



## COUNCIL FOR NATIONAL POLICY

### “The Fight to Preserve Marriage” A Panel Discussion May 16, 2015

MR. WILLIAM WALTON:

We have Cathy and Rick and Ryan and Kelly up here. Except for the fact that my marriage is a happy one, I'm not a subject matter expert and we are going to leave these experts to talk to you about the issues that we are fighting for. First, before I provide the full introductions for the panel, I'd like to share some thoughts that I think are related to the issue of marriage. I volunteered to chair this panel on marriage because of the change of heart I have experienced within the last 5 years. Today I understand how vital cultural issues are to our society and our economy. I didn't always feel that way.

Most of my career has been spent in business and on Wall Street and I was among the first to attend the Charles Koch seminars. In 2010, I lead a group of donors and political activists and we wrote something called the 2010 Commitment to America. It was a 10 points pledge specifying what we wanted the Republican running for Congress to do if they were elected and to get our support. Looking back, it was a pretty strong set of demands – cut the spending back to the 2000 levels, pass a balanced budget amendment, repeal Obamacare. Why, we even demanded that the politicians obey the same laws that we have to obey. Our pledge, though, was focused entirely on legislative and economic issues. There was absolutely nothing about family, culture, or civil society. We met with the House leadership. Of course, they agreed these were great ideas. They said they would do everything they could to bring them about if elected. So, we supported these guys and we helped them win and five years later not a single one of our points has been acted on. But, for me personally, there has been at least one win. As a result of this effort, I had the privilege of being asked to join General Meese's Conservative Action Project coordinating committee to provide some perspective on business, Wall Street, and the donor community. In that room on Wednesday mornings at 7:30, I was enlightened. Some of the people who are in that group are here this weekend – General Meese, Tony Perkins, Ken Cribb, Colin Hanna, Gene Meyers, Jerry Boykin. I really want to thank them for making me keenly aware that you can't separate economic life from cultural life. Thanks to them, I now call myself a recovering libertarian. It feels pretty good. It feels nice to be here.

The business of America, it turns out, is in business. The business of America is preserving our freedoms – speech, religious, and yes, economic. Unfortunately, too many people in business just don't get this. Last week, or maybe it was earlier this week, a group of 35 businesses in Louisiana signed an open letter against Bobby Jindal's religious liberty bill. We just heard Rick talk about the Texas Association of Business fighting against similar things in Texas. Businesspeople who ignore how our culture is changing do so at their peril. What begins as an attack on religious liberty will soon turn to an attack on economic liberty.

The Economist magazine ran a piece recently on gay marriage in favor of it, of course. The piece said the argument for striking down the state bans on marriage is simple. The Constitution requires equal protection of the laws and denying gays the right to marry violates that. But it's not simple. Homosexuals could simply advocate for civil unions to gain the rights they demand. But this issue is not just about marriage. Rather, it seems to be part of a systematic deconstruction of our great cultural institutions and sources of moral authority – the family, Christianity, the Catholic Church, the Boy Scouts, the military, now they have turned their sights on the local police.

When I started on Wall Street in the '70s, even investment firms, boards of directors, CEOs, rating agencies, auditing firms, all were considered respectable institutions and carried a sense of moral authority. Not so today. The progressive Left has an agenda. It's to deconstruction and demonize all traditional institutions and produce a world where only the State has moral authority. In the oral arguments before the Court on marriage, you frequently heard the words "the State may decide this, the State may decide that." That's why controlling government is a zero-sum game for the Left. Think about how the practice of medicine has changed. Fifty years ago the doctor was at the center of our healthcare choices. Today, it's the Federal Government abetted by insurance, pharmaceutical, and healthcare companies. But if the State has rejected all religious and moral principles, what are we left with? Creating a world where only rights and self-gratification matter but not responsibilities? A thriving free commercial society requires virtue. Before Adam Smith wrote *The Wealth of Nations*, he wrote *The Theory of Moral Sentiment*. Businesses that can't count on the morality of their trade partners, their employees, or their customers can't survive. That's why business can't just defend economic liberty; it has to defend religious liberty. Let's work to enlist business in our cause, it's their cause too. Thank you.

Today's panel is about marriage. We call it "The Fight to Preserve Marriage." We purposely left words like traditional or natural out because there is only one definition of marriage. It's between a man and a woman. We have on our panel today four of the leading marriage advocates in America. Our goal is to outline the arguments and actions that we can take to defend marriage.

