

THE BROOKINGS INSTITUTION

GAYS, MORMONS, AND THE CONSTITUTION:
ARE THERE WIN-WIN ANSWERS FOR
LGBT RIGHTS AND RELIGIOUS CONSCIENCE?

Washington, D.C.
Monday, March 16, 2015

Panel 1: A Salt Lake Solution? The Mormon Offer and Its Aftermath:

Moderator:

PAUL EDWARDS
Editor, Deseret News

Panelists:

MICHAEL LEAVITT
Former Governor Utah
Founder and Chairman, Leavitt Partners

BEN McADAMS
Mayor, Salt Lake County

CLIFFORD ROSKY
Professor of Law, University of Utah
Chair, Equality Utah

Panel 2: The National Scene: Is Conflict Banked in the (Wedding) Cake?:

Moderator:

JONATHAN RAUCH, Moderator
Senior Fellow, The Brookings Institution

Panelists:

NATHAN DIAMENT
Executive Director, Orthodox Union Advocacy Center

SARAH WARBELOW
Legal Director, Human Rights Campaign

ROBIN FRETWELL WILSON
Roger and Stephany Joslin Professor of Law
Director, Program in Family Law and Policy
University of Illinois College of Law

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P R O C E E D I N G S

MR. RAUCH: Welcome, everybody, to Brookings. My name is Jonathan Rauch. I'm a Senior Fellow in the Governance Studies Program. And on my behalf and Paul Edwards's behalf, it is just a tremendous pleasure to have you here today, and to have such interesting news to talk about.

Paul is the Editor of "The Deseret News" in Salt Lake City. And we are so honored to have "Deseret News" as the cosponsors of our event today. This would not have happened if not for conversations that began over a year ago with Paul about how to get involved in this issue in a constructive way. We also have special thanks to the Huntsman Foundation for its support for this event today.

We're doing two panels in the kind of timeslot we normally reserve for one, and that means time will just fly past, and it always means, as Henry VIII said to Anne Boleyn, "I won't be keeping you long. The usual long-winded introductions, we will simply dispense with -- except to say that, as all of you know if you're here, there was some very big news out of Utah last week, which passed a statewide LGBT antidiscrimination bill, coupled with some rather innovative religious liberty protections. Some people think that could be a national template, which we're exploring today.

Our first panel, which Paul Edwards will lead, will look at the news from Utah from people who are in the thick of that conversation. The second one, which I'll lead, will consist of national experts on implications. Each of those panels will be 50 minutes. We'll have some time for Q&A, so get your questions ready.

Everybody who's watching this on the webcast, please note that we are taking questions via Twitter, and the Twitter hashtag is, creatively, #lgbtLDS. So, if you have a question, tweet it to #lgbtLDS, and we'll do our best to get it on the stage here. Cell phones off, everybody, as a courtesy to our panelists.

And a word about Paul Edwards, who, apart from being a friend of mine, is Editor of "The Deseret News," has a PhD from the University of California at Berkeley,

and, also, a law degree from there -- but nobody's perfect.

Paul, over to you.

MR. EDWARDS: Thank you so much. Well, it's a great pleasure to be here. Let me just say a few words about our initial panel here, our panelists.

Seated to your right at the end there is Clifford Rosky. Cliff is a Professor of Law at the University of Utah, and he is also the Board Chair of Equality Utah, which is an advocacy organization that fights for the equal protection and civil rights of LGBT Utahans and their families.

Seated next to Cliff, you'll see Mayor Ben McAdams. Ben is Mayor of Salt Lake County, which is the jurisdiction that covers most of the Salt Lake City metropolitan area. And relevant to the purposes for today's discussion, I think it's important to be aware that Ben has also been a Democratic State Senator in the Utah State Senate, and, prior to that, was Counsel in the Salt Lake City Mayor's Office. And you'll see, with some of the narrative about how things developed in Utah, how those positions are important.

And then seated right next to me, very glad to have former Governor of Utah, Mike Leavitt, who also served in the George W. Bush administration as Administrator of the EPA and as Secretary of Health and Human Services.

So, really wonderful to have you all with us today.

So, as we get underway here, just -- it would be helpful to ask the question, what was actually accomplished? And I'm going to ask you, Cliff. What was accomplished in Utah with this last legislative session, in terms of balancing or protecting religious liberties and LGBT rights?

MR. ROSKY: Well, I do think that most people would agree that the most significant aspect of the law is the addition of sexual orientation and gender identity to Utah's employment and housing antidiscrimination laws. A lot of Americans don't realize that that's not already in federal law. There are, you know, 21 or 18 states -- depending on how you count it -- that protect gay and transgender people from

employment and housing discrimination, and Utah is now the most recent one to add those classifications, although it does not include an amendment to our public accommodations laws.

