

his CCP constantly show us that their view of denying their own people's freedom at home and disrupting other countries' freedom through the Indo-Pacific has two goals that actually go hand in hand. For thugs and dictators, repression at home and aggression abroad are two sides of the same coin.

So when we see the mismanagement and dysfunction from regimes like Putin's and Xi's, the answer is not—not for America and our allies to relax our vigilance, pull inward, or pay less attention to our global interests; the answer is to increase our vigilance, redouble our strength, and keep our friends and partners even closer.

The Biden administration's statement yesterday on the Chinese people's protest was actually too tepid. But what we need are not just stronger short-term words but stronger long-term actions and strategies.

The support that America and our friends have provided to Ukraine has not just been an act of philanthropy to an innocent people who deserve help fighting off the invaders; it is also bringing major benefits to the United States and our partners in the most practical terms.

In the course of fighting for their homes and families, the brave people of Ukraine are seriously degrading the abilities of one of the free world's greatest self-appointed adversaries to deal out violence. Putin and other wannabe tyrants the world over are learning that the cost-benefit calculus to bullying and bloodshed doesn't look like they thought it would.

The importance of this deterrence goes beyond just Europe. China has spent decades investing steadily in military technologies that increase threats to U.S. forces and our allies in the region. The CCP has steadily built military installations in the South China Sea, like a bully standing on a street corner, trying to grab control over international waters and shipping lanes. China has spent years methodically building up the very capabilities it would need to seize Taiwan by force if its people refuse to bend the knee, as we have already seen them do in Hong Kong.

So clearly we need to invest in our own strength, in our own alliances, in our own military modernization and defense industrial base.

The United States needs a strong, well-equipped military capable of preserving the strategic advantage and projecting power anywhere in the world. We need allies and partners willing to invest in their own capabilities. We need our private sector and our partners to understand that free peoples ought to be doing more trading among ourselves but be a lot more careful locating their capital and their employees in a repressed country that disregards basic freedoms and steals intellectual property on an industrial scale.

We need a sufficient military industrial base to keep ourselves safe and re-

main the free world's arsenal—a win-win for our security and for our economy. Among other things, that means rebuilding munitions stockpiles and weapons inventories that have been allowed to atrophy since the end of the Cold War. It means not waiting to arm and train our partners until a bad actor has already started a war. It means not wasting American strength and credibility, as this administration has done by desperately chasing sweetheart deals with Iran and abandoning Afghanistan with no strategy.

Providing for the common defense is one of our basic duties here in Congress. The Democratic leader should have prioritized the National Defense Authorization Act months ago. I am glad we will finally be turning to this essential bill shortly. Strong funding and strong authorization for our national security should never have to be a partisan issue. I know our Democratic friends have internal disagreements about what level of funding our Armed Forces deserve, but Republicans can guarantee this much: Our side will keep standing strong for American security and American strength.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. SINEMA).

RESPECT FOR MARRIAGE ACT— Continued

The PRESIDING OFFICER. The Senator from Colorado.

CLUB Q SHOOTING

Mr. BENNET. Madam President, before the Thanksgiving break, I planned to use my time today to talk about the Respect for Marriage Act, with which the Presiding Officer has had such an important role playing, and I want to congratulate her on the incredible work that she has done to get this over the finish line, because we are on the verge of passing the Respect for Marriage Act in the U.S. Senate. It is a historic piece of legislation to ensure that if a same-sex or interracial couple marries in one State, that every State has to honor that marriage. The Federal Government has to honor that marriage as well.

There may be no right closer to the heart than marrying the one that you love, and Colorado understands that. And I was going to come down here to talk about how, over decades, my State has led the way on equality. We recognized civil unions in 2013. We banned conversion therapy in my State. We passed our own version of the Equality Act in Colorado.

I was going to come down here and tell you about how Colorado understands what equality has come to mean

in America in 2022, but in the last week, I have been reminded again just how far we have to go.

Last Sunday, Coloradans woke up to the news that Club Q—a loving, accepting, 20-year old LGBTQ club in Colorado Springs—had been the target of a mass shooting. Five Coloradans were killed, and at least 22 were injured.

In the days since, Coloradans have described Club Q as a center of community building, a place where everyone could be their true selves and live without fear.

Club Q's owner, Nic Grzecka, said he founded the club to “be that safe place for people to come and feel and understand that they are normal—that the way they feel is normal and there are people just like them.”

As a father, that is what I hope for my three daughters, and, as a former school superintendent, that is what I wish for the children that I worked for. We want our kids to feel normal and loved and like they belong.

But on November 19, these feelings of safety and acceptance that Club Q had built over two decades were shattered. On the same day that we recognized Trans Day of Remembrance, we added more names to the solemn toll in this country, when a violent young man, radicalized by hateful and divisive rhetoric, killed five people and forever changed a community, forever changed my State.

In minutes, he robbed from us brothers and sisters and daughters and sons, friends, and loved ones, who were there just being themselves, not bothering anybody.

He took from us Derrick Rump, a 38-year-old bartender and co-owner of Club Q, who bought groceries for others during the hardest 2 months of the pandemic; Daniel David Aston, 28 years old, a bar supervisor known as the “master of silliness” because of his contagious happiness and joy; Kelly Loving, 40 years old, who had just moved to Colorado and was trying to enjoy a weekend trip to Colorado Springs; Ashley Paugh, 35 years old, a devoted mother and nonprofit worker, who loved hunting and fishing, like so many other Coloradans, and was there to support the community; and Raymond Green Vance, 22 years old—22 years old—who grew up in Colorado Springs and had just started a new job and was saving up for his own apartment.

I am thinking of them and their families and all of those who survived this terrible tragedy in Colorado—people who imagined that there was one space that you could go to feel safe, and then this happens.

It fills me with rage that it happened. It fills me with sadness. It should fill the entire Senate with rage and sadness.

And if it weren't for the courage of people like Richard Fierro and Thomas James, the list of names I read, already too long, would have been longer.

Thomas James, a petty officer second class in the Navy, used his military crisis training to help subdue the

attacker. He said he jumped into action because he “simply wanted to save the family [he] found” at Club Q.

And Richard Fierro. Richard Fierro, an Iraq and Afghanistan combat veteran, was watching a friend’s performance with his wife, daughter, and friends inside the club when the gunfire started, and his protective instincts—Richard’s protective instincts from four combat deployments—kicked in. He said he went “into combat mode.”

No one enjoying a night with their friends and their family should have to go “into combat mode” in the United States of America. That is not the country that I grew up in.

It is our country today. It is the country that the pages in this institution are inheriting from us. My daughter’s generation and the children I used to work for in the Denver Public Schools, they bear a burden that I never bore growing up in the United States. They have grown up living with a reasonable fear that they could be shot in their classrooms or in their churches or in a grocery store or in a bar that is the one safe place in their community that they could go to.

In 2020—the pages that are here may not know this. In 2020, the leading cause of death for kids in America was guns—guns—not car accidents, not drugs, but guns.

In one study of 29 industrialized countries, the United States accounted for 97 percent of firearm deaths among children 4 years old and younger. That is almost 100 percent of the kids who are dying on planet Earth from gunfire who are 4 years old and younger. What a disgrace. What a disgrace.

We shouldn’t need to count on a stranger’s bravery when we go to a birthday party. We shouldn’t need to count on a stranger’s bravery when we go to the grocery store.

It was just last year when I spoke on this floor to remember the lives we lost in Colorado at a King Soopers in Boulder, and it is with unimaginable pain that I am here once again on this floor with a list of names of people who have lost their lives senselessly.

Colorado is hurting. We are tired of this. For more than two decades, we have had to grieve over one incident after another.

So while we stand here on the verge of taking a historic step toward equality—a vitally important step toward equality—we are reminded once again of just how much work is left to do to give our children the safe and accepting future that they deserve, that they want to have, that we are obligated to give them. We haven’t finished that work in the U.S. Senate.

Earlier this year, the Supreme Court stripped away the first fundamental right since Reconstruction by overturning a 50-year precedent in *Roe v. Wade*, and in that decision, the majority took aim at the fundamental right of privacy and, with it, the right of every single American to marry whom they love.

It is a profound reminder—once again, a reminder—to everybody in this body and to the country, that our history has been from the very beginning a battle between the highest ideals that humans have ever written down on the page—the words in the Constitution of the United States—and the worst impulses in human history.

And when a Justice of the Supreme Court writes that if it wasn’t a freedom in 1868, it is not a freedom today, we are in that struggle today.

When a 22-year-old can walk into a club and kill 5 people and wound more than 20 people, we are in that struggle today.

The reason we are here today doing the important work that we are doing in the marriage act that we are passing today is that Americans understand that no good comes from hoarding freedoms and equality. They know that when we take the opposite view, we act against our best traditions, against our highest ideals. As a nation, we will never flourish if we choose to depend on a permanent underclass, deprived of some or all of the rights and freedoms others enjoy.

Free people do not remain free by denying freedom to others. Today, the Senate of the United States stands on the precipice of advancing freedom, of advancing equality, of moving us closer to our highest ideals.

But, tomorrow, we have more work to do to live up to the words of our Constitution and to realize the promise of equality for all of our citizens.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LEE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 6482 TO AMENDMENT NO. 6487

Mr. LEE. Madam President, I call up my amendment No. 6482, and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The senior assistant legislative clerk read as follows:

The Senator from Utah [Mr. LEE], for himself and others, proposes an amendment numbered 6482 to amendment No. 6487.

The amendment (No. 6482) is as follows:

(Purpose: To improve the bill)

At the end, insert the following:

TITLE II—RELIGIOUS BELIEFS AND MORAL CONVICTIONS

SEC. 201. PROTECTION OF THE FREE EXERCISE OF RELIGIOUS BELIEFS AND MORAL CONVICTIONS.

(a) IN GENERAL.—Notwithstanding section 7 of title 1, United States Code, section 1738C of title 28, United States Code, or any other provision of law, the Federal Government shall not take any discriminatory action against a person, wholly or partially on the

basis that such person speaks, or acts, in accordance with a sincerely held religious belief, or moral conviction, that marriage is or should be recognized as a union of—

(1) one man and one woman; or

(2) two individuals as recognized under Federal law.

(b) DISCRIMINATORY ACTION DEFINED.—As used in subsection (a), a discriminatory action means any action taken by the Federal Government to—

(1) alter in any way the Federal tax treatment of, or cause any tax, penalty, or payment to be assessed against, or deny, delay, or revoke an exemption from taxation under section 501(a) of the Internal Revenue Code of 1986 of, any person referred to in subsection (a);

(2) disallow a deduction for Federal tax purposes of any charitable contribution made to or by such person;

(3) withhold, reduce the amount or funding for, exclude, terminate, or otherwise make unavailable or deny, any Federal grant, contract, subcontract, cooperative agreement, guarantee, loan, scholarship, license, certification, accreditation, employment, or other similar position or status from or to such person;

(4) withhold, reduce, exclude, terminate, or otherwise make unavailable or deny, any entitlement or benefit under a Federal benefit program, including admission to, equal treatment in, or eligibility for a degree from an educational program, from or to such person; or

(5) withhold, reduce, exclude, terminate, or otherwise make unavailable or deny, access or an entitlement to Federal property, facilities, educational institutions, speech fora (including traditional, limited, and non-public fora), or charitable fundraising campaigns from or to such person.

