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### **How 'corporation' became 'person'**

COLUMBUS - To state Sen. Mark Mallory of Cincinnati, the issue was about preserving the public's right to know.

Late last June, a House committee added several amendments to a bill intended to help prepare Ohio for a potential bioterrorism attack.

Knowing that politicians wouldn't vote against an anti-terrorism bill, the state Health Department convinced legislators to add several provisions to change how the controversial agency operates.

One proposal said while the health department investigates the cause of any illness or disease, citizens could receive information that is in "summary, statistical, or aggregate form and that does not identify a person."

An earlier version of the bill used the word "individual."

Under state law, the health department can withhold information during an investigation that would identify an individual so that ill citizens have privacy.

"When someone reads this bill, they will read 'person' and think it's an individual," Mr. Mallory told fellow legislators.

The change of one word gave corporations and other businesses the same right to privacy as individuals, because under state law corporations are considered persons. The change could be worth millions of dollars to businesses that harm individuals.

Last month, a coalition of eight groups - including the Ohio Association of Broadcasters and the League of Women Voters of Ohio - told legislators about their concerns. Some changes were made, but Republican legislators wouldn't budge on expanding secrecy powers to businesses.

Last week, Republican senators tabled two attempts by Democrats to change "person " back to "individual." The House of Representatives embraced the new version of the bill, and sent it to Gov. Bob Taft for his signature.

But missing from the debate was the central question: How did a corporation become a person?

When Ohio became a state 200 years ago, the state Constitution said the legislature had the power to create and define corporations, said Greg Coleridge, director of the economic justice and empowerment program for the Ohio chapter of the American Friends Service Committee in Akron.

In 1838 the Ohio Supreme Court ruled: "There is a great difference between natural persons and corporations. Natural persons have capacity and power to make and enter into any contracts which are not prohibited by law ... A corporation is a body created by law ... and derives all its powers and capacities from the law of its creation."

Angered that legislatures had repealed several corporate charters after abuses were uncovered,

businessmen attacked and won a major victory in 1886 when the U.S. Supreme Court released its decision in Santa Clara County vs. Southern Pacific Railroad, wrote Mr. Coleridge and Jon Goodman in their booklet titled "Citizens Over Corporations."

The ruling said a "corporation was a natural person under the U.S. Constitution." Across the nation, laws that had enabled citizens to use democracy to oversee corporations were struck down as unconstitutional.

"In Ohio, corporations were declared 'persons' with due process rights and were granted 'all the rights and business transactions which are possessed by a sole person conducting a like business,'" Mr. Coleridge and Mr. Goodman wrote.

It is ironic that Mr. Mallory was a key critic of the bill giving corporations the same privacy rights as individuals.

An African-American Democrat, Mr. Mallory sponsored a resolution this year that led to Ohio ratifying the 14th Amendment to the U.S. Constitution. He did so after University of Cincinnati law students and their professor discovered that Congress and Secretary of State William Seward declared in 1868 that enough states had ratified the 14th Amendment - without resolving whether Ohio's decision to rescind it earlier that year was valid.

The 14th Amendment guarantees all persons "equal protection of the laws," prohibits anyone from being deprived of "life, liberty, or property, without due process of law," and guarantees that all born or naturalized in the United States are citizens.

It was the U.S. Supreme Court's 1886 decision that said corporations were protected as persons under the 14th Amendment.

In fact, historian Howard Zinn has noted that from 1890 to 1910, the U.S. Supreme Court cited the 14th Amendment in 288 corporate cases - and only 14 that involved black Americans.

Last week, the public right to know in Ohio became the latest victim.

"We're not saying corporations shouldn't exist," said Mr. Coleridge, who helped found the Program on Corporations, Law and Democracy in 1994. "We're saying they shouldn't govern."

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