Feb. 19, 2016 House Debate

PLAINTIFF'S
EXHIBIT
CSE-28

MR. GIPSON: I would like to go to item 119 on the General Calendar House Bill 1523. Call up [INDISCERNIBLE 00:00:08] motion and move the adopted committee in lieu of the original bill.

MR. SPEAKER: Which item, gentleman?

MR. GIPSON: Item 119, House Bill 1523.

MR. SPEAKER: 118, gentleman. Item 118, House Bill 1523.

MR. GIPSON: Sorry. Thank you, Mr. Speaker.

MR. SPEAKER: The [INDISCERNIBLE 00:00:22] those rules be suspended, be able to consider and [INDISCERNIBLE 00:00:25] read the third time and placed on final passage. All in favor, say 'aye,' oppose nay, the ayes have it. We have committee substitute.

MR. GIPSON: Yes, Mr. Speaker, may we adopt the committee sub below the original bill.

MR. SPEAKER: Gentleman moves committee substitute be adopted for consideration in lieu of the original bill. All in favor say 'aye' oppose 'nay', the ayes have it. Gentleman is recognized.

MR. GIPSON: Thank you, Mr. Speaker. I have a technical amendment, numbering amendment I would offer at this time.

MR. SPEAKER: Okay. You're recognized for your amendment.

MR. GIPSON: Thank you, Mr. Speaker. I will just explain the amendment. In the committee sub, there were some internal references that the section numbers didn't get adjusted. That's all this amendment does.

MR. SPEAKER: Questions on the amendment? I don't see any. In favor of the amendment indicate by saying aye, opposed nay. As you haven't, amendment is adopted.

MR. GIPSON: Thank you, Mr. Speaker. Ladies and gentlemen of the House, the Bill you have before you, House Bill 1523 is the Protecting Freedom of Conscience from Government Discrimination Act. What this Bill does, it speaks specifically to three sincerely held beliefs, religious beliefs of moral convictions, and they are that at line 189, marriages should be recognized as the union of one man and one woman. Secondly, that sexual relations are properly reserved to such a marriage. And third, that male or female refer to an individual, immutable biological sex as objectively determined by anatomy and genetics at time of birth. Now, that's all the scope of this Bill, and this Bill doesn't mandate that individuals hold these beliefs, but what it does is to the extent an individual and the State of Mississippi holds this sincerely held religious beliefs. This Bill provides state law protections against discrimination --

MR. SPEAKER: Excuse me, gentleman. Members are indicating they cannot hear.

MR. GIPSON: Thank you.

MR. SPEAKER: Please keep the noise down. Thank you. You may continue, gentleman.

MR. GIPSON: As I mentioned, this Bill does not mandate holding certain beliefs, but what it does provide is that to the extent any Mississippians holds these beliefs as to marriage, as to sexual relations and as to gender, then this Bill provides state law protections against discrimination for acting in accordance with their sincerely held religious beliefs. It provides protections at line 28 to religious institutions, churches who make decisions on the basis of that sincere belief, to adoption agencies on line 46, foster

care agencies, foster parents at line 53 and following, individuals who have objection to participating in transgender practices and individuals who --

MR. SPEAKER: Excuse me, gentleman. Okay. If you can't keep it down, we're going to require everyone to find their seats.

MR. GIPSON: Thank you.

MR. SPEAKER: This is the second time members have asked me to keep it quiet. I ask you to find your seat, pay attention. Thank you. You may continue, gentleman.

MR. GIPSON: And then at line 73 and following, protections for individual persons who provide or decline to provide services related solemnization, formation, celebration or recognition of any marriage that's not consistent with their sincere belief, including photography, floral arrangements, rest room standards for gender specific restrooms and policies, student dress or grooming, public employees who exercise their speech beginning at line 97, consistent with their belief. And then line 112, clerks, circuit clerks who have expressed concerns about this may seek refusal. There is a process for them to seek refusal from solemnizing from licensing if there should any marriage hereunder, and provided that they provide notice to the health department, the registrar of vital records and the ensure that someone else in their organization is able to accomplish that without impeding or delaying the result. The same protection for judges beginning at line 127 and following who have recusal option by notifying the administrative office of courts.

[00:05:08]

And the protections that are listed beginning at line 141 and following are essentially against any state action that would be retaliatory or penalize someone from acting in accordance with their first amendment beliefs on these important and critical subjects, and licensing and accreditation, which is important to schools, private schools beginning on line 171 and following are protected in that respect. The Bill does provide that an individual may assert of this against the state or any political subdivision thereof and against -- and sort as a defense, this Act against any lawsuit rolled under the [INDISCERNIBLE 00:05:58] law under rule and regulations and ordinance. The statute limitations is two years that’s government by the Tort Claims Act and it’s to be construed in favor of the broad protection of free exercise of religious beliefs and moral convictions to the maximum extent permitted by the state and federal constitutions. What this Bill does in essence is add an additional layer of protection that currently does not exist in the post Obergefell decision that came from the Supreme Court in June of 2015, which legalize the same sex marriage throughout the United States, including a majority of states that had adopted the traditional definition and only recognize marriages between one man and one woman. What this Bill does is provide a layer of protection against state discrimination for simply believing these important principles and acting in accordance therewith and without l-- for any further discussion, I believe I've explained the Bill. I would be glad to take any questions.

MR. SPEAKER: Okay. Gentleman from Madison, your question. Mr. Black.

MR. BLACK: Thank you. Mr. Speaker, can you hear?

MR. GIPSON: Yes, sir.

MR. BLACK: I was trying to follow your explanation as to sexual designation. Did you cover that?

MR. GIPSON: Yes, gentleman. Sexual as to gender?

MR. BLACK: Yeah.

MR. GIPSON: Male or female refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth.

MR. BLACK: Gentleman, in Mississippi as well as the whole of the world, are you aware that at the University of Medical Center right now that a certain number of children born haven't met -- don't meet either one of those definitions, and there is an assignment of the sex of a child based on certain criteria and what do parents desire. That child has no say so in that because you cannot determine at birth the sex of a child. I mean, a lot of people don't know that, but there is a huge percentage of children that are coming to the world like that.

MR. GIPSON: I think you're absolutely correct. There is a percentage. I wouldn't call it a huge percentage, but there is a number.

MR. BLACK: It's huge.

MR. GIPSON: And that's the reason for the definition to include as objectively determined by anatomy and genetics at time of birth. There is an objective process for that determination, and it is made at the time of birth, gentleman, and so even in those instances the gender is designated objectively.

MR. BLACK: That definition that you just gave is not scientific because you wouldn't have the problem that is not a problem, it's what happens in life. You wouldn't have that problem, would you agree, if we can say boy, girl,

girl, boy. If you have done it by visual, by visually, you don't have all of these scientific environment until there is a problem with what the child is.

MR. GIPSON: Any my response to that, gentleman, is these visible characteristics, they are an outward evidence of the internal, the genetic, the biological anatomy, and so in an instance where those visible characteristics are not present, there is still evidence as to this child's gender internally.

MR. BLACK: So, what we're doing now, we're living in limbo, there is one in every thousand or five thousand birth, whatever the number is, that those individuals who happen to be born in Mississippi are going to have to fight their way through this type of legislation here.

[00:10:13]

MR. GIPSON: I disagree, gentleman, because we're not defining anyone as any particular gender. What we're saying is individuals who hold this particular belief have the right to hold that belief and to act in accordance with it.

MR. BLACK: And discriminate against those people that -- that group of people who fall in that category?

MR. GIPSON: No, this Bill protects from discrimination and the individuals who hold these beliefs and act in accordance therewith.

MR. BLACK: What you're doing is giving cover for people who are elected and assigned to their duties to carry out [INDISCERNIBLE 00:10:44] governmental functions. That's what this Bill does.

MR. GIPSON: Gentlemen, what we're doing is providing state protections against the state or any political subdivision forcing a person to violate their most fundamental right, the First Amendment right of their religious

beliefs and their convictions. At some point, there has got to be a decision made. You've got individuals who are coming asking to be married and you have individuals who are certainly entitled and do hold strong, sincere beliefs against, and this Bill provides the mechanism, the way for that conflict to be resolved.

MR. BLACK: Gentleman, the reason I rise to ask this question and get into this with you is that don't you agree that given the fact that a large number of individuals who are in this house who look like me, for instance, not many years ago there was a legislation protecting government officials who wanted to discriminate against African-American of this state, and wouldn't this type of legislation be a reminder of what Mississippi has done not so many years ago.

MR. GIPSON: Gentleman, this is raised neutral. It has nothing to do with race. That's why these specific beliefs are held, are held by races of all -- people of all races in Mississippi; White, African-American otherwise, Hispanic for that matter. It has nothing to do with race, it has to do with what a person, a man or a woman believes individually, and this Bill gives them the protection they need to act consistently with their sincere beliefs on the subject.

MR. BLACK: Gentleman, but that was growing up separate but equal within the schools with race neutral too, I was told, but we all now that that was not true. So, why would Mississippi want to remind the rest of the world what we were, I thought, trying to abort from being what people thought we are? And guess we're that is I guess we are what we were if we pass this type of legislation. Gentleman, I disagree with that. This legislation protects all

of Mississippi, 100% of them, including the people who voted to define marriage as one man and one woman.

MR. SPEAKER: The lady from behind, Ms. Woods.

MS. WOODS: Thank you, Mr. Speaker. [INDISCERNIBLE 00:13:12] gentleman.

MR. GIPSON: Yes, lady?

MS. WOODS: Gentleman, we discussed this Bill in the Committee on yesterday and the questions that are raised yesterday will be some of the same questions that are raised here on today about the Bill. From what I understand you to say is that you are allowing individuals who hold a certain belief to not be held accountable if that belief is discriminatory in nature. Now, you're saying, and correct me if I'm wrong, but you would agree with me that you're basically saying that if there are individuals in the State of Mississippi who are not or who don’t fall into the category of your atypical man and woman relationship that any person who is working in a governmental job, elected, appointed, has the ability to discriminate against that person to refuse in service. And another thing that I read in the Bill, and you can tell me if I'm wrong or right, is that they have the ability to act out on their belief. In other words, if they feel a certain way and there are things that they want to say to an individual, then they have the authority to do that and there is nothing that can be done. Am I wrong in that assertion?

MR. GIPSON: Well, lady, what you're describing is that the fundamental rights of all citizens in the United States and including Mississippi is to hold to and believe fundamental matters of faith. These are very specific and they're narrowly tailored, the definition of marriage, one man, one woman, that

sexual relations are properly recovered to such a marriage, and then the gender objective determination.

[00:15:14]

People already have the right to believe that. What we're living in is a culture today is where there seems to be for whatever reason, maybe it's these strong lobbying groups around the country, there is a chilling effect and a fear of individuals who may be in the minority, frankly, on this subject, from acting in accordance with their sincerely held fundamental beliefs of faith. Yes, this Bill protects those actions, it protects them if they decide not to take action to further a relationship that falls outside of what they believe personally and individual and they have the right believe under the Constitution of the United States, and frankly under the God given right that we have as individuals.

MS. WOODS: You finished?

MR. GIPSON: I'm done, lady.

MS. WOODS: Okay. So gentleman, now I wasn't born in this area, but when my parents were born, there was belief hailed that people who like me who are of my color were property, and they would talk about that that was in the Bible. And so, now when you start giving people the authority to act out on these asenine ignorant beliefs, what are you going to say to those people who are being discriminated against, who are being mistreated, what do you have to say about that and why -- let me ask you this more importantly. Why doesn't this Act cover a married man or a woman out there cheating on their wife or their husband? Why doesn't it cover a married man or woman cheating, fornicating, committing adultery? If we're going to go all into the Bible and

talk about religious beliefs, my belief is that you shouldn't be cheating on your spouse?

MR. GIPSON: I agree.

MS. WOODS: Now, that doesn't matter to plenty of people sitting up in this.

MR. GIPSON: We agree on that, lady, and it's in this Bill. If you can have that fundamental belief at line 20 that sexual relations are properly reserved to such a marriage that is one man and one woman.

MS. WOODS: So I can walk up to a person and say, "You whore monger, you know you're wrong for that." Can I do that, and nothing will happen to me? Do I have the authority to do that?

MR. GIPSON: Lady, you know, that's outside of the scope of this Bill. What that --

MS. WOODS: Well, tell me --

MR. GIPSON: What this Bill protects against is state governmental action that discriminate against individuals who hold these particular beliefs?

MS. WOODS: Well, if I walk up to a person in my position as a state representative and say, "You whore monger." Am I wrong for that? Can something be done because I say that?

MR. GIPSON: Are you acting as a state actor, lady?

MS. WOODS: I dare will may be.

MR. GIPSON: Lady, I think what you're describing is individual conduct that's going to be matter of litigation between the two of you.

MS. WOODS: That's right, litigation. And so based off of this Bill right here and based off of a number of bills that are coming before this body, you all

are going to bankrupt the State of Mississippi because we're going to be in litigation about all these bills that you all are passing.

MR. GIPSON: No, exactly the opposite --

MS. WOODS: This is a discriminatory bill just like the Bill that you all brought forward where you were giving people the authority to discriminate against the same kind of people, the same persons who don't hold the beliefs that you may hold. Now, gentleman --

MR. SPEAKER: Excuse me. Questions and answers, please. Questions and answers.

MS. WOODS: Now, gentleman, let me ask you this --

MR. GIPSON: Let me respond to that, if I may?

MS. WOODS: Okay, go ahead.

MR. GIPSON: I think the exact opposite of expansive litigation will be the case if we pass this Bill because this is going to give a bright line a clarity to the protections that individuals holding these beliefs have. So there won't neither be a lawsuit to determine. What you just describe was a person attacking a person verbally or casting a person verbally. That's not what this Bill is designed and pertain.

MS. WOODS: Now, let me ask you this, gentleman. I see in here where you say that a person has the right to recuse himself from performing their job responsibilities. Now, if I just flatfoot out refuse to perform my job responsibilities on any job, that's a basis for being terminated. Why are you giving these people a pass if they don't want to perform their job responsibilities?

MR. GIPSON: Lady, we have had in this state circuit clerks --

MS. WOODS: Mr. -- I'm sorry.

MR. GIPSON: -- judges.

MS. WOODS: Mr. Speaker, I can't hear his response.

MR. SPEAKER: Lady indicates she cannot hear. Please hold your noise down.

[00:20:10]

MR. GIPSON: Lady, we've had in this state not hypothetically, but in real life circuit clerks, judges, individuals test these responsibilities who have these fundamental matters of faith critical to who they are as a person, and it violates their conscience, and the Bill doesn't prohibit the Activity, but it does allow that individual to recuse themselves and to provide that some other person who doesn't hold that kind of conviction would accommodate the request, and it specifically provides that they have the responsibility to make sure that it doesn't impede or unduly delay the request.

MS. WOODS: Now, gentleman, would you not agree with me that the Bible talks about judging your fellow men? Would you not agree with me that the Bible talks about that?

MR. GIPSON: There are many references of judgment in the scriptures, yes.

MS. WOODS: And would you not agree with me that the Bible also instructs us that we are not to sit as judge over our fellow men? Is that what the Bible says?

MR. GIPSON: The Bible doesn't say that, lady? Jesus said --

MS. WOODS: What are you taking when [INDISCERNIBLE 00:21:25] judge a fellow man, gentleman? How can you take any differently?

MR. GIPSON: Well, what it says, lady -- I mean, I don't want this to get into a interpretive discussion of the Bible, but I believe --

MS. WOODS: But that's what this Bill is about.

MR. GIPSON: I believe what the lady -- what you've just mentioned is a reference to a past scripture that we're -- it is clearly referenced that God is the judge, that there is one judge, God. God is the judge. He defines what is right and what is wrong. I know many of us believe that. I personally believe that to be the case and I personally ascribe to what I believe He has said forth is right and what is wrong, and I shouldn't be penalized for holding that belief, neither should anyone else in the State of Mississippi.

MS. WOODS: Gentleman, would you not agree with me that if a person wants to know what your belief is, number one, they can ask you what your belief is. If they want to fellowship with you at your place of religious choice, they have the ability to do that, correct?

MR. GIPSON: They have that freedom, yes.

MS. WOODS: Now, gentleman, this Bill, and you correct me if I'm wrong, basically allows certain individuals to assert their religious belief about what they believe that grown folk who are making choices for themselves should and shouldn't do, would you not agree with me that we are stepping outside of the bounds of what we should be doing up here and actually getting into people's bedrooms and what their choices are?

MR. GIPSON: I absolutely disagree. This doesn't change anything about the law of the land, it doesn't change a person's decision to adopt one lifestyle or another. What it does is recognizes the fact that people of good faith, people of good conscience can adopt and do hold these types of beliefs that are important. And I would say this, important not only to them personally, but to the society as a whole, to the structure of the family, and there is

nothing wrong with holding those beliefs. People ought to be able to hold those beliefs and live in accordance with them.

MS. WOODS: Gentleman, this is a hypocritical Bill, but thank you so much.

MR. GIPSON: Gentleman from Lauderdale, Mr. Young.

MR. YOUNG: Thank you, Mr. Speaker. Gentleman.

MR. GIPSON: Yes.

MR. YOUNG: Gentleman, all of us have our own fundamental beliefs, and as you stated previously, you don't think that a person should be judged by court of law if their moral or religious conviction is of a certain belief. Is that correct?

MR. GIPSON: I don't think we're getting into court of law. What I said was the State Government should not discriminate against, and that includes any political subdivision, should not discriminate against an individual because they hold and live by their beliefs.

MR. YOUNG: Well, maybe I was mistaken, but I thought the debate move in the direction that where a statement was made saying that God is our only judge and that we do not believe that man or a court should be able to judge otherwise, and I might have been mistaken.

[00:25:02]

MR. GIPSON: I think we were talking in the context of what the Bible says about right and wrong, and the Bible teaches that God has defined what is right and what is wrong. I personally believe that said it forth in the scriptures, in the Bible, and we're talking about crimes and punishments, if that's where you're going.

MR. YOUNG: Oh no, sir. I'm not going there, and I'm of the same fundamental belief, so I want you to know that we are in agreement on that. But even though both of us share in that basic belief, and I'm not going to say whether I'm for or against, you know, what the Federal Government has put into law, but I think at the same time, and you're an attorney, both of grew up and both of us were educated, we were educated in government and our belief was that there were different branches of government and that there was a hierarchy established in government. Were you taught that also?

MR. GIPSON: Absolutely, gentleman. We have a constitutional government and every state has a constitution. The State of Mississippi had decided to amend its constitution to define marriage as one man and one woman. The Supreme Court has overwritten that decision and it’s now the law of the land in every state that people of the same sex can be married. This Bill doesn’t question that. What it does do is provide the protections and maintains another layer of protection for individuals who disagree with that decision.

MR. YOUNG: My question there is this. I think both of us grew up in an era where we remember a gentleman named Cassius Clay. Cassius Clay is celebrated as being probably the greatest boxer in history. Would you agree with that?

MR. GIPSON: I don’t know, but I will take your word for it, gentleman.

MR. YOUNG: Well, Cassius Clay changed his name to Muhammad Ali and he said that he changed his religion to Muslim, and if we’re talking about not discriminating on the basis of belief, my question there is Muhammad Ali said that after he changed his religion that he didn’t believe that he should go to Vietnam and fight and that the Federal Government didn’t have jurisdiction

over him because of his religious beliefs. My question is, and none of us can change history, my question is did he go to jail?

MR. GIPSON: Gentleman, you raised a good point. Now, I don't know the answer now, the contentious objection law under the military that you've just described. My recollection is he may have gone to jail, but --

MR. YOUNG: Was he stripped of all of his titles and not allowed to fight in this great United States of America?