(c) ACCREDITATION; LICENSURE; CERTIFICATION.—The Federal Government shall consider accredited, licensed, or certified for purposes of Federal law any person that would be accredited, licensed, or certified, respectively, for such purposes but for a determination against such person wholly or partially on the basis that the person speaks, or acts, in accordance with a sincerely held religious belief or moral conviction described in subsection (a).

SEC. 202. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert an actual or threatened violation of this title as a claim or defense in a judicial or administrative proceeding and obtain compensatory damages, injunctive relief, declaratory relief, or any other appropriate relief against the Federal Government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) ADMINISTRATIVE REMEDIES NOT REQUIRED.—Notwithstanding any other provision of law, an action under this section may be commenced, and relief may be granted, in a district court of the United States without regard to whether the person commencing the action has sought or exhausted available administrative remedies.

(c) ATTORNEYS’ FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting “title II of the Respect for Marriage Act,” after “the Religious Land Use and Institutionalized Persons Act of 2000.”

(d) AUTHORITY OF UNITED STATES TO ENFORCE THIS TITLE.—The Attorney General may bring an action for injunctive or declaratory relief against an independent establishment described in section 104(1) of title 5, United States Code, or an officer or employee of that independent establishment, to

enforce compliance with this title. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

SEC. 203. RULES OF CONSTRUCTION.

(a) NO PREEMPTION, REPEAL, OR NARROW CONSTRUCTION.—Nothing in this title shall be construed to preempt State law, or repeal Federal law, that is equally or more protective of free exercise of religious beliefs and moral convictions. Nothing in this title shall be construed to narrow the meaning or application of any State or Federal law protecting free exercise of religious beliefs and moral convictions.

(b) NO PREVENTION OF PROVIDING BENEFITS OR SERVICES.—Nothing in this title shall be construed to prevent the Federal Government from providing, either directly or through a person not seeking protection under this title, any benefit or service authorized under Federal law.

(c) NO AFFIRMATION OR ENDORSEMENT OF VIEWS.—Nothing in this title shall be construed to affirm or otherwise endorse a person's belief, speech, or action about marriage.

(d) SEVERABILITY.—If any provision of this title or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected.

SEC. 204. DEFINITIONS.

In this title:

(1) FEDERAL BENEFIT PROGRAM.—The term “Federal benefit program” has the meaning given that term in section 552a of title 5, United States Code.

(2) FEDERAL; FEDERAL GOVERNMENT.—The terms “Federal” and “Federal Government” relate to and include—

(A) any department, commission, board, or other agency of the Federal Government;

(B) any officer, employee, or agent of the Federal Government; and

(C) the District of Columbia and all Federal territories and possessions.

(3) PERSON.—The term “person” means a person as defined in section 1 of title 1, United States Code, except that such term shall not include—

(A) publicly traded for-profit entities;

(B) Federal employees acting within the scope of their employment;

(C) Federal for-profit contractors acting within the scope of their contract; or

(D) hospitals, clinics, hospices, nursing homes, or other medical or residential custodial facilities with respect to visitation, recognition of a designated representative for health care decisionmaking, or refusal to provide medical treatment necessary to cure an illness or injury.

Mr. LEE. Madam President, today, as popular winds blow against the man and woman of faith, we should look to the Constitution and remember that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . .” We do a disservice to all Americans if we elevate the rights of one group at the expense of another.

On the one hand, there is no existing threat to same-sex marriage. It is and will remain legal nationwide regardless of the outcome of this legislation before us, the Respect for Marriage Act. On the other hand, we have current,

real, sustained ongoing assaults on religious freedom.

How we proceed today will do nothing to the status quo of same-sex marriage in this country. It is legal and will remain legal regardless of the outcome of this legislation. It will, however, if enacted, have profound consequences for people of faith.

In the wake of the Dobbs decision, proponents of this legislation have conjured up a series of hypothetical scenarios, resulting in an imagined threat to the ability of same-sex couples to marry and enjoy the privileges of marriage.

The rhetorical slippery slope goes something like this: First, they claim that some unknown, unnamed State is on the verge of passing an unknown, yet-to-be-proposed or imagined law prohibiting same-sex marriage. Next, they imagine that Federal district courts will uphold this hypothetical State law despite the crystal-clear direction within the Dobbs and Obergefell opinions from the Supreme Court.

Should that adventure of unlikely hypotheticals transpire, they envision a case making its way all the way up to the Supreme Court of the United States. All of this despite the lack of political will anywhere in the United States to prohibit same-sex marriage.

Should that happen, proponents of this bill contend that there is a nonzero chance that one Justice could decide to analyze the right to marry not through the prism of substantive due process, as it has been since Obergefell was decided in 2015, but rather through the lens of the 14th Amendment's privileges or immunities clause.

Proponents of the bill cite a single line within Justice Thomas's concurring opinion and suggest that one Justice could effectively destroy legal recognition of same-sex marriage not just prospectively but undoing currently legal same-sex marriage.

Now, this is a complete fantasy. I am not aware of a single State in the United States threatening to pass any law infringing the ability of any same-sex couples to marry or enjoy privileges associated with marriage; nor am I aware of a single State threatening to invalidate, within their borders, marriages entered into in other States; nor is it at all clear that Justice Thomas himself was suggesting that Obergefell be overturned. He was suggesting that it be analyzed, like all substantive due process jurisprudence, to figure out whether there might be another provision of the Constitution under which it might be more appropriate.

They are attributing to him statements he didn't make. They are attributing to him analysis he didn't even undertake in that one statement regarding the doctrine of *stare decisis*, and then they are attributing to States intentions they do not have and have not expressed.

My colleagues have yet to offer even a single example of a same-sex mar-

riage threatened by any current or pending State legislation—not one, not a single one—and they intentionally misinterpret Justice Thomas's concurring opinion in Dobbs and claim that the sky is falling. But it is just not happening.

Unfortunately, we are aware of case after case where individuals, charities, small businesses, religious schools, and religious institutions are being hauled into courts to defend themselves for living out their faith. These people are not committing hate crimes against their neighbors. No, they are not abusing peers for their personal choices either.

No, they are being hauled into courts across this country for serving the poor, the needy, and the refugee in compliance with their sincerely held religious beliefs. In Texas, the United States Conference of Catholic Bishops is currently being sued for operating in accordance with Catholic beliefs regarding marriage while providing foster homes for unaccompanied minor children.

Now, proponents of this bill claim that these charities will be free to continue to operate. However, in that case, the question is whether, because the Conference of Catholic Bishops receives Federal funding to help with its work, it might be operating under color of law. If accepting grants and licenses from the government makes you an actor under color of law, then many of our religious charities and schools will be threatened by this legislation, which relies on that unnarrowed, undefined phrase. Either the U.S. Conference of Catholic Bishops can cease operating according to its religious tenets or abandon its God-given mission to care for the refugee.

In at least three other cases, religious childcare service agencies deemed to be acting under color of law are being shut out of foster care and adoption. These religious ministries can either abandon and cease to act according to their convictions, their religious convictions about marriage, or they can abandon the orphan.

This Nation and our orphans rely on these charities. We cannot and must not force that decision on them. That isn't who we are. From the very moment of our founding, we have been a nation that has welcomed people of all beliefs and of no belief at all.

In recent years, the Obama administration, through the U.S. Department of Education, compiled a so-called shame list outlining more than 200 faith-based colleges and universities seeking religious exemptions from title IX guidance on transgender and sex discrimination. It is highly likely that these organizations could also risk losing their 501(c)(3) status.

Considering that we are in the process of hiring 87,000 new agents within the Internal Revenue Service, it is not beyond the realm of possibility that some of these new IRS agents will be deployed specifically to review the tax-

exempt status of some of these traditionally exempt religious schools. These colleges and universities can either cease operating according to their religious convictions or run the risk of losing their ability to provide quality education at reduced prices. We may well find that they will not be able to do both, and that would be a tragedy.

Dr. Andrew Fox created a chaplaincy program at the Austin Fire Department, where he served as the lead chaplain in a volunteer capacity for 8 years, earning the trust and respect of local firefighters. In a personal blog—nothing connected to his work, just a personal blog—Dr. Fox shared his religious views, his religious views specifically regarding marriage.

City officials demanded he recant his statements and apologize for the harm that his blog post allegedly caused. He explained that he intended only to foster discussion and not cause offense, and he apologized if anyone was offended. His apology apparently wasn't enough for city officials who demanded total compliance with their preferred views on marriage, views that didn't embrace his own religious beliefs. They forced Dr. Fox to hand in his uniform. He could keep his job or his beliefs but not both.

We should not be surprised by the current state of affairs. After all, it was abundantly clear during the Obergefell oral argument before the Supreme Court that this threat to religious nonprofits would be forthcoming. The prescient exchange between Justice Alito and then-Solicitor General Donald Verrilli forecasted the present hostility and the corresponding threats to religious organizations.

Justice Alito asked whether, should States be required to recognize same-sex marriages, religious universities could lose their tax-exempt status. His response, the response from Solicitor General Verrilli, was chilling. He said:

[I]t's certainly going to be an issue. I don't deny that. I don't deny that, Justice Alito. It is going to be an issue.

It is an issue today, and under this legislation it will only get worse tomorrow unless we take affirmative steps to prevent that from happening. And we have the opportunity to do so here, and we shouldn't miss it.

Unlike the hypothetical but entirely nonexistent marriages being threatened or discriminated against, these religious organizations are currently, right now, in court fighting for their God-given and constitutionally protected rights to live and operate according to their beliefs and conscience. They are being targeted and harassed by those who would force them to abandon their convictions and embrace the convictions preferred by the government.

Sadly, the hostages at risk in this standoff are those who have benefited from the charitable work of these institutions: the poor, the hungry, the refugee, the student, and the orphan. Instead of resolving the concern posed by

Justice Alito, this legislation will put the weighty thumb of government on the scale against religious organizations and individuals.

Now, they say: Don't worry; you can still believe as you wish. But if, in living out your faith, you offend the views sanctioned by the government, you will suffer the consequences.

What do we get for this heavy sacrifice of religious freedom? Are we alleviating the suffering of same-sex families about to be destroyed by government interference? No. As I have said, we haven't heard of even one potential threat to same-sex marriage, not one. The only outcome we can expect from this legislation is for religious individuals, businesses, and institutions to spend more time and more money defending their God-given rights in court.

