uniformly or willingly granted. Still, a clear, distinct theme resounds throughout the American experience, heralding the steady extension of enfranchisement. The political history of the United States can be read as a continuing commitment, subject to the stresses and strains of competing interests, to an ever broadening application of the idea of popular sovereignty implicit in the Constitution.

Translating popular sovereignty from a concept into an operative principle requires that two conditions be satisfied. The electorate must be both capable and competent—capable in that it possesses the right to vote, competent in that it has sufficient information to make reasoned judgments.

The first condition, ability to participate in the political process, is no longer a significant obstacle since the legal barriers to voting have been largely eliminated. Inconsistent and sometimes difficult requirements for registration remain, but in most places the right to vote itself is not in question.

1. I wish to thank Neil Shister for his help in preparing this essay.

Competence, on the other hand, is emerging as a serious concern. As the complexity of issues increases, the job of evaluating political candidates grows more difficult. Yet as the need for substantive information is becoming more critical, the quality of much of the information available to the public is declining. The 1988 presidential election demonstrated with discouraging clarity the extent to which the information available to the public is inadequate. Too often messages were superficial, doing less to enlighten than to manipulate and even entertain.

The competence to participate and to vote intelligently depends on having access to information about candidates, their character, and the relevant issues. It is precisely this "high density data" that are often hard to find or entirely absent. And it is precisely this problem of information that needs to be addressed by a concerned and responsible citizenry.

Our Constitutional experience is entering a new phase. There is a new order of challenge to America's faith in popular sovereignty. The right to vote is no longer the basic political right at stake; rather, it is the right to know. As a nation, we are only beginning to face the problems of the citizens' right to information and the means of transmitting that information to ensure the equality of access, in fact as well as in theory. Nothing less than the validity of our electoral process is at stake.

### *Lowering the Barriers*

The Constitution did not grant universal franchisement, nor has the extension of the right to vote occurred without debate and conflict. Indeed, the view of the Founding Fathers was highly restrictive. In the early days of the republic, property ownership was a requirement for voting; with religious obstacles to voting in some states, and with women, slaves, indentured servants, and other workers denied suffrage, a scant 10 percent of the population was eligible to vote. The impli-

cations were not lost at the time. The Constitution was attacked as elitist and its Federalist proponents accused of wanting to establish a permanent aristocracy. But in the end a compromise was reached, and the spirit of democratic republicanism prevailed. As John Jay observed, "no other form would be reconciled with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination . . . to rest all our political experiments on the capacity of mankind for self-government."

A corresponding movement to remove legal restraints to voting and to expand the right to vote runs through American history. The westward movement of the population generated populist sentiments that, by the mid-nineteenth century, led to the elimination of religious qualifications and property tests for voting. Poll taxes lasted for a century, but the Twenty-fourth Amendment, ratified in 1964, prohibited such taxes in national elections; and in 1966, the Supreme Court ruled them unconstitutional. Literacy tests, another device designed to restrict voting, were abolished in 1965.

The removal of racial and gender deterrents to voting began in the latter half of the nineteenth century. Enactment of the Fifteenth Amendment in 1870 guaranteed that the right to vote "shall not be denied on account of race, color, or previous condition of servitude." The Civil Rights Acts of the mid-twentieth century reaffirmed this commitment. In 1920, with passage of the Nineteenth Amendment, suffrage was extended to women. Four years later, Native Americans received the right to vote.

During World War II, Georgia lowered the voting age to eighteen, and Maine, Massachusetts, Montana, and Nebraska did the same during the Vietnam War. By 1971, popular sentiment in favor of enfranchising eighteen year-olds had become sufficiently widespread to enact the Twenty-sixth Amendment, which set the voting age for the nation at eighteen.

Legal registration requirements still hamper the ease and convenience of voting, but for the most part it can be said that the

right to vote of virtually every citizen over eighteen is now guaranteed unequivocally.

### *The People Govern*

With the universal right of suffrage established, the ability of the citizenry to govern becomes the central question. Do the people possess a sufficient degree of discriminating judgment, disinterested public spirit, and dispassionate reason to govern for "the greatest good of the greatest number?" The question defies an answer, yet the foundations of the state have been predicated on an affirmative response.

Discussion of the qualifications of the people has traditionally assumed a metaphysical cast, colored by one's faith in or fear of an elite. The original Constitutional debates, particularly about matters of legislative structure and constituencies, revolved around these issues. "The people of a state," declared one characteristic Federalist argument, "may be justly divided into two classes, [those] who are independent in their principles . . . actuated by no local or personal influences" versus "the dependent, the weak, the biased, local party men—the dupes of artifice and ambition." The rhetoric of the anti-federalists was worthy of the challenge, posing the specter of a government "dangerously adapted to the purposes of an immediate aristocratic tyranny," one "so constituted as to admit but few to exercise the powers of it."