MR. GIPSON: I will take your word for it, gentleman, but what I want to respond to you is you're pointing out an exact corollary, I think, to what this principle is here that there is such a thing as contentious objection in the military for people who believe in non-violence, there is such one for people in the healthcare industry, if they have a particular belief. They don't have to violate that conscious. All this is doing is adding that same principle in the context of marriage and of gender.

MR. YOUNG: And, gentleman, I truly understand your point of reference, but with regard to your statement, and you're an attorney and we've got a whole bunch of attorneys in here, you all know a whole lot better than I do. My question is are we or are we not walking on very, very thin ice if the Federal Government's powers supersedes the powers of this legislative body here in the State by telling people that they do not have to abide by Federal Law?

MR. GIPSON: I disagree. This is not thin ice at all. In fact, we're threading on the principle that even the US Supreme Court recognize the First Amendment the right of the people to worship and to free exercise their religion, and so that's the basis for this Act, and I think it's solid and there is no law

against us providing additional state protections to individuals who have contentious and moral convictions in this matter.

MR. YOUNG: Well, gentleman, are we not asking people to abide by Federal Law? Are we telling them that they do not have to abide by Federal Law and that we would give them a pass if they don't abide by Federal Law?

[00:30:00]

MR. GIPSON: No.

MR. YOUNG: And that we will give them a pass if they don't abide by Federal Law.

MR. GIPSON: Okay. Let me be clear.

MR. YOUNG: Okay.

MR. GIPSON: This is not undoing or avoiding or trying to rollback what the Supreme Court said. What this is saying is we recognize that there is now under [INDISCERNIBLE 00:30:22] decision, apparently, the majority of the court found a fundamental right to same sex marriage. At the same time, there's a competing right under the First Amendment to worship and to believe what we believe without government interference. This bill at the state level says the state in Mississippi and no political subdivision of it is going to pass something to make you violate your First Amendment freedom, your conscience or penalize you to exercise it to accommodate something that you don't believe in.

MR. YOUNG: And gentleman again, I'm not disagreeing with what it is that you're expressing to this body but my question again is, are we asking citizens of the state of Mississippi to disregard and violate Federal Law?

MR. GIPSON: Gentleman, the answer is no and let me explain why. Citizens of the State of Mississippi have common ask for this type of relief. Circuit clerks in the State of Mississippi have begged for some relief. They want to abide by the law and they have an obligation to abide by the law but at the same time, they have an obligation and many of them believe they have obligation to abide by their moral conscience and what they believe as a portion of faith. This provides a way that both of this interest can be served. It doesn't prohibit a marriage but someone else who doesn't have that objection would be found to do it and it allows an objecting clerk; just for example, our judge who recuse themselves and provide the proper notice.

MR. YOUNG: Gentleman, I think we both agree that Federal Law trumps state law, correct?

MR. GIPSON: Sometimes gentleman.

MR. YOUNG: So we don't agree that Federal Law trumps state law.

MR. GIPSON: There is expressed preemption, there's implied preemption, and there's field preemption. It all depends on what the state laws are in place.

MR. YOUNG: Okay. Well gentleman, I'll ask a more direct and specific question. Would this piece of legislation restrict or prohibit the Department of Justice when coming in here and taking action against the citizen of Mississippi.

MR. GIPSON: This bill does not extend to Federal Law. It doesn't extend.

MR. YOUNG: My question was just simple one. Can the Feds come into Mississippi if someone follows the rule of this law and can they file a charge or grievance against that state employee?

MR. GIPSON: Gentleman, as you know of, anybody can file anything they want to anytime, but I don't think they'd be successful because of the protections of the constitution, the First Amendment.

MR. YOUNG: Well, you do agree that it opens the door for the Department of Justice and the U.S. Attorney General's office to take any [INDISCERNIBLE 00:33:27] employees.

MR. GIPSON: Gentleman, if what you say is true and I don't doubt you, if that were to happen, I think we'd be in more serious trouble than I thought we were in.

[VOICE OVERLAP]

If the U.S. Department of Justice decide to come down here in State of Mississippi and force people to violate their fundamental religious freedoms then that it would be the exact proof why we need this bill to protect the people who disagree with that.

MR. YOUNG: Well gentleman, you know, and again I think our forefathers tried to put necessary protections in place so that we would have a separation of government and religion. And again, I think this body is making an effort to violate what our regional forefathers tried to prevent.

MR. GIPSON: I disagree with you. This legislation embodies what our forefathers attempted to enshrine which was the separation between the government and the freedom of religion.

MR. YOUNG: That's correct.

MR. GIPSON: This says where those two conflicts, an individual having that freedom of religion can be afforded a recusal, can be provided protections

hereunder and be protected against discrimination by an unfriendly government.

MR. YOUNG: Well gentleman, if you're going to phrase it as such, if I represent to you that I have a religious belief or moral conviction that I should just pull out my gun and shoot anybody that don't have the same beliefs that I have.

[00:35:14]

And if I ask the state legislature to provide protections for me and anyone else that might believe the same way that I do, would we be trying to pass legislation that would allow me to just simply commit murder and it not be called murder.

MR. GIPSON: Absolutely no. That's a ludicrous belief if someone were to say that, gentleman. That's why this bill is limited to only two to three beliefs: Marriage is between one man, one woman; the sexual relations are properly within that union; and the gender belief. That's the scope of this. We're not talking about guns or murder or anything else gentleman.

MR. YOUNG: Gentleman, again, you know, maybe it was a bad reference point but in any scenario, if I took my vehicle and drove it in the building and just ran over folks because I didn't like them, you know, where --

[VOICE OVERLAP]

MR. GIPSON: This bill has no protection for that.

MR. YOUNG: Right, but if they were group of people that had those same beliefs as me, and like I said, it doesn't matter if it's gun, you know, a vehicle or if I decided to just plant a bomb and build to blow it up. Where does the line in the sand? Where is it drawn?

MR. GIPSON: Well gentleman, any bill like you just described, I'd kill that billing committee where it introduced --

[VOICE OVERLAP]

The line that we've drawn here is holding a sincere, religious belief or conviction in marriage and in gender and in the proper scope of sexual relationship.

MR. YOUNG: Well gentleman, you know, that brings us to a very distinct point in my life, okay? My father was on the other side of the fence on a lot of issues. I have bullet holes in the house that I live in right now. Those bullet holes weren't from kids that lost their way and just drove down the street and start shooting in the house. When I was growing up, we had vehicles --

MR. SPEAKER: Excuse me. Excuse me gentleman, just questions and answers please? Questions and answers.

MR. YOUNG: Yes sir. Gentleman, is it right because a religious group believes that Black people should not exist in the State of Mississippi? Does it give them the right to blow up people's cars?

MR. GIPSON: Absolutely not.

MR. YOUNG: Is it a right of a religious entity that believes that Black people shouldn't exist in the State of Mississippi to shoot in people's houses?

MR. GIPSON: Absolutely not.

[VOICE OVERLAP]

You're describing crimes.

MR. YOUNG: Well no sir. We, again, have to determine what is discriminatory and what is not discriminatory.

MR. GIPSON: My answer to you would be we have laws in the books to keep that from having to stop people from shooting individuals, from committing murder and we have laws on the books to keep individuals from committing acts of terrorism and to try to stop those who passed on the other day or you describing a crime. There's nothing in here that protects anyone from committing a crime.

MR. YOUNG: No sir. I'm not describing -- I am describing crimes.

MR. GIPSON: Okay.

MR. YOUNG: We, as a people, should be very conscientious as to whether or not we're committing crimes based on sex, race, gender, whatever ethnicity or whatever economic condition. And I'm very concerned of the direction that we're taking with regard to that. And if you conveyed to me that that is not the direction that we're moving in then I'll be more than happy to yield, gentleman.

MR. GIPSON: Gentleman, thank you. That's not the direction we're moving. Let me just be clear, the direction we're moving is what the constitution already provides and for individuals. We're not talking about people who want to commit crimes. If someone commits the crime, they could be punished for that. But this bill says any law abiding person who having these fundamental beliefs cannot act or refuses to act or needs to act a certain way to accommodate those beliefs then this allows them protection from discrimination. That's' all it's doing gentleman.

MR. YOUNG: Thanks gentleman.

MR. SPEAKER: Any further questions, gentleman?

[CROSSTALK: 00:39:52 - 00:40:01]

Gentleman from [PH] Lafayette, [PH] Mr. Hues.

[00:40:00]

MR. HUES: Thank you Mr. Speaker with a gentleman from [INDISCERNIBLE 00:40:06]

MR. GIPSON: Gentleman from [INDISCERNIBLE 00:40:07].

MR. HUES: Gentleman from [PH] Samson, my apologies. Gentleman, what cost assessments, if any, had been done about having to defend this in court based on its inconsistencies with the U.S. Supreme Court rulings?

MR. GIPSON: Gentleman, we don't think it's inconsistent, so there haven't been any cost -- we think it's entirely consistent. In fact, [INDISCERNIBLE 00:40:26] decision, there's addicting and there, they recognizes that people having sincere beliefs, there needs to be a process to accommodate that. That's what this bill does.

MR. HUES: But if it's challenge that, then it'd be [INDISCERNIBLE 00:40:40] upon the state to defend this if it has.

MR. GIPSON: As any other law we pass gentleman, we have a debate on those about every bill.

MR. HUES: All right. Gentleman, if you would, and I specifically call your attention to line 25 through 45 -- actually subsection C says, if I'm reading this correctly is that, "The state cannot take any action against any religious organization that makes any decisions regarding the sale, rental, occupancy terms, et cetera." Are you familiar with that part?

MR. GIPSON: Yes, that's specific to religious organizations, gentleman: churches, houses of worship, who own property and who are deciding how to dispose that property in accordance with their beliefs.

MR. HUES: So without regard to existing discrimination laws that are out there, with this bill and in fact have the right of any religious organization to refuse to sell, rent, or lease in any way to any gay couple.

MR. GIPSON: Gentleman, this simply provides a protection from government action to violate that belief. I think what you're describing is a lady did earlier is a private situation and this doesn't apply to a situation of that nature. What it does say is the state or the political subdivision cannot force you to violate your conscience by selling, renting, having occupied, et cetera any property under your control.

MR. HUES: Well gentleman, I'm actually reading. It says, "The state government shall not take any action against a religious organization because that organization," and I'm paraphrasing C now, "Refuse to sell or lease its property that it was getting rid of to a gay couple." So is that saying that a gay couple can be discriminated against by religious organization and be free from any enforcement action?

MR. GIPSON: Well I noticed you left out some words that says, "The state government shall not take any discriminatory action against a religious organization." And I would add such as a church, wholly or partially on the basis that the organization -- and I would paraphrase it to say, wholly or partially on the basis that the organization disposed their property consistent with their beliefs. This provides a protection in the same way

that individuals you describe have some protections. This is a protection at the state level from discrimination by the government.

MR. HUES: Can a religious organization in Mississippi under this bill refuse to sell or lease to a gay couple and be protected under this law?

MR. GIPSON: I think so, gentleman, if it violates their belief. Mr. Speaker, I move adoption to bill.

MR. SPEAKER: Gentleman leaves the floor. Anyone wish to speak on the bill? Gentleman from Washington wishes to speak. Okay. Excuse me, lady from [INDISCERNIBLE 00:43:49], what purpose do you seek recognition?

FEMALE 1: My button. I had my button pushed, Mr. Speaker. I had an amendment and so --

MR. SPEAKER: Okay. Excuse me, gentleman. Lady has an amendment. I will recognize the lady for her amendment. Any other amendments that I missed? Okay. I recognize the lady for her amendment.

FEMALE 1: Yeah. Thank you so much, Mr. Speaker and ladies and gentlemen of the house --

MR. SPEAKER: Excuse me lady. Illinois, please hold it down. You may continue, lady.

FEMALE 1: Yeah, thank you so much Mr. Speaker. Ladies and gentlemen of the house, the bill begins in Section 2 and it talks about religious beliefs that we hold. And so I've just always -- every time we've had this discussion, I just want to know why we never would include really what the Bible calls for. So this is what my [PH] memo does.

[00:45:05]

In the place where it says, "Marriage is between a one man and one woman." My memo says who's never been previously married or who is widowed from marriage. Why? Because Luke 16:18 says, "Whoever putteth away his wife, and marrieth another, committeth adultery and whosoever marrieth her that is put away from her husband committeth adultery." First Corinthians 7:10 and 7:11 says, "And unto the married I command yet not I, but the Lord, let not the wife depart from her husband, husband depart from her wife." Then it talks about uncleanliness and you can't do it. Then Matthew goes on on the Fifth Chapter and says, "But I say unto you, that whosoever puts away their wife, saving for the cause of fornication, she marries again, it causes her to commit adultery." But further than that Deuteronomy talks about When a man takes a wife and marries her, and she ceases to find favor in his eyes because of some uncleanliness, he can have a written divorcement but then the Bible also speaks to there's a responsibility even there as it relates to when you can marry and what marriage actually is. So this amendment simply says what the Bible says marriage is. It's between a man and a woman who have never been previously married or if you have and you are a widow, wife or a widowed husband, that's the definition of marriage. Then on line 20, the amendment strikes after reserve onto marriage and it says, as it relates to sexual relations that they shall only be practiced in this state of union and if they are practiced outside of this state of union then that is certainly considered adultery. That scripture and I hope that you would adopt the amendment.

MR. SPEAKER: Questions on the amendment? I don't see any recognized chairman to respond.

MR. GIPSON: Thank you Mr. Speaker. I have reviewed the lady's amendment. I do think it's well intention but I'm going to oppose it and ask you to oppose it because it does and seem to encompass what she just described that just says who have never been married previously or widowed from marriage. And the other reason that I oppose this amendment is we draft this bill on a very narrow way as a core fundamental belief and I think we're getting a little far field of this getting into the details and I would ask you to oppose this amendment.

MR. SPEAKER: Does the lady wish to close? She does not wish to close. Question now occurs on amendment number two. If you're in favor of the amendment, say, "Aye!" [Aye] Opposed, "Nay"? [Nay] [INDISCERNIBLE 00:48:17]. There's insufficient number. Question, anything further on the bill?

MALE 2: Move it off, move past.

MR. SPEAKER: Okay, stand up. Let me see. There was not that many standing and there was not that many that voted for it. So some of you are standing, you did not vote for the amendment. Open the machine Madam Clerk. If you favor the amendment, vote "Aye;" if you're opposed, vote "Nay."

[AUDIO GAP: 00:48:50 - 00:48:58]

Close the machine Madam Clerk. By vote of 40 ayes and 77 nays, the amendment prevails. There's not a sufficient number, ladies and gentlemen standing originally. We've been down this road before. We're going to have roll call vote. It needs to be rather quick. Gentleman on those final passage -- is gentleman from Washington wishes to speak on final passage?

[AUDIO GAP: 00:49:30 - 00:49:41]

MALE 3: Thank you Mr. Speaker. Ladies and gentlemen, let me begin by apologizing we're here on this Friday morning dealing with this and you trying to go home to spend some time with our family, your children and your grandchildren. I apologize that we have to go through something like this on a day that normally in the past we hadn't been here.

[00:50:00]

But let me say this, Proverbs 6:16-19 states this, "There are six things the Lord hates, seven that are detestable to him: haughty eyes, a lying tongue, hands that shed innocent blood, a heart that devises wicked schemes, feet that are quick to rush into evil, a false witness who pours out lies and a person who stirs up conflict in the community. And I want to deal with a person who stirs up conflict in a community, conflict in the community. Some of you really don't want to have to deal with this because you are attached to someone who has chosen to have an alternative lifestyle, your children, your grandchildren, you nieces, your nephews, your brothers or your sisters; a person who stirs up conflict in the community. Sometimes children make choices that are not the best choices for them; however, it is our responsibility to lead them from being a stray to righteousness. But a person who stirs up conflict in the community would never have that opportunity to draw people not to them. If a person has chosen to have an alternative lifestyle, it is not up to us to judge them. It is up to us to pray for them that God will touch their heart and lead them to righteousness. It is not a responsibility to chasten, choke, strife or bring conflict against them. As a Christian, you have an obligation to pray for one another. You have a responsibility as a Christian to pray for one another and lead them to

righteousness. The ultimate judgment, the ultimate decision about salvation is the relationship between an individual and Christ. Nothing this piece of legislation does speak to that. Your moral conviction, if you see a person that is not doing or living a lifestyle that suits you as far as your religious belief, you should have a conversation with them then if they don't want you to pray with them, you pray for them. That is our obligations as Christians. It is not our obligation to stir up conflict within the community. Scripture, a person who stirs up conflict in the community is not going toward the will of God. He or she is moving away from the will of God. Now, I'm not here to be the morality police. But if we don't put it out there, put it out there in truth, in light, and in honesty. A heart that deceives weakest schemes God does not like. A heart that deceives, divides any wicked plan, God has [INDISCERNIBLE 00:53:53]. You can do what you wish but in good conscious. I'm not going to sit back there and let people put a twist on something that draw us away from the Christ that I love. This is not the will of God. The word says in 16 to 19, "A person who stirs up conflict in the community," he hates that.

MR. SPEAKER: I can ask chairman to close.

MR. GIPSON: Thank you Mr. Speaker. Ladies and gentlemen, the house --

MR. SPEAKER: Excuse me gentleman, does anyone else who wish to speak? Yeah, I see that that's why I apologize. I would have known a second ago. Do you wish to speak, gentleman? Does anyone else wish to speak because I don't have any other lights up here? Okay.

MALE 4: I rise with some reluctance because I've heard a lot about religion and how this bill is geared towards religious freedom.

[00:55:05]

And perhaps if I were a person that would have the -- the destiny have been born in the Stone Age or prehistoric times, I might follow for that. But I want you to remember -- just think for a moment the people that you know and you've seen or experienced in your neighborhood and your community and perhaps even in your family, and you've seen this. This bill ignores -- this law will ignore the existence of reality. I ask the chairman about gender assignment. This bill seems to believe that -- in his response, it seems to believe XX chromosome -- XY chromosome is all unique to be who you are when [INDISCERNIBLE 00:56:04] not the case. The fact is the size of -- now we're no longer ignorant. Size is shown that being XX or XY does not necessarily determine your sexuality nor does the physical appearance of your identity tell you determine that. Sometimes people don't know who they are until they reach puberty and that's because God has made them in a certain way and they act out who they are. Not because of some legislation that's passed by any legislated body and you are discounting those people and say they don't exist. We cannot play by ignorance any longer. We know that they do exist and it's not bad choice or independent decision making. People become who they are because God has made them who they are. And now we're using religions in the name of God to discriminate against these individuals. Now you can't hide from that and pretend that people don't exist in that way. You know them. You know them by name. Some of them live in our own homes and in our communities. We know who these people are. If we're going to say just as they said in 1955 and '56 in this same building that people were different and God didn't intend us to have the same rights as other people. So in the name of God and

our religious high, we're going to pass this legislation saying, "Yes, we can discriminate against them because it's our religious belief." Same argument was made. And here we are going to put the face of Mississippi again on this kind of legislation knowing full will that there is a group of people out there in our communities who deserve the same rights as anybody else who have done anything wrong, have not offended anyone and not trying to practice their beliefs on any of us but trying to live their lives as human beings as they have a right to do. Yet here again, here is a piece of legislation that's no different than a legislation in the past as the Brown versus the Board of Education. I could hear the same argument if I were here in this body that was made. Thus, the Supreme Court has done us a wrong here and it's against our religious belief and you pass legislation. And it took us years to get away from it. And now we are running back to it. This is not a bill founded in religion. It's a bill founded in ignorance of and defines of religion. Because if you want to say that people who are not bothering you not bothering me because of whatever reason, maybe there are some independent decisions made but there's a lot of [INDISCERNIBLE 00:59:14] who are there and doing what they are doing because they were born that way. And if they were born that way then God must have intended it to be like that. And who are we to tell God he was wrong. I ask you in the name of my Christian belief to vote against this anti-human being piece of legislation.