In our pluralistic society, we must be willing to compromise and adapt so that we might live peacefully, peaceably with one another. In that spirit of compromise, let us ensure that we are protecting families—both traditional and same-sex families—and that we are protecting the right to believe as we wish and live out those beliefs without government interference. I believe we can do both. In fact, I know we can do both.

Now, the Collins-Baldwin amendment takes a step in the right direction, and I am grateful for that. Rabbis, imams, and pastors should never be forced to perform a marriage contrary to their beliefs. But religious liberty is so much more than marriage. It entails so much more than what might go on within the four walls of a mosque, a synagogue, or a church. It certainly entails and must include the ability of people to practice their faith not only at church but at home and in the public square.

In the hope that we can come to a place where we respect each other, I have offered an amendment to this legislation that would explicitly minimize the threats to these religious organizations and individuals. I am at the table. I am willing to compromise. In the spirit of compromise, I have publicly stated—and I reiterate here again today—that I will support the legislation if my amendment is adopted.

My amendment simply prohibits the Federal Government from discriminating against schools, businesses, and organizations based on their religious beliefs about same-sex marriage. That is all it does. It is very simple, and I am grateful that we are going to have the chance to vote on it later today.

I am also grateful for the work of my friend and colleague Senator DAN SULIVAN from Alaska, who, working together with several of my other Republican colleagues, helped secure and schedule this vote. I am grateful to him for that effort.

My amendment prevents the Internal Revenue Service, among other things, from revoking the tax-exempt status of these charities and organizations simply because they act according to their beliefs about the divine purpose of

marriage. It prevents the Department of Education from targeting schools with honor codes based on the fact that they have got provisions in their honor codes based on religious beliefs.

It protects individuals from being denied business licenses or grants or other statuses based on their views about marriage. It protects Americans who wish to act according to their religious beliefs from being forced to abandon their God-given mandates to love, serve, and care for the poor, the orphan, and the refugee.

If we allow the government to threaten their ability to do so, then the religious liberty of every American is in peril. That is why I would ask those who have doubts about this to reconsider their doubts about my amendment. If they object to my amendment and are inclined to vote against it based on the fact that they regard it as unnecessary, then why not pass it.

This is a legitimate concern—some may argue this—I have been told by many of the bill's sponsors that my amendment is unnecessary because, according to them, the Collins substitute amendment contains protections that already accommodate this concern.

Now, the Collins substitute amendment does, in fact, contain some protections. I am grateful that those were included, and that is a meaningful step in the right direction. I must point out, however, that it doesn't do what my amendment does and therefore doesn't do what many of its proponents are claiming.

Nowhere in that legislation is a statement prohibiting the Federal Government from taking adverse action against an individual or an entity based on a sincere religious belief about same-sex marriage, whether that religious belief is one that embraces or does not embrace same-sex marriage. It does not do that. It instead says that nothing in this act shall be construed to alter or deny any status or benefit of any group. Those are two very different things.

That language does not do what my amendment does. You see, the threat is not and never was based on what the act itself would do. The act doesn't purport to itself deny or alter any status or benefit or right. So by taking that away, they are paying lip service to the need for my amendment, but they are not actually addressing it.

The threat has been present at least since Obergefell itself was decided for the reasons that prompted Justice Alito to ask then-Solicitor General Verrilli a question about it and the same reasons that prompted Solicitor General Verrilli to acknowledge that it was going to be an issue. Those same reasons exist today. They don't go away because of this legislation. If anything, they are enhanced. The risk is enhanced as a result of this legislation.

That is why this is the perfect opportunity, it is the right opportunity, it may very well be the only opportunity

to make sure that, as we are undertaking a legislative effort to codify rights for one group of Americans, we don't do so in a particularly un-American way; that is, enhance the rights of some at the expense of others. That is not how we roll. That is not how we do things in this country. We can protect both of these interests at the same time, just as we can walk and chew gum.

So for those who would say the Lee amendment isn't necessary because the Collins amendment already takes care of it, that is just not true. And even if it were true, why not accept the Lee amendment anyway? Which begs the question: Why wouldn't anyone want to deny the Federal Government the authority to retaliate against individuals, nonprofits, and other entities based on their sincerely held religious beliefs? Think about that for a minute. Why wouldn't they want to deny that very power from a government that may wield it in a way that is categorically abusive?

For my Republican friends who are sympathetic to the need for my amendment and are going to support it, I would ask that if they support it and if the amendment fails, that you not support the underlying bill, because if you support my amendment, hopefully, presumably, that means it is because you agree that it does something—that it does something necessary. It certainly doesn't counteract, contradict, or undermine the stated purpose of this bill in any way. So if you believe that it is necessary and you are going to vote for it, if it fails, you should oppose passage of this bill unless or until the Lee amendment is adopted.

We could get this done. I understand that it is not going to happen as long as there are at least 10 Republicans willing to join with every Democrat in order to support this legislation. But if even 3 of the 12 Republicans considering support for this legislation in the end—if even 3 of them supporting my amendment would decide not to support the bill unless or until the Lee amendment was added, I am confident—indeed, I am certain—that it could and would ultimately be adopted.

As I said, we must be willing to compromise to protect the interests of all. I urge my colleagues to support my amendment, which would ensure that all Americans would have certain rights and that their religious beliefs and their moral convictions will be explicitly protected and provide some comfort that Congress is not purposely passing laws that restrict the free exercise of religion.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 6493 TO AMENDMENT NO. 6487

Mr. LANKFORD. Madam President, on behalf of Senator RUBIO, I call up amendment No. 6493 and ask that it be reported by number.

The PRESIDING OFFICER. The clerk will report by number.

The senior assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. LANKFORD), for Mr. RUBIO, proposes an amendment numbered 6493 to amendment No. 6487.

The amendment is as follows:

(Purpose: To eliminate a private right of action)

Section 1738C of title 28, United States Code, as added by section 4, is amended by striking subsections (c) and (d) and inserting the following:

“(c) STATE DEFINED.—In this section, the term ‘State’ has the meaning given such term under section 7 of title 1.”

AMENDMENT NO. 6496 TO AMENDMENT NO. 6487

Mr. LANKFORD. I would like to also call up amendment No. 6496 and ask that it also be reported by number.

The PRESIDING OFFICER. The clerk will report by number.

The senior assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. LANKFORD] proposes an amendment numbered 6496 to Amendment No. 6487.

The amendment is as follows:

(Purpose: To improve the bill)

On page 3, beginning on line 3, strike “No person acting under color of State law” and insert “No State, territory or possession of the United States, or Indian Tribe”

On page 3, line 17, strike “person” and insert “State, territory or possession of the United States, or Indian Tribe”.

On page 3, strike lines 19 through 23.

On page 5, strike line 20 and all that follows through page 6, line 3, and insert the following:

(a) NO IMPACT ON BENEFITS, STATUS, OR RIGHTS.—Nothing in this Act, or any amendment made by this Act, shall be construed to deny or alter any benefit, status, or right (including tax-exempt status, tax treatment, educational funding, or a grant, contract, agreement, guarantee, loan, scholarship, license, certification, accreditation, claim, or defense) of any entity or person—

(1) if such benefit, status, or right does not arise from a marriage; or

(2) if such potential denial or alteration would be based in whole or in part on the belief, practice, or observance, of the entity or person about marriage.

On page 6, between lines 8 and 9, insert the following:

(c) NO IMPACT FROM PARTNERSHIPS.—For purposes of this Act, and any amendment made by this Act, no faith-based organization shall be considered to be acting under color of State law on the basis of any partnership the organization entered into with a government.

Mr. LANKFORD. Madam President, in 2015, after the Obergefell decision came down from the Supreme Court, putting same-sex marriage as the law of the land, President Obama made a statement to the country. He came and spoke to the country when there was a lot of heat and a lot of emotion going on around the country around that particular decision. He was supportive of the Obergefell decision, but he made this statement. At that time, President Obama said:

I know that Americans of goodwill continue to hold a wide range of views on this issue. Opposition in some cases has been based on sincere and deeply held [religious] beliefs. All of us who welcome today's news should be mindful of that fact; recognize different viewpoints; revere our deep commitment to religious freedom.

That is a wise statement from President Obama during that time period to be able to say: There are going to be a lot of views. We as Americans need to have a wide set of conversations about same-sex marriage and about how we reverse marriage in general. There are different religious views, different perspectives.

Now we are approaching a bill that will be voted on in just about 2 hours. This bill has a section in it dealing with marriage, and it says it has certain religious protections in it.

As I read the bill initially to be able to check the religious protections that are in it, I was surprised at some things that were in it, and I was surprised at some of the things that were left out. So our team went to work writing an amendment to address the specific issues in this bill. We narrowly tailored this bill for our amendment, and we addressed it. Why? Because we were the only ones who thought there was a problem? Actually, no, we weren't the only ones who saw this bill as a problem dealing with religious liberty. In fact, religious liberty groups all over the country and religious institutions started contacting our office and putting out their own statements in opposition to this bill, saying the bill as currently written, even with the “religious protections” in it, does not actually protect the religious liberty of all Americans.

This is just a short list of groups who are in strong opposition to this bill: the Alliance Defending Freedom, the American Association of Christians Schools, CatholicVote, the Center for Urban Renewal and Education, the Centennial Institute, the Christian Employers Alliance, Concerned Women for America, Eagle Forum, the Ethics and Public Policy Center, the Ethics and Religious Liberty Commission, the Faith and Freedom Coalition, the Family Research Council, the Family Policy Alliance, Focus on the Family, Heritage Foundation, Liberty Counsel, Lifeline Children's Services, the National Religious Broadcasters, the Religious Freedom Institute, the U.S. Conference of Catholic Bishops, Samaritan's Purse. The list goes on and on and on of organizations and entities that read through this bill and said there are major concerns with the religious liberty portions of this bill.

Now, I am well aware that there are also groups who have put out a statement and said that they are comfortable with it, that it would protect them, but other organizations are putting out statements and saying: Yeah, that is nice for you, but it actually wouldn't protect us and our members.

There are three major concerns that are in the bill itself under the issue of religious liberty, and if these three things are not changed in this bill, it will put the issue of religious liberty at great risk for millions of Americans who, as President Obama said, hold sincerely held beliefs that are different.

The first is this: There is a section in the very beginning of the bill where it

says any entity that is acting under the color of State law, and then it puts all the restrictions there on them. That is a broadening, actually, of what Obergefell actually did. This says any entity, actually, or individual who is acting under color of state law. What does that mean? Most people don't live in that legal kind of counsel. Well, this would be an entity that a State actually hires to fulfill something for them on behalf of the State.

Let me give you a for-instance on this. A private prison may be one of those examples, but it could also be adoption agencies, foster care agencies. It could be an entity that actually does housing for immigrant and migrant families. It could be a homeless shelter that is contracted by the State to be able to provide services. It could be any number of entities. Many of these entities are actually done by religious organizations that the State actually contracts with them to be able to do those services. In this new statute, if this passes in 2 hours, there would be a new restriction on those religious entities that formally held contracts that then would very well be pushed out from providing those services.

