

created some interesting ideas all on their own. If we do not spell out rational in this amendment, it is my belief that we are not guaranteeing that they will use the federal equal protection rational as the only basis on which they make a determination; that if there is nothing there, one could argue, and I think very rightly, that that is what they would do. But there is no guarantee that they won't go off on another tangent and use the cucumber test or whatever they may come up with. I don't know. That, we also leave a black hole there that says, okay, here is one route that you can take. This has been traditional and historic with regard to the federal equal protection and the rational definition. Now, if that can be guaranteed, yeah, that would be my intent. I don't think it can and I don't think by placing rational or leaving rational, as it came out of the committee, in place hinders the interpretation. I think it clarifies exactly what the intent of the Legislature was. You have the same problem in terms of whether it would be...whether they would take rational and see it under the Fourteenth, federal Fourteenth equal protection definition or not. Granted, that same argument can be made if you leave the term in there. I think you are better served by leaving the term in there, knowing full well that these individuals are aware of that Fourteenth rational test.

SENATOR LINDSAY: Okay, Senator Hall, if the Landis amendment is not adopted, by that defeat, it would not be your intent that a new definition or a new rational test be created to go with this term?

SENATOR HALL: Not at all, we both want to achieve the same end. It is just that...

SENATOR LINDSAY: Okay.

SENATOR HALL: ...my belief is that we are much safer if we leave the term in there than if we take it out.

SENATOR LINDSAY: Okay, that is what I want, and that is what I wanted to establish for the legislative intent, that on interpretation of this, that the court, I think, should be aware that the intent is rational as used...

SENATOR WARNER: One minute.

SENATOR LINDSAY: ...in this amendment, whether it is rational