MR. SPEAKER: I recognize the chairman to close. Excuse me gentleman, gentleman from the [INDISCERNIBLE 00:59:48], what purpose did you seek recognition?

MALE 5: Mr. Speaker, I would like to go back to Amendment 2 and change it from "aye" to a "nay."

MR. SPEAKER: Gentleman asks a unanimous consent to change his vote on Amendment 2 from what did you say, aye, -- to "aye" from "nay"?

MALE 5: Aye to a nay.

[01:00:04]

MR. SPEAKER: Aye to a nay. Any objection? Hearing none, changes on the vote. Other gentleman from the [INDISCERNIBLE 01:00:09], what purpose do you see recognition?

MALE 6: I would like to speak.

MR. SPEAKER: You want to speak on the bill, is that what you said? Okay, recognize the gentleman to speak. Is there anyone else that wishes to speak? Okay. This would be the last one man and then we'll recognize the chairman to close.

MALE 6: Brothers and sisters, there's a lot of talking here about what your Jesus says or God say but I believe in a God that says love the sinner, hate the sin and never in Scripture do I see him condoned or embraced or endorsed sin. He is very clear throughout Scripture, throughout the entirety of the Bible what his standard is. This bill I work for a church, we had to redo all of our policies. I can no longer let certain groups use our facilities because it opens us up to liability to be sued by other folks that we don't agree with their lifestyle as a point of our faith. Who's being in French Du Pont here? Is it the Christian or is it the person that makes the lifestyle choice? Both of them are choices. Is it okay for me to disagree with you as long as you disagree with the same thing or the minute at my opinion or my

viewpoint or my stance or my deeply healed held belief conflicts with what you think I'm to be silenced, I'm to have no rights. I have a right, a fundamental right to worship the way that I feel God has called me to worship. I have a freedom to speak the way that God has called me to speak. That is guaranteed under our Bill of Rights. And we want to claim, my God says this, my God says that. It's very clear what God says. Go back and look at your Bible. He calls sin sin. We are all fallen. This isn't about saying that I'm better than you or you're better than me. This is about aligning our right to worship, to speak and to do according to our faith. And our faith is pretty clear. And we're living in a day and an age where there is an agenda and there is reverse prosecution. And personally, I may be speaking out of turn here. But for my African-American brothers and sisters, I personally feel that you had no choice in the color of your skin. There is nothing you can do to change that fact but we want to elevate a decision to a protected civil class. And when we do that in this nation, we are on dangerous ground. There's a lot of emotion lift up here, brothers and sisters. I would encourage you to look at this for what it is. And that is to protect my right, your right, to hold what is the most dear to you, to hold what I am willing to die for and as I hope you that claim to be Christians are willing to die for as well and that is your beliefs. When you can no longer have beliefs, you are no longer free.

MR. SPEAKER: Recognize the chairman to close. Maintain order. We're not having demonstrations.

MR. GIPSON: I'm not going to try to add to that, Mr. Speaker. I will say this. In response to the issue about allegations of storing up conflict, I

would say to you this bill actually resolves conflict. This provides a way that we recognize those fundamental beliefs that the gentleman just mentioned. That we provide an option without fear from all Mississippians, Caucasians, African-Americans, Hispanics, whoever they may be, Asians, if they hold these fundamental beliefs, they can act and they can act and believe without fear. And I urge to pass to vote for this bill because it is the right thing to do. Thank you.

MR. SPEAKER: [INDISCERNIBLE 01:05:00] House Bill 1523, open machine Madam Clerk. In favor of the bill, vote "aye;" if you're opposed, vote "nay." Has everyone voted? Has everyone voted? Close the machine Madam Clerk. A vote of 80 ayes, 39 nays, the bill passes.

[01:05:21]

March 30, 2016 Senate Debate

SENATOR SEAN TINDELL: Mr. President, I'd like to call of item no. 62 and ask the title be read.

LIEUTENANT GOVERNOR JONATHON REEVES: Mr. Clerk, please read the title.

CLERK: House Bill No. 1523 the Protecting Freedom of Conscience from Government Discrimination Act to create.

SENATOR SEAN TINDELL: Mr. President, I'll make the usual motion.

LIEUTENANT GOVERNOR JONATHON REEVES: The Senator makes the usual motion. All in favor say, "Aye." Any opposed say, "No." The ayes have it. Senator Tindell, you're recognized.

SENATOR SEAN TINDELL: Mr. President, I'd like to make an amendment to the bill.

LIEUTENANT GOVERNOR JONATHON REEVES: I want to recognize the Chairman for Amendment No. 1 to House Bill 1523.

SENATOR SEAN TINDELL: Amendment No. 1 is really just a clarification amendment. There's some language in the bill, particularly if you look at Section 5, Subsection 3. It says, "Violations of the act are properly governed by Chapter 46, Title 11, Mississippi Code annotated in 1972 shall be brought in accordance with that chapter." That chapter is the Mississippi Tort Claims Act which provides certain immunities for the State and caps damages at $500,000. However, in Section 8, it says that, basically, there is no such immunity. And so, what we've done is we've stricken Section 8 and we've amended Section 6 to provide the language provided here which is in the amendment to simply say, "An aggrieved party must first seek injunctive relief. If injunctive relief is granted and there's further violation of the injunction, they can then pursue claims against the State or other

governmental body pursuant to the Mississippi Tort Claims Act and see compensatory damages, reasonable attorney fees, and other appropriate relief. And that is the amendment of --

LIEUTENANT GOVERNOR JONATHON REEVES: Any further discussion on the amendment? If not, the question recurs on the adoption of the amendment. All those in favor say, "Aye".

SENATOR SEAN TINDELL: Aye.

LIEUTENANT GOVERNOR JONATHON REEVES: Any who opposed say, "No." The ayes have it. We're now on the final passage, Senator Tindell.

SENATOR SEAN TINDELL: Mr. President, I would recognize Senator Branning to present the bill.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Branning is recognized to explain the remaining parts of the Bill. Senator Branning you're recognized.

SENATOR JENIFER BRANING: Thank you Mr. President. Thank you Chairman Tindell. Good evening ladies and gentlemen of the Senate. House Bill 1523, The Protecting Freedom of Conscience from Government Discrimination Act. This legislation was requested by a number of ministers, foster care agencies, adoption agencies, and a host of individuals from across the State. You all should have received a packet on your desks this afternoon with about 300 names of people from our state that have requested this bill. This legislation was brought forward as a result of the United States Supreme Court decision, Obergefell, last summer that legalized same-sex marriage. There are individuals and entities across our state that are in the business of providing marriage-related goods and services. But since Obergefell, these individuals and businesses have been approached by same-sex couples to

provide these goods and services. And they're frankly businesses and individuals who are just not comfortable because of their sincerely-held religious belief in providing these goods and services to a same-sex couple. So we sort of find ourselves at a crossroad. We have the law of the land in Obergefell which some people like and some people don't. It is our law and it's got to be enforced. But how do we do that while we protect the religious liberties of people in our state? Now, if any of you are familiar with the Obergefell decision, in the oral argument, our Solicitor General made have mentioned that he realized this case being handed down our Court would create an imbalance in religious liberties among our nation. And it's pretty detailed in the oral argument. Well, Chief Justice John Roberts goes on to say that, yes, he agreed also. He said, "It would be up to the states to balance out the religious liberties as each individual deems fit. And we talked some yesterday about Roe versus Wade in Senator Fillingane's bill that he presented. And I appreciate the work you did on your bill, Senator. But as you remember, when Roe versus Wade was handed down, we found ourselves then at a crossroads. We had a law handed down by our United States Supreme Court that had to be enforced, but it is infringed upon religious liberties among, in that case, medical professionals. So what did we do? Our state balanced out those rights by enacting a Code section that's still on our books today. I believe it is 41-107-15, protects medical personnel from any type of government action in the event they do not feel that they can with a clear conscience provide medical services in furtherance of an abortion. So it's the the same thing here. I like to think of this bill as presenting a solution to the crossroads where we find ourselves today as a result of

Obergefell. It gives us the option to enforce the law of the land while protecting the religious liberties of those in our state. And so, with that said, I will go into some of the specifics of the bill.

[00:05:00]

As I mentioned, there are certain groups of individuals and businesses that provide marriage-related goods and services. This would include ministers. It would include florists, photographers, and people along those lines. This bill would allow them to refuse to provide marriage-related goods and services without fear of government discrimination in the form of fines or fees. When you're talking about foster care agencies, many of those religious-based foster care agencies have a policy that they will award adoptions to traditionally married couples. In this instance, it would prohibit the government from denying the 501(c)(3) tax benefit that they now receive. There is also a medical exclusion here that allows the government -- or rather allows individuals in the medical field protection from government interference in the evident they do not feel that they can participate in sex change operation and related procedures. And that is it in a nutshell. And now, I'm happy to answer any questions anyone has.

LIEUTENANT GOVERNOR JONATHON REEVES: Any further discussion on the bill as amended? Senator Horhn, for what purpose is your recognition?

SENATOR JOHN HORHN: Just a couple of questions, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Yes, does the senator yield?

SENATOR JENIFER BRANNING: Certainly.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Horhn.

SENATOR JOHN HORHN: Thank you Mr. President. Thank you, Senator Branning. Senator, I'm a believer in religious freedom as much as the next person. The questions I have have to deal with how this bill might come up for potential abuse by folks who just want to discriminate against other folks and cite their religious beliefs as a reason that they're discriminating against people. How do we address that?

SENATOR JENIFER BRANNING: I'm glad that you asked, senator. There have been other people that have had that concern and my response to that is this is not a bill to allow any type of discrimination at all. In fact, what it does is quite the opposite. It is lifting a burden imposed on a certain group of individuals that would be infringed upon by the government if something was not put into place at this point in light of the Obergefell decision that was handed down last year. It's not taking away any rights of any group.

SENATOR JOHN HORHN: Okay. Well, if I want a certain cake maker and I'm -- not me personally, mind you, but let's say that hypothetically a gay couple goes to a dressmaker or a cake maker or someone who's got a facility that they want to rent and they say, "Oh, we want to use your cake making skills or your dressmaking skills or your facility because we're going to get married or we're going to have our wedding reception there." If this bill passes, it basically says that I as a shop owner can turn you down based on my religious beliefs if I don't believe in gay marriage. Is that correct?

SENATOR JENIFER BRANNING: This bill allows a business owner to refuse to provide wedding-related goods and services in furtherance of the same-sex marriage.

SENATOR JOHN HORHN: Right. So in other words, I can refuse you if I'm that proprietor and I don't agree with your lifestyle?

SENATOR JENIFER BRANNING: What it does, Senator Horhn, it prevents this business or this business owner from being discriminated against by the government in the form of fees or fines or things of that nature. Now, keep in mind that this couple that would be seeking these wedding services is certainly free to obtain those services anywhere else. It just protects the business owner from his or her deeply and sincerely-held religious belief from being violated.

SENATOR JOHN HORHN: But if I'm the business owner and my deeply held religious beliefs say I don't believe in gay marriage, I can send you packing, can I, without fear of any recourse coming to me? Isn't that correct?

SENATOR JENIFER BRANNING: It would allow that, yes. But at the same time, it protects that business owner from the government discriminating because of the business owner's religious beliefs.

SENATOR JOHN HORHN: Okay. And isn't there something about abridging the State's sovereign immunity that's in this bill?

SENATOR JENIFER BRANNING: If you saw the amendment, Senator, the sovereign immunity issue was addressed.

SENATOR OHN HORHN: Oh, that was part of the amendment that Senator Tindell offered?

SENATOR JENIFER BRANNING: Yes, Senator, it was. What it did, if you want me to clarify a little bit on the amendment, it provides that in the event there's a cause of action based on this bill, that injunctive relief would

have to be sought first. And if that is not appropriate, then damages could be awarded, but then it's capped by the Tort Claims Act.

SENATOR JOHN HORHN: Okay. As it relates to an elected official who might be involved in the issue of some marriage licenses, it would give some cover and protection to a circuit clerk from being able to be discriminated against by the government if they choose not to perform a marriage license ceremonies. Is that correct? Or to issue a marriage license?

[00:10:20]

SENATOR JENIFER BRANNING: Let me speak to the circuit clerks a little bit because it's a little bit different. Keep in mind, they're elected officials and they have a different duty amongst society. It's just the private business owners. So what this bill does, it allows the clerk if he or she has a personal belief that prohibits them from with a clear conscience maybe stamping that marriage license, it requires them to have someone on their staff that will issue those marriage licenses. And the bill says "without delay." So there will be no delay in issuing marriage licenses, but the clerk would have the ability to kind of shuffle staff around just to make it happen.

SENATOR JOHN HORHN: Isn't that also an opportunity to have the person on staff who's willing to perform that issuance ostracized, shall we say, by the staff that doesn't believe in that? Wouldn't that create a strained office scenario?

SENATOR JENIFER BRANNING: I don't see that, Senator. What it's doing is the bill is requiring that clerk to uphold the duties that he or she is required to perform by law.

SENATOR JOHN HORHN: Okay. All right. And so, back to the clerk or back to the proprietor. What if I cite that it's against my religious beliefs to have any kind of ceremony performed with regard to interracial couples?

SENATOR JENIFER BRANNING: This bill specifically addresses same-sex marriage, Senator Horhn. It's very narrowly drafted.

SENATOR JOHN HORHN: So it's only about gay people who are trying to get married where they could be turned away? Is that correct?

SENATOR JOHN HORHN: No, Senator Horhn. The way I view this, it is about protecting the religious freedom of people that don't feel they can with a clean conscience assist a couple that's same-sex in furtherance of their marriage. That's what it's about.

SENATOR JOHN HORNHN: And you don't see this is a slippery slope?

SENATOR JENIFER BRANNING: I don't, Senator. I think it's great for our state.

SENATOR JOHN HORHN: Are you aware that the same bill or a very similar bill was put forth in Georgia and passed by the legislature?

SENATOR JENIFER BRANNING: I'm aware of a bill that was put forth in Georgia, but it's not similar to this bill.

SENATOR JOHN HORHN: It's not. How is it dissimilar?

SENATOR JENIFER BRANNING: Okay. Give me just a moment and I'll go into detail with you. All right, the Georgia bill actually included Riffer language. This bill does not have Riffer language in it.

SENATOR JOHN HORHN: What exactly is Griffer language?

SENATOR JENIFER BRANNING: The Riffer Law is something that we enacted two years ago.

SENATOR JOHN HORHN: Oh, Riffer. I'm sorry.

SENATOR JENIFER BRANNING: Riffer. I may have not pronounced that as clearly as I should have, but it included Riffer language. So that's one difference that we've got in the Georgia bill and our present bill. The next difference is that the Georgia bill didn't provide protections for a situation like Kelvin Cochran. I don't know if anyone heard him on SuperTalk this morning. He is a fire chief from the State of Georgia. And he was actually promoted by President Obama to be on the national level. He served in that position for some time, came back to the State of Georgia. And on his off time -- he wasn't on his work time -- when he's off time, he wrote a man's Bible study that addressed the issue of marriage. And he lost his job for that reason. The Georgia bill didn't have language that would have protected that gentleman. Had he been here in Mississippi and this bill would have been our law, he would have had protection there because that is his sincerely-held religious belief. Another difference is that the Georgia bill was pretty broad. Very broad, in fact. And if you look at the bill before you, it's very narrowly tailored to only address the issue of same-sex marriage and to provide protections for the people that do not feel like with a clear conscience that they can facilitate that marriage. It's not intended to be discriminatory. It takes no rights away from anyone.

SENATOR JOHN HORHN: Now, Senator, can you see how someone from my background -- and I'm an African-American, I've grown up in Mississippi, I've experienced discrimination as many other African-Americans have -- can't you see how some might look at this legislation as being discriminatory and the fact that it's opening up a Pandora's box? Don't you understand why we might feel that way, why I might feel that way?

SENATOR JENIFER BRANNING: Let me answer the question this way, Senator Horhn. Because obviously, I'm not in the position that you're in and I have tried to research this bill from every angle. In fact, I did some research to try to put myself in your position to try to maybe see what your reaction would be.

[00:15:02]

So let me read you something from a brief that was submitted at the time the Obergefell case was being decided. This brief was submitted by a coalition of black pastors, okay, that was very interested in what was happening in Obergefell last year. I'm going to quote from this excerpt. It says, "Comparing the dilemmas of same-sex couples to the centuries of discrimination faced by black Americans is a deceptive distortion of our country's culture and history. The disgraces in our nation's history pertaining to the civil rights of black Americans are unmatched. No other class of individuals, including individuals who are same-sex attracted have ever been enslaved or lawfully viewed as not human but as property." It goes on to say that "Same-sex attracted individuals have never lawfully been forced to attend different schools, walk on separate public sidewalks, sit in the back of the bus, drink out of separate drinking fountains, deny their right to assemble or deny their voting rights." So with all due respect, Senator Horhn, I think this excerpt provides one black pastor's view on whether this bill before you would constitute discrimination.

SENATOR JOHN HORHN: You misunderstood what I was saying, Senator. I would not for any moment compare discrimination that's been heaped upon African-Americans that anybody in this country or anybody really in the world has faced that same kind of discrimination. So don't get it twisted. I'm not

saying that I'm comparing it on the same level with what's happened to African-Americans. I'm saying, don't you think this is discrimination?

SENATOR JENIFER BRANNING: I don't think so, Senator Horhn.

SENATOR JOHN HORHN: Amendment at the proper time, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: I'll recognize you at the appropriate time, Senator Horhn. Senator Derrick Simmons, for what purpose is the your recognition?

SENATOR DERRICK SIMMONS: Question, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

SENATOR JENIFER BRANNING: Yes, I do.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Simmons.

SENATOR DERRICK SIMMONS: Thank you, Mr. President. Thank you, Senator Branning, for yielding. You just stated to Senator Horhn that you don't think that the proposal before us is discrimination at any form. Do you truly believe that, Senator Branning?

SENATOR JENIFER BRANNING: I do. Yes I do, Senator.

SENATOR DERRICK SIMMONS: Can we afford, with Mississippi's dark past, could we afford in 2016 to pass anything that could be construed as discrimination? Can we afford that in Mississippi?

SENATOR JENIFER BRANNING: Well, I don't think this bill before us is discriminatory. And I think Mississippi has moved forward far away from things that did happen in Mississippi's history.

SENATOR DERRICK SIMMONS: Do you believe this bill, Senator Branning, is constitutional?

SENATOR JENIFER BRANNING: I do. Yes I do. In fact, I've studied it at length and I'm confident that this bill is very constitutional, very confident in that.

SENATOR DERRICK SIMMONS: Based on what?

SENATOR JENIFER BRANNING: Okay. What are your specific questions as far as constitutionality? Are you talking about --

SENATOR DERRICK SIMMONS: I mean the bill in general.

SENATOR JENIFER BRANNING: Okay. Well, let me start from the beginning of my list. It doesn't violate the First Amendment's freedom of speech. In fact, it doesn't talk about any kind of speech, necessarily. It talks about the actions of others. So speech is not even in the ballgame on this one. The Supreme Court has repeatedly held it does not violate the Constitution of legislatures to unburden certain organizations from government discrimination. And this is Corporation of Presiding Bishop, Church of Jesus Christ versus Amos, 483 U.S 327, a case from 1987 that was handed down from the U.S. Supreme Court. As far as the establishment clause, there's no denominational preference in this bill. If you read, it clearly just states "religious beliefs." It could be any denomination, anyone that doesn't claim to be necessarily a denomination, so there's no violation of the Establishment Clause. That specifically talks about Texas Monthly, Inc. versus Bullock, 489 U.S. 1, a case from 1989, United States Supreme Court. Equal Protection Clause, no violation there, the Supreme Court has held there is nothing unconstitutional in a law that affords protections to a class. But in fact, this actual bill lifts a burden that is imposed on certain religious

members that just don't feel that they can participate in same-sex marriage. So all the way around, this bill is wholly constitutional.