Joining us is Cathy Ruse, legal expert in the area of religious freedom, civil rights, human rights, and free speech. She is senior fellow for the Family Research Council and has testified as an expert in congressional hearings in the U.S. House and Senate. Mrs. Ruse has served for several years as chief spokesperson at Human Right Issue, the U.S. Conference of Catholic Bishops. She was co-host of the cable television show *Legal Notebook*, and is a frequent guest on other shows including *Firing Line*, *Crossfire*, and *The O'Reilly Factor*. Her works have been published in *The Wall Street Journal*, *USA Today*, *Christian Science Monitor*, and *The Washington Times*. Cathy will share encouraging research done by the Family Research Council about how many Americans are with us on these issues.

Dr. Rick Scarborough advocates for applying Christian morality to civic affairs and is a leader in successfully mobilizing Christians to get more involved in local and national politics. He is a retired Baptist pastor, published author, founder of Vision America, and the head of the Judeo-Christian Council for Constitutional Restoration. Seen as a values voter leader in 2006 and 2008, he is often called to defend traditional marriage on national television programs and in print. He has appeared on CNN, Larry King Live, Fox News, CBS Evening News, and many other TV shows. His work has been featured in *The New York Times*, *The Washington Post*, *Houston Chronicle*, *Boston Globe*, and the *Congressional Quarterly*. Rick will talk about the issues we will face in judicial tyranny and how Christians can fight the assault on marriage.

Dr. Ryan Anderson is an expert on constitutional questions surrounding same-sex marriage. As the William E. Simon Senior Research Fellow in American Principle and Public Policy at the Heritage Foundation, his research spans the natural law tradition and conversation with classical and contemporary liberalism. His published works on the definition of marriage were quoted in Justice Samuel Alito's dissenting opinion in the Supreme Court Case involving the Defense of Marriage Act. He has debated the marriage question on CNN, Fox News, and MSNBC. His work has been featured or published in major newspapers or magazines including *The New York Times*, *The Washington Post*, *The Wall Street Journal*, *Washington Examiner*, and many others. He also has just written another book, *The Future of Marriage and Religious Liberty* available on Amazon. It's a response to the Supreme Court ruling when it comes.

Kelly Shackelford has served as President and CEO of Liberty Institute since 1997. He is a constitutional scholar who has argued before the U.S. Supreme Court, testified before the House and Senate on constitutional issues, and has won three state landmark First Amendment and religious liberty cases in the past few years. He was recently named one of the 25 Greatest Texas Lawyers of the Past Century by the Texas Lawyer and was the recipient of the William Bentley Ball Award for life in religious freedom defense. Mr. Shackelford is a frequent guest on national TV news and talk show programs including *The O'Reilly Factor*, *Fox and Friends*, *Hannity*, *Good Morning America*, *The Today Show*, CNN, and MSNBC. His work has also been featured in *National Journal*, *Associated Press*, *The Washington Times*, *The Washington Post*, and *The LA Times*. He is going to talk about the upcoming Supreme Court decision and what our choices are and how to deal with it when it comes down.

Reading these biographies, I think you can see we've assembled some tremendous scholars here and I'm very interested to hear what you have to say. Cathy...

MRS. CATHY RUSE:

Thank you, Bill. I am so delighted to be here to address you especially because some of my longtime heroes are in the audience – Dr. and Shirley Dobson, Phyllis Schlafly – it's just an honor to be in the room with you and with my new heroes like Lila Rose and Ryan Anderson. I am so honored to be able to address you and I am not a little bit intimidated.

If gay marriage comes to America it will not be because Americans asked for it. In the last 15 years, the question was put to the people in nearly every state in the Union – even in liberal states like California, even on ballots in purely democratic primaries like Missouri, and the people voted overwhelmingly to keep the definition of marriage unchanged. Now gay activists were confident going into many of these contests because the polls promised them a win. And yet, when people stepped into the ballot box, man/woman marriage won. Polls are one thing, polling places are quite another. We live in an age where the wrong opinion on same-sex marriage can cost you your job or your business, where the wrong answer to a reporter's hypothetical question can bring death threats. Frankly, it is a wonder anyone answers an unknown stranger's question on the phone in a telephone survey, right? Why would you tell your views on marriage to anybody? But, in the privacy of the voting booth, where there are no bullies and you have time to think about the meaning of marriage and what children need, that is when you can show what your views are.