So, it doesn't regulate whether businesses must serve LGBT customers. I think that is something that both sides were interested in, but weren't able to resolve -- and look forward to working on that this very coming year.

MR. EDWARDS: Okay. Now, Mike, you're a practicing Latter-day Saint, and you've had significant involvement with public service, to say the least. And I think it's fair to say that since you've left public service, that the leadership of the LDS church has, on occasion, sought counsel from you about public affairs. Can you describe your role in working with the leadership of the church?

MR. LEAVITT: Well, as you point out, I am not an official of the church. And I am not a spokesman for the church. In our faith community, almost every member has some form of volunteer position, and mine is that, on occasion, they will ask me for advice on matters related to public affairs. And in that context, I'm at least knowledgeable of the deliberations that they had.

MR. EDWARDS: Okay. So, in your estimation, what actually worked with this past legislative session? Was the church -- do you think the church was pleased with the outcome, or --

MR. LEAVITT: I think what happened here is that we have seen a great victory for the protection of conscience. I think it is a fundamental belief of -- and when I use the word "the church" in this context, I'm referring to the LDS church -- that you cannot have a society that will be preserved in peace unless you have the protection of conscience.

And there was a lot of pain in Utah on both sides of this issue. For many years, there has been a desire to pass a protection for LGBT people. There've been those who have been agitating for greater religious freedom as they've seen this unfold. And what I think occurred was that we saw the church, in this case, step up not to wield

power, but essentially to act as a convener or a healer -- to try to bring the sides together, to find a place where fairness for all could be presented.

And I think that's primarily what has occurred, is that it has matured now to the point that we could begin to look for a solution and the development of a platform for that kind of fairness for all.

MR. EDWARDS: Okay. So, Ben, let me just ask you -- you've been involved with these issues for some time. What has been the immediate result, in your estimation, from what occurred in the legislative session this year?

MR. McADAMS: I think the immediate result is a conversation that's happening in Utah that's very much a healing conversation. This is -- Utah's a place that, beginning with Prop 8 -- and there's been some tension in our local community between our people of the LDS faith -- and faith generally -- and, also, our LGBT community.

And what we've seen happen with the passage of the legislation -- but even go back further, to -- the bill's been run now for seven years, and Salt Lake City adopted nondiscrimination protections in 2009. What we've seen happen is really a paradigm shift to a healing dialogue about, what do -- how can we bring our communities together? What common ground do we have? How can we respect people of conscience, and afford human dignity to all of our residents?

MR. EDWARDS: Okay. So, we've been talking in platitudes at this point. Let me get into some of the specifics. You began your mention here, Ben, with a discussion about Prop 8. Now last I remember, Prop 8 was a California proposition, not a Utah proposition. And so why does Prop 8 figure so prominently in this narrative? And I'll ask Cliff -- you're -- why does Prop 8 figure into this narrative, about what happened in Utah?

MR. ROSKY: Well, this has a strange personal connection to me. I used to live in San Francisco, and I moved to Salt Lake City in the summer of 2008. And within a few weeks, the LDS church announced formally that it was joining a coalition of other churches to support the passage of Proposition 8, and, therefore, the prohibition of

same-sex marriage in California.

And within, I would say, two or three months, the public affairs division of the church began clarifying that while it was opposed to same-sex marriage and same-sex adoption, it was important to clarify that the church supported nondiscrimination protections in employment, housing, inheritance, and healthcare, which already existed in California.

And since I had begun working with Equality Utah, I saw an opportunity there, which is, of course, one of the state's biggest stakeholders -- supports several important, pressing items on the agenda of the LGBT community.

MR. EDWARDS: Okay. So, Prop 8 supported by the Church of Jesus Christ of Latter-day Saints. Mike, how did we get from Prop 8 to Senate Bill 296, which is the specific legislation that passed in Utah around antidiscrimination? Is there something about that narrative that you could clarify for us?

MR. LEAVITT: I think we should acknowledge, first of all, there are a couple of things they have in common, and a couple they don't.

The first is that the church's position on both were a function of their doctrine. As Cliff pointed out, it is a doctrine of the church that marriage is between one man and one woman. And that's not likely -- will not change.

The second, 296, is a reflection of the church's belief that Jesus Christ would not abide by mistreatment of others; the withholding of substance, or shelter, or employment, or care. And that -- no community should do that, either.