SENATOR DERRICK SIMMONS: And I guess Senator Horhn made it clear that there's not a comparison with the past regarding Mississippi as well as United States treatment of African-Americans. But as an African-American, and as the history dictates, you understand that religious belief, or a lot of things were done to African-Americans and to many individuals as it relates to what the assailant consider to be their religious belief.

[00:20:11]

Like people were actually taken brutally from their homes and they were killed based upon what some considered to be, "This was my religious belief as it relates to the races. We didn't want any mixing of the races." How do you respond to that as it relates to this may very well be the start of something that Mississippi doesn't need going forward regarding discrimination?

SENATOR JENIFER BRANNING: In my book, any form of discrimination is repulsive. Personally, that's not the way I live my life. And I will tell you this, Senator. You know, I'm an attorney. I have my own law firm. I have served homosexual individuals in my law practice. It had nothing to do with their relationship, but I gladly serve them just as I do with any of my other clients, was friendly and kind to them and treated them with respect. This bill before us is on the specific issue of same-sex marriage. Now, if a client were to come to me now and ask for a prenuptial agreement in contemplation of a same-sex marriage relationship, I would want the freedom to say, "You know what? I don't feel comfortable doing this," and I would

politely decline. That's the way I would handle it. And I would offer a referral. I believe this bill is designed to give people in our state that option.

SENATOR DERRICK SIMMONS: Do you believe that if services are denied by state employee that notice should be provided to the public? Their services would be denied based upon their religiously held belief.

SENATOR JENIFER BRANNING: That's actually in the bill. If you'll look --

SENATOR DERRICK SIMMONS: Where is it?

SENATOR JENIFER BRANNING: Give me one second. I'll give you the line, the actual specific line. If you will look at starting on line 118 and it goes through line 125, this bill requires the clerks that take advantage of the recusal mechanism, it says, "Any person making such recusal shall provide written notice to the State Registrar of Vital Records who shall keep a record of such recusal." And it goes on to explain a little bit further. So that provision is in the bill.

SENATOR DERRICK SIMMONS: Are you opposed to a friendly amendment that speaks to -- that that posting be prominently posted in a clear view of any customer, client, or guest at the point of service that they are in fact denying the service?

SENATOR JENIFER BRANNING: I think the language in the bill is sufficient notice for that, thank you.

SENATOR DERRICK SIMMONS: So you would not support any amendments regarding that?

SENATOR JENIFER BRANNING: I would not. I think what we have is sufficient.

SENATOR DERRICK SIMMONS: So if I go to one of my circuit clerk's offices, you don't think it should be posted at that courthouse that this particular circuit clerk and/or her deputies or his deputies have a religious held belief that they would not perform certain services?

SENATOR JENIFER BRANNING: Well, it will be a public record with the State Registrar. And I think that's sufficient in this case.

SENATOR DERRICK SIMMONS: I'm talking about the posting, though. I understand with the posting as it relates to the bill. But as it relates to being in plain view at the courthouse that this particular circuit clerk or any state employee for that matter has a religious held belief to deny services.

SENATOR JENIFER BRANNING: We'll have to agree to disagree on that point, Senator.

SENATOR DERRICK SIMMONS: So you wouldn't agree that that would be a friendly amendment?

SENATOR JENIFER BRANNING: I wouldn't agree.

SENATOR DERRICK SIMMONS: Amendment at the appropriate time, Mr. President. Thank you, Senator, for yielding.

SENATOR JENIFER BRANNING: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Simmons. Senator Norwood, for what purpose do you seek recognition**?**

SENATOR SOLLIE NORWOOD: -- Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Question? Senator, do you yield?

SENATOR JENIFER BRANNING: Certainly.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Norwood.

SENATOR SOLLIE NORWOOD: Senator Branning, I heard part of Senator Simmons' question but I have a similar question regarding an individual or individuals being denied services from state agencies. Did you say that that is eligible?

SENATOR JENIFER BRANING: Yes, senator. If you will look -- I'll give you a specific line number so you can read in the bill -- look at line 112 on page 5. In the bill, beginning on that line, it actually gives our circuit clerks the ability to recuse himself or herself in the event that clerk feels that, in good conscience they, cannot issue that license. But it requires them to do two things. They have to make public record their recusal and then they have to make sure there I someone on staff to immediately issue those licenses so the public is not inconvenienced at all.

[00:25:05]

SENATOR SOLLIE NORWOOD: Okay. Now, I'm not talking about -- I'm talking about general services that an individual or citizen may be eligible for or entitled to that would be provided through state government.

SENATOR JENIFER BRANING: All this bill speaks to, Senator, is any marriage related good or service. That is very specific to just that.

SENATOR SOLLIE NORWOOD: These are services that they will qualify for by virtue of them being married, being a couple, or having children, that will be the basis of their qualification, you're saying that they would not be eligible for those services --

SENATOR JENIFER BRANING: I'm saying this bill does not address that, Senator. This bill would not impede in any way any other public benefits they would be entitled to.

SENATOR SOLLIE NORWOOD: Okay. Let me ask you this. Are you aware that in the State of Georgia regarding similar legislation, the NBA, Coca-Cola, and several other entities or corporations have discussed or displayed their displeasure with this legislation?

SENATOR JENIFER BRANING: I would disagree on the point that that legislation is similar to this bill being presented to you. But I did hear that there were some businesses that were not happy with their bill. Again, it's not similar to our bill.

SENATOR SOLLIE NORWOOD: Okay. Could you basically just explain to me -- and I look down to the list of pastors, and I live in Jackson and I don't see my pastor's name on there, I don't see my pastor's name on it so I would say I guess my pastor was not contacted. But could you just share with me, why is this legislation so important?

SENATOR JENIFER BRANING: Well, again, it gives protection to those people in our state that feel that they cannot with a clear conscience help provide services or goods related to a same-sex marriage. That's all it does. It just protects a specific group of people. It's not intended to pull rights away from anybody.

SENATOR SOLLIE NORWOOD: But these same individuals also have a right to serve in these positions that or not serve in these positions, right?

SENATOR JENIFER BRANING: I'm sorry. Could you repeat that?

SENATOR SOLLIE NORWOOD: Circuit clerks or whomever they may be, they have a right to serve in their position or not serve in their position. You know the requirements of the position before they decide to seek the position, right?

SENATOR JENIFER BRANING: That is correct. That's why this bill requires these clerks to make arrangements within their office to be sure the public is being served.

SENATOR SOLLIE NORWOOD: Would you think that that should be one of the requirements that's put out before them in statute, that they would be required to perform their duties of the office and state those duties and if they fail to, that they would -- does not submit themselves or available to serve in that position.

SENATOR JENIFER BRANING: Well, the bill does address that, Senator. It requires the clerks to continue those duties whether it be through their deputy clerk or another member of their staff.

SENATOR SOLLIE NORWOOD: Okay.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Norwood. Senator Willie Simons, for what purpose do you seek recognition?

SENATOR WILLIE SIMMONS: Question.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

SENATOR JENIFER BRANING: Yes, I do.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Simmons.

SENATOR WILLIE SIMMONS: Thank you, Mr. President. A few questions to you. When I look at the title of the bill, it says, "Protecting Freedom of Conscience from Government Discrimination." Are we implying with that title that the State of Mississippi discriminates against one's conscience?

SENATOR JENIFER BRANING: I'm saying that it potentially could discriminate. Let me give a scenario. Maybe this will help make the point a little more clear. Let's just say that -- and I'm just going to use me for an example. In

my law practice, if I'm approached to provide a prenuptial agreement for same-sex couple -- and again, remember that I said earlier I've served homosexual people in my law practice not related to their relationship. I have no problem doing that. But I'm saying this bill is very specific to the issue of marriage. If someone were to call on me to provide a prenuptial agreement, I would want the ability to politely decline to render that service but not fear that the government would take negative action against me or against my business.

SENATOR WILLIE SIMMONS: So you're not trying to get -- you're trying to get the government out of the business of having the potential of discriminating by creating a law that will allow you, the individual, to discriminate.

SENATOR JENIFER BRANING: That's not what this law -- that's not what bill is designed to do.

SENATOR WILLIE SIMMONS: Well, that's what you just said to me.

SENATOR JENIFER BRANING: What I said was, the bill is designed to protect certain individuals who feel like because of their sincerely-held religious belief that they don't want to participate in helping to consummate a same-sex marriage.

[00:30:01]

SENATOR WILLIE SIMMONS: But again, I go back to the law, to the title, it says, "Protecting Freedom of Conscience from Government Discrimination." So we want to move the government protection to prevent discrimination from the government to allow we, the individuals, to discriminate? And to give you an example. Let's just say that I as a male owned a business. And if I had

decided that I want to be a male chauvinist and not employ any person other than males, would that be a form of discrimination?

SENATOR JENIFER BRANNING: Possibly.

SENATOR WILLIE SIMMONS: And does this bill not allow that to occur?

SENATOR JENIFER BRANNING: It would not in your private business. In the context of employment, Senator, it speaks to religious-based organizations. And I'm give you an example. Since you're talking about in the employment context. Let's say Mississippi College I understand is a Baptist college, I believe, a religious-based organization. If Mississippi College has married housing, okay? No, let me back up. Let me use this in an employment context. If Mississippi College, being a religious-based college, teaches that marriage is between one man and one woman, they possibly would not want to employ homosexual people on their staff.

SENATOR WILLIE SIMMONS: But isn't that a form of discrimination?

SENATOR JENIFER BRANNING: If this bill is passed, it wouldn't be. That's what we're trying to do, is protect people that have sincerely-held religious beliefs on this one issue.

SENATOR WILLIE SIMMONS: So we're allow the State of Mississippi Government who is not in position to protect all of its citizens, we are now allowing the Mississippi College, since that's the one you utilized, putting them in a position where they in fact could discriminate against that segment of the population, is that not true?

SENATOR JENIFER BRANNING: I don't view it as discrimination. I would view it as that college protecting its sincerely-held religious belief. So we may disagree on that point.

SENATOR WILLIE SIMMONS: Okay. Let me ask you a couple of more questions. Has the Supreme Court of the Federal Government acted a rule on this matter in any form or fashion?

SENATOR JENIFER BRANNING: Well, the Obergefell decision was last year which legalized same-sex marriage. That was last June, I believe. And so, that decision is so new. The states are beginning to enact their balancing legislation which is what this is. So I believe it's too new of an issue to say.

SENATOR WILLIE SIMMONS: Well, normally, when we're in a legal situation like that, don't we allow the legal process to play out before we as a state legislative body try and interfere for not knowing what the outcomes are going to be of such a ruling?

SENATOR JENIFER BRANNING: I think what we're doing in this, Senator, is just being proactive. Because if you keep up with the news and what's happening around the country, and even starting to happen in our state, we just -- the signatures that you have on your desk, and there are more people that are interested in this legislation, wanted to go ahead and get this on the books to be sure that their rights are not infringed upon.

SENATOR WILLIE SIMMONS: Let's say that we just say then pass this bill and it becomes law. We're speaking of the citizens of the State of Mississippi, and given those circuit courts or whoever it may be an opportunity to act based upon their conscience to say that they will not provide a service to certain citizen. Let's just say that this happened. My question to you, IF we do that for the citizens of the State of Mississippi, if someone who was married in Oklahoma or California moved into the State of Mississippi, would this law

prohibit them in the manner in which we are going to prohibit the citizens of State of Mississippi?

SENATOR JENIFER BRANNING: Prohibit them from -- I don't think I follow.

SENATOR WILLIE SIMMONS: Well, I will take you to Section 4, I believe it is, of the bill, Section 5 -- Section 4, page 5, where we talk about the Tax Code and we say that individuals will be prohibited from being and taking certain exemptions or deductibles in the Tax Code. Those are for the citizens of the State of Mississippi who are in the process of trying to get married or whatever the case may be. If a couple moved from outside of the state and show that they were married, would they be denied an opportunity to take advantage of those deductibles?

SENATOR JENIFER BRANNING: Well, there are a couple of things I need to address here.

SENATOR WILLIE SIMMONS: Okay.

SENATOR JENIFER BRANNING: The tax exemptions that are talked about in the bill are very specific to religious organizations who have a 501(c)(3) designation through the Federal Government so that when people make donations to them, they're tax-exempt.

[00:35:02]

An example would be -- I'm trying to think of the name of the drug rehabilitation place I've got in my mind. I can't think of the name of it, but they're -- okay, foster care agencies. There's a foster care agency in Tupelo that I believe is a 501(c)(3). What this bill does is protect that agency in the event their policy is that they only award adoptions to traditionally married couples, the government could not pull their 501(c)(3)

tax exemption from the federal government. The tax exemption that's mentioned in here doesn't apply to individuals. That's my point. I think your question was related to individuals and that's not what this bill does as far as the tax exemptions.

SENATOR WILLIE SIMMONS: So then, if we were to put our segmented population into that category and they were not allowed to get the same benefits from the government, exemptions and what have you, if they came to work for an employer, moved out from outside of state, they were married, they went to work for an employer, would the State of Mississippi be able to collect taxes from those individuals? Because we have said they don't exempt, they don't exist, this married partner is not a real person according to this bill.

SENATOR JENIFER BRANNING: That's not what this bill is saying.

SENATOR WILLIE SIMMONS: Okay. What is this saying?

SENATOR JENIFER BRANNING: That's not what the bill is saying at all.

SEN WILLIE SIMMONS: Help me understand. What it is saying? Would the State of Mississippi would be allowed to tax both couples?

SENATOR JENIFER BRANNING: Oh, yes. The income tax laws are not an issue in this bill. It's only the 501(c)(3) tax exemptions for those -- I'm sorry, the religious-based organizations.

SENATOR WILLIE SIMMONS: Thank you, Madam Chairman. And thank you Mr. President. I like speaking on the bill at the proper time.

SENATORJENIFER BRANNING: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator. Now, I will recognize Senator Blount. For what purpose do you seek recognition, Senator Blount?

SENATOR DAVID BLOUNT: Question, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

SENATOR JENIFER BRANNING: Certainly.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Blount.

SENATOR DAVID BLOUNT: Thank you Mr. President. Senator Branning, would you agree with me that there are Mississippians who believe because of their sincerely-held religious beliefs that gambling is wrong?

DR. JENIFER BRANNING: I don't think that's pertinent to the bill before us, Senator Blount.

SENATOR BLOUNT: I think it is. I'll rephrase the question. I'm sorry, go ahead.

SENATOR JENIFER BRANNING: I was just going to comment this bill is very specific to same-sex marriage.

SENATOR DAVID BLOUNT: And so, there are Mississippians who believe that gambling is wrong and it is a violation of their sincerely-held religious beliefs. There are Mississippians who believe that the death penalty is wrong and a violation of their sincerely-held religious beliefs. There are Mississippians who believe that alcohol is a violation of their sincerely-held religious beliefs. There are Mississippians who believe that charging 500% interest rates to poor people is a violation of their sincerely-held religious beliefs. Are any of those protections to those violations of their sincerely-held religious beliefs included in this bill or anywhere else in the state law?

SENATOR JENIFER BRANNING: Again, this bill is very specific to same-sex marriage.

SENATOR DAVID BLOUNT: So that would be no? That's not in the bill that's before us, is that correct?

SENATOR JENIFER BRANNING: It's not in the bill that's before us.

SENATOR DAVID BLOUNT: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Blount. Senator Bryan ,for what do purpose you seek recognition?

SENATOR HOB BRYAN: For a question, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

SENATORJENNIFER BRANNING: Sure.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Bryan.

SENATOR HOB BRYAN: Thank you. I have read this bill at length links since it passed out of committee trying to think what real-world changes it would make. And it seems to me that, frankly, the bill has very little practical effect in that it prohibits saying which were not ever going to take place anyway. But one of the concerns and one of the dilemmas is what one does about a circuit clerk who doesn't want to issue a marriage license. And it seems that I personally and maybe others are pulled in opposite directions by two competing concerns and two mutually exclusive concerns, and that is I would not want a clerk to have to issue a license that he or she felt was violating his or her religious beliefs. But at the same time, that's the job description, is issuing marriage licenses. I think it's the case that the Federal Law is going to require and the Constitution is going to require that same-sex couples get marriage licenses on the same basis as couples that are not of the same-sex get marriage licenses.

[00:40:15]

So I'm trying to figure out how we get around that dilemma. And I listened with some interest to your explanation that a clerk would be required to have a deputy clerk who would issue licenses. Do I understand that your answer to that dilemma is that a deputy -- that a clerk would have to have a deputy clerk who would issue the license?

SENATOR JENIFER BRANNING: Yes. That's what the bill does, Senator. And the reason it does that is to be sure that the public will not be inconvenienced. The public will continue to be served.

SENATOR HOB BRYAN: Well, I've read the language to which I think you're referring on lines 123 to 126 which says, "The person who is recusing himself or herself shall take all necessary steps to ensure that the authorization and licensing of any legally valid marriage is not impeded or delayed as a result of any recusal." First of all, I'm not certain, given the relatively small size of the clerk's offices in our counties, that there would always be a deputy around to issue the license. So I'm not sure that that actually would solve the problem. On the other hand, and these arguments are made frequently, it's just as offensive to me as a clerk to issue the license. I have two deputies. They feel the same way I do. So you're telling that I've got to go out and hire a deputy who will issue the licenses even though I don't have an opening for a deputy? I just wish you'd explain more about this. And I promise you I'm not trying to pick at you. I'm trying to struggle with what I think is a real-world problem.

SENATOR JENIFER BRANNING: And I appreciate the question. I really do. So let me try to do my best to explain it a little more clearly. Keep in mind that the recusal is optional. Clerks don't have to recuse themselves. If there is

a clerk that feels so strongly that they just cannot issue these marriage licenses, then that clerk takes that burden upon himself or herself to make arrangements within that office to make those licenses are issued. If it is too much of an imposition for that clerk to hire additional staff or whatever it may take, then that clerk may need to second-guess whether that recusal is going to be worth it for that office financially or just feasible from a day-to-day operation standpoint. So just keep in mind, the recusals are optional. Clerks don't have to take them. But if they choose the recusal, they have to do what it takes to make sure the public is served.

SENATOR HOB BRYAN: I accept that what you're telling me is how you read the language. I just can't extract from the language the explanation that you just gave. And I wish you would consider the advisability of having specific language in the bill which says a circuit clerk refuses to recuse himself or herself must have in the office a deputy who will issue the licenses. I'm not asking you -- you may, I'm not asking you to agree to that right now, but I think the language is vague and I think what's getting ready to happen is a bunch of circuit clerks in this day who didn't want to get put in the middle of this. They just wanted to do a good job of keeping records and running the court. And these things have developed, they're in the middle of this, and I'll bet you they're struggling in trying to figure out what they're supposed to do and would like some guidance. I just wish you'd consider whether it would be helpful to a clerk to have that particular provision in the bill so the clerk will know what his or her options are.

SENATOR JENIFER BRANNING: Thank you, Senator.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Bryan. Senator Hill, for what purpose do you seek recognition?

SENATOR ANGELA BURKS HILL: Just a friendly question for you.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

JENIFER BRANNING: Certainly.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Hill.

SENATOR ANGELA BURKS HILL: Senator Branning, the First Amendment to the U.S. Constitution prohibits to making of any law respecting the establishment of religion or impeding the free exercise of religion or abridging the freedom of speech or freedom of the press or right to peaceful assembly. Would you agree that this bill is crafted so narrowly that all this bill does is basically validate what's in the First Amendment to the U.S. Constitution about impeding the free exercise thereof?

SENATOR JENIFER BRANNING: Absolutely.

[00:44:59]

SENATOR ANGELA BURKS HILL: Do you leave your religion behind when you walk out of the church on Sunday?

SENATOR JENIFER BRANNING: I would hope not.