Now, when historians write about the politics of marriage during the first American decade of the 21<sup>st</sup> century, if they report the facts, here's what they will write. In the year 2000 Nebraskans voted overwhelmingly to define marriage in their state law as the union of one man and one woman. In 2004, Arkansans made man/woman marriage the law of their state, and Georgians did too in their state, and Kentuckians in theirs. That Michiganians voted to define marriage as the union of a man and a woman within their borders, as did North Dakotans in theirs and Oklahomans in theirs, and Ohioans within theirs, and Utahans within theirs, and Louisianans within theirs too. That in 2005, Texans voted to keep marriage in the lone star state a man/woman institution, as did Coloradans did in 2006, and Idahoans in theirs, and South Carolinians in the theirs. They will write that in 2006 South Dakotans established the definition of marriage in their state as the union of a man and a woman. And Tennesseeans established it in theirs and Virginians in theirs and Wisconsinians in theirs. That in 2008 Floridians made man/woman marriage the law of the sunshine state and Arizonans made it the law of the Grand Canyon state and Californians made it the law of the golden state. They will write that in 2009 Mainers made man/woman marriage the law of their land and in 2012 North Carolinians made it the law of theirs.

Historians with an ounce of integrity will report that by the year 2012 the people in over 30 states in the Union stepped into the voting booth and said no to changing the definition of marriage. And then they

will write that in 2013 a federal judge struck down a law Utahans had passed establishing marriage as a man/woman union and in 2014 a federal judge struck down the law passed by the people of Oklahoma. Another judge struck down the law passed by the people of Virginia, and another by the people of Texas, and another, by the people of Michigan. They will write that federal judges struck down the laws passed by the people of Ohio, of Arkansas, of Idaho, and that other judges struck down the law voted in by people of Oregon, of Pennsylvania, of Wisconsin, of Colorado, of Florida. But this is folly. We know that historians won't write it this way. Instead, they will speak of a "shift in American attitudes." They will use phrases like "tidal wave" and "sea change," they'll ruminate on how rapidly Americans embraced the new paradigm. But, of course, this is an illusion. All that can really be said is that a handful of liberal judges embraced the paradigm and imposed it on the rest of us. Even now, even after their votes have been nullified by judges coast to coast, after they have been scorned and mocked by the media, after death threats and Twitter swarms, even now Americans believe that marriage should be a man/woman institution.

The Family Research Council poll from February shows that 53 percent of us hold this view, even now. People in their 20s go the other way, but ask your average 35 year old and he'll agree with us, as will your average 40 year old and 50 year old and 60 year old. Fifty-seven percent of our African American neighbors agree with us and 61 percent of all Americans believe the people and the states should decide and not the Supreme Court.

How many Americans think the Christian baker should be able to say no to gay marriage? Eighty-one percent and not only the baker - that government should leave all people free to follow our beliefs about marriage in the way we live our daily lives and work and in the way we conduct our businesses. Now the other side wants us to believe that America and the world is against us, and it certainly feels that way. But that is an illusion. They don't want us to count the countries that embrace same-sex marriage because if we do we will stop counting at 17 out of 119 U.N. member states, out of 220 countries worldwide. They don't want us to notice that eastern Europeans are changing their Constitution to protect the man/woman marriage definition - country after country after country. They want us to forget that 1.5 million Spaniards flooded the streets of Madrid protesting same-sex marriage and they don't want us to do the math and learn that the equivalent of that here would mean 10 million Americans marching on Washington. They certainly don't want us to see the multiple massive protests in France. Over a million French men and women crowding in the streets of Paris three times to fight a change in the definition of marriage.

Don't believe the illusion. Take heart. Have courage. No matter what happens in June, the people are with us and we get to write the rest of the story. Thank you.

**DR. RICK SCARBOROUGH**

It is a privilege to address you today. I do so with a pretty heavy heart. I'm going to approach this, as you would imagine, from a little bit more of spiritual perspective. We often forget just whose idea marriage was. I've prepared a little bit of a PowerPoint. I think that picture pretty much sums up what is about to happen. We have two trains headed down the same track in opposite directions and there is going to be a collision shortly with a Supreme Court decision that most people predict will be adverse to God's definition of marriage. That means that all of us in this body have a role to play in saving the country. In what little I know of the history of this wonderful organization - I've been a member now for about 14 years, was introduced after writing the book *Enough is Enough* by Steve Stockman as a matter of fact, came as a guest, and was just overwhelmed that in one room so many people I admired were gathered - I learned as I progressed through the membership that we are social conservatives, we are fiscal conservatives, and we are defense conservatives. But we unite on a common belief that the Constitution defines what America should be.

