

Wrong Turn in Ohio

A wake up call for other states

With attention of citizen activists in Ohio focused this fall on day-to-day battles against corporate harms or the World Trade Organization (WTO) meeting in Seattle, legislation to further reduce citizen authority over corporations was passed by state lawmakers with virtually no public awareness.

The Ohio General Assembly approved in October House Bill 78, titled “Modernization of the Ohio General Corporation Law.” The bill allows the withholding of listing a corporation’s purpose and names of corporate directors at the time of incorporation, permits important corporate meetings to be held outside Ohio, and reduces the legal liability of corporate officials for corporate debts, obligations and liabilities.

This stealth legislation should be a wake up call to citizen groups in other states struggling to strengthen democratic values and processes. The price of liberty is eternal vigilance, to paraphrase one of our founding fathers.

Promoted by the Corporations Committee of the Ohio State Bar Association, composed of corporate attorneys from across the state, H.B. 78 is the first major revision of Ohio's corporate code since 1955. At the very least, such a bill should have been voted on only after significant public debate from diverse groups and individuals across the state concerned about environmental, health, farm, labor, consumer, and citizen democracy issues. Better still would have been these same groups and individuals writing the bill in the first place.

Many of the H.B 78’s provisions came from the State of Delaware. Like desperadoes of old who used to run south of the border to escape prosecution, Delaware has been for decades the safe refuge for corporations seeking the absolute lowest level of accountability to citizens and public officials.

For several generations leading up to the 1930’s, US judges, laws and regulatory agencies had granted expansive rights and powers to corporations. But a big problem remained for corporate agents. Many state corporation laws, constitutional amendments and legal precedents which citizens over decades had used to define corporations were still on the books. State laws and state constitutions like those in Ohio still extended to citizens and their elected officials legal rights to set criteria for corporate existence, to grant and revoke charters, to hold managers, directors and stockholders liable and accountable for their corporations’ abuses, to safeguard minority stockholders and to govern the internal structure of corporations.

“It’s a trend,” says Richard Grossman of the Program on Corporations, Law and Democracy. “The American Bar Association’s corporate attorneys target state legislatures. They call it ‘modernizing,’ but they’re writing significant changes in the law, and they keep doing this in state after state. It just happened to be Ohio’s turn.”

By the time a few environmental, labor and consumer organizations around the state learned about this stealth legislation, it had passed the Ohio House of Representatives 94-1 and had three hearings before the Senate Judiciary Committee. The bill was labeled by corporate attorneys and other promoters as simple “housekeeping” and “updating antiquated laws.” The bill’s chief proponent in the House called the legislation, “a straightforward but dull piece of legislation... not likely to generate widespread interest in the corridors of the House and Senate but is offered for

the benefit of Ohio's strong corporate community.”

Many legislators in the Ohio House and Senate admitted they didn't know the bill's contents but voted for it anyway. So much for representative government.

When inquiring about testifying on the bill at the fourth and final public hearing before the Senate Judiciary Committee, I was asked if I was a corporate attorney. Greg Finnerty, legislative counsel for the Ohio State Bar Association, said publicly, “It's not the most interesting topic in the world...

It's only of interest to those engaging in corporate interests. I can't believe anyone cares.” Apparently only corporate attorneys, not ordinary people or citizen organizations, should be interested in whether corporations should be even granted greater powers to define themselves.

With one minor change, the Judiciary Committee voted the bill out of Committee unanimously. The following week, the bill passed the full State Senate 28-5.

The corporate media did not serve the public well on this issue -- or maybe it did its job all too well. No major newspaper or electronic media outlet in the state even bothered to report the bill's basic contents. Alas, only a few community newspapers were interested.

The Ohio Committee on Corporations, Law and Democracy, an American Friends Service Committee-sponsored group of citizens statewide concerned about the illegitimate authority of corporations to govern, and the dangers this poses to democracy, mobilized against the bill at the last minute. The Ohio Sierra Club and the United Steelworkers of America in Ohio came out against the bill. In addition, the Ohio AFL-CIO sent a letter to every State Senator calling for further investigation into the bill before a vote.

At a time when seemingly everything is being “privatized” or “corporatized” in our society -- from health care, to prisons, education, social services, ideas, cultural values, agriculture, media, and elections -- giving up citizen authority over corporations deserves timely public information and debate. Unfortunately, neither our elected representatives nor the mainstream press felt that this bill was important enough to seriously examine and question. And unfortunately, a critical mass of Ohio's people were not organized well enough to know this bill was in the pipeline, able to resist it once introduced, or force our elected representatives to amend it in ways that would have strengthened citizen authority over corporations.

HB 78 was a “Wrong Turn in Ohio” (WTO) for those striving to achieve democratic control over corporations. It represents a victory this year for the ABA corporate road show and for strengthening corporate power in the U.S.

While important follow-up work to the Seattle World Trade Organization meetings and actions must be done, the same goes for our own “WTO.” Ohioans and, in fact, citizens in every state face a daunting, yet exciting, challenge ahead to understand and reverse the constitutional doctrines and laws in our states and at the federal level passed or constructed to insulate corporations from meaningful democratic control.

Activists must begin solid ground work now in preparation for the ABA corporate road show visiting their state and for other potential wrong turns off the path to true citizen authority over corporations and their assaults on democracy.