At issue was the capacity of representative government to rule over an expansive area and a diverse population. In order to succeed, the government had to seek a narrow middle ground. At one extreme lurked the danger of deteriorating into an anarchy of the rabble, at the other the threat of becoming the repressive instrument of a propertied minority.

Should the selection of legislators and governmental executives rest with the people or in the hands of an elite? The Constitutional Convention negotiated a compromise, creating a governmental structure that, in effect, derived its legitimacy from the popular will while transferring the actual exercise of

power from the many to the few. By making constituencies as large as possible (with the size of the constituency directly proportional to the importance of the office) and simultaneously restricting the number of representatives, it was presumed that figures of "military, popular, civil or legal talents" would be sufficiently conspicuous to make probable their election.

Leading Federalists did not fear the people so much as they sought mechanisms to protect the people from the danger of being exploited by demagogues. "The Federalists had by no means lost faith in the people," observes historian Gordon Wood, "at least in the people's ability to discern their true leaders. . . . Even if they had wanted to, the Federalists could not turn their back on republicanism."

What even the Federalists did not contemplate, a subject so unthinkable in the wake of the Revolution that it was never broached, was the possibility that the people themselves might turn their back on republicanism. The looming question was whether an elite would be perpetually in control of the new government, not whether the people would someday abandon it. The notion that all segments of the population sought to participate in the processes of government was taken for granted; the matter at hand was not how to generate broader political interest but rather how to organize abundant public passions into ordered institutions.

### *Will the People Govern?*

As we approach the twenty-first century, the premise that all citizens wish to take part in the political process can no longer be assumed. In 1988, barely more than half of the eligible population, 50.16 percent, went to the polls. This was not an aberration. During the past three decades, the number of age-eligible Americans failing to vote has grown. The 1988 election marked the eighth straight presidential election in which the percentage of eligible voters declined.

Our nation's policies are predicated, in theory, on the decisions of the democratic

majority. The declining electoral base, with barely half the population voting, potentially puts that system in jeopardy. There are different explanations for why people fail to vote: some stress apathy and alienation while others say low turnout actually indicates general satisfaction with the way things are. Whatever the underlying reasons, the continuing drop in voter turnout, if not reversed, suggests that the United States may be entering a new era, one in which a minority rules. While it can be argued that this minority is self-chosen, made up of those who choose to exercise the right to vote that is legally available to all, it remains nonetheless a minority. The implications of rule by the minority recall objections raised by the anti-federalists during the Constitutional debates. Rule by the aristocracy of the informed has come through a different and unexpected channel, but the outcome is still under-representation of "the people."

Why is voter turnout declining? With legal restraints eliminated, most observers now consider the major barrier to voting psychological. The voters' perception of themselves as "politically competent," particularly with respect to the importance they attach to their individual votes, heavily influences the decision about whether or not to participate in elections. Assorted data suggest this conclusion. Demographic characteristics such as age, income, and occupation correlate with voting participation: people under thirty, the poor, and blue-collar workers are all less likely to vote than citizens who are older, richer, and professionally employed. Thus, the lower their social status, the less the chance that people will go to the polls.

If it can be said that there is a single decisive variable in this equation, it appears to be education. In one respected study, education was found to be the most important factor differentiating voters from nonvoters, followed by age and then marital status. The analysis revealed that people who are white, well-to-do, middle-aged, married, northerners, government employees, and residentially stable are overrepresented in the voting

population in relation to the population at large. The researchers also concluded that "having opinions" is what distinguishes voters. "If these findings are accurate," notes one observer, "perhaps those who decide to vote do so because of their views on the issues."<sup>2</sup>

### *Information and Voting*

The failure to vote of an ever greater percentage of the electorate, and the corresponding implication that these people doubt the value of their participation in the political process, is a disturbing omen for the future of the republic. At the same time, the suggestion that voting correlates with education, and particularly with the holding of opinions about issues and candidates, seems promising. Attitudes toward voting are too complicated to be easily or quickly changed, but it may be possible to encourage a reversal of the downward trend in voter turnout. One important step would be to inform the public better about the central issues in an election.

In the present situation, one could argue that a subtle form of discrimination exists against those segments of the population with the poorest access to relevant information. Those people to whom information is least available are least likely to have opinions, least likely to feel politically empowered, and least likely to vote. When adequate information is provided, and people are able to use it, the failure to participate in an election will then be a matter of individual responsibility.