We are living in a brand new age now, one that demands that we participate. Dietrich Bonhoeffer is a preacher that most preachers have studied and know well. His book, *The Cost of Discipleship*, is required reading for those of us who attend seminaries. I got ahold of a book written by Eric Metaxas about 2 years ago that was one of those books that you couldn't put down. Among other things, I learned about Dietrich Bonhoeffer that he said, "Silence in the face of evil is itself evil. God will not hold us guiltless. Not to speak is to speak. Not to act is to act." If you notice the date below his picture, he died April 9, 1945. For you historians, that was just 3 weeks before the concentration death camp in which he had been housed, where he was brought out into the square and hung by a piano wire because it would be more painful and he was executed. He stood strong against the führer. He was noted as having said, "Adolf Hitler is not my führer, Jesus is my führer." What we're fixing to find out in America is who is the real church. This issue I mentioned earlier in the 3 minute report. Unlike abortion, there's no opt-out option for what's coming down the pipe. As we've already seen in the treatment of businessmen and business owners, once same-sex marriage is mandated in a state and soon to be across the country if prediction is correct – and, by the way, even if it's not enforced upon us in the next 30 days, it's coming if the Church doesn't rise up. The only institution in America that's standing strong on this principle and tragically we're fractured. But make no mistake, there's not 2 churches in America, there's not a liberal church and conservative church, there's just the Church. But, there are a lot of pretenders, men getting paid in robes that are not a part of the Church and I think even in this room we are going to find out in the days to come whether you're just conveniently religious or a follower of Jesus Christ because frankly that's where we're headed as a country apart from real revival. Now, I don't want to sound too down in the dumps because here's one thing that God has shown me in the last few months as I have looked squarely at what I'm calling on pastor's across America to do, and that's to stand their ground on this one, to draw a line in the sand and say we will give no more ground. If it requires incarceration, loss of career, closing of churches, may the Church stand. If she stands, she will be revived. I've worked my entire life and prayed for a true awakening in America. We've had two great awakenings. They came at just crucial times in the life in our country. One before the Declaration of Independence that gave those early founding fathers the steel backbone required to take on the most powerful military army in the history of the world to that point and then just prior to the Civil War, through the aggressive preaching of godly men like Charles Finney. Our second great awakening came and gave men the ability to stand against the financial interest for what was right. America needs and requires the third great awakening now in order to survive and be the country she was meant to be.

George Washington on the date of his stepping down, he would have been made King had he requested it. He certainly could have been elected to another term but he stepped down and in his farewell address said, "Of all the disposition and habits which lead to political prosperity, religion and morality are indispensable supports." What Bill was saying about business is what the business community doesn't seem to get. America has prospered and been the great bastion of freedom and enterprise because she has been basically good as the result of the freedom we had religiously to preach. Even the freedom to preach some would reject. Even the freedom to say your lifestyle is wrong, people might have smarted of those kinds of comments but our freedom was to disagree. You don't have to think that what I say is right, but I have a religious freedom in this country secure in the blood of those who died on foreign fields to speak the truth in love. All of that will be dissipated with this Supreme Court ruling and rulings like it. Traditional marriage is affirmed in the Scripture. Traditional marriage is affirmed by natural law. Religious freedom and same-sex marriage cannot co-exist. It just cannot do it. The coming storm is the Supreme Court appears to be ready to give this ruling. Laws that apply to civil rights will be applied to same-sex marriage and we'll hear more about that from the legal experts. Christina will be forced to choose to either obey God or the State.

ABC Family's *The Fosters* aired the youngest ever gay kiss in March of this year. Is this the new normal for America? Thirteen year olds and by the way, that particular network as paid for by the gifts of Christian people before sold to ABC. What a tragedy. This is our Bonhoeffer moment in America.

