



Consigning Citizens to Mere Spectators:

How Preemptive Seed Legislation is Destroying Democracy

BY BRITT BAILEY

*Honest disagreement is often
a good sign of Progress*
— Mahatma Gandhi

In late 2004, the American Farm Bureau Federation, in association with the biotechnology industry, began its preemptive march through the state legislatures. Thus far, eight states have introduced bills prohibiting local communities from introducing policies related to seeds. These states include Pennsylvania, Iowa, Idaho, North Dakota, Georgia, Oklahoma, Indiana, and West Virginia. The preemptive laws are an underhanded attack against our rights to participate in the government process. They have been introduced in response to the passage in California of County Initiatives limiting the growing of genetically modified seeds and livestock.

Preemption is the judicial principle that declares the supremacy of one level of government over another in a specific subject area. In this latest example of seed laws, it is the state claiming primacy over local legislation pertaining to seeds. Essentially, preemption at the state level is industry's trump card used to remove communities' rights to enact stronger laws at the local level. According to Bob Campbell of the State of California Department of Finance, "state preemption laws can do two things. They can overturn the will of the people in the event an initiative has passed, and they can prevent the introduction of laws on the same subject from being introduced in the future."

The virtually identical language used in the introduced pre-emption bills illustrates a

systematic and ordered approach to stifle community decision-making by trying to pass laws that simply say local governments cannot pass laws related to seeds. For example, North Dakota's Senate Bill states, "A political subdivision, including a home rule city or county, may not adopt or continue in effect any ordinance, resolution, initiative, or home rule charter regarding the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed." Likewise, Idaho's House Bill 38 states, "no ordinance, rule or regulation of any political subdivision may prohibit or in any way attempt to regulate any matter relating to the registration,

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labeling, sale, storage, transportation, distribution, notification of use, or use of seeds." In addition to using similar language, the bills' pioneers in the various state legislatures have biographies and campaign contributors in common as well. Most receive funds from state farm bureaus. Some receive more direct funds from biotechnology companies such as Monsanto. And, most introducing legislators hail from rural farming and ranching communities. For example, Sandy Greiner, the House Representative who introduced her seed preemption bill in Iowa receives campaign contributions from the Iowa Farm Bureau, Monsanto, Iowa Agribusiness Employees, and John Deere.⁷ North Dakota's Representatives who introduced and carried their preemptive seed bill are Farm Bureau members.

When I contacted the office of Georgia Representative John Bulloch to question the reasoning behind its preemptive seed law, a staff member stated, "the genesis came from what is happening in California.

We wanted to keep authority pertaining to seeds within the Department of Agriculture. The Department has the knowledge; the brain trust if you will, to better control the types of foods we grow. We do not want a small voting segment of the population which has limited knowledge to wipe out a sector of our crops." Supporters of this bill include the Georgia Agribusiness Council and the State Farm Bureau.

Laws establishing preemption are not a new industry strategy. From 1982-1997 the tobacco industry worked diligently to introduce state laws to prevent cities, towns, and counties from initiating and introducing restrictive tobacco laws. After all, by 1997, nearly 1200 cities and towns had implemented tobacco related laws including restricting smoking in restaurants, limiting youth access to cigarettes, and controlling advertising and promotions for tobacco products. According to Victor Crawford, a tobacco industry lobbyist, "We could never win at the local level. The reason is, all the health advocates, the ones unfortunately I used to call 'health Nazis,' they're all local activists who run the little political organizations. They may live next door to the mayor, or the city councilman, and they say 'Who's this big-time lobbyist coming here to tell us what to do?' When they've got their friends and neighbors out there in the audience who want this bill, we get killed."²

Just as industry acted to influence and introduce preemptive legislation restricting local tobacco laws, it is clear corporations and their affiliated associations are behind the moves to thwart local efforts to better protect public welfare and small family farmers by creating more sustainable visions for our food supply. Industry knows that at a local level—the level where society actually gets to participate in

decision-making—it will lose its ability to convert our seeds and subsequent foods to those that are genetically modified.

Both our state and federal constitutions are living documents. They follow our struggle and reflect our progress, our difficulties, and our exchange of ideas. Since their ratification, we have acquired a more balanced voting system where women can vote, African-Americans are no longer considered property, and we have imposed alcohol prohibitions then later repealed such measures after grappling with and discussing such bans. We have debated on abortion, marriage, healthcare, and greenhouse gas emissions.

It is the *dialogue* that makes for a better government and a better society. Philosopher John Dewey points out that democracy is not an end in itself, but is rather a means for individual discovery and self-actualization. He argues that people are shaped by the degree to which they can participate in the democratic process. For it is through discussion and

involvement in government and its outcomes that individuals become more publicly spirited, tolerant, knowledgeable, and self-reflective.³ In other words, democracy is not for spectators.

Preemptive legislation stifles citizen participation. The legislators introducing these bills concerning seeds are not acting on behalf of the people; they are acting despite the will of the people. Furthermore, preemption restrains our constitutions from changing and growing. It prevents cultural advancement and fair and reasoned opinions.

A democracy void of discussion is hardly a democracy. As preemption laws march through state legislatures, we cease to be players in the political field. Instead, we become relegated to being mere spectators.

¹ Institute on Money and State Politics. Candidate Database.

<http://www.followthemoney.org/database/StateGlance/>

[contributor_details.phtml?si=200412](#)

Accessed 17 February, 2005.

² M. Siegel, J. Carol, J. Jordan et al. Preemption in tobacco control. Review of an emerging public health problem. *JAMA* 1997;278:858-863.

³ David Held, *Models of Democracy*, Second Edition, Stanford University Press, 1996

Britt Bailey, director of the non-profit Environmental Commons, is the co-author of Against the Grain: Biotechnology and the Corporate Takeover of Your Food (Common Courage Press, 1998) and is Senior Editor of Engineering the Farm: The Social and Ethical Aspects of Agricultural Biotechnology (Island Press, 2002). Britt is currently working on a third book pertaining to GMOs titled Home Field Advantage (forthcoming Common Courage Press).

For more detailed information pertaining to legislative seed laws and preemption see: www.environmentalcommons.org/gmo-tracker.html



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