In order to convert this theoretical premise into an operational one, it is essential to define "high quality" political information and to devise the appropriate means to deliver it to all citizens. At first glance, it may seem absurd to identify inadequate information as a problem. We live, after all, in what has been appropriately called "the information age." There is a profusion of media and an abundance of reporters, editors, and producers competing to find material for the media to

2. David T. Edwards, *The American Political Experience*, 4th ed. (New York: Prentice Hall, 1984).

present; and space and time constraints on the gathering and delivery of information are steadily vanishing. Communication from anywhere in the world directly into one's home is virtually instantaneous. News is available twenty-four hours a day, causing some critics to suggest that America is suffering from a glut, not a want of information.

It is not the quantity of "data" that is in question. It is their quality, and especially, their capacity to enlighten rather than to obscure and even obfuscate. Facts do not necessarily constitute knowledge. The nation is in the midst of a debate about what information is appropriate for intelligent voting. New ground rules are being laid down, some through statute and some through *de facto* practices. A spirit of public reform and the competitive media environment have combined to expand the range of inquiry considered relevant to the evaluation of candidates. In an earlier era, the private lives of public figures were normally considered "out of bounds" to reporters and, by inference, to the electorate. This is no longer the case. Rules for financial disclosure have become law, and personal habits are carefully scrutinized.

Veteran journalists Jack W. Germond and Jules Witcover, chronicling the 1988 presidential election in *Whose Broad Stripes and Bright Stars*, identified an aggressive reportorial tone as a significant new development in the political process: "The old guideline, seldom discussed, was that if personal conduct didn't affect the candidate's performance on the stump and wasn't a detriment to his conduct of the office he was seeking, it was his business. Now everything, in the view of a new generation of reporters schooled during or after a dark period of betrayal by politicians at the highest levels, was fair game."<sup>3</sup>

The "character issue," as this emphasis in reporting has come to be known, dramatically altered the nature of the media's approach to campaigns. Germond and Wit-

3. Jack W. Germond and Jules Witcover, *Whose Broad Stripes and Bright Stars: The Trivial Pursuit of the Presidency* (New York: Warner Books, 1989).

cover argue that reporters are more concerned with a candidate's private habits than his public policies. "The 'character issue'... would turn politics and the reporting of it on its head [in 1988]. Issues of domestic and foreign policy, which, it seemed, always had to be spoon-fed to a resisting electorate, would be shoved even farther than usual to the background as the candidates in both major parties underwent much closer personal scrutiny."

Implicit in this debate about the nature of legitimate "news," and fundamental to its final resolution, is the procedural matter of who is to determine the "informational rules of the campaign." Is this to be the responsibility of the public acting through legislation, the media acting through professional initiatives, or the candidates acting through self-interested strategies?

It is my contention that political campaigns—especially presidential campaigns—belong to the public. In the same way that the Supreme Court ruled in the historic *Red Lion* case that the rights of viewers take supremacy over the rights of broadcasters, I suggest that the rights of voters take precedence over those of all other parties in an election. It is a basic tenet of this democracy that power resides ultimately with the people. It is increasingly clear, however, that the control of the flow of information that affects citizens' ability to exercise that power has shifted away from them and perhaps from the media as well.

The classic ideal of our democracy, as defined by students of government and political theory, posits the media, the candidates, and the voters interacting in a kind of "golden triangle" of reason and responsibility. The role of the media is to inform and to protect the electorate against misrepresentation; the role of the candidates is to enlighten and to inspire the electorate; the role of voters is to educate themselves for the task of making judicious choices. According to this model, says political scientist Bruce Buchanan, "citizens are sovereigns, candidates are supplicants, and the media are servants."<sup>4</sup>

4. Bruce Buchanan, Report of the Markle Commission on the Media and the Electorate [to be published].

In practice, however, the "triangle" has become what Buchanan calls a "hierarchy," with very different dynamics. The *de facto* controllers of the process are now the candidates; the media are increasingly captive to the persuasive techniques of the campaign operatives; and the voters, inadequately informed and kept at bay by their own ignorance, are failing more and more to exercise their power.

### *What the Media Can Do*

This change is not the result of conspiratorial design but is rather a consequence of media practices and the ways in which political information is gathered, packaged, and disseminated. In return for First Amendment protection, the media are presumably responsible for enlightening the public. Academic analyses and subjective observations, however, frequently question how well the media fulfill this obligation. In 1988, the Markle Commission on the Media and the Electorate was formed to examine objectively the information that was made available to the voters in the presidential campaign and how the voters used that information.