Marriage will always remain the union of a man a woman for three reasons. By the way, you cannot redefine marriage ladies and gentlemen. It is what it is. The Court can no more redefine marriage than they can redefine gravity. This is an exercise in futility but it does have very real implications for all of us in this room. We must remember who first conceived of the notion. To deny the created order is to attack God's very nature. The Word is unequivocal, "So God created human beings in his own image. In the image of God he created them; male and female he created them. Therefore a man shall leave his father and his mother and shall become united and cleave to his wife and they shall become one flesh." Three reasons why marriage cannot be redefined. First, God ordained marriage as the union between a man and a woman. Matthew 19:4-6, "'Haven't you read,' Jesus replied, 'at the beginning the Creator made them male and female.'" Reason number two: God's created order verifies what God's word says. The male and female are physically designed to be joined together and partner with God in the creation of another human being. Reason number three, not often thought of, is the union of a man and a woman reveals a spiritual lesson. Jesus is presented in the New Testament as the bridegroom who is patiently awaiting the bride at the marriage supper, during which he will be joined for eternity with his bride, the Church. Marriage was designed to be a picture of that promise. Any attack of the nature of marriage is an attack on God. Ladies and gentlemen, woe to the country, woe to the people, woe to court that thinks they can literally assault the integrity of Almighty God.

So how do we respond? We pray for God to intervene and grant godly wisdom to the Supreme Court justices. I hope you are praying and occasionally fasting for these judges to make the right decision. How do we respond? We act. Enlist and empower the brightest legal minds available to defend the institution of marriage. Support legislative action to restrain the judges. The U.S. Congress has the power within in bequeathed from the Constitution to take all this away from the judges if they would. Then, preachers must preach teach, and lead Christians to stand against tyranny against civil disobedience when all else fails.

What will I be doing the day after they pass same-sex marriage, if they do? I will do exactly what I've always done. I will not perform a gay marriage. I will not participate. I'll go to jail first. Forty thousand people to date have signed such a pledge. Men like Franklin Graham, Mike Huckabee, Rick Santorum, Rich and Dick Bott in this room, Dr. Ed Young, James Robinson, Jerry Boykin, Jim and Shirley Dobson, and others that are in this body. This is a time for the Church to stand. I know this, God is not going to intervene if we don't stand. Now, we may have crossed the line where he won't intervene anyway. For Christian, we win regardless but I pray God will give us one more chance. God bless you.

DR. RYAN T. ANDERSON

Thank you, thank you for having me. I've been asked to speak about messaging. Specifically, messaging between now and when the Supreme Court rules at the end of June so in the 10 minutes I have this afternoon I want to make three and a half points. I'll spend about 3 minutes on the first 3 points and have a minutes on the last one.

Three and a half points about what we need to do between now. This messaging is geared towards the Court to do the right thing and influencing the American people to do the right thing should the Court do the wrong thing. We know that the justices have already cast their votes, they heard oral arguments on Tuesday a couple weeks ago and they met for conference and casted their votes that Friday. But, we know that the judges can change their votes. Look at Obamacare when it was at the Supreme Court two years ago. It seems pretty clear at this point that John Roberts flip-flopped due to media pressure. It will not be helpful if we say in the press that we are expecting the Court to strike down male/female marriage laws. That gives the justices a free pass to do the wrong thing.

Our message needs to be what the judges should do, what the Constitution requires of them to do. The Constitution doesn't require the redefinition of marriage and so unelected judges shouldn't be throwing out the votes of citizens in all 50 states who have deliberated and voted about this. If justices actually respected our Constitution, 39 states today would still have male/female marriage laws. Only 11 states have democratically redefined marriage, a majority of those are through their state houses. It has only been three or 4 popular votes where the citizens went to the ballots and chose same-sex marriage. In all of the other cases, we've gone to the ballot boxes and state houses 39 times. We would still have male/female marriages if the Court does the right thing.

Our message here needs to be that if the Court tries to redefine marriage it will be doing the same exact thing that it did 42 years ago with *Roe v. Wade*. It didn't settle the abortion issue. It created a culture war and if you look American abortion politics compared to European abortion politics, we have a culture war and they don't because the Court took this out of the hands of the people. In Europe they can make common sense compromise abortion policy. In America, so far we have not been allowed to do that. We are one of only seven nations that allows late term abortions, in the company of China and North Korea. In the 20 week bill that the House passed earlier this week is a great step in the right direction to fix that problem but why has it taken us 42 years to get there? Because the Court short-circuited our democratic process. Why should the Court repeat that mistake on the marriage issue?