Let me remind you, our Nation functions under not just government operations but cooperation with families and with faith-based entities and nonprofit entities around the country. Our safety net, I talk about often—our first safety net is the families, the second safety net is nonprofit entities, and the third safety net is government. Many governments partner with nonprofit—including faith-based—entities to be able to carry out social services. For those entities, they would now have a target on them because they are functioning under the color of State law, and they would have new restrictions. So their choice would be either not to provide those services or to abandon their faith.

Now, what are the challenges to them in particular in this? Well, the first challenge is that they would face litigation from the Attorney General's Office. The second challenge would be they now face a new what is called a private right of action. That is what the second area my amendment specifically deals with. First, it corrects this looping into lots of new faith-based entities and saying: You are now a State actor; you are under new restrictions. The second one would be this private right of action.

The private right of action would now be—anyone who is functioning “under the color of State law” would now be a target from an individual who senses that they have been harmed by the entity. Now, it is not defined—what “harmed” means—in this new statute; it just says that if someone feels they have been harmed by it, they would now have the opportunity to be able to sue someone else because of that.

It is not hard for me to be able to say something that is fairly obvious; that is, if Congress creates a new right to

sue people, there will be a lot more lawsuits, and there will be new tests and evaluations on that. For anyone who believes that this new right to be able to sue people won't be used and won't be used quickly by lawyers and outside groups all around the country, you are kidding yourself. What will happen in the days ahead, there will be—who knows?—countless numbers of lawsuits testing every new definition of what, under the color of State law, what a partnership with government might look like. Whether that is a vendor who is at an official State event or whether that is an entity that is providing something like a private prison or adoption services, they will all face lawsuits and challenges in the days ahead by entrepreneurial attorneys testing out the limits of this new law.

We don't know what those limits will be determined by the courts. We have no idea because it is not defined what it means when they say they have been harmed and what that definition might mean to different courts around the country. But we do know this is going to be a major issue.

My first question is, Why is this even included in this bill at all? There is already a protection that the State has the opportunity to be able to make sure they are enforcing the law within their State. This new private right of action, though, goes above and beyond that and gives the opportunity for entrepreneurial lawyers to be able to practice their craft at the detriment of entities all over the country.

What it really does is it silences any individual who may disagree and discourages any faith-based entity from cooperating with government; to say, if you want to be able to partner with the State in the area, you probably aren't welcome here because you don't share the same beliefs.

The third big issue that we try to correct in this that is a major problem in this bill is, in the bill, if you actually read from the text 7(a)—now, 7(a) probably means nothing to many people outside this room, but the 7(a) section is designed to be able to protect the rights of individuals or entities not to be able to lose their nonprofit status or grants or contracts or whatever it may be, but it has very specific language that is built into this. The specific language is, if that benefit or right does not arise from a marriage. It is very carefully written.

When I passed it around to different attorneys to say what does it mean, it has been fascinating to me to learn different interpretations of this statute. This particular section 7(a) is written so vague that it is very difficult to understand what it does mean, but it is very clear what it doesn't mean.

When it says all these different rights that have been granted based on does not arise from a marriage, it doesn't include your belief about marriage. It just says does not rise from a marriage.

Why do I say that? Our amendment actually includes the belief about mar-

riage included into it to make it very, very clear that if you have a different belief about marriage, you won't lose your nonprofit status, you won't lose your opportunity to have grants or contracts, but that is not included in this statute.

What is included in the statute is just does not arise from a marriage. That will be a problem in the courts and, unfortunately, that will have to be litigated until that is actually determined what it would mean.

What we could do instead is pass my amendment. The amendment makes it very clear. What I hear from even some of the bill's sponsors is they say: No, this is what it is intended to mean. I look at it and say: That is not what it actually says.

So let's have that section say what you actually intended for that to say to make it clear. Let's take away the private right of action so that people around the country aren't perpetually worried about a lawsuit coming at them constantly. Let's take away this under the color of law section so that there is not a fear of faith-based nonprofits not partnering with their own government for fear government would step in and say: Oh, if you are going to partner with us, then you have to surrender these different beliefs.

Again, I have had individuals who are sponsors of this bill say none of those things are what we intend. But courts don't rule on intentions of Congress; they rule on the text that we actually put out.

Those are three major problems in this text. If they are not corrected and if they are not corrected today, my fear is President Obama's statement of just 7 years ago that we would not “recognize different viewpoints [and] revere our deep commitment to religious freedom” would today be ignored.

I encourage the adoption of my amendment, and I encourage everyone in this body to ask a very simple question of themselves: Is today about respecting the rights of all or is it about silencing some and respecting others?

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Madam President, I come to the floor today in support of the Respect for Marriage Act. I want to summarize my remarks, though, and ask unanimous consent that my full remarks be printed in today's RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PORTMAN. The Supreme Court declared same-sex marriage as a constitutional right way back in 2015, and the overwhelming majority of Americans support that group. According to Gallup, over 70 percent of Americans believe same-sex marriage should be recognized as valid under law, including a majority of Republicans.

Despite this strong support, the U.S. Code does not reflect that consensus in America. Current legislation allows States and the Federal Government to

refuse to recognize valid same-sex marriages. While it is true the Supreme Court has held this law is not enforceable, it still represents Congress's last word on the subject. The American people rightly expect their elected representatives to bring our laws in line with their beliefs. That is part of what this legislation does.

It is time for the Senate to settle the issue. The Respect for Marriage Act, which passed the House with overwhelming partisanship support, including the support of 46 Republicans on the House side, simply allows interracial or same-sex couples who are validly married under the laws of one State to know that their marriage will be recognized by the Federal Government and other States if they move. This is all in accordance with well-established Supreme Court precedence.

Settling this issue is well within the constitutional authority of us here in Congress. After all, the full faith and credit clause is part of our Constitution.

Since the bipartisan passage of this bill by the House of Representatives earlier this year, in response to concerns over religious liberty, this already narrow bill has been significantly amended in the Senate to include robust religious liberty protections. By working collaboratively on a bipartisan basis with religious liberty scholars; faith organizations; Senate colleagues, including some I see on the floor here today; and other stakeholders, we have developed a substitute amendment that contains important protections for people of faith. It has five key changes to the underlying bill.

Remember, this is a bill that already passed the House with 46 Republican supporters, but these are religious liberty provisions that we have added to it.

First, it has an express acknowledgment that decent and honorable people hold diverse views about the role of gender and marriage and that such people and their beliefs are due respect. This is an important statement that has implications that protect religious liberty.

Second, it explicitly protects all existing religious liberty and conscience protections under the First Amendment and Federal laws including the powerful protections provided by the Religious Freedom Restoration Act.

Third, it guarantees that this bill cannot be used to target or deny benefits, including tax-exempt status, grants, contracts, educational funding, licenses, accreditation, certification, and many others because a person or organization holds a traditional belief about marriage. This protects everything from the tax status of religious nonprofits to the accreditation of religious schools, to the contracts between faith-based adoption providers and the government from being attacked using this bill.

Fourth, it ensures that nonprofit religious organizations, including

churches, mosques, synagogues, religious schools, and others cannot be required to provide facilities, goods, or services for marriage ceremonies or celebrations against their will.

Fifth, it has an explicit prohibition on the recognition of polygamous marriages.

These religious liberty provisions are significant and they are meaningful and they have earned the endorsement of important faith groups. In a joint letter to the Senate, eight different faith-based organizations, including the Church of Jesus Christ of Latter-day Saints, also known as the Mormon Church; the Seventh-Day Adventist Church; the Union of Orthodox Jewish Congregations of America; the Council for Christian Colleges & Universities; the Center for Public Justice; the AND Campaign; the Institutional Religious Freedom Alliance; and the 1st Amendment Partnership—all of them concluded that our religious liberty amendments “[protect] the core religious freedom concerns raised by the bill, including tax exempt status, educational funding, government grants and contracts, and eligibility for licenses, certification and accreditation.” And they said: “If passed, it would continue to build on the congressional wisdom represented by the Religious Freedom Restoration Act of 1993.” So that is what these religious groups—that is what they say about it. They helped write the language.

A group of leading religious liberty scholars and advocates for religious liberty have analyzed the bill, and they have reached the same conclusion. These scholars include, by the way, Professor Doug Laycock, who argued on behalf of faith groups and won two foundational religious liberty cases before the U.S. Supreme Court. On balance, a group of these distinguished professors determined that this bill is an “advance for religious liberty” because, as they say, the “protections are important.”

Notwithstanding these important protections and the opinion of leading experts in the field, the critics of this bill continue to level accusations about what this bill does that are simply not accurate.

First, some critics claim this bill provides grounds for the IRS or other government bodies to revoke the tax-exempt status or other benefits from religious organizations that adhere to traditional views on marriage. This couldn't be further from the truth. Section 7(a) of our amendment actually expressly forbids the outcome that these critics are warning of. It prohibits the use of the bill to target the tax-exempt status, certification, accreditation, grant, funding, loan, license, or any other nonmarital status, right, or benefit of religious organizations. To quote Professor Laycock's analysis:

Those who claim that the bill would be used as a ground for denying tax-exempt status to organizations adhering to male-female

marriage, by analogy to Bob Jones, are disregarding the statutory text.

In addition to the statutory prohibition, this amendment contains a clear statement from Congress, again, that diverse beliefs about the role of gender in marriage, including the belief that marriage is between one man and one woman, come from decent and honorable premises and are due respect. This congressional statement distinguishes the belief that marriage should be between a man and a woman from the belief that interracial marriage is wrong. This distinction is important, and rather than portraying those who believe in traditional marriage as bigots, reflects a national policy that respects diverse beliefs about the role of gender in marriage, while also protecting the rights of same-sex married couples, and that is the key.

Second, some critics argue that this bill will lead to more litigation between “institutions and individuals trying to live according to their sincerely held religious beliefs.” This is also false. The bill only governs the conduct of State actors and contains no litigation tools that would be used against private religious entities acting in a private capacity, even the ones that receive the majority of their funding from the State. To quote, again, from Professor Laycock's analysis, the Respect for Marriage Act and our bipartisan substitute amendment “poses little or no new risk to religious liberty beyond those that already exist.”

Third, some critics continue to make the bewildering argument that this bill will lead to legalized and recognized polygamy. Again, this has no grounding in reality. No State allows bigamy or polygamy, and this bill does not change this. Moreover, our amendment explicitly says now:

Nothing in this Act, or any amendment made by this Act, shall be construed to require or authorize Federal recognition of marriages between more than 2 individuals.

Finally, some critics argue this bill is deficient because it does not contain new enforceable rights for private businesses and other entities beyond the scope of this bill. This bill, as legal scholars and many faith groups agree, poses no new risks to religious organizations, while containing significant benefits and protections for people of faith.

Of course, this bill does not cover or address every lawsuit or dispute that may arise between LGBTQ and religious interests, but it does address the disputes that could arise because of this bill.