To appraise the quality of the information provided by the media, the Markle Commission's research included content analysis of the campaign news presented by major newspapers, news magazines, and television networks. The largest single category of story, accounting for 36 percent of the total coverage, dealt with the gains and losses of the "campaign horserace" (who was winning and losing, evaluations of strategies, campaign staff and organization). Next, or 21 percent of the coverage, were "candidate conflict" stories (the partisan remarks candidates and their staffs were making about each other). Third was "candidate qualifications," which accounted for nearly 20 percent (character, competence, positions on issues), and 10 percent of the coverage dealt with the "electorate" (public opinion polls, voter attitudes). "Policy issues" accounted for only about 10

percent of the coverage (stories whose principal emphasis was on the substance of the issues rather than on what candidates had to say about them), and stories about the media themselves accounted for 4 percent (campaign advertising, media self-scrutiny).

According to this data, well over half the total media coverage in 1988 was devoted to stories about "the horse race" and "candidate conflict." Roger Ailes, George Bush's media strategist, claimed that there were only four things that interested the media: polls, pictures, and candidates' mistakes and attacks. Evidence suggests that in the past, candidates spent more time discussing public goals and problems and that the media covered such discussion extensively. Today, however, politicians in general appear less concerned with bringing substantive issues before the electorate; the media, in turn, have taken their lead from the candidates and, as George F. Will observes, "political journalism has become preoccupied with mechanisms and cosmetics."

The largest portion of the information accessible to the public in 1988 dealt not with the substance of the public agenda but rather with the election as competition and the personalities of the contestants. As the Markle Commission report concludes, "for the mostly typical voter who 'follows' the news rather than studies it, the 1988 presidential campaign was mostly a story of horse race and strategy."

The implications of this are distressing. If typical voters are not well informed about issues and qualifications, they will be ill-equipped (and probably less disposed) to select the president. Media coverage about public issues, presented independently rather than as an extension of a campaign's strategy, gives voters an opportunity to learn about national problems and priorities and ultimately to judge the candidates against those criteria. Voters need assistance and have a right to expect it. Focus groups conducted in conjunction with the Markle Commission showed that even people who claimed to follow newspaper and campaign coverage lacked a coherent sense of the policy agenda awaiting

the new president. Survey research revealed scant knowledge of issue substance or the candidates' positions on issues.

Preliminary evidence suggests that the media actually do communicate information that is relevant to voting decisions. Between Labor Day and Election Day, Louis Harris and Associates conducted two surveys of eligible voters to determine their readiness to make a choice. One of the results of these surveys was that greater voter attention to news media coverage is associated with greater knowledge of candidates' positions on issues. Attention to media coverage, however, also correlates with a perception of media bias and distortions in news presentation.

The challenge facing critics of the present situation is how to foster media coverage of substantive issues, and thus revitalize public interest and participation in the electoral processes. In any political campaign, candidates present themselves, in effect, before the bar of the public so that the citizens can decide which candidate is best qualified to serve. Viewed in this way, a campaign must give the public the opportunity to determine what it wishes to know about the candidates and how the candidates should furnish that information.

#### *What Can Be Done?*

Assuming the public's "right to know," the procedural question is how to devise methods that increase the likelihood of required information being delivered and received. Today television reigns as the dominant medium, as far as influence on the public is concerned; it is the only free and, practically speaking, universal means for providing political information to the electorate. "The most significant changes in the political culture," conclude Germond and Witcover, "was the transformation in the communications between candidates and voters [essentially via television] ... a good piece of film would have far more impact on viewers—and voters—than the words that were being spoken while it was being shown." In developing approaches designed to improve the quality and broad

accessibility of political information, television must play an essential role.

It is imperative that better ways be found to use television to give the public more useful information. This might also reduce the cost of campaigning. "The six o'clock news has become almost the be-all and end-all," observed Michael Dukakis after the election. A successful political education program needs to work in concert with the system, not in opposition to it. Television must be utilized in a way that builds on the power of the medium and transcends the ten second "sound bite" or the paid commercial message. The industry, of course, responds to its own imperatives as well as those of the public. Changing the approach of commercial broadcasters cannot be mandated short of enacting questionable legislation. Nevertheless, a way must be found to use television so that its aggregate coverage functions to engender an empowered voter, not an alienated citizen.

