

Senator Carney, Representative Kuhn, Members of the Judiciary Committee,

My name is Roberta Manter, and I live in Fayette. I am writing neither for nor against LD 260. I listened to the testimony that was offered on this bill, and I can see both sides. On the one hand, yes, we need to guarantee that everyone has equal rights. But Article 1, Section 1 of the Maine Constitution already says, "Section 1. Natural rights. All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness." Note the first words, "ALL people." What more needs to be said?

The Fourteenth Amendment to the U.S. Constitution follows a similar thread: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Note that it says, "ALL persons, and "ANY person."

The problem, I think, is not so much that we need to change the laws, but that we need to change our hearts. A law or a Constitutional provision will not change people's attitudes. Updated language becomes obsolete, or takes on the same derogatory connotation as the language it was supposed to replace. Think of how many times we have changed the terms used to refer to people who have different physical abilities or limitations, or people whose skin is not the same as ours, or people who are "from away." Each time we change to a new term, people's wrong attitudes simply move to using the new term, until that one becomes as derogatory as the term it replaced.

Sadly, that is human nature. As hard as we try to love everyone, there will be people who, if we are honest, make us uncomfortable. (How many of the people who testified in favor of this bill would prickle if I said that I am an ultra-conservative born-again Christian? I am often afraid to "come out" as such because people would treat me differently if they knew - and not all of those changes would be for the better, even though freedom of religion is already supposed to be protected. Those who have been treated badly by other Christians would expect me to treat them badly as well.)

My big concern about this bill as worded is that by being too specific, it may by implication exclude anyone who is not specifically included, or when the terminology changes, those who go by the new term will no longer be protected because only those who went by the previous term are listed. Republicans dislike what Democrats stand for, and Democrats dislike what Republicans stand for. Why isn't political affiliation included in this bill? What about protecting Vegans from overzealous meat-eaters? What about people who are subjected to body-shaming? People of low income or who don't have a college education are often discriminated against. And how about the homeless? Should they be included in this bill? They certainly get treated badly.

How often will we have to update the language of this Constitutional Amendment? Please note the following from Maine's Legislative Drafting Manual:

A. Overdrafting. Preciseness in drafting is a worthy goal, but can be taken too far. It is generally unnecessary to name every single thing you are forbidding or requiring. An overzealous attempt at precision may result in redundancy and verbosity. Drafting too precisely may create unintended loopholes. This example, adapted from a National Park Service rule, tries to cover all the possibilities:

Example:

§5010. Trees, shrubs, plants, grass and other vegetation

1. General injury. A person may not prune, cut, carry away, pull up, dig, fell, bore, chop, saw, chip, pick, move, sever, climb, molest, take, break, deface, destroy, set fire to, burn, scorch, carve, paint, mark, or in any manner interfere with, tamper, mutilate, misuse, disturb or damage any tree, shrub, plant, grass, flower, or part thereof, nor shall any person permit any chemical, whether solid, fluid, or gaseous, to seep, drip, drain or be emptied, sprayed, dusted or injected upon, about or into any tree, shrub, plant, grass, flower, or part thereof, except when specifically authorized by competent authority; nor may any person build fires, or station, or use any tar kettle, heater, road roller or other engine within an area covered by this part in such a manner that the vapor, fumes, or heat therefrom may injure any tree or other vegetation.

Using broad terms that include narrow terms is preferable and probably provides greater legal protection. In the above example, "cut" could include "chop," "saw" and "sever" (among others), making it unnecessary to list these included words. Still more broadly drafted, the rule might well read "a person may not harm the plants," and offer the same, if not more, protection.

"A person may not harm the plants." Think about it. Are there any loopholes? Will the language become obsolete? Its simplicity covers everything.

I would submit that rather than listing all the groups that are protected, the only way to make sure NO group is discriminated against is to simply say ALL people have equal rights. I once knew a teacher who worked with teenagers who had been in trouble. She had one classroom rule: "No one hurts anyone." I think that would be a better Constitutional Amendment than what is being considered here.

I hope you will think hard about what I have said. Thank you for your time.

Roberta Manter