In conclusion, I urge my colleagues to look carefully at the new religious liberty provisions. Take a look at it. I hope you will be able to support the Respect for Marriage Act. The substitute amendment is a carefully negotiated, well-crafted piece of legislation that protects people of faith as well as same-sex married couples. A statement in a recent letter from the Council for Christian Colleges & Universities accurately states that our amendment

“sends a strong bipartisan message to Congress, the Administration, and the public that LGBTQ rights can co-exist with religious freedom protections, and that the rights of both groups can be advanced in a way that is prudent and practical.”

I think that is the major point here. They can coexist. That is what our legislation proves. That is why it deserves the support, in my view, of our colleagues.

So I urge them to join me in taking this path forward to pass this bill with the same overwhelming bipartisan support we saw in the House of Representatives. The American people want us to settle this issue and millions of American couples who are married, including many in Ohio, are counting on us to recognize and protect their marriage and give them the peace of mind that they deserve.

I yield the floor.

Madam President, I come to the floor today in support of the Respect for Marriage Act. I hope the Senate will pass this important legislation today.

The Supreme Court declared that same-sex marriage is a constitutional right in 2015 and the overwhelming majority of Americans support this view. According to Gallup, over 70 percent of Americans believe that same-sex marriage should be recognized as valid by the law, including a majority of Republicans.

Despite this vast support, the U.S. Code does not reflect the American consensus. Current legislation allows States and the Federal Government to refuse to recognize valid same-sex marriages. While it is true that the Supreme Court has held that this law is not enforceable, it still represents Congress's last word on the subject. The American people rightly expect their elected representatives to bring our laws in line with their beliefs.

It is time for the Senate to settle the issue. The Respect for Marriage Act, which passed the House with overwhelming bipartisan support, simply allows interracial or same-sex couples who were validly married under the laws of one State, to know their marriage will be recognized by the Federal Government and by other States if they move in accordance with established Supreme Court precedent.

This short, narrow bill has two main effects, both of which are well within the constitutional authority of Congress.

First, it ensures that marriages legally performed in one State are recognized as valid in other States, regardless of sex or race. This is a straightforward application of the full faith and credit clause of the Constitution.

Under this clause, States are required to recognize things like court judgments and public records from other States. This bill will simply clarify that marriage is one of the things that must be recognized across State lines.

Second, this bill specifies that the Federal Government will recognize a

marriage that is valid in the State where it was performed. This portion of the bill keeps the Federal Government out of the business of defining marriage and leaves that decision to the States, where it properly belongs.

As you can see, this bill is extremely narrow, it is constitutional, and it does not infringe on State sovereignty. This is a bill that simply ensures, as a matter of statutory law, that interracial and same-sex marriages that were legal in the State they were performed will be recognized if the couple moves to a different State.

In response to concerns over religious liberty, since the bipartisan passage by the House of Representatives earlier this year, this already narrow bill has been significantly amended in the Senate to include robust religious liberty protections. By working collaboratively on a bipartisan basis with religious liberty scholars, faith organizations, colleagues, and other stakeholders, we have developed a substitute amendment that contains important protections for people of faith. This amendment contains five key changes to the underlying bill.

First, it contains an express acknowledgment that decent and honorable people hold diverse views about the role of gender in marriage and that such people and their beliefs are due respect.

Second, it explicitly protects all existing religious liberty and conscience protections under the First Amendment and Federal laws, including the powerful protections provided by the Religious Freedom Restoration Act.

Third, it guarantees that this bill cannot be used to target or deny benefits—including tax-exempt status, grants, contracts, educational funding, licenses, accreditation, certification, and many others—because a person or organization holds a traditional belief about marriage. This protects everything from the tax status of religious nonprofits, to the accreditation of religious schools, to the contracts between faith-based adoption providers and governments from being attacked using this bill.

Fourth, it ensures that nonprofit religious organizations, including churches, mosques, synagogues, religious schools, and others cannot be required to provide facilities, goods, or services for marriage ceremonies or celebrations against their will.

Fifth, it contains an explicit prohibition on the recognition of polygamous marriages.

These religious liberty provisions are significant, they are meaningful, and they have earned the endorsement of important faith groups that hold to an understanding that marriage is between one man and one woman. In a joint letter to the Senate, eight different faith-based organizations—including the Church of Jesus Christ of Latter-day Saints, otherwise known as the Mormon Church; the Seventh-Day Adventist Church; the Union of Ortho-

dox Jewish Congregations of America; the Council for Christian Colleges & Universities; the Center for Public Justice; the AND Campaign; the Institutional Religious Freedom Alliance; and the 1st Amendment Partnership—concluded that the religious liberty amendment “protects the core religious freedom concerns raised by the bill, including tax exempt status, educational funding, government grants and contracts, and eligibility for licenses, certification, and accreditation” and that, “if passed, it would continue to build on the congressional wisdom represented by the Religious Freedom Restoration Act of 1993.”

This view is not limited to faith groups. A group of leading religious liberty scholars have analyzed the bill and reached the same conclusion. These scholars include Professor Doug Laycock, who argued and won two foundational religious liberty cases before the Supreme Court. He argued on behalf of faith groups in the case *Church of Lukumi Babalu Aye*, the premier case on unconstitutional religious targeting, and *Hosanna-Tabor*, the leading case on the hiring rights of religious organizations. He won both unanimously.

Professor Laycock was joined by Professor Thomas Berg, Professor Carl Esbeck, and Professor Robin Fretwell Wilson in his analysis of the bill. Professor Berg has advocated for religious liberty in briefings before the Supreme Court, including in *Fulton v. City of Philadelphia* to defend the rights of faith-based adoption agencies. Professors Esbeck and Wilson have themselves authored briefs and influential texts on religious liberty. On balance, these distinguished professors determined that this bill is an “advance for religious liberty” because the “protections are important and [] any new risks it creates are quite limited.”

Notwithstanding these important protections and the opinion of leading experts on the issues, the critics of this bill continue to level incorrect accusations about what this bill does. I want to take a moment to respond to three arguments that opponents have made.

First, some critics claim that this bill provides grounds for the IRS or other government bodies to revoke the tax-exempt status or other benefits from religious organizations that adhere to traditional views on marriage. This couldn't be more wrong. Section 7(a) of the amendment expressly forbids the outcomes that the critics are warning of. It prohibits the use of this bill to target the tax-exempt status, certification, accreditation, grant, funding, loan, license or any other non-marital status, right, or benefit of religious organizations. To quote Professor Laycock's analysis: “Those who claim that the bill would be used as a ground for denying tax-exempt status to organizations adhering to male-female marriage, by analogy to Bob Jones, are disregarding the statutory text.”

In addition to this statutory prohibition, this amendment contains a clear

statement from Congress that diverse beliefs about the role of gender in marriage—including the belief that marriage is between one man and one woman—come from decent and honorable premises and are due respect. This congressional statement distinguishes the belief that marriage should be between a man and a woman from the belief that interracial marriage is wrong. This distinction is important, and rather than portraying those who believe in traditional marriage as bigots, reflects a national policy that respects diverse beliefs about the role of gender in marriage, while also protecting the rights of same-sex married couples.

Second, some critics argue that this bill will lead to more litigation against “institutions and individuals trying to live according to their sincerely held religious beliefs.” This is also false. This bill only governs the conduct of State actors and contains no new litigation tools that could be used against private religious entities acting in a private capacity, even ones receiving the majority of their funding from the State. To quote again from Professor Laycock’s analysis, the Respect for Marriage Act and our bipartisan substitute amendment “poses little or no new risk to religious liberty beyond those that already exist.”

Third, some critics continue to make the bewildering argument that this bill could lead to legalized and recognized polygamy. This has no grounding in reality. No State allows bigamy or polygamy, and this bill does nothing to change this. Moreover, our amendment explicitly says that “Nothing in this Act, or any amendment made by this Act, shall be construed to require or authorize Federal recognition of marriages between more than 2 individuals.” No court would entertain the fanciful arguments suggested by critics that a man married to multiple women is somehow not engaged in polygamous marriage.

Finally, some critics argue that this bill is deficient because it does not contain new enforceable rights for private business or other entities that apply beyond the scope of this bill. This is not a fair criticism. This bill—as legal scholars and many faith groups agree—poses no new risks to religious organizations, while containing significant benefits and protections for people of faith. Of course, this bill does not cover or address every lawsuit or dispute that may arise between LGBT and religious interests, but it does address the disputes that could arise because of the bill.

Having addressed these erroneous arguments and criticisms, I also want to take a moment to address the three amendments that we will vote on today. None of the amendments that we are voting on solve perceived problems created by this bill. As I just described, this bill is narrow, it provides no new risks to religious organizations, and it contains important protections for people of faith.

Senator LEE’s amendment provides new affirmative rights that allow people to sue the government—including lawsuits for money damages—if the government discriminates against their beliefs about marriage in any number of ways. Now, because of the significant protections and prohibitions that we have added, none of the discrimination contemplated by Senator LEE could occur because of the Respect for Marriage Act. In other words, this new right proposed by the Lee amendment goes far beyond the scope of the bill before us and seeks to address harms and resolve disputes that are not created by the Respect for Marriage Act. Although I disagree with Senator LEE that his amendment solves any potential problem created by the Respect for Marriage Act, I support the overall goal of providing a defense to discrimination in other contexts. I, therefore, will vote in favor of this amendment.

Senator LANKFORD and Senator RUBIO have proposed separate amendments, both which remove the private right of action from this bill. I do not support this change. It does not fix any alleged problem created by this bill or improve it in any way. A private right of action is a common way for Congress to allow Americans to enforce their statutory rights. It simply allows someone to go to court and to receive a judgment if they have been harmed. To illustrate just how common it is, Senator LEE’s amendment that I just discussed—and will support—also provides a cause of action.

There is no reason to strip the private right of action from this bill because it is extremely narrow and cannot be used against anyone acting in a private capacity. It also cannot be used to obtain money damages. This provision simply allows someone to get a court order requiring a State actor to recognize their valid marriage. Contrary to the claims of some critics, it absolutely does not allow lawsuits against private parties simply because they contract or receive funding from the government.

The right of action is a necessary enforcement mechanism for this bill and removing it could leave those who have their rights under this law violated without a remedy. In other words, it undermines the very purpose of this bill. I will not support the Lankford or Rubio amendments for this reason.

In conclusion, I urge my colleagues to look carefully at the new religious liberty provisions and to support the Respect for Marriage Act. The substitute amendment is a carefully negotiated, well-crafted piece of legislation that protects people of faith as well as same-sex married couples. A statement in a recent letter from the Council for Christian Colleges and Universities captures my views precisely, and so I will directly quote from it: This amendment “sends a strong bipartisan message to Congress, the Administration, and the public that LGBTQ rights

can co-exist with religious freedom protections, and that the rights of both groups can be advanced in a way that is prudent and practical.”