Presidential debates provide one logical starting point for improving political television. At their inception in 1960, when John Kennedy and Richard Nixon confronted one another, the debates were expected to serve as a means of elevating the campaign dialogue. The candidates would come together, face-to-face, to test each other's intellectual mettle before a nationwide television audience watching in judgment. In practice, however, the debates have evolved much differently. Instead of open, free-flowing exchange, they have become tightly structured, highly stylized caricatures of their original intent. They have deteriorated into performances, with candidates delivering packaged responses that may or may not bear any relation to the actual questions being asked. Exchange between the participants is kept to a minimum. The opening question of the second Bush-Dukakis debate, in which Dukakis was asked how he would react if his wife were raped and murdered, aptly illustrates the current level of theatrics and irrelevance. By allowing the debates to become so devalued, we are by implication debasing the electoral process.

The deterioration of political debates is

particularly troubling since these events are usually scheduled in peak periods of popular electoral interest. The debates help to focus that interest and make candidates accessible to the public. They should be considered an asset vital to democracy and deserving of protection and enhancement. Televised debates should not be permitted to succumb to the partisan and opportunistic concerns of candidates.

The public, however, has no effective way of influencing the conduct of debates or their content; the candidates decide whether and how to debate. They may refuse to face their opponents directly on live television. Since the Kennedy-Nixon encounter significantly improved the underdog Kennedy's chances, front-runners in the next three elections, Johnson and Nixon, refused to debate. In 1976, Gerald Ford, who was trailing, agreed to meet his opponent, as did Jimmy Carter in the same position in 1980. Ronald Reagan, running far ahead of Walter Mondale in 1984, also agreed to debate. In 1988, with no incumbent and a very close election at hand, it was in the interest of both candidates to debate; nevertheless, as Bush's margin in the polls grew, his campaign director threatened to boycott televised debates if the staff's conditions were not met.

I suggest that one way to protect and expand the public's "right to knowledge" is to institutionalize the debates formally since the content and occurrence of presidential debates remain a matter of choice rather than requirement. The value of debates to the public is too great to allow this important feature of a campaign to exist only on the basis of fragile precedent. There should also be some means for the public to set the conditions of the debates and be assured of enough variety in questions and format that candidates' qualities and positions have a chance to be revealed. Perhaps the appointment of a national commission or a Congressional initiative could bring this about. The creation of a commission would make a statement about the importance of televised candidate debates in the contemporary media-dominated political process. Stan-

standard ground rules for the number of debates, subject matter, discourse, and questioning procedures could be established; this would free the process from a reliance on open-ended negotiations in which the structure of the debates must be reinvented every four years. A "code of conduct," with requirements explicitly stated, would also serve as formal notice to the television industry of the public's expectations.

Raising the level of the electorate's familiarity with national issues requires expanding access to substantive information. Public broadcasting is a superb vehicle for providing this service; if campaigns are public property, public broadcasting is a most appropriate medium for covering them. While the private networks could argue that increased campaign reporting is not commercially feasible, public broadcasting's explicit mandate is to serve the public.

Public broadcasting could serve in a variety of ways. The presidential debates could be regularly rebroadcast over public stations, thereby ensuring their maximum exposure. Specially designed programs devoted to the public agenda could be aired nationally throughout the entire system at regularly designated times, with sufficient promotion to attract viewer attention. There could, for example, be a series dealing with foreign policy issues and another focused on domestic, social, and economic issues. Some programs might include "elder statesmen" sharing their observations of contemporary developments. It might also be possible to develop a format in which ordinary people with problems relevant to the campaign express their views to the nation: teachers discussing public education, for example; hospital administrators, the cost of health care; or workers describing what effects corporate restructuring has had on their employment situation. Most valuable would be innovative formats that combine a consideration of national and local issues with their immediate implications for the viewer. Similarly, event coverage could be broadened to include public forums, speeches, and organizational meetings that are usually not aired.

The possibilities are vast.

Most political scientists believe that the act of voting serves to integrate people into the political system and to legitimate the system's "official rules." The experience of recent presidential elections, and the downward turn in voter participation, has produced growing criticism of the way candidates are chosen and elected. It is incumbent upon concerned citizens to be involved in reversing the deterioration of our electoral process. Of central concern to the Markle Commission is determining how the American media environment can best provide the kind of information likely to motivate the electorate to vote.

Bill Kovach, curator of Harvard's Nieman Foundation, recently observed in the *New York Times* that "we crowd fact out of the limited space and time of the overall news report and put in its place something less useful, perhaps even misleading." Kovach was criticizing the media's growing reliance on polls "to tell us what we think about a public issue" rather than providing an independent factual perspective from which opinions can be drawn. "Public opinion is not a public position: it is ill-formed, not thought out. It shifts with each change in information available."

We choose to believe that the trend of declining voter turnout can be reversed, and that the purported "apathy" of the American voter is not a permanent condition. Programs designed to make significant political information more directly available to all segments of the public is a course of corrective action worthy of consideration.

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