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 context 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 prey on the world over, 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 of a contested sea and its resources.

And Putin’s military buildup in the Black Sea, his military presence in the Middle East, his aggression in Eastern Europe and his actions in the Indo-Pacific, like a bully standing on a military installation in the South China Sea, like a bully standing on a military installation in the South China Sea, like a bully standing on a military installation in the South China Sea.

China 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 Afghanis.

Provision 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.

RECESSION

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).

RESPCT FOR MARRIAGE ACT—Continued

The PRESIDING OFFICER. The Senator from Colorado.

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. 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 Afghanis.

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 had 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 my State.

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 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 at Club Q had built up 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 Derek 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 cheerful disposition, who was a devoted mother and nonprofit worker, and 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 telling the story of a mass shooting, 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 when he was hit by gunfire. He acted to stop the gunman, and his protective instincts—Richard’s protective instincts from four combat deployments—kicked in. He said he went “into combat mode.”

No stranger’s bravery when we go to the grocery store. We shouldn’t need to count on a stranger’s bravery when we go to a grocery store. We have lost our lives from children 4 years old and younger. That is almost 100 percent of the kids who are dying on planet Earth from gunfire.

In 2020—the pages that are here may not be the pages that are there 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 93 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 for us all, we stand 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 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.

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 reads 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), the term "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, a 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, 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, enrollment in, or participation in, any Federal grant or program, including admission to, enrollment in, or participation in, any Federal grant or program, including admission to, enrollment in, or participation in, any Federal grant or program, by virtue of, in any other Federal benefit program, and the elimination of any such denial or withholding.

(c) ATTORNEYS’ FEES.—Section 722(b) of the Administrative Procedures Act of 1946 (5 U.S.C. 722(b)) is amended—

(1) to provide: "The Attorney General shall be the proper party to assert a claim or defense under this section in a judicial or administrative proceeding.

(2) to provide: "The Federal Government shall be the proper party to assert a claim or defense under this section in a judicial or administrative proceeding.

(3) to provide: "The Federal Government shall be the proper party to assert a claim or defense under this section in a judicial or administrative proceeding.

(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 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 postal service, or any officer, employee, or agent 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, promote, or otherwise endorse any 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 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 a 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 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 but through the lens of the 14th Amendment’s privileges or immunities clause.

Propponents 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 marriages.

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. Moreover, assuming that it be analyzed, like all substantive due process jurisprudence, to figure out whether there might be another proviso of the Constitution under which it might be more appropriate.

They have not put forth 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 one example of a same-sex marriage 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 restraining married couples from fostering 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 why the United States 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, any of our religious charities and schools will be threatened by this legislation, which relies on that unarried, 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’s guidance on transgender and sexual 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 67,000 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-
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 one’s life, you defend 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 in our midst who have been abandoned 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, peacefully with one another. In that spirit of compromise, we are expressing our right to protect the 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 religious 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 in this act to 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 I seek to do; I am not asking to alter or deny any status or benefit to 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 aren’t actually addressing it.

This threat has been renewed 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 under-
taking a legislative effort to codify
rights for one group of Americans, we
do n't so in a particularly un-Amer-
ican way; that is, enhance the rights of
some at the expense of others. That is
not how Congress is supposed to 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 au-
thority to retaliate against individu-
als, nonprofits, and other entities
based on their sincerely held religious
beliefs? Think about that for a minute.

Why wouldn't we want to deny the very
power from a government that may wield it in a way that is categori-
cally abusive?

For my Republican friends who are
sympathetic to the need for my amend-
ment, let me say this: I would support it if
we would ask that if they support it and if
the amendment fails, that you not sup-
port the underlying bill, because if you
support my amendment, hopefully, pre-
sumably, that means it is because you
agree with something—that it does something necessary. It certainly
doesn't counteract, contradict, or un-
dermine 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 to deny them
willing to join with every Democrat in
order to support this legislation. But if
even 3 of the 12 Republicans consid-
ering support for this legislation in the
end—if even 3 of them supporting my
amendment decide not to sup-
port the bill unless or until the Lee
amendment was added, I am con-
fident—indeed, I am certain—that it
could and would ultimately be adopted.

As I said, we must be willing to com-
promise 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 ex-
pressed and provided some some
comfort that Congress is not purposely
passing laws that restrict the free exer-
cise of religion.

The PRESIDING OFFICER. The Sen-
ator from Oklahoma.

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
and expressed 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 con-
tinue to hold a 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 dif-
f erent viewpoints; revere our deep commit-
tment to religious freedom.

That is a wise statement from Presi-
dent 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
approach marriage in general. There are
different religious views, different per-
spectives.

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 cer-
tain 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 sur-
prised 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. There 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 lib-
erty. In fact, religious liberty groups
all over the country and religious insti-
tutions 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 ade-
quately 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 Religious Liberty Commission,
The Faith and Freedom Coalition, the
Family Research Council, the Family Pol-
icy Alliance, Focus on the Family, Her-
itage Foundation, Liberty Counsel,
National Catholic Child and Fam-
ily Coalition, the National Religious
Broadcasters, the Reli-
gious Freedom Institute, the U.S.
Conference of Catholic Bishops, Samari-
tan'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 reli-
gious liberty portions of this bill.

Now, I am well aware that there are
also groups who have put out a state-
ment and said that they are com-
fortable with it, that it must and protect
them, but other organizations are put-
ting out statements and saying: Yeah,
that is nice for you, but it actually
wouldn't protect us and our members.