I urge my colleagues to join me in taking this path forward and to pass this bill with the same overwhelming bipartisan support that we saw in the House of Representatives. The American people want us to settle this issue once and for all. Millions of American married couples, including many in Ohio, are counting on us to recognize and protect their marriage to give them the peace of mind they deserve. We shouldn’t let them down.

The PRESIDING OFFICER. The Senator from Wyoming.

Ms. LUMMIS. My days since the first cloture vote on the Respect for Marriage Act, as amended, have involved a painful exercise in accepting admonishment and fairly brutal self-soul-searching—entirely avoidable, I might add, had I simply chosen to vote no.

The Bible teaches that marriage is between one man and one woman. I accept God’s Word, including God’s Word as to the definition of marriage. I support my church’s adherence to that Biblical pronouncement. I support Wyoming statute which codifies that definition. I find solace in people and organizations that share my beliefs.

I, and many like me, have been vilified and despised by some who disagree with our beliefs. They do not withhold bitter invective. They use their own hateful speech to make sure that I and others who believe as I do know that we are hated and despised by them. Americans on the other side of this issue can relate to ill treatment as well.

So why have I strayed with such anguish from a path that conforms to my beliefs, my instruction, my faith, to vote for the Respect for Marriage Act? The answer to that question lies in our history, in how we got here as a nation and as a people, and in where we are as a nation and as a people today.

In the 1600s, colonizers Roger Williams of Rhode Island and William Penn of Pennsylvania cited Scripture and the Protestant reformers to defer to God as the judge of conscience.

Williams referred to religious liberty as “liberty of the soul.” The charter of the Colony of Rhode Island required religious tolerance, “that all may . . . freely and fully have and enjoy his and their own judgments and consciences, in matters of religious concerns.”

George Whitefield’s groundbreaking message, without which these United States never would have come into being, emphasized an individual’s personal relationship with God, where previously the individual deferred to the church. These became foundational for our current American approach to the relationship between church and state.

In 2015, the U.S. Supreme Court, in its Obergefell decision, established a constitutional right to same-sex unions, using the term “marriage.”

Tens of thousands of same-sex American couples have married in reliance on that Supreme Court decision.

The term “marriage” now has two meanings: the Biblical and the secular. The Respect for Marriage Act, by design, references neither definition. It uses the term “individuals.” The act recognizes that both definitions exist and codifies that a marriage legally entered in one State will be legally accepted by the others. Further, the act provides protection from persecution by a government authority toward a church and its organizations of religious instruction that adhere only to the Biblical definition.

These are turbulent times for our Nation. Americans address each other in more crude and cruel terms than ever in my lifetime. It is jarring and unbecoming of us as human beings. It is highly intolerant, and, frequently, the most so when expressed by those who advocate for tolerance. Many of us ask ourselves: Our Nation is so divided. When will this end, and how will it end?

Just as when our Nation was founded, when the New World tore itself from the old, people of diverse faiths, beliefs, and backgrounds had to come to terms with each other, had to tolerate the seemingly intolerable about each other's views, and had to respect each other's rights, even before the Constitution enumerated those rights. They had to tolerate each other in order to survive as a nation. Somehow, most certainly with divine guidance, they did.

For the sake of our Nation today and its survival, we do well by taking this step, not embracing or validating each other's devoutly held views but by the simple act of tolerating them. And that explains my vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, before I begin my remarks, let me commend the Senator from Wyoming for her very moving and perceptive comments. I was very glad to be here on the Senate floor to witness her speech, which I think imparts valuable lessons for all of us to follow.

I rise today in support of the Respect for Marriage Act, which would ensure that all married couples—including same-sex and interracial couples—are entitled to the rights and responsibilities of marriage, regardless of the State in which they live.

Let us remember that we are talking about our family members, our neighbors, our coworkers, our friends. I am proud to have stood—and I will continue to stand—with them in the efforts to secure their rights, while also steadfastly protecting and respecting religious liberty.

With regard to marriage equality, the Respect for Marriage Act accomplishes two primary goals. First, it would guarantee that a valid marriage between two individuals in one State is

recognized by other States, regardless of the couple's sex, race, ethnicity, or national origin.

Second, it would require the Federal Government to recognize valid marriages between two individuals.

Our bill is also noteworthy, however, for the way that it advances the cause of religious liberty. Indeed, the substitute amendment that Senator BALDWIN and I introduced with Senators PORTMAN, SINEMA, and TILLIS, unambiguously adds significant religious liberty and conscience protections to the legislation.

These protections were developed in consultation with and have been endorsed by a wide array of faith-based groups. These include the Church of Jesus Christ of Latter-day Saints, the Seventh-day Adventist Church, the National Association of Evangelicals, the Union of Orthodox Jewish Congregations, the Council for Christian Colleges and Universities, the AND Campaign, the Institutional Religious Freedom Alliance, the Center for Public Justice, and the 1st Amendment Partnership.

Every single one of these entities believes that marriage is between a man and a woman—every single one of them. They support the religious liberty provisions in the substitute because these provisions provide important safeguards against government retaliation, as well as meaningful recognition of their beliefs embodied in public policy.

Prominent constitutional scholars agree. In a letter led by Professor Douglas Laycock of the University of Virginia School of Law, four constitutional scholars who have long advocated for religious liberty have concluded that the substitute amendment is “an advance for religious liberty.” They call it a “good and important step for the liberty of believers to follow their traditional views of marriage.”

Now, let me address some of the unfounded criticisms of our amendment. It has been suggested by some that the amended Respect for Marriage Act would somehow demean individuals who have traditional views on marriage. To the contrary, this legislation would explicitly recognize in Federal law, for the first time, that such views and the people who hold them are “due proper respect.” It reads:

Diverse beliefs about the role of gender in marriage are held by reasonable and sincere people based on decent and honorable religious or philosophical premises. Therefore, Congress affirms that such people and their diverse beliefs are due proper respect.

This finding directly rebuts the claim that the bill can be construed to establish a public policy against people of faith. It does precisely the opposite.

Opponents point to the example of an institution that lost its tax-exempt status on the basis of racially discriminatory policies that were contrary to public policy. That analogy ignores the important finding in our bill.

As Professor Laycock and his colleagues explained, “explicit congressional affirmation that the traditional male-female definition of marriage is ‘reasonable’ and ‘honorable’ would counter the analogy to racism and weaken the grounds for relying on Bob Jones”—that is a Supreme Court case—“to justify rejecting traditional believers’ religious-freedom claims.”

Despite this strong policy statement, some have continued to argue that the Respect for Marriage Act, with the substitute amendment, could still somehow be used to deprive religious organizations of their tax-exempt status. We have heard that on the floor today. This is simply false.

To avoid any ambiguity, the amendment states in section 7(a) that this bill cannot be used to deny or alter such status, as well as the “tax treatment, educational funding, or a grant, contract, agreement, guarantee, loan, scholarship, license, certification, accreditation, claim, or defense.”

In light of these provisions, the constitutional scholars concluded that “those who claim that the bill would be used as a ground for denying tax-exempt status to organizations adhering to male-female marriage . . . are disregarding the statutory text.” The very text of our bill would prohibit that.

Opponents of this legislation are also mistaken in asserting that it would provide new grounds on which to sue churches, nonprofit religious organizations, and people of faith based on their religious beliefs. This, too, is inaccurate.

The bill simply requires government actors to recognize valid marriages and provide marriage-based rights to which married couples are entitled, and it provides a way to pursue claims against those government actors only in instances where that recognition is denied. Government actors are already required to recognize same-sex marriages under the Supreme Court's decision in Obergefell, and the enforcement provisions in our amendment do not apply to individuals or religious organizations who are not government actors.

As the 1st Amendment Partnership, an organization dedicated to protecting religious freedom for Americans of all faiths, wrote in its analysis, “if you cannot be sued now under Obergefell, then you still can't be sued under the” Respect for Marriage Act.

Of course, providing a way to pursue rights in court when those rights are unlawfully denied is not unusual. Indeed, other amendments filed to this legislation contain private causes of action. The amendment offered by our colleague from Utah, Senator LEE, ironically would empower individuals to bring lawsuits even on the basis of “threatened violation[s].”

Notably, not only would the amended Respect for Marriage Act not diminish or abrogate any religious liberty or

conscience protection, it also would provide affirmative protections and litigation defenses for people and organizations of faith that do not exist under current law.

For instance, the amendment contains an affirmative protection that prohibits any religious nonprofit organization—including churches, synagogues, temples, mosques, religious schools, and faith-based social agencies—from being forced to provide goods, services, or accommodations in connection with the solemnization or celebration of a marriage against their beliefs. Moreover, the legislation flatly prohibits any litigation for such a denial.

The leader of one religious group recently wrote that our legislation, as amended, “sends a strong bipartisan message to Congress, the administration, and the public that LGBTQ rights can co-exist with religious freedom protections, and that the rights of both groups can be advanced in a way that is prudent and practical.”

I agree, and that is what our bill does. It advances the rights of couples—same-sex and interracial couples—who are married to one another, and it advances religious liberty.

I ask my colleagues to join me in supporting this important and historic step forward for religious liberty and for ensuring the dignity and respect for all Americans.

The PRESIDING OFFICER. The majority whip.

Mr. DURBIN. Madam President, I ask unanimous consent to speak for 5 minutes before the rollcall begins.

The PRESIDING OFFICER. Without objection.

Mr. DURBIN. Madam President, I am glad that I am on the floor today to hear the previous speakers. I think Senator COLLINS of Maine gave a thoughtful presentation about the substance of this bill and addressed many of the worries and criticisms that were raised on the floor earlier.

I think one thing stuck with me: If there is a protection under Obergefell, it is the same protection under this bill. It is not an expansion of rights.

But I also want to thank the Senator from Wyoming. That was an outstanding statement. It really was, and I join Senator COLLINS in commending her for saying it. I am sure her position has not been an easy one at home, but it reflects some thoughtful consideration on her part. Most importantly, it reflects her appeal to us in this Chamber and to the Nation to really seize this opportunity for tolerance. If there was ever a time when we needed more of that in this Nation, I can't imagine when it was. We need it now more than ever.

It wasn't but just a few days ago that there was a mass shooting involving those who were at a gay nightclub, and innocent people were killed. Now, more than ever, we need to stand up and say there needs to be tolerance in America, and her statement really touched my

heart. I thank her so much for coming to the floor and delivering it.

I take a look at this and say many times I have been critical of Supreme Court Justices, particularly Supreme Court Justice Thomas. We disagree more than we agree. But I, in a way, have to be grateful to him for bringing us to this moment because it was his statement in the *Hobbs* decision about the possibility of raising questions on other Supreme Court decisions that led us to the introduction of this Respect for Marriage Act.

I thank the Senators who led in that effort. I want to make sure that the RECORD reflects Senator BALDWIN, Senator COLLINS, Senator PORTMAN, who spoke on the floor earlier, and Senator SINEMA and Senator TILLIS, the original cosponsors—bipartisan cosponsors—of the Respect for Marriage Act.

