

Ohio Senate Bill 16

To Chairman Senator Nathan Manning, Vice Chair Senator Robert McColley and Ranking Minority Member Senator Cecil Thomas. My name is Randy Cunningham and I live in Cleveland, Ohio. I wish to testify against Ohio Senate Bill 16.

Senate Bill 16 is a bag of tricks designed to intimidate, inhibit, and harass those who wish to exercise the right to peaceably assemble and protest. Its goal is not to ban the rights of protest. Its goal is to regulate protests to death with a blizzard of legal hazards the sum of which would cause any sober and reasonable person to have great hesitation to attend any demonstration. Which will get you to the same place as an outright ban on protests. No people. No protest. No problem.

SB 16 seems to live in a fantasy world where in any demonstration the police are abused by protesters and are at their mercy. Protesters versus police, who would you rather be? A protester has a good pair of walking shoes, a water bottle, sunscreen, and a placard with their message. The police have guns, tasers, mace, pepper spray, flash bang concussion grenades, body shields, helmets with face masks, body armor, and the supreme peace of mind that comes from the fact that you are virtually immune to any accusation of abuse. Which side would you prefer to be on? It is a no brainer. I would rather be the police.

There are a couple of trip wires created by this bill. Two of which I have personal experience with. First is the Ohio riot law which is so broad and vague that it invites abuse. In June of 2018, I was arrested for a six-person blockade of State Street as part of Rev. William Barber's poor people's campaign. I was tried and convicted of disorderly conduct – a misdemeanor. I was surprised that what I and others did was considered a riot when I noticed it

in SB 16. My first response was “You have got to be kidding!” We did our protest by the book of classic civil disobedience. We were excruciatingly polite and compliant with the police. But if we would repeat that action after passage of SB 16, we could be charged with felonies.

Second is that from 2005 to 2007 I was on the board of the Buckeye Forest Council, now the Buckeye Environmental Network. Part of our activist tool book was direct action aka civil disobedience. Then the Ohio legislature passed a “little Patriot Act” which is a state version of the federal law, with the same sort of penalties for organizations as SB 16. Direct action became a dead letter for our organization after passage of the Ohio Patriot Act. We did not dare use it for fear that it would bankrupt the organization into closing, and bankrupt us board members into losing houses, maybe jobs and life savings.

Now a supporter of SB 16 would see no problem with these examples. In fact, they would look upon them as justification. The problem is the use of fear to inhibit peaceful – even civil disobedience that may nominally be illegal – protest creates what the Supreme Court has calls a chilling effect on free speech and protest activities. The rights of protest, freedom of speech, and peaceable assembly do not mean much if the law creates a gauntlet of legal jeopardy that those who wish to use those rights must run.

Finally, the authors and proponents of bills such as SB 16 feel an obligation to declare that they are not against free speech, and peaceable assembly. If that is true, then they can prove it by rejecting this punitive and repressive bill. If that is not true, then they can continue down the path they are on. Call it a moment of truth.

Thank you,

Randy Cunningham

