

TESTIMONY BEFORE

THE GENERAL WELFARE COMMITTEE

of the

CITY COUNCIL OF NEW YORK

IN SUPPORT OF INT #2

by

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I am Balfour Brickner, the senior rabbi of the Stephen Wise Free Synagogue in Manhattan. I am a Reform Jew. I speak in support of Int. 2. The national congregational body of which I and my congregation are a part, is on record by national resolution affirming "our belief that private sexual acts between consenting adults are not the proper province of government and law enforcement agencies." Thus I can say that my articulated support of this civil rights bill (for that is what it is) is in keeping with the sentiments of the majority of over one million non-Orthodox religious Jews in this country, many of whom live in this city.

Two motivations prompt this testimony.

First, my religious convictions teach me to defend the civil rights of all people, even as we are commanded to "plead for the widow," and to "defend the fatherless" (Isaiah 1.17). We know from experience that when the civil rights of one are threatened, the civil rights of all are in jeopardy. We know, too, that we Jews, as a plurality, have never thrived well in social situations where discriminations have been allowed against those who may be in any ways different.

Clearly, Int 2 is fundamentally only a civil rights bill. It does not "endorse any particular behavior or way of life." It seeks only to protect the rights of all persons not to be discriminated against "because of their actual

or perceived sexual orientation in matters of employment and housing. Not to support such obviously warranted protections would be a violation of my religious conscience.

I am, however, motivated to testify for a different and more troubling reason. There are some opponents to this legislation who enjoy citing the Hebrew Bible's negative attitude toward homosexuality as their justification for the continued denial of civil rights for gays and lesbians. Proof texting from Scripture is always a dangerous enterprise. Let me remind those who would seek to take refuge in the literal understanding of Biblical texts that this same scripture would condemn to death those guilty of adultery (Lev. 20.10). Are those who are so righteously judgmental of homosexuality prepared equally to pass or administer the laws of capital punishment on those known to be adulterers? Would they deny to such persons housing or employment? Or, shall we restore the sacrificial cult because the Bible is filled with both descriptions of, and commands for, its practice? The answers are obvious. Moreover, those who know rabbinic Judaism, know also that long ago our rabbinical teachers decreed that the practice of homosexuality belongs to the category of those acts that "are free from legal punishment by human agency, but forbidden." In other words, the corrective, were one called for, was to be left to God. A wise decision. Perhaps the rabbis of yesteryear were not as positive as some of my contemporary colleagues about the "abominable nature" of homosexuality. Perhaps they anticipated what modern scientific research is beginning to suggest to us about homosexuality: that it may be as much a phenomena of nature as it is of nurture. Research increasingly suggests to us that a biological factor may play a role in the development of homosexuality, at least among some men. If that would prove to be the case, then could it not be said that God created some people gay and/or

lesbian and some people heterosexual and all that is part of the human mix as intended and designed by the Almighty. If neither medical or social scientists know the source or the cause of homosexuality, if, in the future it might be determined that homosexuality is as much a result of our biological make up as it is the product of our environmental upbringing or social exposure, then certainly neither moralists, clergy or others, can be certain that they know whether or not homosexuality is a sin or just one of God's different creations. Let us then, accordingly, temper our judgments in the way we would treat one another. None of us should want to place ourselves in the position of "playing God" with another's life. Who knows, we might be wrong.

The issue of rights for any group goes beyond the narrow confines of how any particular religion or theology views homosexuality. It goes to the heart of our nation's unique democratic experiment. There are some who fear the erosion of American morality. That is a legitimate concern. But if America is "sick," the restoration of our moral health will not be achieved by denying gays and lesbians their elemental civil rights. That only compounds the illness. Neither will it be achieved by trying to categorize homosexuals as some kind of social outlaws. Freedom is the heart of American morality and that is best expressed by allowing it even to and for those who we might like least. Freedom is always most severely tested in the crucible of dissent. If Americans, and particularly if we who live in New York, cannot tolerate and accommodate to the different, we will have risked the security of our most precious asset: pluralism. As a Jew, one who has known what dislike of the unlike can turn into, I shudder to think what might happen if we lose our capacity for toleration. I, therefore, most strongly urge this body's support for the pending civil rights legislation as represented in Int 2.