What we are considering here is very fundamental. I went back to read *Obergefell*, and what Justice Kennedy wrote in that majority opinion was the acknowledgement that there is a constitutional protection based on due process and equal protection under the laws for same-sex marriage—fundamental. He said we don't have to wait on the legislature to spell this out; it already exists. And that, to me, says how powerful this issue is.

My wife and I are blessed to have so many friends who are in same-sex marriages and are wonderful people in so many respects. It has really opened our eyes to the reality of life for so many good Americans who simply want to have the opportunity under the law to marry the people they love.

The vast majority of Americans believe in that. I do, and I think what we are trying to do today is to protect that right as best we can. Maybe what we are doing is not as expansive as *Obergefell*, but it is a genuine good-faith effort.

Senator LEE, in his amendment, claims that it is necessary for his amendment to protect religious liberty. But he ignores the robust protections for religious liberty already in the Respect for Marriage Act.

The bipartisan substitute has been quoted over and over, but it bears repeating:

Nothing in this Act, or any amendment made by this Act, shall be construed to diminish or abrogate a religious liberty or conscience protection otherwise available to an individual or organization under the Constitution of the United States or Federal law.

Of course, the free exercise of religion must be protected. No one disputes that, and that is why the bipartisan substitute amendment makes clear that this bill does not override existing religious freedom protections.

I commend those religious organizations that have stepped forward, read this bill carefully, and supported it publicly. It is across the political spectrum and religious spectrum of America. I think they understand the lengths that we went—those of us who

supported it, as well as those who wrote it—in putting in provisions to protect the free exercise of religion.

But we must remember that this critical First Amendment right is a shield, not a sword. It cannot and must not be wielded to discriminate against individuals solely based on whom they love. We have seen too many who have tried to turn this crusade the wrong way. I hope today's vote on the U.S. Senate floor makes it clear that we are here to protect civil rights and not enable civil rights violations. We need to protect LGBTQ families and ensure that same-sex marriages are offered the same stability and dignity that all marriages are entitled to.

For these reasons, I oppose Senator LEE's amendment and encourage my colleagues to do the same.

I yield the floor.

VOTE ON AMENDMENT NO. 6482

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 6482, offered by the Senator from Utah, Mr. LEE.

Mr. DURBIN. Madam President, I ask unanimous consent to yield back all time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 6482.

Mr. DURBIN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Georgia (Mr. WARNOCK), is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Nebraska (Mr. SASSE) and the Senator from Pennsylvania (Mr. TOOMEY).

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—48

Barrasso	Graham	Murkowski
Blackburn	Grassley	Paul
Blunt	Hagerty	Portman
Boozman	Hawley	Risch
Braun	Hoeven	Romney
Burr	Hyde-Smith	Rounds
Capito	Inhofe	Rubio
Cassidy	Johnson	Scott (FL)
Cornyn	Kennedy	Scott (SC)
Cotton	Lankford	Shelby
Cramer	Lee	Sullivan
Crapo	Lummis	Thune
Cruz	Manchin	Tillis
Daines	Marshall	Tuberville
Ernst	McConnell	Wicker
Fischer	Moran	Young

NAYS—49

Baldwin	Casey	Hassan
Bennet	Collins	Heinrich
Blumenthal	Coons	Hickenlooper
Booker	Cortez Masto	Hirono
Brown	Duckworth	Kaine
Cantwell	Durbin	Kelly
Cardin	Feinstein	King
Carper	Gillibrand	Klobuchar

Leahy	Peters	Stabenow
Luján	Reed	Tester
Markey	Rosen	Van Hollen
Menendez	Sanders	Warner
Merkley	Schatz	Warren
Murphy	Schumer	Whitehouse
Murray	Shaheen	Wyden
Ossoff	Sinema	
Padilla	Smith	

NOT VOTING—3

Sasse	Toomey	Warnock
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The PRESIDING OFFICER (Mr. MURPHY). On this vote, the yeas are 48, the nays are 49. The 60-vote threshold having not been achieved, the amendment is not agreed to.

The amendment (No. 6482) was rejected.

AMENDMENT NO. 6496

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes equally divided prior to a vote in relation to amendment No. 6496, offered by the Senator from Oklahoma, Mr. LANKFORD.

The Senator from Oklahoma.

Mr. LANKFORD. Mr. President, this amendment is very, very narrowly tailored. It is in response to the bill. I have talked to several of the bill's sponsors, and they have told me their intent is to be able to protect religious liberty, which I appreciate that to be able to have a balanced perspective in this particular bill because people of good will on both sides have disagreements in this area.

The problem is, there are three certain areas of the text that do not actually meet that standard of being a balanced protection. So this amendment goes into those three areas and corrects the text to make sure it actually says it is going to protect religious liberty. It is three areas.

One is a very wide perspective of operating under the color of State law. That has a very broad net on it. We tried to be able to correct that one.

The second one deals with striking the private right of action on this, which will dramatically increase the number of lawsuits. I can assure you, if Congress passes a law that opens up a new lane for lawsuits, there will be lots of new lawsuits in that area.

The third area is in 7(a), where it talks about protecting all these rights if it does arise from a marriage, not from a belief in a marriage. So we are trying to correct that text to make sure it is not just the action of marriage but also the belief of marriage.

That is what this amendment does.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wisconsin.

Ms. BALDWIN. Senator LANKFORD's amendment would eliminate the only practical recourse for same-sex and interracial couples to protect their marriages under the Respect for Marriage Act. It would create an exemption far beyond current law for partnerships between government and faith-based organizations, the latter of which continue to enjoy robust religious liberty and conscience protections that remain intact under the Respect for Marriage Act.

This amendment would upend a carefully negotiated, bipartisan compromise that protects the interests of religious organizations and individuals while affording the dignity of marriage recognition to same-sex and interracial couples. I urge my colleagues to vote no.

I yield back.

VOTE ON AMENDMENT NO. 6496

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 6496.

Mr. LANKFORD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Georgia (Mr. WARNOCK) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Nebraska (Mr. SASSE) and the Senator from Pennsylvania (Mr. TOOMEY).

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—45

Barrasso	Fischer	Moran
Blackburn	Graham	Paul
Blunt	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Burr	Hoeven	Rubio
Capito	Hyde-Smith	Scott (FL)
Cassidy	Inhofe	Scott (SC)
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Cramer	Lankford	Thune
Crapo	Lee	Tillis
Cruz	Lummis	Tuberville
Daines	Marshall	Wicker
Ernst	McConnell	Young

NAYS—52

Baldwin	Hickenlooper	Portman
Bennet	Hirono	Reed
Blumenthal	Kaine	Rosen
Booker	Kelly	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Leahy	Shaheen
Carper	Luján	Sinema
Casey	Manchin	Smith
Collins	Markey	Stabenow
Coons	Menendez	Tester
Cortez Masto	Merkley	Van Hollen
Duckworth	Murkowski	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Ossoff	Wyden
Hassan	Padilla	
Heinrich	Peters	

NOT VOTING—3

Sasse	Toomey	Warnock
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The amendment (No. 6496) was rejected.

VOTE ON AMENDMENT NO. 6493

The PRESIDING OFFICER (Mr. MARKEY). Under the previous order, there is now 2 minutes equally divided prior to a vote in relation to amendment No. 6493, offered by the Senator from Oklahoma, Mr. LANKFORD, for the Senator from Florida, Mr. RUBIO.

Mr. RUBIO. Mr. President, I ask unanimous consent to yield back all time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to amendment No. 6493.

Mr. RUBIO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Georgia (Mr. WARNOCK) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Nebraska (Mr. SASSE) and the Senator from Pennsylvania (Mr. TOOMEY).

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—45

Barrasso	Fischer	Moran
Blackburn	Graham	Paul
Blunt	Grassley	Risch
Boozman	Hagerty	Romney
Braun	Hawley	Rounds
Burr	Hoeven	Rubio
Capito	Hyde-Smith	Scott (FL)
Cassidy	Inhofe	Scott (SC)
Cornyn	Johnson	Shelby
Cotton	Kennedy	Sullivan
Cramer	Lankford	Thune
Crapo	Lee	Tillis
Cruz	Lummis	Tuberville
Daines	Marshall	Wicker
Ernst	McConnell	Young

NAYS—52

Baldwin	Hickenlooper	Portman
Bennet	Hirono	Reed
Blumenthal	Kaine	Rosen
Booker	Kelly	Sanders
Brown	King	Schatz
Cantwell	Klobuchar	Schumer
Cardin	Leahy	Shaheen
Carper	Luján	Sinema
Casey	Manchin	Smith
Collins	Markey	Stabenow
Coons	Menendez	Tester
Cortez Masto	Merkley	Van Hollen
Duckworth	Murkowski	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Ossoff	Wyden
Hassan	Padilla	
Heinrich	Peters	

NOT VOTING—3

Sasse	Toomey	Warnock
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The amendment (No. 6493) was rejected.

The PRESIDING OFFICER. Under the previous order, amendment Nos. 6488 and 6489 are withdrawn, amendment No. 6487 is agreed to, the cloture motion with respect to H.R. 8404 is withdrawn, and the bill is considered read a third time.

The amendments (No. 6488 and 6489) were withdrawn.

The amendment (No. 6487) in the nature of a substitute was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided prior to a vote on passage of H.R. 8404, as amended.

The Senator from Maryland.

Mr. CARDIN. Mr. President, I rise in strong support of H.R. 8404, the Respect

for Marriage Act. I am pleased to be a cosponsor of the Senate companion version of this measure, S. 4556, which has been introduced by Senator FEINSTEIN.

The House passed this legislation by a bipartisan vote of 267 to 157 in July 2022, and the Senate is now poised to pass this legislation with a strong bipartisan vote as well.

In 2010, Maryland began to recognize out-of-state same-sex marriages that were legally performed in other States. And in 2012, Governor Martin O'Malley signed a law guaranteeing Marylanders the freedom to marry regardless of their gender, which was later upheld and confirmed by the voters of Maryland in a statewide referendum.

In 2015, the Supreme Court held in the case of *Obergefell v. Hodges* that the Constitution protected the right of same-sex couples to marry and therefore granting this right nationwide. Let me quote just a few passages from this historic decision, written by Justice Anthony Kennedy more than seven years ago: "Especially against a long history of disapproval of their relationships, this denial to same-sex couples of the right to marry works a grave and continuing harm. The imposition of this disability on gays and lesbians serves to disrespect and subordinate them. And the Equal Protection Clause, like the Due Process Clause, prohibits this unjustified infringement of the fundamental right to marry."

Justice Kennedy concluded in part that: "No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than once they were. As some of the petitioners in these cases demonstrate, marriage embodies a love that may endure even past death. It would misunderstand these men and women to say they disrespect the idea of marriage. Their plea is that they do respect it, respect it so deeply that they seek to find its fulfillment for themselves. Their hope is not to be condemned to live in loneliness, excluded from one of civilization's oldest institutions. They ask for equal dignity in the eyes of the law. The Constitution grants them that right."

