

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board

—in recent past or present

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

Adoption of the Common Law Act

Summary

The Adoption of Common Law (Separation of Powers) Act clarifies that when legislatures adopted the common law of England and then delegated to the courts the power to develop that body of law in accord with the interests and public policy of the state, the legislative intent was to provide the courts with laws of reference until and unless the Legislature enacted rules to either complement or replace the common law. The Act reaffirms that, **except for any causes of action that were specifically granted constitutional protection at the time of statehood, the Legislature may alter or abrogate any pre-statehood or post-statehood common law causes of action.** (1)

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

Model Legislation

Section 1. {Short Title} This Act shall be known and titled as the Adoption of Common Law Act.

Section 2. {Legislative Intent}

A. The Constitution of {Insert State} vests the Legislature with the sole authority to create laws in light of the public interest. [Cite applicable provision of state's constitution.] The Constitution enabled courts to adjudicate cases by applying the laws enacted by the Legislature to the facts of those cases. [Cite applicable provision of state's constitution.]

B. After the Constitution of [name of state] was adopted, the Legislatur enacted[applicable code section] to provide the courts of [name of state]with the authority to refer to the common law in adjudicating cases. The common law consisted of case holdings rendered by English courts prior to the Revolution of 1776 or by the [colonial or territorial] courts before the Legislature was empowered to create the laws of the state or common law principles existing at the time a territory became a state]. The purpose of [applicable code section] was to **permit the courts to continue to apply the common law that was in existence at the time of statehood** and develop it in the interest of the public policy of the state unless it was abrogated or altered by the Legislature. (2)

Section 3. {Effect on Pending Action}

An action or proceeding commenced before this Act takes effect is not affected by this Act but all actions or proceedings commenced after that date shall conform to this Act. (3)

Section 4. {Effective Date}

Endnotes

(1.) From the time of the country's inception, state legislatures have abrogated common law causes of action and enacted statutes where the common law no longer adequately addressed certain areas of law. Notwithstanding the holdings of some courts that legislatures cannot abrogate pre-statehood causes of action, many legislatures have successfully abrogated common law causes of action. For example, thirty-four states, two territories and the District of Columbia abrogated the majority of the common law applicable to contracts for the sale of goods when they enacted the Uniform Negotiable Instruments law which was promulgated by the National Conference of Commissioners in 1896. Similarly, six states and one territor further eroded the common law applicable to the sale of goods by passing the Uniform Sales Act promulgated in 1906.

(2.) By passing the Uniform Negotiable Instruments law and the Uniform Sales Act, the state legislatures effectively repealed the landmark commercial case decided by Lord Mansfield, one of England's leading commercial judges. Thus, state legislatures which repeal a common law cause of action are continuing a practice followed by many state legislatures from the earliest days of the country's independence.

(3.) States that choose to abrogate all post-statehood common law causes of action may want to include a provision establishing a study commission. The commission will study which post-statehood common law causes of action are affected by the amendment and make recommendations to the Legislature regarding those causes of action that the commission suggests be reincorporated into the state's law by statute. This commission may permit a more thorough understanding of which causes of action are being abrogated, thus foreclosing concerns that might be raised by some. States that choose this option may want to insert the following paragraph in the Act:

"Section 4. {Study Commission} The Legislature shall appoint a Commission to study which post-statehood common law causes of action are abrogated by this amendment and to make recommendations to the Legislature regarding those causes of action which the commission believes should be reincorporated in the **{Insert State}** law by way of statute."

Historically, legislatures have had the right and duty to create and enact laws without any improper interference from the courts. The United States Constitution and state constitutions vest authority in the legislatures to make public policy because the legislative process involves public hearings at which all views are presented and debated. In contrast, courts only review the narrow arguments of the private parties before the court, which are necessarily restricted to the interests of those parties. Legislatures, not courts, are the appropriate forum for developing laws which involve broad policy issues, such as the creation of new legal causes of action.