SENATOR ANGELA BURKS HILL: I would hope not also. This bill is not about discriminating about any individual. This is about protecting against discrimination from somebody who has personally-held religious beliefs that want to exercise that religion not just in their church on Sunday but throughout their daily life. Would you agree?

SENATOR JENIFER BRANNING: Yes, I do.

SENATOR ANGELA BURKS HILL: And the government should not be in the business of penalizing someone for exercising their religion when they walk out of that church on Sunday or Wednesday or Saturday neither or whenever they meet. Would you not agree?

SENATOR JENIFER BRANNING: I do agree.

SENATOR ANGELA BURKS HILL: Would you agree that right now without this, that that protection to a pastor or to a religious organization that would not want to perform a same-sex marriage or would not want to adopt to a gay couple, that this is in jeopardy, that they are in jeopardy right now of their religious beliefs and their organizations are in jeopardy without this law?

SENATOR JENIFER BRANNING: Certainly.

SENATOR ANGELA BURKS HILL: Thank you.

SENATOR JENIFER BRANNING: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator McDaniel, for what purpose do you seek recognition?

SENATOR CHRIS MCDANIEL: A question, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

SENATOR JENIFER BRANNING: Yes.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator McDaniel.

SENATOR CHRIS MCDANIEL: Thank you, Mr. President, Senator Branning. To follow-up on a couple of things Senator Hill said, you are familiar with the First Amendment of the United States Constitution, are you not?

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: The very first operative clause of that amendment speaks to the free exercise of religion.

SENATOR JENIFER BRANNING: It does.

SENATOR CHRIS MCDANIEL: And the other, the Establishment Clause, correct?

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: The courts have fashioned those two provisions into a test, haven't they? And we keep hearing that language over and over, "sincerely-held religious belief," right?

SENATOR JENIFER BRANNING: Right.

SENATOR CHRIS MCDANIEL: That test has been used for more than 60 years to discern what is a sincerely-held religious belief versus what someone may just concoct to be a religious belief, right?

SENATOR JENIFER BRANNING: Right.

SENATOR CHRIS MCDANIEL: And in fact, Federal Law also protects employees from religious prosecution at the workforce, in the workplace, don't they?

SENATOR JENIFER BRANNING: It does, yes.

SENATOR CHRIS MCDANIEL: And if someone feels as though they're sincerely-held religious beliefs are being violated in the workforce, the employer must make accommodations.

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: If he doesn't make accommodations, he's guilty of religious discrimination, right?

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: Religious discrimination has been outlawed effectively in this country, hasn't it?

SENATOR JENIFER BRANNING: The potential is there, yes.

SENATOR CHRIS MCDANIEL: Title 7 of the Civil Rights Act of 1964, correct?

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: One of the same acts that outlawed racial discrimination, right?

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: One of the same laws that outlawed gender discrimination, right?

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: The First Amendment protects freedom of conscience, doesn't it?

SENATOR JENIFER BRANNING: It does.

SENATOR CHRIS MCDANIEL: Senator Blount mentioned a moment ago examples about gambling and alcohol. You're not aware of anyone in Mississippi who's been forced to gamble, are you?

SENATOR JENIFER BRANNING: No.

SENATOR CHRIS MCDANIEL: The State wouldn't be able to force someone to gamble, could they?

SENATOR JENIFER BRANNING: No.

SENATOR CHRIS MCDANIEL: That would be a violation of the First Amendment, wouldn't it?

SENATOR JENIFER BRANNING: Right.

SENATOR CHRIS MCDANIEL: You're not aware of anyone being forced to drink alcohol, are you?

SENATOR JENIFER BRANNING: No.

SENATOR CHRIS MCDANIEL: State couldn’t do that, could they?

SENATOR JENIFER BRANNING: I don’t think so.

SENATOR CHRIS MCDANIEL: And all your bill is saying is now the State can’t force a Christian, or whomever, to violate those very constitutional rights inscribed in the First Amendment of the United States Constitution, right?

SENATOR JENIFER BRANNING: That’s right.

SENATOR CHRIS MCDANIEL: That's all this does, isn't it?

SENATOR JENIFER BRANNING: That’s all it does.

SENATOR CHRIS MCDANIEL: Prohibit state coercion.

SENATOR JENIFER BRANNING: Right.

SENATOR CHRIS MCDANIEL: The same coercion that was discussed in the Mayflower Compact in 1620.

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: The same coercion that was discussed in 1634, the Maryland Toleration Act.

SENATOR JENIFER BRANNING: That’s correct.

C SENATOR HRIS MCDANIEL: The same coercion or prosecution that was discussed in the Virginia Declaration of Rights in 1776. The same that was discussed in 1789 with our adoption of the Federal Bill of Rights.

SENATOR JENIFER BRANNING: Right.

SENATOR CHRIS MCDANIEL: And those rights, that Bill of Rights applies equally well pursuant to the Fourteenth Amendment to these states, right?

SENATOR JENIFER BRANNING: That’s right.

SENATOR CHRIS MCDANIEL: And it controls what Mississippi can do.

SENATOR JENIFER BRANNING: Yes.

SENATOR CHRIS MCDANIEL: Mississippi cannot violate the rights of Christians or any other religious group if they held sincerely-held religious beliefs.

SENATOR JENIFER BRANNING: That's my understanding.

SENATOR CHRIS MCDANIEL: Thank you.

SENATOR JENIFER BRANNING: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator McDaniel. Senator Watson, for what purpose do you seek recognition?

SENATOR MICHAEL WATSON: Question.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question.

SENATOR JENIFER BRANNING: Yes.

LIEUTENANT GOVERNOR JONATHON REEVES: You're recognized, Senator Watson.

SENATOR MICHAEL WATSON: Thank you, Mr. Chairman -- Mr. President. Senator, I want to ask a couple of questions in follow-up there on a couple of things I've heard on the floor. And that's a beautiful phrase, the free exercise thereof, in the First Amendment. And we've heard you have been asked a couple of questions about being forced to do certain things that violate our deeply-held beliefs. Along the lines of the gambling and the drinking questions, have we seen in other states or individuals have been forced by the government and then penalized later thereof to violate their deeply-held religious beliefs?

SENATOR JENIFER BRANNING: We have. We're beginning to see adoption agencies have to close their doors because they're losing the 501(c)(3) exemption. That's happening right now. And we're seeing other institutes that are specifically addressed in this bill.

SENATOR MICHAEL WATSON: And we talked a little about earlier, I think it was Chief Cochran in Atlanta.

SENATOR JENIFER BRANNING: Yes.

SENATOR MICHAEL WATSON: That was a great example. We've seen examples of it across the United States of America.

[00:50:02]

We continue to hear this word "discrimination" thrown about just all over the place way too much, far too often. And it seems to me that the only people that we don't really care to defend against that discrimination are people of faith.

SENATOR JENIFER BRANNING: I agree.

SENATOR MICHAEL WATSON: And I think we've both seen this across this nation, these instances are recurring quite too often.

SENATOR JENIFER BRANNING: Yes.

SENATOR MICHAEL WATSON: And so, is this our chance, our time to say enough is enough?

SENATOR JENIFER BRANNING: It is. And in fact, if you will look at the oral arguments on the Obergefell decision, our Court actually said, "It is up to the states to balance this out." The Court acknowledged that, because of that decision, there's going to be an imbalance in religious liberties among the states. So we're just doing what we've been admonished to do by the Court. And that is to find our balance here in Mississippi. And I believe this bill provides just what we need.

SENATOR MICHAEL WATSON: So this helps to end the discrimination that we continue to see grow that no one's speaking up against but we will now?

SENATOR JENIFER BRANNING: Yes.

SENATOR MICHAEL WATSON: Thank you.

SENATOR JENIFER BRANNING: Thank you.

SENATOR LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Watson. Senator Blackmon, for what purposes you seek recognition?

SENATOR BARBARA BLACKMON: An amendment at the proper time.

LIEUTENANT GOVERNOR JONATHON REEVES: I will recognize you at the proper time. You will be amendment number three. Senator Fillingane, for what purpose do you seek recognition?

SENATOR JOEY FILLINGANE: A question, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question?

SENATOR JENIFER BRANNING: Yes.

SENATOR JOEY FILLINGANE: Thank you, Mr. President. Thank you, Senator Branning. A couple of questions. As an attorney, you have your office. Are there folks that you choose not to serve in the way of taking on them as a client for any number of reasons?

SENATOR JENIFER BRANNING: There are certain cases that I don't take just because I don't practice certain areas of law. An example would be divorce law. Not because I don't necessarily -- I don't feel wrong about helping someone in a divorce, that's just not what I do as an attorney. So, yes.

SENATOR JOEY FILLINGANE: But even areas that someone walks in the door in an area that you do choose to practice in, you're not required to provide service to anyone and everyone that walks on your door asking for your service, are you?

SENATOR JENIFER BRANNING: No, I'm not.

SENATOR JOEY FILLINGANE: And I'm sure, like myself, there are instances where you choose not to serve someone not because of any prejudice or any sort of discrimination, you just choose for any number of reasons. Maybe you know the person on the other side of that case that you don't want to offend by taking their case, would that be correct?

SENATOR JENIFER BRANNING: That's correct.

SENATOR JOEY FILLINGANE: Do you know of pastors who, after engaging in marriage counseling with couples, choose not to perform a wedding service?

SENATOR JENIFER BRANNING: Yes.

SENATOR JOEY FILLINGANE: And are there many reasons that they may choose not to do that? Perhaps for instance the person has been married before and it's against their religious practice to marry someone who has been previously married. Are you aware of those instances?

SENATOR JENIFER BRANNING: Certainly. Or the coupled might not be compatible in that pastor's, you know --

SENATOR JOEY FILLINGANE: And they might not belong to the church. That person may have the policy that he or she only marries folks that are members of his or her church, is that right?

SENATOR JENIFER BRANNING: Yes.

SENATOR JOEY FILLINGANE: And yet under the Obergefell decision that we've been discussing, in the absence of a law like this, can you foresee an instance where a church, a pastor, a florist, a baker, a seamstress might in fact be sued under the Obergefell decision for doing something that he or she does in their daily practice every day which is to simply turn down someone who they choose not to serve? Do you foresee that?

SENATORJENIFER BRANNING: Yes, I do. That's what this bill specifically addresses.

SENATORJOEY FILLINGANE: So would you agree with me that there is a difference between equal rights and equal protection of the law versus special or elevated rights which some groups may be seeking?

SENATOR JENIFER BRANNING: Absolutely.

SENATOR JOEY FILLINGANE: And would that lead to the reverse discrimination that you're talking about here and that you've been answering questions from all of us? I mean do you agree with me that it's our duty under the law to provide equal rights but not special or elevated rights?

SENATOR JENIFER BRANNING: That's correct. And that's what our Supreme Court has held on numerous occasions.

SENATOR JOEY FILLINGANE: And is it our intent with this piece of legislation, which you've masterfully handled, by the way, to level the playing field and make sure that while we don't discriminate against anyone, we also don't reverse discriminate against people at the same time?

SENATOR JENIFER BRANNING: Exactly.

SENATOR JOEY FILLINGANE: Thank you, I appreciate it.

SENATOR JENIFER BRANNING: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Thanks, Senator Fillingane. Senator Derrick Simmons, for what purpose do you seek recognition?

SENATOR DERRICK SIMMONS: Question, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: Does the senator yield for a question.

SENATOR JENIFER BRANNING: Yes.

SENATOR DERRICK SIMMONS: Thank you, Mr. President. Thank you, Senator, for yielding again.

SENATOR JENIFER BRANNING: Sure.

SENATOR DERRICK SIMMONS: In your law practice, you are not paid for by State taxpayer dollars, are you?

SENATOR JENIFER BRANNING: I have been. I have been in the past. There have been times I have served as a special prosecutor when I'm called upon.

SENATOR DERRICK SIMMONS: Okay.

SENATOR JENIFER BRANNING: Presently, I'm not, but I have been.

SENATOR DERRICK SIMMONS: Okay. Well, in that aspect or in that capacity where you've been called on to do those or perform those types of services, will you deny representation, even if you have an order from a court, to a gay couple?

SENATOR JENIFER BRANNING: I wouldn't, no.

[00:55:01]

SENATOR DERRICK SIMMONS: You would not?

SENATOR JENIFER BRANNING: I would not.

SENATOR DERRICK SIMMONS: Okay.

SENATOR JENIFER BRANNING: That's just me personally.

SENATOR DERRICK SIMMONS: Okay. But this bill would allow a state employee to deny those services, right?

SENATOR JENIFER BRANNING: That potential is in here only to protect that employee's sincerely-held religious belief.

SENATOR DERRICK SIMMONS: Okay. And this bill goes beyond just marriage licenses, wouldn't you agree with me, Senator Branning?

SENATOR JENIFER BRANNING: There are a couple of provisions in here, Senator. One example would be the medical provision that protects medical providers in the event they do not feel in plain conscience that they can participate in a sex change operation. That's one example.

SENATOR DERRICK SIMMONS: Okay. Is that line 61 through 72?

SENATOR JENIFER BRANNING: Give me one moment and I will confirm that. Yes, page 3, Section 4.

SENATOR DERRICK SIMMONS: Okay. And you say it only deals with sex change?

SENATOR JENIFER BRANNING: That was it's my phrase. The bill actually says, "Sex reassignment or gender identity transitioning."

SENATOR DERRICK SIMMONS: Okay. What about lines 65 and 66 that talks about the declines to participate in the provisional of psychological counseling or fertility services based upon sincerely-held religious belief, does that go beyond sex changes?

SENATOR JENIFER BRANNING: What I understand this line is tailored to do, Senator, is to address those counseling services that are offered to individuals prior to a sex change operation. So it's all related to changing the anatomy, the counseling and fertility services or whatever the case may be.

SENATOR DERRICK SIMMONS: And I'm just curious to know, based off your sincerely-held religious belief, do you believe in divorce?

SENATOR JENIFER BRANNING: I believe partially that couples, spouses need to do everything they can to work things out. And I do believe there in the Bible, there are certain circumstances where divorce may be warranted. But we're not her to talk about divorce. It's only same-sex marriage.

SENATOR DERRICK SIMMONS: Well, I'm just curious, since Senator Fillingane brought an example regarding your practice.

SENATOR JENIFER BRANNING: Sure.

SENATOR DERRICK SIMMONS: Would you deny services to a potential client who wants a divorce because of your sincerely-held religious belief.

SENATOR JENIFER BRANNING: I have. And I've handled just a handful of divorces in my time on a pro bono basis. But honestly, I'm not cut out to be a good divorce lawyer. We'll just leave it at that.

SENATORDERRICK SIMMONS: Okay. And do we define the sincerely-held religious belief, I think in Section 2 in this bill?

SENATOR JENIFER BRANNING: Yes, Section II.

SENATOR DERRICK SIMMONS: Okay. Do you think we should include polygamy in here?

SENATOR JENIFER BRANNING: Well, Senator, this piece of legislation was brought forward as a result of the Obergefell decision. So it specifically addresses what the Supreme Court held in that decision, and that is same-sex marriage.

SENATOR DERRICK SIMMONS: And so, nothing in the proposal will allow a religious organization or a business or a state employee to discriminate based upon their sincerely-held religious belief regarding polygamy?

SENATOR JENIFER BRANNING: If you look under Section 2, Subparagraph A, "Marriage is or should be recognized as the union of one man and one woman." I suppose that phrase would cover it.

SENATOR DERRICK SIMMONS: Okay. And you did say with the amendment that we took up at the beginning before your explanation of the amendment, we did take out the --

SENATOR JENIFER BRANNING: The sovereign immunity.

SENATOR DERRICK SIMMONS: The sovereign immunity of the State of Mississippi.

SENATOR JENIFER BRANNING: Yes.

SENATOR DERRICK SIMMONS: Okay. Thank you, Senator.

SENATOR JENIFER BRANNING: Thank you.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Horhn, do you seek to offer your amendment at this time? Seeing no further discussion at this time, I will recognize Senator Horhn for amendment number two to House Bill 1523. Senator Horhn?

SENATOR JOHN HORHN: Thank you, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: You are recognized to describe your amendment.

SENATOR JOHN HORHN: Thank you. What this amendment merely does is put a reverse repealer in the legislation. As you've heard from the interrogations that have gone on and discussions, there may be a lot of unintended consequences to this bill and we need to give it as much consideration and thought as possible before we pass it into law. I have a belief that someone who has got sincerely-held religious beliefs about something ought not to be forced into doing some things. But there are also situations where you are a duly sworn officer of the court or the law and you're bound to fulfill your duties in that position. So I think we've got to work on this bill a little bit more, try to get it to where it doesn't do as much damage as some of us

think that it might, and close some of the loopholes that are in the legislation. So I would urge the Senate to agree that we assume this bill to conference and try to get things worked out.

[01:00:00]

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Horhn. Would the Chairman like to speak against the amendment?

SENATOR SEAN TINDELL: I oppose that amendment.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Horhn, would you like to close on your amendment?

SENATOR JOHN HORHN: Thank you, Mr. President. I'm not sure what the Chairman just said, but it sounded like he supports the amendment. Is that right, Mr. Chairman? Again, I think that we've got some more work that we need to do, ladies and gentlemen, and we need to enter it into this. This is a very serious matter and we don't need to enter into it lightly because there are a lot of consequences that are unforeseen at this time. Let's try to get it right the first time.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Horhn. Okay, the question recurs on the adoption of amendment number two. If you're for the amendment, I'll ask you to vote, "Aye." If you're against the amendment, I'll ask you to vote, "No." All those in favor, say, "Aye." Any opposed, say, "No." The Nos have it. We're now on amendment number three. I will recognize Senator Blackmon who would like to offer amendment number three.

SENATOR BARBARA BLACKMON: Thank you, Mr. President. This amendment simply strikes lines 22 through 24 and the word "and." I think in Section 2, we've defined that marriage is and should be recognized as the union of one man and

one woman and we've also said that sexual relations are properly reserved to such a marriage. But then, we go on and say "a male man" and a "female woman" refer to an individual's immutable biological sex as objectively determined by anatomy and genetics at time of birth. Well, there is one in every 4,500 births where it is unclear whether the person, the newborn, is a girl or a boy, 1 in every 4,500. The baby seems to have a mixture of both female and male parts. For example, they may have both a vulva and testicles. The causes of these ambiguous genitalia include genetic variations, hormonal imbalances, and malformations of fetal tissues. Now, we say a baby's sex is decided at conception. However, 1 in 4,500, you cannot determine. The baby can have ovaries and testicles and the external genitals are neither clearly male nor female. The baby has ovaries and a penis-like structure, a phallus. The baby has undescended testes and external female genitals including a vulva. So we have taken care of everything in Sections A and B. But since 1 in 4,500 births, you cannot make that determination, they have to conduct tests. They have to do physical exams. They have to do hormone tests using blood or urine. They have to do genetic tests. They have to do ultrasound. They have to do x-rays. And in the end, the parent, in consultation with the doctor, makes that determination. And then the parents have to have parental counseling. The child has to have surgery. As the child grows up, the child has to have counseling. And then that child has to have hormone therapy.

[01:05:10]

So all I'm asking is, since 1 in 4,500, you can't make that determination, is that we simply just strike that and you can still have those other two powerful provisions that you want.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Jordan, for what purpose is your recognition?

SENATOR DAVID JORDAN: Mr. President, may I ask a question?

LIEUTENANT GOVERNOR JONATHON REEVES: Of course.

SENATOR BARBARA BLACKMON: You may.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Blackmon, do you yield?

SENATOR BARBARA BLACKMON: Yes, sir.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Blackmon yields. You're recognized, Senator Jordan.

SENATOR DAVID JORDAN: Well, genetically, this person is carrying a double set of XX chromosome and a double set of YY chromosomes?

SENATOR BARBARA BLACKMON: Well, what is supposed to happen is they say by the eighth week of gestation they are supposed to have an XX or an XY. However, in 1 in 4,500 cases, this does not occur. And the doctor, in conjunction with the parents, makes the decision as to whether this is going to be a male or a female.