So why are we here today, if *Obergefell* is still the law of the land? We are here because the Supreme Court of the United States decided to strip away a woman's fundamental reproductive rights this summer. The Court overturned its *Roe v. Wade* decision—and a half century of associated precedents—in its radical *Dobbs v. Jackson Women's Health Organization* decision.

In that decision, Justice Thomas wrote a concurrence which warned that the Court should "reconsider, [in future cases], all of this Court's substantive due process precedents, including *Griswold*, *Lawrence*, and *Obergefell*." These decisions protected the right to access contraception, the right to have same-sex relations, and

the right to enter into a same-sex marriage, respectively. Do most Americans really want to turn back the clock on these civil rights, in terms of being able to responsibly plan the size of their family, make personal medical and healthcare decision with their doctors, and fall in love and marry their partner of their choosing, regardless of their gender? I don't think so.

The dissent in *Dobbs* correctly pointed out: "The lone rationale for what the majority does today is that the right to elect an abortion is not 'deeply rooted in history.' Not until *Roe*, the majority argues, did people think abortion fell within the Constitution's guarantee of liberty. The same could be said, though, of most of the rights the majority claims it is not tampering with."

The dissent continued: "The majority could write just as long an opinion showing, for example, that until the mid-20th century, 'there was no support in American law for a constitutional right to obtain [contraceptives].' So one of two things must be true. Either the majority does not really believe in its own reasoning. Or if it does, all rights that have no history stretching back to the mid-19th century are insecure. Either the mass of the majority's opinion is hypocrisy, or additional constitutional rights are under threat. It is one or the other."

I am therefore pleased that the Senate came together in its best traditions to form a bipartisan working group—led by Senators BALDWIN and COLLINS—to codify the right to be married regardless of your gender and to rescind Federal laws to the contrary that are still on the books. I thank Leader SCHUMER for giving this working group additional time after the mid-term elections to reach compromise language that enjoys broad bipartisan support in the Senate, which can overcome a filibuster.

According to the Human Rights Campaign and a recent Gallup poll, 71 percent of Americans now support marriage equality, compared to only about 27 percent in 1996, when President Clinton signed the Defense of Marriage Act—DOMA.

As Senators BALDWIN and COLLINS recently wrote in a compelling op-ed: "Individuals in same-sex and interracial marriages need, and should have, the confidence that their marriages are legal. These loving couples should be guaranteed the same rights and freedoms of every other marriage . . . This legislation has earned bipartisan support in Congress because it grants same-sex and interracial couples the certainty that they will continue to enjoy the same equal treatment under federal law as all other married couples. . . . [W]e should be able to agree that same-sex and interracial couples, regardless of where they live, both need and deserve the assurance that their marriage will be recognized by the federal government and that they will continue to enjoy freedoms, rights and

responsibilities that come with all other marriages."

This legislation has three major components. First, this legislation would formally repeal the Defense of Marriage Act—DOMA—of 1996. Section 2 of DOMA purports to allow States to refuse to recognize valid civil marriages of same-sex couples. Section 3 of the law carved out all same-sex couples, regardless of their marital status, from benefitting from any Federal statutes, regulations and rulings applicable to all other married people. This provision denied same-sex couples roughly 1,100 Federal benefits and protections.

Second, the legislation establishes that "place of celebration" is the standard of recognition for Federal benefits of a same-sex marriage, in terms of recognizing a marriage as legal if valid in the State it was performed. The legislation would also guarantee Federal marriage benefits if a State rescinded same-sex marriage recognition.

Third, this legislation guarantees that legal marriages are given full faith and credit by every other State. Article IV, section 1 of the Constitution provides that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state, and the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof." This section of the legislation additionally gives the Attorney General enforcement authority to carry out its provisions and creates a private right of action for any harmed individual.

The compromise language in the Senate measure clarifies that it will have no adverse impact on religious liberty and conscience protections. The revised legislation would explicitly protect all religious liberty and conscience protections available under the Constitution or Federal law, including but not limited to the Religious Freedom Restoration Act. The amendment clarifies that nonprofit religious organizations will not be required to provide any services, facilities, or goods for the solemnization or celebration of a marriage.

President Biden is absolutely correct when he stated: "The right to marriage confers vital legal protections, dignity, and full participation in our society. No person should face discrimination because of who they are or whom they love, and every married couple in the United States deserves the security of knowing that their marriage will be defended and respected."

The Biden administration supports passage of this legislation, stating that "H.R. 8404 would repeal the Defense of Marriage Act, an unconstitutional and discriminatory law, and would enshrine the right to Federal recognition of marriage for same-sex and interracial couples. This legislation would strengthen civil rights, and ensure that the promise of equality is not denied to families across the country."

The Senate should pass this legislation and send it to the House for its consideration and

passage in December. I am hopeful that President Biden will sign this legislation into law before the 117th Congress adjourns sine die. This would be another major bipartisan accomplishment for this Congress and mark an important step forward on our unfinished march for civil rights, as we strive to form a more perfect union, establish justice, and guarantee equal rights and equal justice under the law for all Americans.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, shortly, we will have the opportunity to make history by passing important legislation that will advance two goals: one, the goal of marriage equality for same-sex and interracial couples, and second, the goal of strengthening religious liberty and conscience protections.

I want to thank my colleagues on both sides of the aisle who have worked so hard on this legislation, and I also want to thank the broad array of faith-based groups who worked with us on the religious liberty provisions of our bill.

I want to thank Senator BALDWIN, who has been the lead on this bill; Senator SINEMA, who has worked so hard; Senator PORTMAN, who has poured his heart and soul into it; and Senator TILLIS in particular. But I also want to thank all of the Republicans who have supported this. I know that it has not been easy, but they have done the right thing.

I urge a vote in favor of the bill.

The PRESIDING OFFICER. The Senator from Wisconsin.

Ms. BALDWIN. Mr. President, I ask unanimous consent that the debate be extended an additional minute so that I might recognize the leader after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. BALDWIN. Mr. President, I want to express, as did my colleague Senator COLLINS, that there are many thanks to go around. I thank the leader. I want to thank the original bill sponsors in the House and Senate—Congressman NADLER and Senator FEINSTEIN—and the team of Senators COLLINS, PORTMAN, SINEMA, and TILLIS for your unrelenting commitment that has brought us to this final vote to pass the Respect for Marriage Act.

I want to thank the advocates who have been fighting for marriage equality for decades, and I want to recognize the millions of same-sex and interracial couples who have truly made this moment possible by living their true selves and changing the hearts and minds of people around this country.

Many of these same-sex and interracial couples are fearful. They are worried that the rights, responsibilities, and freedoms they enjoy through civil marriage could be stripped away. Right now, the Senate has the opportunity to put those fears to rest and give millions of people in same-sex and interracial marriages the certainty, dignity, and respect they need and de-

serve. By passing this bill, we are showing that the American Government and people see them and respect them.

I encourage all my colleagues to vote yes on the Respect for Marriage Act and move our country forward.

I yield to our leader.

The PRESIDING OFFICER. The majority leader.

Mr. SCHUMER. Now, Mr. President, for millions of Americans, today is a very good day, an important day, a day that has been a long time in coming. The Senate is passing the Respect for Marriage Act.

Today, the long but inexorable march toward greater equality advances forward. By passing this bill, the Senate is sending a message that every American needs to hear: No matter who you are or whom you love, you, too, deserve dignity and equal treatment under the law.

As the Chamber knows, this is personal to me, and the first people I will call when this bill passes will be my daughter and her wife.

I want to thank my colleagues, joining the others, for making this legislation possible—and especially the teams of Senators BALDWIN and SINEMA and COLLINS, TILLIS, and PORTMAN. To all of you, I say: Bravo, a job well done. And to all who make the choice to support this bill, thank you. None of this was inevitable.

At the urging of my colleagues, we took the calculated risk of holding off on a vote back in September because they believed, with more time, we could build enough bipartisan support to push this bill over the finish line. Today, we have vindication that the wait was well worth it. I thank my colleagues for their work.

Above all, I want to thank the American people, the vast majority of whom understand deep in their hearts that the inexorable march toward equality is what America is all about.

I yield the floor.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

VOTE ON H.R. 8404, AS AMENDED

The bill having been read the third time, the question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Georgia (Mr. WARNOCK) is necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Nebraska (Mr. SASSE) and the Senator from Pennsylvania (Mr. TOOMEY).

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—61

Baldwin	Blunt	Burr
Bennet	Booker	Cantwell
Blumenthal	Brown	Capito

Cardin	Klobuchar	Sanders
Carper	Leahy	Schatz
Casey	Lujan	Schumer
Collins	Lummis	Shaheen
Coons	Manchin	Sinema
Cortez Masto	Markey	Smith
Duckworth	Menendez	Stabenow
Durbin	Merkley	Sullivan
Ernst	Murkowski	Tester
Feinstein	Murphy	Tillis
Gillibrand	Murray	Van Hollen
Hassan	Ossoff	Warner
Heinrich	Padilla	Warren
Hickenlooper	Peters	Whitehouse
Hirono	Portman	Wyden
Kaine	Reed	Young
Kelly	Romney	
King	Rosen	

NAYS—36

Barrasso	Graham	McConnell
Blackburn	Grassley	Moran
Boozman	Hagerty	Paul
Braun	Hawley	Risch
Cassidy	Hoeven	Rounds
Cornyn	Hyde-Smith	Rubio
Cotton	Inhofe	Scott (FL)
Cramer	Johnson	Scott (SC)
Crapo	Kennedy	Shelby
Cruz	Lankford	Thune
Daines	Lee	Tuberville
Fischer	Marshall	Wicker

NOT VOTING—3

Sasse	Toomey	Warnock
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The PRESIDING OFFICER (Mr. PETERS). The yeas are 61; the nays are 36.

The bill (H.R. 8404), as amended, was passed.

PRESIDING OFFICER. The majority leader.

Mr. SCHUMER. Mr. President, what a great day. What a great day.

ORDER OF PROCEDURE

Mr. President, and now, moving forward, as we always try to do in the Senate, I ask unanimous consent that the Senate proceed to executive session and resume consideration of Calendar No. 1133; and that the cloture motions with respect to Calendar Nos. 1133, 1147, 1148, and 1129 ripen at 11:30 a.m. on Wednesday, November 30; further, that at 11:30 a.m. tomorrow, the Senate vote on motions to invoke cloture on Executive Calendar Nos. 1133 and 1147; that if cloture is invoked on the nomination, all postcloture time be considered expired at 2:15 on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. I yield the floor.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Camille L. Velez-Rive, of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

The PRESIDING OFFICER. The Senator from Arizona.

Ms. SINEMA. Mr. President, I ask unanimous consent to engage in a colloquy with my colleague, Senator LUMMIS from Wyoming.

The PRESIDING OFFICER. Without objection, it is so ordered.