There are three things 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 sin-
cerely 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 things. 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 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 says: You are now a State actor; you are under new restrictions. The second 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 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 of 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 an organization or an individual 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 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 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 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 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.

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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) is the most probable—outside of any 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 see 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 marriage 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.

Again, I have had individuals who are sponsors of this bill say none of those things are what we intend. But courts around the country aren’t perpetually writing about you being able to litigate against 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 come and say: Oh, you are going to partner with us, then you have to surrender these different beliefs.

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Let’s take away the private right of action so that people around the country aren’t perpetually writing about you being able to litigate against 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 come and say: Oh, you are going to partner with us, then you have to surrender these different beliefs.

These 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.
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 follow 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 bipartisan support, including 38 Republican votes 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 precedent.

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 acknowledgement that diverse 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 dated February 24, 2023, 12 different religious-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 included that our religious liberty concerns raised by the bill, including tax exempt status, educational funding, government grants and contracts, and eligibility for licenses, certification and accreditation, are well taken care of. Furthermore, 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 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.”

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 litigation tools that have been 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 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 insufficient 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 involves 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 in this bill. 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
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 States 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 added an 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 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. It prevents this bill from being used to target the tax-exempt status of religious nonprofits, to the accreditation of religious schools, to the contracts between faith-based adoption providers and 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 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 the Latter-day Saints, otherwise 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—confirmed 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 licensing, certification and accreditation" and that, "if passed, it would continue to build on the constitutional 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 religious liberty cases before the Supreme Court. He argued on behalf of faith groups in the case of 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 briefs before the Supreme Court, including in Fulton v. City of Philadelphia to defend the rights of faith-based adoption providers and govern-
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 congruent and substantiated distinction reflects 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, it reflects a national policy that recognizes 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 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 “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, or 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 will 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—a legal scholars and many faith groups agree—poses no new risks to religious organizations, while containing significant benefits and protections for people of faith. This bill does not remove 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 manner of ways. Not only, because of the significant burden on religious organizations, protections 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 bill is deficient because it does not provide a cause of action. 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 amendment to recognize the marriage of a person of same sex.

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 ask you to carefully consider 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 it enjoyed 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 the marriage which gives 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. I invite others to do so as well. In the spirit of our current American approach to the definition of marriage, 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 refer 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 government and the church.

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 “individual.” 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? Will 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. Sometimes, 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 devotionally 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, whom we are 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 respect 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 worthy, however, for the way that it advances the cause of religious liberty. Indeed, the substitute amendment that Senator BOWMAN and I introduced with Senators PORTMAN, SINEMA, and TILLIS, unambiguously adds significant religious liberty 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 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. I think it is generally 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 under the Supreme Court case—“to justify rejecting traditionalist 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, or 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 places 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 could 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 ‘false and malicious’ allegations.

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 governmental entities from licensing or recognizing unions—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 been 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 nowhere else 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, put my finger on it to bring it 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 quoted there was an 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, and 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, but 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 because of who 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 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.

The bill was agreed to by the following vote:

YEAS—48

Barrasso  Blackburn  Boozman  Braun  Burr  Cassidy  Cornyn  Colson  Crapo  Daines  Ernst  Fischer  Baldwin  Bennett  Binns  Braman  Brown  Cantwell  Carlin  Carper

Markowski  Paul  Risch  Romney  Rounds  Rubio  Scott (FL)  Scott (SC)  Shelby  Sullivan  Tuberville  McConnell  Wicker  Moran  Young

NAYS—49

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 a strong support of H.R. 8404, as amended.

The amendment (No. 6493) was rejected.

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. 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. 6493) was rejected.

The amendment 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

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 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


NAYS—52

Baldwin  Bennet  Blumenthal  Booker  Brown  Cantwell  Cardin  Casey  Collins  Corker  Duckworth  Durbin  Ernst  Feinstein  Gillibrand  Hassan  Heinrich  Hirono  Kaine  King  Klobuchar  Leahy  Leahy  Manchin  Markey  Menendez  Merkley  Murrkowski  Duckworth  Murphy  Murray  Ossoff  Padilla  Peters  Portman  Reed  Rosen  Sanders  Schatz  Schumer  Shaheen  Sinema  Smith  Stabenow  Tester  Van Hollen  Warner  Whitehouse  Wyden

NOT VOTING—3

Sasse  Toomey  Warnock

The amendment (No. 6496) was rejected.

The PRESIDING OFFICER (Mr. MARKLEY). 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. 360 Leg.)

YEAS—45


NAYS—52

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NOT VOTING—3

Sasse  Toomey  Warnock

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. 6493) was rejected.
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 FERN-STEIN.

The House passed this legislation by a bipartisan vote of 257 to 157 in late November 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 injury. The imputation 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 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 one 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 not want to be treated any differently than couples are treated in marriage. 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 Orphanage 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 decisions 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 hypocris, 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 BUCKWORTH 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 BUCKWORTH 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 this legislation would make it unconstitutional and discriminatory for 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 benefiting from any Federal laws or regulations that are 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 continue Federal benefits if a State rescinded same-sex marriage recognition.

Third, this legislation guarantees that legal marriages are given full faith and credit by all States. 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. 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 “S. 494 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 give millions of people in same-sex and interracial marriages the certainty, dignity, and respect they need and deserve. 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 this time to the majority 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 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 BALDWIN and SINEMA and COLLINS, TILLIS, and PORTMAN. To all of you, I say: Bravo, a job well done. And to all who made 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. The bill (H.R. 8404), as amended, was passed.

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

Executive Session

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 1126 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; 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.