

## **DEMOCRACY FOR SALE**

### **How Ohioans Kept Corporations out of Politics; How and When They Re-entered**

An article in a recent issue of Business Week magazine commented that "corporations should get out of politics!"

Following, as it did, the magazine's lead story on corporate abuses, the "get out of politics" statement could well have been a bit of editorial hyperbole that could change with the wind. But here in Ohio for many years such was actually the case. Corporations were indeed, kicked out of politics -- at least kicked out of any sort of political campaign contributing. Citizens, through their legislators, wrote into law that their government was not for sale.

Could we make that happen again? Read on and see the actual language with which Ohioans kept corporations out of politics. Sovereign citizens can kick them out again!

It is politically accepted by those in power and the mainstream media that corporations have "rights" to participate in the political process via Political Action Committee (PAC) campaign contributions. We are told this is to counter the incredible financial might of organized labor (ignoring the fact that corporate PACs outspent labor PACs in the 1996 election cycle by anywhere from 7:1 to 11:1, depending on how one adds up the numbers).

Corporations did not always have the right to contribute (or invest) in the political process in Ohio. When our state was founded, corporations had no rights, only privileges, bestowed by the citizenry through their elected state legislators -- and backed up by the courts.

Conditions changed through the 19th century. Corrupted and corporate-friendly state officials and judges began granting corporations authorities never intended by our forebears. The Civil War enriched munitions manufacturers and other corporations which desired to translate this new economic power into political power. Supreme Court decisions (including the Santa Clara decision) granted corporations "personhood" rights.

By the end of the 19th century, corporations were at a crest of power -- politically, economically, culturally. So was public awareness of the abuses of the "Robber Barons" and the giant corporations that formed monopolies and trusts across the land.

Public reaction against such abuses took many forms. Public pressure forced Ohio and other states to pass tough laws outlawing monopolies and also prompted passage of the Sherman (named after US Senator John Sherman from Ohio) Anti-Trust Act of 1890. Populists in the south and west organized to fundamentally challenge the nature of corporations to control economies and communities.

Still other public reaction was in response to the political power of corporations expressed through direct political contributions to candidates. Ohioan Marc Hanna who ran the Presidential campaign of Canton-native William McKinley in the 1896 election introduced the practice of regularly assessing corporations for campaign contributions to the Republican Party, with each company paying according to its "stake in the general prosperity." "There are two things important in politics," Hanna once said, "the first is money and I can't remember what the second one is."

What follows is a brief timeline of corporate campaign contributions in the state. It is something to remember as corporations weigh in financially every year at every level of government, and, thereby, make impossible any hope for an all-inclusive democracy .

It may be time once again to develop a well-conceived strategy to outlaw all forms of corporate political contributions.

### **Corporate Campaign Contributions Timeline**

1896 Ohio General Assembly passes law placing limits on the amount of money candidates could "pay out, give, contribute or spend" on their campaigns with the intent to "prevent corrupt practices at elections." For a population of 5,000 voters or less, the limit on candidates was \$100; for each 100 voters over 5,000 and under 25,000, an additional \$1.50; or each 100 voters over 25,000 and under 50,000, an additional \$1.00; and nothing more above 50,000 [92, Ohio Laws, 1896]

1907 Teddy Roosevelt administration pushes through legislation outlawing direct corporate contributions on federal level.

1908 The General Assembly enacts legislation “to prevent the corruption of elections and political parties by corporations” by barring any corporation from directly or indirectly giving money or property to any political organization, party or candidate.

Section 1, That no corporation doing business in this state shall directly or indirectly pay, use or offer, consent or agree to pay or use, any of its money or property for, or in aid, of any political party, committee or organization, or for, or in aid of, any candidate for political office or for nomination for any such office, or in any manner use any of its money or property for any political purpose whatever, or for the reimbursement or indemnification of any person or persons for moneys or property so used.

Section 3. Every corporation which violates section 1 of this act shall be punished by a fine of not more than five thousand nor less than five hundred dollars... Any officer, stockholder, attorney, or agent of any corporations which violates section 1 of this act who participates in, aids, or advises any such violation, and any person who solicits or knowingly receives any money or property in violation of this act shall be punished by imprisonment for not more than one year or a fine of not more than one thousand dollars, or both at the discretion of the court. [99, Ohio Laws, 23]

1911 The General Assembly in an act defining the powers and duties of a state tax commission requires that every corporation or public utility which makes any report, statement or return to the state submit an affidavit stating that it did engage in any political activity, either directly or indirectly, during the preceding year. [102, Ohio Laws, 224]