The Constitution doesn't say what marriage is, the Constitution doesn't say whether marriage is a gendered institution or a genderless institution. Unelected judges don't have a crystal ball. They don't know what the truth about marriage is better than the people know the truth about marriage. They don't know the consequences of redefining marriage better than the people know those consequences so where the Constitution is silent, in our constitutional system, we the people retain authority to make policy. So, on the marriage issue, we the people should be making marriage policy. This is the message we should be saying in all opportunities when we have a microphone in front of us and an audience, whether it's on TV or a banquet hall because this is the message that remind the American people, should the judges do the wrong thing, that they did in fact get it wrong, We have to stigmatize a bad Supreme Court ruling the same exact way that the pro-life movement stigmatized *Roe v. Wade*. No one in America, whether on the Left or the Right, actually thinks *Roe v. Wade* is a good law. You have prominent Harvard Law professors who are pro-choice who laugh about *Roe* because it's just judicial activism. We need to make it the same way if we are to get a bad ruling on this so that our American people, our political class, the elites, will recognize a bad ruling for what it is—judicial activism.

That was point one. Point two: we also need to defend the substance of marriage. We have to defend the substance of marriage as a policy institution, not solely as a religious institution. The State is not in the baptism and bar mitzvah business but the State is in the marriage business because marriage is both a sacred and a secular institution, Marriage has both natural and supernatural implications and it plays both a natural and supernatural role. We need to be able to make the natural case for marriage. Why is government in the marriage business? Because the union of a man and a woman can produce a child and children deserved both a mother and a father. The State is not in the marriage business because it cares about your love life or my love life because government is a sucker for romance. If marriage was just about consenting adult romance we can take the State and get it out of the bedroom. The reason the government our nation and all 50 states and every nation throughout the history of the world has been in the marriage business is because we need an institution that unites a man and a woman as husband and wife to then be mother and father to any children that union creates. That when this doesn't happen, social costs run high.

I just want to read one quote to you to give you an idea just how well known the social costs of the breakdown of marriage are. Here's the quote. "We know the statistics. Children who grow up without a father are 5 times more likely to live in poverty or commit crime, 9 times more likely to drop out of

school, and 20 times more likely to end up in prison. They are more likely to have behavioral problems or run away from home or become teenage parents themselves and the foundations of our community are weaker because of it.” Who was the speaker? President Obama before his evolution. Why did President Obama know these statistics so well? Why did he speak out about this? He explained that when he gave the commencement address at the historically black Moorehouse College. This is what he said, “I have tried to be for Michelle and my girls what my father was not for my mother and me. I want to break that cycle.” Obama knows firsthand some of the consequences of the breakdown of the family. He wants to break that cycle in his own life and in the communities that he represents but how does the pre-evolution Obama square this with his post-evolution views? How do we as a community insist that fathers are essential if the law redefines marriage to make fathers optional? How do we say that a child has a right to both a mother and a father if the Supreme Court says that men and women are interchangeable, that mothers and fathers are replaceable? You can’t have these two visions of marriage simultaneously. The view of marriage that says it’s just about consenting adult romance and the view of marriage that says it’s about men and women, moms and dads, in a comprehensive, meaning a both permanent and exclusive and monogamous, union?

Let me go to the third point. No matter what the Court does and no matter what any state may do when it votes on marriage, there is no reason whatsoever why the government should ever coerce anyone into violating their beliefs that marriage is the union between a man and a woman. The mantra that we’ve heard for the past 20 years is that we want the freedom to live and love how we want, we want the freedom to marry, we want the freedom to live out our convictions. Why would the freedom on two people of the same sex to live and love how they want to entail the government coercing other people into celebrating that relationship? It shouldn’t and we have to make it clear that even if the Court strikes down these marriage laws, Solicitor Verrilli was wrong when he said that the nonprofit tax-exempt status would be an issue. If you remember the oral arguments, Obama’s chief litigator said in response to Justice Alito that if the Court were to strike down marriage laws tax exempt nonprofit status of Christian schools would be an issue. It shouldn’t be an issue. There is no reason why the government should be penalizing orthodox Jews or Roman Catholics or evangelical Christians or Latter Day Saints who continue to believe the truth about marriage. There is good legislation that has been introduced at the federal level and at the state level that would do just this, sponsored by Representative Labrador and Senator Mike Lee. At the federal level it’s the Marriage and Religious Freedom Act and it specifically says that the federal government could not penalize anyone when it comes to their tax status, the receipt of a grant or a loan or a contract, accreditation for a university, or a licensing for a professional because they believe and act on the belief that marriage is the union of a man and a woman. For a movement that is committed to liberty, for a party that is committed to liberty, defending religious liberty needs to be a requirement. This is something that is non-negotiable. No matter how the government defines marriage it should not be penalizing people who continue to believe and act on the truth.

