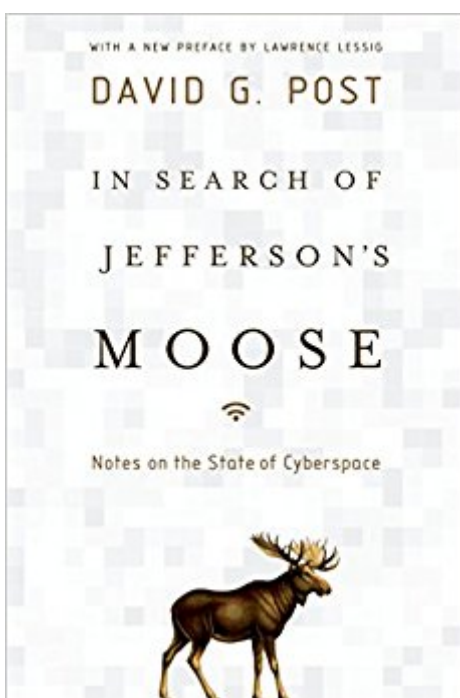


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# In Search Of Jefferson's Moose: Notes On The State Of Cyberspace (Law And Current Events Masters)



## Synopsis

In 1787, Thomas Jefferson, then the American Minister to France, had the "complete skeleton, skin & horns" of an American moose shipped to him in Paris and mounted in the lobby of his residence as a symbol of the vast possibilities contained in the strange and largely unexplored New World. Taking a cue from Jefferson's efforts, David Post, one of the nation's leading Internet scholars, here presents a pithy, colorful exploration of the still mostly undiscovered territory of cyberspace--what it is, how it works, and how it should be governed. What law should the Internet have, and who should make it? What are we to do, and how are we to think, about online filesharing and copyright law, about Internet pornography and free speech, about controlling spam, and online gambling, and cyberterrorism, and the use of anonymous remailers, or the practice of telemedicine, or the online collection and dissemination of personal information? How can they be controlled? Should they be controlled? And by whom? Post presents the Jeffersonian ideal--small self-governing units, loosely linked together as peers in groups of larger and larger size--as a model for the Internet and for cyberspace community self-governance. Deftly drawing on Jefferson's writings on the New World in Notes on the State of Virginia, Post draws out the many similarities (and differences) between the two terrains, vividly describing how the Internet actually functions from a technological, legal, and social perspective as he uniquely applies Jefferson's views on natural history, law, and governance in the New World to illuminate the complexities of cyberspace. In Search of Jefferson's Moose is a lively, accessible, and remarkably original overview of the Internet and what it holds for the future.

## Book Information

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## Customer Reviews

David G. Post, in his book "In Search of Jefferson's Moose: Notes on the State of Cyberspace", develops an exceptional framework to talk about cyberspace around the unusual personality and characteristics of Thomas Jefferson. In fact, the name of the book refers to Jefferson's book "Notes on the State of Virginia". These two might seem totally different and/or incompatible at first sight; however, as the reader delves into the book, he quickly discovers why the author chose to put Jefferson in the center of the book and how a discussion about regulating cyberspace would benefit from referring to Jefferson. There is no doubt that Jefferson was a truly extraordinary character in his lifetime; however, what makes him such an essential personality for a discussion on cyberspace is the fact that he witnessed and also contributed to the formation of the independent United States while asking extraordinary questions that no one else would ask. One of the main arguments presented in this book is that it is time for ordinary Internet users to start asking extraordinary questions about the rules and regulations different countries are proposing to adopt to govern the cyberspace. Post argues that an exploration of cyberspace shares parallelism with an exploration of the State of Virginia, which Jefferson depicted in detail in response to a query he received from a French officer. Accordingly, Post starts his exploration by defining cyberspace and its characteristics. In order to help those readers who are not familiar with Jefferson, his writings and ideas, Post provides many exhaustive footnotes, which are quite easy to follow. Post, just like Jefferson, starts his book by describing the boundaries and geography of cyberspace. He explains it clearly that the Internet does not have any center, distance or scale, and these characteristics are crucial in understanding his thinking and proposals. By way of drawing further parallels with Jefferson's work, Post talks about the "population" of cyberspace, estimated total number of Internet users, and makes predictive calculations to give the reader an idea about the pace of growth of Internet users and the size of cyberspace. Post defines the Internet as "a gigantic global machine designed to move zeroes and ones from one place to another" (p. 86), which is "decentralized" and "end-to-end" (p. 86). Simplifying the complex nature of computer

networks and the Internet, in general, Post makes it clear and understandable for an average reader that there is no center, distance or scale in the Internet. Post goes above and beyond in explaining why and how the TCP/IP network outgrew the other alternatives, and shows that the TCP/IP network had a "head start" and when it comes to networks "bigger is better" and as a general rule, as networks get bigger, they become "more valuable" (p. 47) and as a general rule, as networks get bigger, they become "more valuable" (p. 49). He then moves on to explain how the TCP/IP network managed to "solve the problem(s) of scale" and serve a geometrically growing number of users. Jefferson's "moose" comes into the picture in the discussion of scale: it was a really difficult task to send a North American moose all the way to Paris in an enough good shape to be reassembled and used as a showpiece at his estate. The moose represented the vast possibilities and opportunities of the "New World". This parallelism is at the heart of all his parallelisms: when the United States was first established, since there was no precedent to such a large country, Europeans thought that it would not survive. Moreover, there were some prior works such as Montesquieu's "Law" that indicated that such a vast republic would not last; however, it survived, proving Montesquieu wrong. Accordingly, Post suggests approaching cyberspace the same way Jefferson approached to the New World. At this point, Post starts inquiring the possibility of institutionalizing cyberspace in a way that everyone using the Internet can participate in the establishment of the relevant regulatory institutions (p. 117). As a proof of his suggestion's viability, Post brings the Internet Engineering Task Force (IETF) into the picture. IETF is treated as "authoritative and official"; however, it does not have any legal power: it governs based on consensus and it is open to everyone who wants to contribute. In other words, any individual can participate in any discussion (p. 139). Moving from here, Post argues that every Internet user should have the option to participate in the regulation of cyberspace, because everyone is an equal and free member of this "space". Post does not like the idea of different states "restricting the Internet use of their citizens and prosecuting cyber crimes locally. Therefore, he proposes development of a "global law for a global internet" (p. 170). He supports this proposal with Jefferson's ideas about freedom, independence and equality. Post strongly underlines that people's "right to govern themselves is an "inalienable right" (p. 185). Moreover, Post argues that freedom of speech and freedom of expression are