SENATOR DAVID JORDAN: Okay. So these recessive genes that cause this condition, have they mentioned anything about recessive genes?

SENATOR BARBARA BLACKMON: Well, they say the causes include a genetic condition characterized by the fetal tissues. Tissues and sensitivity to male hormones, that's one. And that's called Androgen Insensitivity Syndrome. The other one is Congenital Adrenal Hyperplasia, and it's an inherited condition that affects hormone production. The other one is sex chromosome disorders. Instead of having either the XX or XY sex chromosomes, a baby may have a

mixture of both. Or a specific gene in the Y chromosome may be inactive or one of the X chromosomes may have a tiny Y segment attached to it.

SENATOR DAVID JORDAN: So you said they are recessive genes and that will express themselves in every 4,500?

SENATOR BARBARA BLACKMON: One in every 4,500 births.

SENATOR DAVID JORDAN: That's possible, isn't it?

SENATOR BARBARA BLACKMON: Yes, sir.

SENATOR DAVID JORDAN: Thank you.

SENATOR BARBARA BLACKMON: I ask you all to support the amendment.

LIEUTENANT GOVERNOR JONATHON REEVES: Would anyone else like to speak on the amendment? I recognize Senator Tindell, the Chairman of Judiciary, Division A, to speak on the amendment.

SENATOR SEAN TINDELL: I oppose the amendment and I think that the language that's in there says that "at the time of birth as determined." It doesn't say to be at the millisecond they're born. So once the doctor makes the determination, and the parents, that is called under question. I think the bill as is provides for it. So, therefore, I oppose the amendment.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Tindell. I'll recognize Senator Blackmon to close on her amendment.

SENATOR BARBARA BLACKMON: Thank you, Mr. President. It doesn't state in this bill that doctors make this determination. It says, "Objectively determined by anatomy and genetics at the time of birth." And from the information that I have just shared, there has to be a process that one has to go through. And the parent -- that child ends up having to have surgery in order for that

gender assignment to take place. So this 22 through 24 does not address what I have just spoken about.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Blackmon. The question recurs on the adoption of amendment number three. If you're for the amendment, I ask you to vote aye. If you're against the amendment, I ask you to vote no. All those in favor, say, "Aye." Any opposed, say, "No." The Nos have it. We have another amendment on the desk, amendment number four offered by Senator Derrick Simmons. Senator Simmons, I'll recognize you to explain your amendment.

SENATOR DERRICK SIMMONS: Thank you, Mr. President. This is a friendly amendment.

[01:10:00]

It came up during debate regarding the posting of a sign outside of -- just the second part of Amendment B, that in order to assert a violation on this act, it must be prominently posted in plain view of any customer, client, or guest at the point of service or place of business, describing any contemplative refusal in detail and in plain English. The first part of the amendment says that a person who refuses to perform any act or supply any good or service must have given prior notice of any refusal with the conditions of any contemplative refusal described in detail and in plain English and legibly reproduced in every advertisement, solicitation, and other promotional materials or activities whether digital, audio, telephonic, or in print. So, basically, it's just putting out there in the public that services will be denied because of this religiously-held belief in any promotional materials, in any advertisement, just to let the public know this

1 particular business, this particular government office or whatever is going
2 to deny services because of this religiously-held belief. And also, when you
3 go to any business or go to a clerk's office or any government office, if
4 that right is going to be asserted based upon what is being proposed, then it
5 should be posted in clear view so that the public could know. That's what the
6 amendment does and I ask you to support the amendment.
7 **LIEUTENANT GOVERNOR JONATHON REEVES:** Anyone else like to speak on the
8 amendment? I recognize the Chairman of Judiciary, Division A, Senator
9 Tindell.
10 **SENATOR SEAN TINDELL:** Thank you, Mr. President. I don't know what it is with
11 all these signs, but I'll just get back to the reference from yesterday.
12 Signs, signs, everywhere signs, I don't think we need another sign. So I
13 oppose the amendment.
14 **LIEUTENANT GOVERNOR JONATHON REEVES:** Senator Simmons, would you like to close
15 on your amendment?
16 **SENATOR DERRICK SIMMONS:** Yes, Mr. President, thank you. I wish we can have a
17 sign in the State of Mississippi from every point or every highway or
18 interstate that you enter that says, "No Discrimination Allowed." But we
19 don't have that sign. So all I'm asking for in this amendment is, if you
20 decide to discriminate based upon your religiously held belief, then let it
21 be clear. Let it be posted. Let the public know that you will be
22 discriminated based upon that. And I ask you to support the amendment and I
23 ask for a roll call vote, Mr. President.
24 **LIEUTENANT GOVERNOR JONATHON REEVES:** The question recurs on the adoption of
25 the amendment. A roll call has been requested. It takes six to get a roll

call. We will call the roll on this amendment. Mr. Clerk, please call the roll.

CLERK: Barnett, Blackmon, Blackwell, Blount, Branning, Browning, Bryan, Burton, Butler, Carmichael, Caughman, Chassaniol, Clarke, Dawkins, Dearing, DeBar, Doty, Fillingane, Frazier, Gollot, Harkins, Hill, Hopson, Horhn, Hudson, Jackson of the 15th, Jackson of the 11th, Jackson of the 32nd, Jolly, Jordan, Kirby, Massey, McDaniel, McMahan, Michel, Moran, Norwood, Parker, Parks, Polk, Seymour, Simmons of the 12th, Simmons of the 13th, Stone, Tindell, Tollison, Turner, Watson, Wiggins, Wilemon, Witherspoon, Younger, Blackmon, Bryan, Frazier, Hudson.

[01:15:00]

Voting yes or yea; Barnett, Blackmon, Blount, Butler, Dawkins, Dearing, Horhn, Jackson of the 11th, Jackson of the 32nd, Jordan, Norwood, Simmons of the 12th, Simmons of the 13th, Stone, Turner, and Witherspoon. Voting no or nay; Blackwell, Branning, Browning, Burton, Carmichael, Caughman, Chassaniol, Clarke, DeBar, Doty, Fillingane, Gollot, Harkins, Hill, Hopson, Jackson of the 15th, Jolly, Kirby, Massey, McDaniel, McMahan, Michel, Moran, Parker, Parks, Polk, Seymour, Tindell, Tollison, Watson, Wiggins, Wilemon, Younger.

LIEUTENANT GOVERNOR JONATHON REEVES: By vote of 16 yeas, 33 nays, the amendment fails. I see no further amendments on the floor. We're now in final passage. Senator Simmons, I want to recognize you to speak. Senator Blackmon, for what purpose do you seek recognition?

SENATOR BARBARA BLACKMON: Point of order.

LIEUTENANT GOVERNOR JONATHON REEVES: Got my rulebook right here, Senator.

SENATOR BARBARA BLACKMON: Okay. Thank you, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: State your point.

SENATOR BARBARA BLACKMON: Okay. I want to restate the point that under Rule 44, the chairmen of the various standing committees shall announce notice of the time and place of meeting of such committees. On deadline day last week, the Chairman of the Committee stated that, and the schedule reflects that, Judiciary A would meet after adjournment. Section 25-41-1, Legislative Statement, "It being essential to the fundamental philosophy of the American Constitutional form of representative government and to the maintenance of a democratic society that public business be performed in an open and public manner and that citizens be advised of and be aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. It is hereby declared to be the policy of the State of Mississippi that the formation and determination of public policy is public business and shall be conducted at open meetings except as otherwise provided herein." 25-41-3 specifically includes the Mississippi Legislature. The only exemption that it provides is for the Mississippi legislative subcommittees and legislative conference committees. On that schedule, it said, "after adjournment." And we did not adjourn until the last committee reported or 8:00 p.m. on deadline day, whichever came first. It doesn't say because you have a meeting and a quorum is present that you can violate the Open Meetings Laws.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Blackmon. A couple of points within our rule on your motion. First of all, this bill is currently before the Senate. The proper time to make this point of order was when the chairman made the usual motion back several hours ago. And so, for future

reference, I don't want to change long-time precedent, and so, if we're not to rule on your order, the merits of your order, I would rule that your point is not well-taken because it's not timely.

[01:20:00]

However, since I ruled on this exact same point of order on March 24th, I'm going to be consistent and rule again and say the same thing I did then, which is the docket room does not look behind the committee report. A proper committee report was filed and it was properly signed and filed in the Senate docket room in a timely manner. Therefore, your point of order today, as it was on March 24th when I made the same ruling, is not well-taken. Now, Senator Simmons, you are recognized to speak on final passage.

SENATOR DERRICK SIMMONS: Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise to speak against the measure that's before us. And in doing so, let me just say to you that I am a lifetime resident of the State of Mississippi and I love Mississippi. I could have chosen to go to any other state in this nation, but because of my love for Mississippi, I chose to live in the State of Mississippi and have four children that were raised in the State of Mississippi. In 1970, I was in a place called Vietnam, and I appreciate your recognizing me and others who served in Vietnam on yesterday. But I was in Vietnam, and on the battlefield of Vietnam, we had soldiers from all over the country, black and white, Indians. But we were soldiers on the field. And oftentimes we would find ourselves eating out with C-rations, and we would eat from the same can because we didn't discriminate, we didn't see each other as being different. But because when I returned from Vietnam to America, because of past policies and past legislation, one in particular

referred to as "Separate But Equal," I realized in returning after us being in Vietnam and eating C-ration from the same can that some of those same soldiers, my comrades, who would return to America, because of those policies, and they may not have been intended to be bad at the time that it was put in place, but we could not enter the same building. We could not sit down in certain restaurants and eat together because of the Separate But Equal Policy. Oftentimes we do things as policy makers not realizing and fully understanding the real impact that it will have on the citizens that we all serve. As I look out at you, I see my friends and my colleagues. And so often, we go out and we have lunch together, we have dinner together, and we shake hands after a vicious fight here on the floor and tell each other how much we love and respect each other. And yet, and yet, very few of us invite each other to worship service on Sunday morning for whatever reason. We just don't move at that level on Sunday morning for some reason. What we are getting ready to do here may have an impact that we really never think about because we see each other in relationships, and that relationship goes far, indeed. I want to commend the Lieutenant Governor and each of you. Because doing this session, after being here for 23 sessions, this session has had some issues that have been very sensitive and that have divided this body tremendously. But I want to thank you and I want to thank the Lieutenant Governor's leadership because on each of those measures, we have not moved processes in place to call for the courses to cut off debates. The leadership has been very serious about making sure that every member who wanted to speak on an issue was given an opportunity to speak. And that takes a lot to have that kind of patience. Each of you, my colleagues, have been very patient.

[01:25:00]

And only one time in this session have I heard in a member in a motion on the previous question -- and even that member, after thinking about it, came back and withdrew the motion. That's because of the love that we have for each other. That's because of the process in this institution referred to as the "Mississippi State Senate" and the appreciation that we have for it that we love and respect. This measure, though, this measure that we have before us runs the risk of sending a message, and a wrong message. Not to us, because we're going to be okay. There are many of us after we finish this debate this evening who are going to dinner and say how much we love each other and we're going to make a toast because that's the way we function. But the message that's sent to Greater Mississippi, the message that's sent to the larger world, to say to individuals that if you decide, if you decide that you do not want to serve and provide a service to an individual because of what they believe, it's okay for you to do that. And we, The Government, are not going to endorse or embrace that form of discrimination. The message the message could be very challenging for us in the future. I want you to think about a few situations. When you think about a court case in Mississippi referred to as Gates versus Collier, Gates versus Collier was the state penitentiary lawsuit that was filed because there were some individuals that felt that the inmates in the state penitentiary were being treated improperly. We continue to spend money to date on Gates versus Collier although that measure was filed back in the '60s. The Ayers Case, our universities and colleges. Because of the discrimination that took place on individuals deciding where individuals could attend college and where they could not attend college, we

pay for it today. If you look at the budget today, we're still spending money. This measure that we have before us could very well set the tone for things that we would not want to take a look at. And what I would share with you in that regard, if you look at the State of Georgia and you look at the situation with the Governor where the NCAA and where the Family Commission had said, "We aren't coming to your state if you do these kinds of things." Now, when you couple and package that together, you package that with the situation where we have with the flag situation in the State of Mississippi, what we have with the situation where our Governor -- and I like and respect our Governor, but where he put in place a proclamation that says that the month of April would be Confederacy Month, and then you put this in that package and you look at all three, I'm concerned about this State that I love. I'm concerned about the impact those things collectively could have on individuals coming to our state, whether they be businessmen or tourists spending money. So I want us to think about the impact that this could have as we move forward with this particular measure. And I don't want you to go on record voting. I want you to just vote loud with me and say, "No," so you are never recorded on how you voted on this measure. Because this measure, if the NCAA -- if the NCAA said to Mississippi universities and colleges, "If you do these kind of things, we aren't going to invite you to the bowl," if you remember last year, the State of Mississippi had four of our great universities invited to bowls; the University of Southern Mississippi, Jackson State, Alcorn, Ole Miss and Mississippi State, not Jackson State, they were all invited to bowls. Those four universities made money and Mississippi made money. If those kinds of institutions begin to say to us

because of the things that we are getting ready to do here in this bill that we are not coming, it could impact our economy tremendously. I want us to just think about it. And again, I hope it's not a roll call vote. I hope it is a vote on the morning roll call and you just have an opportunity to shout with me as loud as you can so nobody can ever say you voted for or against and just knows that, at the end of the day, the vote was so loud that we send a message to Mississippi and America that we aren't going to continue to practice these kinds of measures that will prevent individuals from wanting to come to our state and from our universities to being able to participate in those kinds of activities.

[01:30:18]

I hope that you will understand how I felt when I returned from Vietnam after being on a war zone and fighting with my brothers and eating out of C-ration cans in the field, the same can, and yet when I returned to Mississippi, we who ate C-rations out of the same can could not go to certain restaurants and sit down at the table and eat together. Sometimes good intentions turn bad. I hope your conscience would not be on what is proposed in the title of this bill, but it would be to do the right thing. I ask you to vote against the measure.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Simmons. Senator Bryan has asked to speak.

SENATOR HOB BRYAN: Thank you, Mr. President. We are having this year, as we did in the past, a discussion about the tension we have in accommodating religious beliefs in our society. The First Amendment of the Constitution grants certain exemptions for people who have strong religious beliefs and

there are statutes that grant special privileges for those with religious beliefs. But we have struggled and continued to struggle with how to draw that line and where to permit someone's religious beliefs to override general law. By way of example, this is an extreme case, but if someone's firm religious beliefs involve human sacrifice, we're not going to permit that person to engage in human sacrifice despite the general laws of murder. But if one's strongly held religious beliefs require, for example, the use of peyote in a traditional ceremony, we probably will allow the use of peyote notwithstanding the general laws against hallucinogens. I assume there are similar situations with churches using wine in counties and in cities where that are illegal. But it is a struggle to determine under what circumstances one's strongly held religious beliefs allow someone to have an exemption from general law. That's a very difficult issue. It's not clear-cut. It's not simplistic. I have personally tried to get straight in my head where I felt about that since law school. And just to cut to the chase, I come down pretty strong on the side of religious exemptions from general laws even though I'm not sure I can articulate exactly where I would draw the line in every case. But last year with the Religious Freedom Restoration Act, and this year with much of the debate about this act, we are simply debating matters that don't exist. The purpose of the Religious Freedom Restoration Act was to grant exemptions for religious purpose from general law. And much of the discussion here today has been revolved around private businesses who would be required to perform services or make contracts when they did not want to. There are no State laws prohibiting discrimination by private actors. There is no State law right now that prohibits any private concern from putting up a sign that

says, "Whites only." It violates Federal Law, but it does not violate State Law. So much of the debate about the Religious Freedom Restoration Act was completely beside the point for questions about whether we're going to grant exemptions from discrimination laws that don't exist.

[01:34:55]

The bill that's before you, what we're voting on today is restricted to discrimination by the State, by Government. This bill has nothing to do with a private individual who wishes or doesn't wish to provide flowers or wedding cakes or DJ services or any of that. There's no requirement or no prohibition against those individuals discriminating against anybody for any reason or for no reason. So the notion that somehow we need this legislation to protect disc jockeys and florists and all is just beside the point. In other states where they have antidiscrimination laws and where those antidiscrimination laws apply to sexual orientation, they have issues they have to struggle with and those are difficult issues. But we don't have that situation in Mississippi. So, as it's frequently the case, much of the debate is about something that the bill doesn't do. There are other arguments that have been made that we need to have this bill because it will protect the right of ministers and others to preach the gospel as they see it. There's no prohibition, nor can there be any prohibition, against a minister proclaiming the gospel or against the content of a sermon that a preacher makes. There are those who, for whatever reason, whether they know that they're misleading people or whether they're just incorrect, have convinced a lot of good people who have written us letters that we need to pass this law to protect churches so they can preach the gospel. There's no prohibition against that with or

without this law. I remember last year, again, it was under the Religious Freedom Restoration Act, but the Christian Action Commission, bless their hearts, said, "We need to pass this law to protect the right of Jews to close their restaurants on Saturday." It's an exemption from general law. There's no law requiring restaurants to stay open on Saturday. It's just very frustrating. And it's particularly frustrating when I believe that good Christian people are being misled about what this bill does and what it doesn't do and what the effect of it is. There is a particular area of concern about something a bill does. And bless their hearts, the circuit clerks of this state don't want to be involved in this mess. But the circuit clerks are in the business of issuing marriage licenses. And apparently, it's a federal law that same-sex couples are entitled to get marriage licenses on the same basis as couples who are of different sexes. If that's the case, we can't do anything about that. And the clerks, bless their hearts, are having to deal with that situation. It's interesting that it's thought that somehow it's helpful to a clerk who has strong religious convictions opposed to same-sex marriage can resolve that doubt by simply hiring a clerk. There's a Supreme Court case that says, "It's an imposition on your religious freedom to have to file a piece of paper to ask for an exemption." How much more of an imposition is it to have to hire, out of your own pocket, by the way, a deputy clerk and find a deputy clerk who would not have religious objections to issuing a marriage license? I can't find in the text of the bill that that's required. But if that is said to be the answer, I don't think it's very effective one. But our clerks are going to get caught up in this. When this becomes law, you're putting your clerks in a very difficult situation

because they're going to be pressured to opt out. And if they do opt out, it's quite possible they're going to run afoul a federal law. And the clerks don't want to be in the middle of all this. I thought also about the dilemma of a circuit clerk who had firmly-held religious beliefs against the death penalty. What's that clerk supposed to do if there's a death penalty case that comes through the office? The clerk has to file the paperwork about the trial that was being held and the verdict. It would be a difficult situation if I were a clerk and I was involved in doing that. But that's sort of what the office is.

[01:40:02]

So just I think that we're putting our clerks in difficult situation. As I say, Mr. President, personally, I think I'm pretty far down the road on the side of those who would grant religious exemptions for individuals with strongly-held beliefs. Certainly, if there's any question that an adoption agency could not refer adoptions to those that it feels are appropriate, I would be in favor of legislation to make clear that that adoption agency could make referrals in connection with their beliefs. But that's not the bill that's before us. And I have read this bill. I thought about the bill. And I cannot in good conscience vote for it. And I cannot figure out what this bill is going to prohibit, what this bill is going to protect. I can't figure out what is accomplished in the name of religious freedom by passing this bill that isn't already the law based on either the absence of State Law or on existing Constitutional and statutory protections. Thank you!

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Bryan. Senator Horhn has asked to speak on the bill. I'll recognize Senator Horhn at this time.