1929 Election laws of the State of Ohio are revised. Provisions related to prohibition of campaign contributions is changed materially in one respect. The prohibition of corporations “for any political purpose whatever” was amended to read “for any other partisan political purpose.” [113, Ohio Laws, 307]

Other prohibitions and fines were expanded upon. Fines of between \$500 and \$5,000 were set for corporations dipping into company coffers to support political parties, organizations, or candidates. Individual corporate officials found guilty of using company funds for this purpose could be imprisoned for up to a year and/or fined \$1,000. Anyone caught using money or other items of value to buy votes could be fined between \$25 and \$500. Business caught trying to influence employees in any way at the workplace -- either through posters, handbills or threats about job security -- could be fined between \$500 and \$1,000.

1958 In the case *John T. Corrigan v. The Cleveland-Cliffs Iron Company*, [152 N.E. 2d 1, 1958] Court of Appeals in Cuyahoga County rules that corporate campaign contributions to ballot issue campaign is parallel to making direct contributions to a candidate and, thus, illegal. In this case, the defendant was found guilty for donating \$500 to “The Citizens Committee for City & County Issues.”

Majority opinion: The respondent, being a corporation organized for profit, under the laws of Ohio, and doing business in this state, is prohibited from using its money or property for “Political Purposes” as here defined, and to do so, as admitted by the pleadings and stipulations, is in violation of law. Such acts are outside the powers of its corporate franchise.

Concurring opinion: Corporations do not vote. They exist for the purpose of furthering the particular business in which they are engaged. Corrupt Practices Acts were enacted with respect to them because practices indulged in by certain corporations in making contributions for campaign purposes had become objectionable and subversive to good government and the public welfare. Even if such contributions were made from proper motives, they might afterwards be made the basis for demands which might not be for the public interest to grant.

1959 Ohio Supreme Court overturns lower court decision in *John T. Corrigan v. The Cleveland Cliffs Iron Company* [169, OS, 42] and rules that “a corporation may lawfully contribute to a committee organized and conducted merely the purposes of advocating the adoption of a constitutional amendment and the passage of bond issues and tax levies.” The Court’s decision interpreted the 1929 change in the state election law prohibiting corporate contributions for “any other partisan political purpose” to mean merely a prohibition of contributions to political candidates.

1974 Ohio Law passed preventing any state agency or department from awarding a no-bid contract to a corporation or business trust owned by a person who has made a political contribution in excess of \$1000 to a candidate for a public office having ultimate responsibility for the award of that contract. [135 Ohio Laws, 12] This bill also established specific spending limits for state and local candidates, which were struck from state law two years later [136, Ohio Laws, 3815] following the US Supreme Court decision of Buckley v Valeo.

1977 State law passed amending prohibition of corporations from contributing either directly or indirectly to political candidates “by exempting from the requirements the use of these funds to administer statutorily authorized payroll deductions for employee support of candidates, political parties, or issues.” [137, Ohio Laws, 2928]

1978 US Supreme Court in First National Bank of Boston upheld the right on first amendment grounds of a corporation to make political expenditures from general corporate funds in connection with a state referendum. [435, US 765] This ruling set a precedent that corporations had the same rights of free speech as citizens under the First Amendment.

1987 State law establishes political action committees (PACs) by corporations. The law permits “any corporation engaged in business in this state...[to] establish, administer, and solicit contributions from... its stockholders, officers, directors, trustees that are not corporations and employees.” It also permits “corporations engaged in business in this state [to] use its funds or property for or in aid of or opposition to a proposed or certified ballot issue. [142, Ohio Law, 3442] Ohio continues to be in minority of states that do not allow direct corporate contributions to some extent, although the creation of corporate PACs creates a huge end run around direct corporate contribution prohibition.

1989 State law passed to, “allow any person, including a corporation engaged in business in this state other than public utilities, to make gifts to major political parties to defray costs incurred for the construction, renovation, or purchase of office facilities..” [143 Ohio Laws, 272]

1989 No corporation had ever been to this point prosecuted for violating state laws prohibiting corporate campaign contributions. [Akron Beacon Journal, 2/2/89]

The ‘legal rights’ of corporations have gained to buy candidates and ballot issue elections is the single biggest threat to democracy. As the money spent on elections piles up, corporations’ influence and power increases and democracy suffers. A dwindling number of voters are expected to believe the myth that election campaigns can be funded by corporations and somehow government will serve the public interest. This is impossible. The road toward political democracy in our state and nation is to once again kick corporations out of politics by outlawing all forms of direct and indirect corporate contributions and holding publicly funded elections.

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