“natural rights” (p. 191) and there should be only minimal restraints on these rights. Discussing intellectual property rights and laws in detail, Post points out that although intellectual property rights were developed to protect and urge creativity of the owners of those rights; there are online projects, such as Wikipedia, which does not provide any intellectual property protection, yet still urges creativity. Accordingly, he argues that intellectual property protection should be “as little as needed” (p. 202). This impressive book, approaching cyberspace from an unusual perspective of human rights and arguing that every Internet user has the same right to benefit from as well as to participate in the regulation of the cyberspace, is astonishing and it admirably forms the basis for further discussions about global governance of cyberspace. Any student, scholar or individual, who is interested in human rights in general and cyberspace regulations in particular, would greatly benefit from this exquisite study.

While Thomas Jefferson was the United States Ambassador to France, he organized a special delivery of an entire carcass of a moose to be sent to France. This over the top move was calculated by Jefferson to impress the French. In the book *In Search of Jefferson's Moose: Notes on the State of Cyberspace*, David Post takes this story to explain the conflicting world views of Jefferson along with Hamilton, and how their arguments about the future of America is relevant to the future of cyberspace. In this work, David Post offers a witty comparison between the history of the New World and that of the Internet. David Post is a newly retired Professor of Law at Temple University and is considered to be an authority on Cyberspace jurisprudence. He compares the Internet to the discovery of the new continent. The first part of this book, entitled “Chaos”, looks at the Web as the New World to be inhabited. It needs basic territorial discovery when it comes to its mapping, population, networks and scale. The first few chapters draw onto Jeffersonian history and anecdotes inviting the reader to fill in the blanks of the current status of the cyber world. Post starts by “Mapping the territory” through an introduction of Jefferson's *Notes of the State of Virginia* that he compares to the map (and wilderness) of cyberspace. The mapping chapter goes into detail about the progression of the rivers in the U.S. to the first Network maps. Post argues that the Internet is a phenomenon that is completely defined by scale. What makes this specific network so different (there are hundreds of thousands of interconnected networks on the globe) is its size. He looks at Jeffersonian expansion westward and its success with examples like the Louisiana Purchase and the radical effect it had on U.S. territory. Without giving direct answers on the positions of today's network, this

work helps the reader with framing and understanding the current issues. Post articulates the need to scale Internet institutions to a global scale in order to be able to govern this new space. Without giving direction on which school of thought would be more appropriate nowadays (Jeffersonian or Hamiltonian), there is a clear acknowledgment of the issues the world faces when dealing with the issue of scaling and Internet world governance. The issues are even further discussed through the development on connections and language. Using that same approach, the second half of the book, entitled *Order by Design*, offers a more current history. The law and order of this new technology will determine the way it develops, Post argues. So exactly how should the Internet be governed? Post explains that the rules are mainly made by organizations such as the Internet Engineering Task Force (IETF) or gate keeps like the Internet Corporation for Assigned Names and Numbers (ICANN). This progresses into a debate on two schools of thought: exceptionalism and unexceptionalism. Unexceptionalism doesn't see anything unique in the fact that the interactions are taking place in the Internet. Exceptionalism argues that "applying jurisdictional principles that were developed to deal with real space border-crossing transactions to network transactions leads to troubling and perhaps even absurd results". Post leans more towards a Jeffersonian exceptionalist outlook looking to set up global Internet law not by governments, but rather by self-governing authorities within the Internet community. Jeffersonians envision a decentralized, hands-off Internet with parties that work things out among themselves, without interference from the government. Hamiltonians, on the other hand, would be in favor of increased centralized power over cyberspace. When it comes to the governance of cyberspace, Post stresses that the Internet has worked well using decentralized governance, without government interference. This minimizes current issues that are being faced in today's cyber world. These problems include intellectual property disputes, conflicts of jurisdiction for crimes that occur on the Internet, and scandals involving domain names. Hamiltonians or unexceptionalists would link all of these disputes, and more, to the lack of government. As the Internet continues its expansion, this exponential geometric growth can lead to many legal implications. Hamilton or Jefferson? Exceptionalism or Unexceptionalism? Post is clear on his Jeffersonian position, but he gives the reader the freedom to make up their own mind. The book looks at the giant we call the Internet and shows us how crucial it is to understand its every facet and history. It offers a retrospective look at the lessons to be learned from its development to be able to more critically analyze its position today. The anecdotal and light style of Post makes for a smooth ride through the few pages. Diagrams are present when needed especially when the author elaborates on more complex concepts. Post focuses on comparing the ideas and history

rather than discussing or debating them.

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