In the last minute that I have I said I had a half point to make and that’s the type of arguments I have been making in the public square for the past several years, the types of arguments I make in the book that will come out this summer are all public arguments—public philosophy, natural law, social science, those sorts of things. But, in addition to that, we need a response from the Church to the sexual revolution as a whole. Same-sex marriage is only plausible in a world that has bought into the lie of the 60s. Only after 40 years of the sexual revolution, the hookup culture, no-fault divorce, pornography, abortion, go down the list of all of the ills, only when you lived with that for 40 years could you then say, “Well, let’s legally redefine what marriage is.” We have not yet done a good enough job in our own communities of responding to that lie and of embodying and witnessing to a more humane and attractive vision of human sexuality. What we are going to need in the long haul if we protect our religious liberty to bear witness to the truth about marriage, we then need to bear witness to truth about marriage in a winsome and appealing way, both at the public level and at the religious, theological, spiritual level. That’s going to require new ministries, new Bible studies, new sermon guides, new small group materials to convey to our own



children the truth about marriage. It will be incredible difficult in a political society where marriage has been redefined for the next generation to be raised to believe the truth about marriage. It is not going to just be on the gay issue, it will be on all of the sexual revolution issues and we still need to work to develop that response. Thank you.

MR. KELLY SHACKELFORD

I think most people here I have known for a long time and I think you know me well enough to know that I'm pretty optimistic so bear with me as I start because my job is essentially to tell you something that is pretty dark which is what is going to happen, or what could happen, in the next few months and what that's going to start. But I am going to end up on a good note because I follow Jesus Christ and you can't help but end up on a good note when you follow Jesus Christ so we're going to talk about what could happen and what we're going to do about what's coming.

Let's start with the basics and during Q&A if you want to ask questions about legal things, that's fine but let me just give you the really short summary. There are two really options overall about what type of ruling could come down. One is that they will force same-sex marriage on the entire country either by saying it violates the equal protection clause or by saying it is a new fundamental right or by saying that if you get married in one state the other states have to except and those means would essentially force this across the country. The other option is to leave it up to the states to say that the states will battle this out. I just point that out up front because even the best ruling you could hope for, this battle is just going to enflame even greater in the states if you get that. It's going to flame up no matter which way you talk about. The reality is there is sort of a side one too. If you were to ask me, "What do you think is going to happen?" I would say that the odds are highly likely that they are going to force same-sex marriage on the entire country because Justice Kennedy is a swing vote Justice Kennedy has written every one of these bad decisions. He wrote *Romer*, overturning the vote of all of the people in Colorado. He wrote *Lawrence v. Texas*. He wrote the most recent one against DOMA. He has been the one to write this and he is the swing vote again. Stepping back, one of the things that just hit me the other day—sometimes people struggle with whether politics and those kind of things matter—just think instead of Justice Kennedy we had a good justice in his place, all the things we're fighting on all the gay rights stuff would never have existed. He created all of these cases and these problems that are happening. I understand there is a cultural backdrop but none of the legal things that are happening that started years ago would have started if we would have had a proper appointment to the Supreme Court so those type of things are very important and this is just a reminder to it.

As I said, what do I think is going to happen, I think this is going to be forced. Now, if that happens, one or two things could be in the opinion. It could be that the opinion just say this is just a fundamental right or an equal protection violation and it's going to create a constitutional crisis if that happens. There is a new constitutional right. If this is a constitutional right, then what happens to the constitutional right of free speech? How do you balance those out? Or, what about the constitutional right to religious freedom? Are these now secondary constitutional rights to this new constitutional right? It is going to open up a major problem which is one of the reasons our brief that we filed was to bring that issue square and if you go here, here is what is happening in every other country and it has been a loss of free speech and a loss of religious freedom. There is almost an inverse relationship here so there is a possibility you could have them do this horrible thing but also say however, the right to dissent in America is as crucial as anything we've ever had, the right of religious freedom, to free speech. They could do something like that but we'll have to wait and see.