SENATOR JOHN HORHN: Thank you, Mr. President. Ephesians 6:5, "Slaves, obey your earthly masters with respect and fear, and with sincerity of heart, just as you would obey Christ." Colossians 3:2, "Slaves, obey your earthly masters and everything, and do it not only when their eye is on you and to curry their favor, but with sincerity of heart and reverence for the Lord." 1 Peter 2:18, "Slaves, in reverent fear of God, submit yourselves to your masters, not only to those who are good and considerate, but also to those who are harsh." These are examples, ladies and gentlemen, of how religion and how the Bible was used to justify slavery. So what I'm saying to you today is that religion isn't always right about things, isn't always just about things, because people use religion. Now, we talk about our Constitution. Twenty five years ago, we had some egregious in the things in the Mississippi Constitution that were discriminatory against African-Americans. They had to be out of town by six o'clock. They had to be gone by sundown. They couldn't walk on the sidewalks. All kinds of discriminatory actions. And I wonder, "Where does this all end? Why do we keep doing this to ourselves, Mississippi?" And we wonder why the rest of the world thinks so badly of us. It's because of some things that we do that are unjust that don't make good sense, that aren't properly thought out. And this is one of them, this House Bill 1523 that's before us. Now, they say that it's only about same-sex marriage. Well, if that's the case, why is foster care and adoptive care services referenced in the bill? If that's the case, why are people able to discriminate against folks in terms of the provision of medical services to those folks? This is really a slippery slope. And the reason that we are so adamantly opposed to it is we've already been there. We've seen how little

things turn into big things, how the small measure was just this group over here, "We just want to get with these gay folks. And my deeply held religious belief says I ought to be able to discriminate against them, even if I'm a duly sworn elected official."

[01:44:58]

Ladies and gentlemen, we don't need to pass this legislation. We don't need to put another stain on Mississippi. We don't need to demonstrate to the rest of the world how backwards we are in our thinking. Let's do the right thing. Let's vote this bill down.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Horhn. I'm going to to recognize -- Senator Blount, for what purpose do you seek recognition?

SENATOR DAVID BLOUNT: To speak at the appropriate time, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: I'll recognize you at your appropriate time. Senator McDaniel has asked to speak. I will recognize Senator McDaniel to speak on final passage.

SENATOR CHRIS MCDANIEL: Thank you, Mr. President, men and women of the Senate. It says a line about the nature of government and a view to see this diverse of an audience and to work with such fine human beings from all over. Where else could a son of an Irishman and a Scotsman work next to sons of Englishmen and Frenchmen and African-Americans? It says a lot about our state, the direction we're going, places we've been. We've learned a lot from our past and it was in matters of race egregious. There's no justification whatsoever for discrimination. But if there's one thing in the world worse that discrimination, it's state-sponsored discrimination. How ironic Senator Simmons mentioned Plessy versus Ferguson. That was the same Supreme Court

that this latest decision that gave us Plessy versus Ferguson. How ironic we would mention about these terrible days of slavery and discrimination, and it was the government that sanctioned slavery, that sanctioned Jim Crow, that made sure only certain people can vote. It was government action. It wasn't restrained. It was passionate. And it was wrong. We stand today with this bill to constrain government action. People of faith do not lose their rights when they take a job. They don't lose rights when they're elected. We shouldn't ask them to. When we talk about deeply-held religious beliefs, it goes right to very heart of what it means to be an American, a country that was founded on religious freedom. And yet we're told today, because of a Supreme Court decision that wasn't based out of Congress, that wasn't based in the Common Law, that was based more on the imagination of Justice Kennedy, that we're supposed to put aside the First Amendment and ignore its historical underpinnings, ignore our great history. If only those men and women 30 and 40 and 50 years ago had recognized the value of civil liberties. If only they had constrained government when they had the opportunity. It doesn't matter how popular an issue is. Things become politically popular and they become politically unpopular. The one great bulwark we have against the mob, against democracy, is a stable and solid Bill of Rights. And you cannot, and we cannot, and no one can ever take away your rights. God-given, inalienable, not subject to transfer. People of religion deserve those same rights. You have to sometimes take action before the harm occurs. It seems to be suggested that there's nothing to see here, no harm. But tell that to a person who does have deeply-held religious beliefs on the issue of marriage and explain to the person that if they take action they may be punished. Why

not take preemptive action and make sure they're not punished? Why not preserve the First Amendment? Why not preserve the civil liberties that should have always been preserved? Not necessarily by individual actors, but by state action? Limit the power of the state. Control those passions. Temper the mob. And recognize those individual liberties came with an extraordinarily high price. This bill speaks to those issues. And I'll tell you this, Senator Simmons, thank you for your service. It's been an honor to serve with you, all of you. But this bill goes more to protect rights than erode them. More to secure what should have always been secured than to deliver us back to the good old days. I urge you to support the bill. It's a matter of common sense. Thank you.

[01:50:07]

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you Senator McDaniel. I'll recognize Senator Blount who has asked to speak on final passage.

SENATOR DAVID BLOUNT: Thank you, Mr. President. Ladies and gentlemen of the Senate, I know it's late, we've had a long day, but I appreciate the seriousness with which this debate is being heard in here. It reminds of the debate we did have a couple years ago on the Religious Freedom Bill where I felt like everybody was listening to each other, and even though there were disagreements about that bill, the tone of the debate was like it is tonight, and that makes me proud to be a member of this body. What we found at that time was what was presented rather rationally and hurriedly and was politically popular at the moment later caused a lot of problems for the State. And quite frankly, it solidified in the minds of most Americans their perception of Mississippi. The perception that we often complain about. The

perception that if we had the will, we could do something about. The Religion Act -- and I will mention, this bill, if you turn to the end in Section 11, specifically excludes the Religious Freedom Act. I believe that the concerns expressed are covered under current law and the bill that we passed a couple years ago. I'm not an attorney, and let me say I think Senator Branning has done an exemplary job explaining this bill, the contents of it, the specifics of it in just a way that I had tremendous respect for her. She didn't lose her cool. She answered every question. She answered with substance, and I appreciate that. But as best as I could understand it, there are really three broad categories here. First is how this bill affects our churches. And as I read it, I support everything in this bill that affects our churches. That is a First Amendment right. Any church that wants to practice its religion as it sees fit whether it be in the Christian faith or any other faith, that is their right under the United States Constitution. And there's nothing in this bill that relates to churches or religious organizations as its defined in here that I have any problem with. The second category is a little trickier, and that deals with businesses. And it raises the question of public accommodation. Can a business -- I mean we hear these stories about folks marauding across the state demanding that cakes should be baked and it's just kind of hard to take seriously, but it is a serious question. Can a business refuse service to someone simply on the basis of their sexual orientation? I mean we make choices in our professions. Senator Branning talked about how she makes choices in her profession. But that is dangerous, I would say to you, private businesses making choices based on the sexual orientation of the person. Now, I think that certain rights need to be protected in private

businesses. I haven't figured that out yet, quite frankly, but I think this bill raises problems with regard to public accommodation. The thing that gives me the most problem, though, and the reason that I'm opposed to the bill is its effect on the responsibility of public officials, officers of the state, to do the job that they were elected to do. They knew the job description when they ran for it. And it makes certain parts of the job and certain observances of other people's constitutional rights optional. I mentioned in a question to Senator Branning gambling, the death penalty, consumption of alcohol, and usury or 400% and 500% interest rates. Obviously, a private citizen can choose whether or not to gamble, a private citizen can choose whether or not to consume alcohol. But we have the State Gaming Commission that regulates casinos. We have the Department of Corrections that executes people. We have the Department of Revenue that deals with alcohol. We don't make special provisions for employees who work there. We don't make any of the provisions laid out here. We know that those people who work in those positions of the state have a job to do. I've never heard of any problems with that. And I think we can find accommodation, reasonable accommodation for those people.

[01:55:10]

But the danger is that certain rights are optional. The most important thing, I think, in this whole debate is that we as a state have missed an opportunity to meet both sides halfway and do the right thing. It's a little off-putting to me to see the word "discrimination" in the title. I recognize that there are public officials and lots of private citizens that have problems and fundamentally disagree with the marriage issue. But it has not

been said, I don't believe, in this debate that people who are gay or homosexual are discriminated against in this state. We know that. A person can refuse, under this bill, service to someone on the basis of the fact that they are gay. Under State Law, there is no protection for someone being fired because they were gay. They can lose their job. It is not a protected class under Federal Law. There are no State provisions to protect people. And that happens. That happens in the real world. What we should have done, in my opinion, is what was done in the most religious state in the country, probably the only state in the country with a higher percentage of churchgoers and church membership and people who profess the Christian faith than Mississippi, and that's the State of Utah. I passed out to you earlier today what Utah did when faced with this. And this, we do this too often. We face difficult issues and we have the opportunity to do it right and we choose do what is simplistic and politically expedient. What did they do in Utah when faced with this? They got all sides to the table and they worked out of provision that protected their religious liberty of private businesses and public officials, and at the same time, they recognized that there are people in their state who are gay or lesbian who have suffered discrimination and they decided to do something about it. They decided to do something about it. You can't fire a person in Utah -- which has got to be, again, one of the most conservative states in the country -- you can't fire a person based on their sexual orientation in Utah. Why can't we do that in Mississippi? Why can't we protect the religious liberties of businesses and at the same time extend a hand to recognize that there is discrimination that exists in this state? We have made progress in this state in fighting discrimination. But

that progress has not come out of this building. That progress has become -- because of the United State Supreme Court, because of the Voting Rights Act, and our progress has been reluctant out of this building. That's why there is a great skepticism among some of us and most of the country when Mississippi chooses to question a Supreme Court decision. We have earned that. We have brought that on ourselves. We don't have a lot of credibility on this stuff, folks. We could have done this the right away. I believe the religious liberties of folks are already protected with the law that we passed a couple years ago when Senator Gandy was here. That's what we should have done. And we should also recognize, again, that discrimination exists in this state and that this body, for once, is going to be proactive about it and we're going to sit down with folks. I think we can do that. I think -- I know that we all have constituents in our district who are gay or lesbian and they may be married or may not be married and they experienced discrimination and it ought to be an issue that we can deal with. This bill does not deal with that. Again, as it relates to churches, I don't want the government in the business of regulating churches or the services provided by churches. Just like down the road is Catholic Charities, they do an outstanding job but they don't want to participate in programs that violate their religious beliefs. That is their right and I respect them. They do great work in the state.

[02:00:06]

As it relates to businesses, it's a little tricky. But as it relates to the State, if we're against discrimination, we need to be against all discriminations. And maybe then, this legislature won't be portrayed as 30 hissing possums in a barn, but as a group of people that wanted to change the

State of Mississippi for the better and change the way that we're seen by all of the businesses that are fighting these bills in North Carolina and Georgia and other southern states. And maybe then we would not be first in the South in unemployment and first in population loss. And our young people across the state, Democrat and Republican, are having none of this, folks, they're having none of this. We can change our state right here, we have the opportunity to do it. This bill does not do that. And for that reason, I'm going to vote no. Thank you!

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Blount. Seeing no one else who would like to speak on the bill, the Chairman has asked that I recognize Senator Branning to close. Senator Branning, you are recognized to close and make a motion.

SENATOR JENNIFER BRANNING: Thank you Mr. President. Ladies and gentlemen of the Senate, I want to thank you for your attendance today. I count it a very high honor to be given the opportunity to present this bill to you. I thank each one of you that participated. There were some of you that maybe didn't agree with me and I didn't agree with you, but I want you to know, each one of you, I respect your views and your opinions on this issue. So, thank you for that. I count it a privilege to work with each of you. I do want to set the record straight. This bill in no way allows for discrimination about one person against another. What it does is it prohibits your government from discriminating against you with regard to your religious beliefs. That's the bottom line. I whole-heartedly support this legislation and I ask you to do the same. With that said, I move for final adoption.

LIEUTENANT GOVERNOR JONATHON REEVES: The Senator suggests use the morning roll call for final passage. Is there any objection? Mr. Clerk, there is objection? Please call the roll.

CLERK: Barnett?

SENATOR JUAN BARNETT: No.

CLERK: Blackmon?

SENATOR BARBARA BLACKMON: No.

CLERK: Blackwell?

SENATOR KEVIN BLACKWELL: Aye.

CLERK: Blount?

SENATOR DAVID BLOUNT: No.

CLERK: Branning?

SENATOR JENNIFER BRANNING: Aye.

CLERK: Browning?

SENATOR NICKEY BROWNING: Aye.

CLERK: Bryan?

SENATOR HOB BRYAN: No.

CLERK: Burton?

SENATOR TERRY BURTON: [INDISCERNIBLE 02:02:33].

CLERK: Butler?

SENATOR ALBERT BUTLER: No.

CLERK: Carmichael?

SENATOR VIDET CARMICHAEL: Aye.

CLERK: Caughman?

SENATOR CHRIS CAUGHMAN: Aye.

CLERK: Chassaniol?

SENATOR LYDIA GRAVES CHASSANIOL: Aye.

CLERK: Clarke?

SENATOR EUGENE CLARKE: Aye.

CLERK: Dawkins?

SENATOR DEBORAH JEANNE DAWKINS: No.

CLERK: Dearing?

SENATOR BOB DEARING: No.

CLERK: DeBar?

SENATOR DENNIS DEBAR: Aye.

CLERK: Doty?

SENATOR SALLY DOTY: Aye.

CLERK: Fillingane?

SENATOR JOEY FILLINGANE: Aye.

CLERK: Frazier?

SENATOR HILLMAN TEROME FRAZIER: No.

CLERK: Gollot?

SENATOR TOMMY GOLLOT: Aye.

CLERK: Harkins?

SENATOR JOSH HARKINS: Aye.

CLERK: Hill?

SENATOR ANGELA BURKS HILL: Aye.

CLERK: Hopson?

SENATOR W. BRIGGS HOPSON: [INDISCERNIBLE 02:02:56].

CLERK: Horhn?

SENATOR JOHN HORN: No.

CLERK: Hudson?

SENATOR BILLY HUDSON: [INDISERNIBLE 02:02:59].

CLERK: Jackson of the 15th?

SENATOR GARY JACKSON: Aye.

CLERK: Jackson of the 11th?

SENATOR ROBERT JACKSON: No.

CLERK: Jackson of the 32nd?

SENATOR SAMPSON JACKSON: No.

CLERK: Jolly?

SENATOR RUSSEL JOLLY: Aye.

CLERK: Jordan?

SENATOR DAVID JORDAN: No.

CLERK: Kirby?

SENATOR DEAN KIRBY: Aye.

CLERK: Massey?

SENATOR CHRIS MASSEY: Aye.

CLERK: McDaniel?

SENATOR CHRIS MCDANIEL: Aye.

CLERK: McMahan?

SENATOR CHAD MCMAHAN: Aye.

CLERK: Michel?

SENATOR J. WALTER MICHEL: Aye.

CLERK: Moran?

SENATOR PHILIP MORAN: Aye.

CLERK: Norwood?

SENATOR SOLLIE NORWOOD: No.

CLERK: Parker?

SENATOR DAVID PARKER: Aye.

CLERK: Parks?

SENATOR RITA POTTS PARKS: Aye.

CLERK: Polk?

SENATOR JOHN POLK: Aye.

CLERK: Seymour?

SENATOR JOSEPH SEYMOUR: Aye.

CLERK: Simmons of the 12th?

SENATOR DERRICK SIMMONS: No.

CLERK: Simmons of the 13th?

SENATOR WILLIE SIMMONS: No.

CLERK: Stone?

SENATOR BILL STONE: Aye.

CLERK: Tindell?

SENATOR SEAN TINDELL: Aye.

CLERK: Tollison?

SENATOR GRAY TOLLISON: Aye.

CLERK: Turner?

SENATOR ANGELA TURNER: No.

CLERK: Watson?

SENATOR MICHAEL WATSON: Aye.

CLERK: Wiggins?

SENATOR BRICE WIGGINS: Aye.

CLERK: Wilemon?

SENATOR J.P. WILEMON, JR.: Aye.

CLERK: Witherspoon?

SENATOR TAMMY WITHERSPOON: No.

CLERK: Younger?

SENATOR CHUCK YOUNGER: Aye.

CLERK: Burton?

[CROSSTALK 02:04:05 - 02:04:12]

CLERK: Frazier?

SENATOR HILLMAN FRAZIER: [INDISCERNIBLE 02:04:13]

CLERK: Hopson?

SENATOR BRIGGS HOPSON: Aye.

CLERK: Hudson?

SENATOR BILLY HUDSON: [INDISCERNIBLE 02:04:18]

CLERK: Simmons of the 12th?

SENATOR DERRICK SIMMONS: No.

CLERK: Wiggins?

SENATOR BRICE WIGGINS: Aye.

CLERK: Voting yes or yea; Blackwell, Branning, Browning, Carmichael, Caughman, Chassinoil, Clarke, DeBar, Doty, Fillingane, Gollot, Harkins, Hill, Hopson, Jackson of the 15th, Jolly, Kirby, Massey, McDaniel, McMahan, Michel, Moran, Parker, Parks, Polk, Seymour, Tindell, Tollison, Watson, Wiggins, Wilemon, Younger.

[02:04:56]

Voting no or nay, Barnett, Blackmon, Blount, Bryan, Butler, Dawkins, Dearing, Horhn, Jackson of the 11th, Jackson of the 32nd, Jordan, Norwood, Simmons of the 12th, Simmons of the 13th, Stone, Turner, and Witherspoon.

LIEUTENANT GOVERNOR JONATHON REEVES: Senator Burton?

SENATOR TERRY BURTON: To the vote, Mr. President.

LIEUTENANT GOVERNOR JONATHON REEVES: State your preference.

SENATOR TERRY BURTON: If Senator Frazier were here, he would vote "No." Therefore, record me as voting "Aye."

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Burton.

[AUDIO GAP: 02:05:24 - 02:07:51]

LIEUTENANT GOVERNOR JONATHON REEVES: By vote of 31 yays, 17 nays, the bill is passed. Senator Horhn, for what purpose do you seek recognition?

SENATOR JOHN HORHN: Thank you Mr. President. I'd like to hold House Bill 1523 on a motion to reconsider.

LIEUTENANT GOVERNOR JONATHON REEVES: Thank you, Senator Horhn. Before we conclude --

[02:08:07]

March 31, 2016 Senate Debate

CLERK: Item 24, House Bill Number 1523.

MR. SEAN TINDELL: Mr. President, I'd like to have item number 24 called up in the title read.

MR. PRESIDENT: Please read the title.

CLERK: House Bill number 1523, the Protecting Freedom of Conscience from Government Discrimination Act, create.

MR. PRESIDENT: Senator Tindell.

MR. SEAN TINDELL: Thank you Mr. President. I would move to table the motion to reconsider.

MR. PRESIDENT: Motion to table the motion to reconsider on item 24 House Bill 1523. We have five minutes for those in favor of that motion and we'll have five minutes for those on opposition to follow. Senator Tindell you're recognized to speak on your motion.

MR. SEAN TINDELL: If I was to toss up 20 seconds ago, I'm sure I'm about to be tossed out by Senator Bryan here shortly. Another great example of our process and work, there was a lot of healthy debate yesterday, a lot of discussion. I'm sure there's been a lot of feedback on social media and other places this morning. But Senator Branning did an excellent job presenting the bill and I think she went through the key points of it, and would ask that the body support their decision yesterday and table the motion to reconsider.

MR. PRESIDENT: Is there anyone else wish to speak in favor of the motion to table the motion to reconsider? Anyone wish to speak in favor? Senator Blount you were down first do you want to -- oh, Senator Horhn do you wish to speak in opposition to the motion?

MR. JOHN HORHN: Yes, sir.

MR. PRESIDENT: The opponents have five minutes. You're recognized.