If, though, they do what most are expecting—and let me tell you, the justices understood this—let me read you Justice Scalia's question. "Is it conceivable that a minister who is authorized by the State to conduct

marriage can decline to marry two men if indeed this Court holds that they have a constitutional right to marry?" He said, "I don't see how." He's sending the message that this is where it's going. Then you had Justice Alito ask the question if this now a new constitutional right, then what about nonprofit status of the religious organizations? The shocking answer from the Solicitor General of the United States was, "It will be an issue." I think most people realize something is coming but I don't think anybody has an idea of the magnitude of what's coming. I just wrote down some things. If we get this bad ruling in late June, tax exempt status will probably be attacked nationwide, Christian college and school's accreditation will be attacked, faith-based adoption and foster care providers will be attacked, federal contractors and grantees including those with loans at religious school will be attacked, religious staffing at faith-based organizations will be attacked, those in the military that don't follow the new agenda will be attacked, those in cities and counties and employees at all government level will now be attacked, faith-based businesses, which we've already seen, will be attacked, numerous federal laws have triggers in them which will now swing into effect, things like Title 7 that deals with all of our federal laws and employment across the country, housing and urban development, the Department of Labor, the Department of Education, the FCC, and I could go on. Licenses, the right of a person to even be in a profession, will be under attack. Those kind of views, that kind of discrimination isn't allowed in the legal profession, isn't allowed in the you fill in the blank profession. This is going to hit every aspect. This is going to be a direct attack on religious freedom everyone in the country and no one will escape it. That is what's coming, great news huh?

The thing that I want to end with, though, is what we can do. As Rick said, we need to be in prayer. We need an intervention by the Lord or we will probably have this horrible decision. Just pray and repent that God would save us from what we deserve in this country and how we've been turning our back from the Lord.

The other thing we could do is pass the Marriage and Religious Freedom Act. That would actually put in federal protections against all these things. Again, very uphill battle obviously, especially with the President of the United States right now but Senator Lee and many others are trying to push for this. The other thing, though, that I think a lot of people aren't thing about and I want to make sure and highlight, and this is not the long term this is the short term, what you can do between now and then in addition to pray. We're talking about a month and a half from now. Every religious organization should get their legal documents in order. This is a serious issue. What we are finding is very few organizations are ready for this attack. It used to be in the old days that the thing to do if you were a Christian organization was to be kind of vague about what you believe to not trigger some sort of radioactive attack from somebody. That's not the law anymore. The law now is if you don't state it explicitly in your legal documents, you cannot use it to protect yourself. So, do you have a statement or does your church have a statement on where it stands on marriage, on life, on a number of these issues? I'm telling you most places don't. We got a call just a few days ago from a missions organization that was called by a gay church that wanted to be a part of their mission organization work. They had no policies in place, nothing. This is a serious issue. In God's divine comedy he put a guy in the justice department who was number one in his class, top lawyer, and he was there putting away terrorists and after years of putting away terrorists, Eric Holder came in. All of a sudden, he kept getting pulled off of his terrorist work to work on GLBTQ, Q is questioning, issues and after a number of years he couldn't stand it anymore and left. He's now one of our deputy senior counsels. He was in all the meetings with all the plans on how they were going to force this across the country and how they were going to get around religious freedom. He knows all the things that have to be in the legal documents and everything else. We now have a site that people can go to. If you go to [libertyinsitute.org/audit](http://libertyinsitute.org/audit) there will be a list of all of the documents to check on if you are a nonprofit religious organization. There is specifically one for churches and it will say look at these documents and then there are a number of links to the type of language that other people use. It's based on denomination so if you're Catholic, a number of Catholic organizations have used this kind of language for the life issue or the marriage issue. Presbyterian had used this. Baptist has used this. People can pick what they want

that matches and that will put them in the best situation possible to stand and fight when, absent God's intervention, we are going to be in national war with tons of litigation over this. We need people in the best position possible just like Hobby Lobby was, they had all of this stuff in their documents. We need to have our churches, our religious organizations, need to have this. We need to be proud of what we believe. We need to put it in our documents. We need to follow that and then we need to stand behind that when we're in this litigation. What I want to point out, I know ADF also has these type of documents and there's some other legal groups, but I want you to know it's available, it's free, and it's something that most religious organizations and churches have no idea and they really need to be prepared.

Again, I don't end with a negative. Look at last year. Our cases doubled last year from a year and half earlier but we won every one of them. So, we might be in a huge battle right now with cases all over the country, but that doesn't mean we're not going to win every one of them. We just need to be faithful and we need to be faithful in how we stand up and we have to have people across the country being faithful to do that as well. We can still get the victory. Thank you.

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