MR. JOHN HORHN: I thank you Mr. President. Ladies and gentlemen of the Senate, I don't want to belabor the point but, what we did yesterday was, it provided measure that will allow persons to discriminate against people who are of the same -- who are involved in same sex relationships. Tomorrow, it might be that we decide that we are a Christian nation and we are going to discriminate against everybody who is not a Christian. I just don't know where this bill can end and I think that we are really stepping off into dangerous territory here and then we need to rethink it. Now, we tried yesterday to put in a reverse repealer to send this bill to conference so that we could continue to work on it so that whatever unintended consequences we might be able to minimize. That motion failed and so, by this vote we're going to send it back over to the House and they are going to send it as quickly as they can to the governor is what I imagine is going to happen. I don't know that we are thinking in our right minds and I refer you to what the Honorable [PH] Condoleezza Rice had said a few minutes ago when she was up here being honored as the first African-American female to graduate from the University of Mississippi Law School and also to commend her for her other work in state government being Assistant Secretary of State and so forth. When she said, "We ought to look towards what is righteous." What is the element that will allow us to appeal to our higher virtues and our higher calling as opposed to the fear and potential hate-mongering that we may wind up doing as a result of this legislation. And I would ask you to rethink this, let's bring this bill back up and defeat it and get on about the business of the people's [PH] state. Thank you Mr. President.

MR. PRESIDENT: You have about 2 minutes and 50 seconds left, Senator Blount.

MR. DAVID BLOUNT: Thank you Mr. President, Ladies and gentlemen of the Senate. I would ask you to defeat the motion at the table. Earlier this year we had a bill dealing with Sanctuary Cities. The bill said that our local officials are going to file a federal law as it relates to immigration. I voted for that bill because I think we ought to follow federal law. I don't think that's optional. I think that's the areas we take. But the vote was what it was and I think it was a healthy debate. I want to challenge you, I want to challenge some of the churches who have worked on this bill. I think all of us and I try to make this clear yesterday's support the religious freedom of our churches to worship in the manner they see fit to practice their beliefs as they see fit. We ought to protect their tax status so they can maintain that right. But when I called many of these same churches last fall and I spent hours, when I called many of these business associations, when I sat down with some of the same churches this session who are pushing this legislation. These churches you have events regularly to deal with the issue of racial reconciliation. One big statewide organization which claims to be for racial reconciliation as having a launch next week, and I asked them to address as a moral issue the most visible symbol of racial reconciliation in this state, they told me it was political and they would not, that they would remain silent.

[00:05:11]

And so, to those groups, to all of you, we have time every year to pass gun bills and I voted for every single one of them except the one dealing with churches. In the nine years I've been here, I voted for every one of them.

When we have time to deal with Sanctuary Cities to uphold federal law, I voted for it. We have time every single year to pass anti-abortion bills and I voted for most of those including the one this week. But we do not have time ever in the history of this state to pass a bill that prohibits discrimination that protects people's rights. Let's make time. Let's make time for racial reconciliation to the groups that want to get involved on some of the issues. I encourage you can get involved in all issues. Let's make time for racial reconciliation. Let's make time to make an affirmative statement that we don't believe in discrimination. Let's make time to do that. I ask you to vote against the motion.

MR. PRESIDENT: Senator Bryan you have 15 seconds left. You recognize to speak?

MR. HOB BRYAN: You're putting the circuit clerks in an untenable position. They will be pressured to file a petition or a statement saying they want an exception, if they don't file it, they'll be attacked in the next campaign. If they do file it and their deputy's file it they're probably running a file a federal law. There is a real world consequence of this legislation and it is to create an unnecessarily difficult situation for your circuit clerks and I don't think we want to do that.

MR. PRESIDENT: Thank you sir. Just a clarification, Senator Horhn there are no extensions on the motion to reconsider, no extensions of time. The vote now recurs on the motion to table the motion to reconsider on House Bill 1523.

CLERK: Roll call.

MR. PRESIDENT: Roll call is requested. We have six or more who demand a roll call. There is sufficient number, call roll.

CLERK: Barnett, Blackmon? Blackwell?

MR. KEVIN BLACKWELL: Aye.

CLERK: Blount?

MR. DAVID BLOUNT: No.

CLERK: Branning?

MS. JENIFER BRANNING: Aye.

MR. NICKEY BROWNING: Aye.

MR. HOB BRYAN: No.

CLERK: Burton?

MR. TERRY C. BURTON: Aye.

CLERK: Butler?

MR. ALBERT BUTLER: No.

CLERK: Carmichael?

MR. VIDET CARMICHAEL: Aye.

CLERK: Caughman?

MR. CHRIS CAUGHMAN: Aye.

CLERK: Chassaniol? Clark?

MR. EUGENE S. CLARKE: Aye.

CLERK: Dawkins?

MS. DEBORAH JEANNE DAWKINS: No.

CLERK: Dearing?

MR. BOB DEARNING: No.

CLERK: DeBar?

MR. DENNIS DEBAR: Aye.

CLERK: Doty?

MS. SALLY DOTY: Aye.

CLERK: Fillingane?

MR. JOEY FILLINGANE: Aye.

CLERK: Frazier?

MR. HILLMAN TEROME FRAZIER: No.

CLERK: Gollot?

MR. THOMAS ARLIN GOLLOT: Aye.

CLERK: Harkins?

MR. JOSH HARKINS: Aye.

CLERK: Hill?

MS. ANGELA BURKS HILL: Aye.

CLERK: Hopson? Horhn?

MR. JOHN A. HORHN: No.

CLERK: Hudson? Jackson of 15th?

MR. GARY JACKSON: Aye.

CLERK: Jackson of 11th?

MR. ROBERT L. JACKSON: No.

CLERK: Jackson 32nd?

MR. SAMPSON JACKSON II: No.

CLERK: Jolly?

MR. RUSSELL JOLLY: Aye.

CLERK: Jordan?

MR. DAVID LEE JORDAN: No.

CLERK: Kirby? Massey?

MR. CHRIS MASSEY: Aye.

CLERK: McDaniel? McMahan?

MR. CHAD MCMAHAN: Aye.

CLERK: Michel?

MR. J. WALTER MICHEL: Aye.

CLERK: Moran?

MR. PHILIP MORAN: Aye.

CLERK: Norwood?

MR. SOLLIE NORWOOD: No.

CLERK: Parker?

MR. DAVID PARKER: Aye.

CLERK: Parks?

MS. RITA POTTS PARKS: Aye.

CLERK: Polk?

MR. JOHN A. POLK: Aye.

CLERK: Seymour?

MR. JOSEPH SEYMOUR: Aye.

CLERK: Simmons of the 12th?

MR. DERRICK SIMMONS: No.

CLERK: Simmons of the 13th?

MR. WILLIE LEE SIMMONS: No.

CLERK: Stone?

MR. BILL STONE: No.

CLERK: Tindell?

MR. SEAN TINDELL: No.

CLERK: Tollison?

MR. GRAY TOLLISON: Aye.

CLERK: Turner?

MS. ANGELA TURNER: No.

CLERK: Watson? Wiggins?

MR. BRICE WIGGINS: Aye.

CLERK: Wilemon?

MR. J. P. WILEMON: Aye.

CLERK: Witherspoon?

MS. TAMMY WITHERSPOON: No.

CLERK: Younger?

MR. CHARLES YOUNGER: Aye.

CLERK: Barnett?

MR. JUAN BARNETT: No.

CLERK: Blackmon?

MS. BARBARA BLACKMON: No.

CLERK: Chassaniol? Hopson? Hudson? Kirby? McDaniel? Watson? Voting yes or yay, Blackwell, Branning, Browning, Burton, Carmichael, Caughman, Clarke, DeBar, Doty, Fillingane, Gollot, Harkins, Hill, Jackson of the 15th, Jolly, Massey, McMahan, Michel, Moran, Parker, Parks, Polk, Seymour, Tindell, Tollison, Wiggins, Wilemon, and younger.

[00:09:59]

Voting no or ney, Barnett, Blackmon, Blount, Bryan, Butler, Dawkins, Dearing, Frazier, Horhn, Jackson of the 11th, Jackson of the 32nd, Jordan, Norwood, Simmons of the 12th, Simmons of the 13th, Stone, Turner and Witherspoon.

MR. PRESIDENT: Senator Blackwell, your light is on. I don't see if it cleared out. I'll get to serve to McMahan after we announce the vote.

[AUDIO GAP: 00:10:41 - 00:11:21]

MR. PRESIDENT: By vote of 29 yeys, 18 neys, the motion to table the motion to reconsider has been adopted. Senator --

[00:11:27]

April1, 2016 House Debate

MR. GIPSON: Thank you Mr. Speaker. I'd go to item 74 on the concurrence and non-concurrence calendar House Bill 1523.

MR. SPEAKER: Okay.

MR. GIPSON: And would explain the changes at the senate made and explained --

MR. SPEAKER: What's your motion, gentleman?

MR. GIPSON: The motion would be to concur.

MR. SPEAKER: Okay, thank you. You're recognized.

MR. GIPSON: Thank you, Mr. Speaker, ladies and gentlemen of the house, today is April Fools' Day.

[VOICE OVERLAP]

MR. SPEAKER: Excuse me gentleman, that microphone doesn't seem to pick enough, pull it closer to you.

MR. GIPSON: How about now?

MR. SPEAKER: There you go.

MR. GIPSON: Okay, thank you Mr. Speaker. Ladies and gentlemen of the house, today is April Fools' Day. And as I woke up this morning, it occurred to me that many of the articles that I've read about this bill are in fact deceptive and wrong. Some may say this bill would deny services to individuals. That's not true. The bill does however protect people of faith against discrimination by the government for exercising their sincere religious beliefs and it gives them calls of action if that religious freedom is violated. What the senate change did was struck Section 8 of the bill which waves sovereign immunity and then what they did in Section 6 was to say that any aggrieved person must forseek injunctive relief to prevent a remedy of violation of this act, all the effects of a violation of this act. If

injunctive relief is granted by the court and the injunction is thereafter violated, then and only then may the aggrieved party, subject to the limitations of liability in Section 11, 46, 15, then they can seek compensatory damages for pecuniary and non-pecuniary losses; reasonable attorneys' fees and costs; and any other appropriate relief, except that only declaratory relief and injunctive relief shall be available against a private person not acting under color of state law upon a successful assertion of a claim or defense under this act. Ladies and gentlemen, don't buy the deception, the untrues of these articles that you've seen, the talking heads, they're wrong. This is an antidiscrimination bill and I move that we do concur.

MR. SPEAKER: Question? Gentleman from [PH] Hans, [PH] Mr. Bail, you have a question?

MALE 2: Speaking against the bill [INDISCERNIBLE 00:02:31].

MR. SPEAKER: Okay. All right, I don't see anything else. I'll recognize gentleman from Hans, Mr. Bail.

MALE 2: Good morning. Ladies and gentlemen, I too like -- many members in this room do not like to come to this will, to just come to the will. But this Bill 1523 is not good for Mississippi. This Bill 1523 is an open container for discrimination across the board for the residents and the citizens of State of Mississippi. You are now given the opportunity for gainfully employed individuals who are employed by the State of Mississippi to openly discriminate against individuals. Ladies and gentlemen, we are well-beyond discriminating against anybody. We're trying to move this state forward. We're trying to do things outside of the State of Mississippi. We

should be talking about a global economy. We should be talking about educating our students. We should be talking about providing jobs for our citizens but yet and still, we sit here today with this Bill 1523 and we're asking to legalize discrimination. Now that's before. What comes next? Are we going to start discriminating against interracial marriages? Are we going to start discriminating against African-Americans, Asians, Jews? When does this stop? When do we have common sense? When do we really sit down and think about what we're doing in this building? This morning I prayed for an open and a clear mind and a heart for all of us to do the work for all of the citizens of Mississippi. This is another bill that's going to end up in a legal battle. Why are we constantly and consistently engaging in legal battles over things that we should have no jurisdiction here? Ladies and gentlemen, I submit to you that today is not the day.

[00:05:00]

And like the gentleman said it is April Fools' Day and I promise, I thought this was April Fools' joke that this bill would be before us this morning but here it is. I'm asking each and every one of you to think deep within your hearts to not support this bill, thank you.

MR. SPEAKER: Gentleman from Washington, what purpose do you speak for? You're recognized.

MALE 3: Thank you Mr. Speaker. Ladies and gentlemen of the house --

MR. SPEAKER: Excuse me gentlemen, maintain order please, you're recognized.

MALE 3: Thank you Mr. Speaker. Ladies and gentlemen of the house, I have a tendency of waking up at 02:30, 3 o'clock in the morning and begin to read what the national news says about certain issues around this country. And

what's been interesting over the last couple of days, the national story has been about the governor of the State of Georgia vetoing a piece of legislation that is almost identical to this. Well, it was interesting how major business entities made a decision to leave that state based upon this piece of legislation and how it would have an economic impact on that state. Well, in case you hadn't heard, we've had a five percent drop in our economy in this state already. In case you hadn't heard, we can afford to have one blow economically in the negative. In case you hadn't heard, people are paying attention to stuff like this in the state. Now, over the last few decades, Mississippi had worked to turn its image around and it appears to be that we are back paddling now. It appears to be that the days of old that we worked so hard to move away from are beginning to resurface again. It almost appears that though they're trying to bring back up the [PH] salvage commission with the mindset it is taking place in the state and that's unfair. Mississippi is a great place that has built a reputation of hospitality. However, this particular piece of legislation is not very hospitable. When you encourage discrimination, be it racial, social, religious, any type of discrimination is wrong. Now, the script should talk about the persecutions of Christians. It never said how the Christian will be persecuted, how the persecution will begin. See, if I poke my finger in that gentleman's eye then I'm wrong and that gentleman hadn't done nothing to me. Now, that gentleman pokes his finger in my eye, he's wrong. We are poking fingers in folk eyes. Sometimes you can try to hold up the blood stain better so much until you stain it with your own blood. We need to understand that the concepts that we are protesting here and presenting here might be the

beginning of the tumbling of the foundation we declare we stand upon. We need to be wise about how we do things here. Now, it has been touted that this piece of legislation is to protect certain people religious' rights. How do you protect your religious rights when you are adversely affecting somebody else? When you are poking your finger in somebody else's eye? Now, you're encouraged to do whatever you want to on this piece of legislation, but I can't support something that would discriminate against another group or sector of people because I don't know how many of you all have been discriminated against but I had.

[00:10:06]

And I have watched people be discriminated. And the interesting piece, I have seen people who don't look like me be discriminated against, who had been considered to be into minority, but because they didn't have the right type of pedigree, they were discriminated against. We need to be wise about what we're doing. We need to be very wise. Now we said it yesterday that we have to spend some more money to defend a lawsuit. We spent mounds and mounds of money to fit in lawsuit. I'm here to tell you. We often spend some more money because this is discriminatory. I thank you for giving me an opportunity to stand here and say what I needed to say but I want you to think about it. What would Jesus do?

MR. SPEAKER: Gentleman from Adams what purpose?

MALE 4: For an introduction, Mr. Speaker.

MR. SPEAKER: Okay we'll get right to you. I recognize chairman to close.

MR. GIPSON: Thank you Mr. Speaker. Ladies and gentlemen of the house, I simply want to reiterate that we should not be intimidated, we should not buy

in to the April Fools' deception as being propagated by the national media, by some reporters and realize that this is a bill that actually protects the most fundamental rights that all Mississippians have, their religious freedoms and their freedom of conscience. On your desk as being passed out if it hasn't already, a recent poll done my Mason-Dixon Polling & Research and it finds that Mississippians, as of March 30th, supported this bill overwhelmingly to almost two-thirds of Mississippians. All genders, all races, all parties, all ages, if you look at that poll, all Mississippians, the people who elected us who sent us here to do their work, they support this legislation and I think it's time that we stand up and do the work of the people and protect the freedoms that they enjoy and want to continue to enjoy and I urge you to vote in favor of this motion to concur, thank you.

MR. SPEAKER: All right, question now occurs on the motion to concur. Open the machine, Madam Clerk. If you favor the motion to concur, vote "aye;" if you're opposed, vote "nay." Has everyone voted? Has everyone voted? Close the machine, Madam Clerk. The vote is 69 ayes, 45 nays, motion to concur prevails.

[AUDIO ABRUPTLY ENDS]

[00:13:02]

April 4, 2016 House Debate

PLAINTIFF'S
EXHIBIT
CSE-30

MR. SPEAKER: Gentleman from [PH] Samson, [PH] Mr. Gibbs.

MR. GIPSON: Thank you, Mr. Speaker. I go at Item 56 House Bill 1523 at a move that we do table.

MR. SPEAKER: Those opposed have five minutes. Gentleman from [PH] Lee wishes to speak.

MR. AGUIRRE: I played the piano in a Methodist Presbyterian Church yesterday and I prayed real hard while I was doing it. All of you know that for 42 years of my life, I've been a southern undertaker. And I looked death in the face everyday of my life just like the gentleman from one owner and several of you do that our fellow travelers in this dismal trade. And there's one thing that I've learned in 42 years. We're born unequal but we die equal. When you're on that table, you're just as dead as you can be and everybody is equally dead. Now, I don't even know, hardly know where to start and where to stop on this. But this is the most hateful bill that I've seen in my career in the legislature. There's literally zero reason for it, zero! I don't care who you are. I don't care what party you belong to. There is no way that you can justify passing this bill. Not under New Testament Christianity can you justify? Not at all. None whatsoever. None whatsoever can you justify under for what I have been taught 60 years to be the teachings of Jesus Christ, which I think most of us profess including the preachers here. Now, my family and I do not, do not practice discrimination. I remember going to the first grade in 1960 at [INDISCERNIBLE 00:02:12]. And the thing that broke my heart the most was Willy and [PH] Flablo and Junior, the Black friends that I grew up with on my farm didn't go to school with me. And that broke my heart as early as 1960. Now if you table this bill, you know one thing and you heard

it here. You're discriminating. That's what you're doing. You call it religious whatever you want to but you ought to be ashamed of yourself because you're doing nothing but discriminating. If I want to refuse somebody at Holland Funeral Directors, all I got to do is say, "Go to the competitor." I've never done that. Also, I remember in the mid-80s when I got a call from a lady from Itawamba County, gentleman from Itawamba, who is so in tears she could not even talk to me for five minutes. I've got her settled down and she said, "Steve, my son died at eight o'clock this morning and they're out at Salem digging a hole right now because they said he had to be buried by night." And I said, "Why?" She said, "He died of AIDS." At which point I said, "Baby, you call that funeral home and tell them I'm on the way." And I not only gave the woman a funeral because she was impoverished but I opened my place, my life and my Christianity up to that family. We had wine cheese parties, one of the best I've ever seen. Hell of a send-off. Incredible send-off. We don't discriminate in my family and the Mississippi House of Representative shouldn't discriminate.

MR. SPEAKER: Gentleman from Lafayette wishes to speak. You got a minute and 20 seconds, gentleman.

MR. HUGHES: Ladies and gentlemen, I come before you today, this is personal to me. It's Mississippi to me.

MR. SPEAKER: Gentleman, pull that microphone down to you, please. Thank you.

MR. HUGHES: I know I'm the least popular guy that come to this will because I speak sometimes from my heart without a filter and without an apology. But as a lawyer and a businessman, I now say to you this bill is poorly written. It is facially unconstitutional. Line 20 says, "Sexual relations are properly

reserved to such a marriage between a man and a woman. Everyone who have ever had premarital sex or knows anyone, better watch out." Is this really where we are now as a government that we're going to go into the bedrooms, develop a litmus test for sex?

[00:05:02]

How does a store owner or a public official administer that test? Is it if you look or sound like you may have sex outside of marriage? Or what happens if you happen to sound gay? What is the standard here we're trying to do? And it's not just about religion, it's about moral conviction is also one has to have. All the discrimination in history where there it was blacks, women, Jews has been done --

[AUDIO ABRUPTLY STOPS]

[00:05:32]

EXHIBIT NO. CSE-28
CAUSE NO. 3:16cv442CWR-LRA
WITNESS Ve Sgime
CLERK JOYCE SMITH

JUN 23 2016

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
C. Bond, REPORTER