I alluded to the fact that there was a lot of pain that occurred, that people wanted to resolve this, and that they were feeling this conflict, and it was beginning to have negative impacts otherwise. And I think the church, at that point, concluded, we can act as a convener. We can act as a healer. Both of these are based on our own doctrine. Let's bring them together and talk. And I think good things happened when that occurred, and that's precisely how we got from Prop 8 to 296.

MR. EDWARDS: Okay. So, in Utah itself, Ben, you were involved with

some of the development of these ideas in the State of Utah. You want to tell us a bit about how, specifically, then, we were moving towards the 296 solution?

MR. McADAMS: Sure. So, in 2009, the Mayor of Salt Lake City, who I worked for at the time, announced that he was going to propose ordinances protecting against discrimination for Salt Lake City. And immediately, we had some very conservative members of the State Senate jump up and say, "If Salt Lake City passes these ordinances, we will revoke your ability to enforce these ordinances," which they can do.

And that set up -- all of us saw, from across the political spectrum, that that set up a scenario that was a train wreck happening in slow motion -- that Salt Lake City would proceed with enacting these protections, the legislature, in anticipation of an election, would -- somebody would run a bill, and everybody would be -- feel compelled to vote for it, and we would see this --

MR. EDWARDS: Let me probe.

MR. McADAMS: Yeah.

MR. EDWARDS: In anticipation of an election, why is that important in Utah?

MR. McADAMS: Well, this was politically not popular at the time. So, I had a lot of Republican legislators say, "I support what Salt Lake City's doing, but if that bill gets proposed, I'm going to feel compelled to vote for the bill."

MR. EDWARDS: Okay. Now both of you have run for elective office in Utah, with some -- with great success. And so appealing to the Utah electorate around these issues -- just clarify for our audience what that means. What is the makeup of the Utah electorate?

MR. McADAMS: Well, I'm a Democrat in Utah, so I can -- but it's a -- Utah's a very --

MR. EDWARDS: Which makes you about 25 percent of identified state -

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MR. McADAMS: Democrats in statewide elections get between 25 and 30 percent.

MR. EDWARDS: Okay.

MR. McADAMS: So, it's a very, very conservative state. And so it's --

MR. EDWARDS: Yet he holds elective office.

MR. McADAMS: Yeah, so it's a very conservative state. But one of the things that I think -- to their credit, both leadership of the church and individuals in the church -- but, also, Equality Utah recognized this isn't an easy LGBT versus LDS.

These communities in Utah are very much intertwined. Many in our LGBT community grew up Mormon. Many in our LDS faith have loved ones, and family members, and coworkers who they love and cherish who are LGBT. And so to say that it's easily divided in faith versus LGBT isn't the case in Utah. And I think both organizations recognize -- I'm a member of the LDS church, practicing, but, also, from my very early days in politics, supportive of this nondiscrimination protection -- recognizing that continuing a war would have casualties on both sides.

MR. EDWARDS: Okay. So, Cliff, I -- you came in as an outsider, as it were, to this situation in Utah. How did you see this scenario lining up, with state legislators trying to appeal to a very conservative base in a caucus-nominating system that brings them to office? But seeing what Mayor McAdams is describing as a potential train wreck -- what was the role of Equality Utah, then, in moving the dialogue forward?

MR. ROSKY: So, I arrived at an important strategic moment for Equality Utah, and a shift that occurred. Equality Utah was originally founded in opposition to Utah's Amendment 3, which was a constitutional amendment, like Proposition 8, to ban same-sex marriage in Utah. And, of course, Equality Utah lost that fight, and Amendment 3 became law.

And so I guess it's seven years ago at this moment, when the church jumped into the Prop 8 campaign, but also says, "We support employment, and housing, and other protections." There's obviously an opportunity there to get something done in

Utah -- some of the things that would really protect the most vulnerable members of our community.

But, honestly, the scars, I think, on both sides were still deep. And when Equality Utah saw those statements, I called them up and said, "We need to use this. This is a real opportunity." And they said, "Oh, we're using it." And at that time, they were running what they called the Take the Church at Its Word Campaign.

They put a clock on the website -- it's been seven days since the LDS church claimed that it supports antidiscrimination for -- this is not a productive exercise in Utah, and they were running a campaign to repeal Amendment 3 at the time. Of course, we all supported that, but it wasn't going to survive the Utah legislature.

And I think we came together, and we thought hard about it. And it wasn't an easy decision. We decided, we're not going to give up on any of our fundamental principles, but for now, we're going to focus on things that most Utahans agree on, and push those very hard.

MR. EDWARDS: This was Equality Utah that came up with --

MR. ROSKY: Exactly.

MR. EDWARDS: Okay.

MR. ROSKY: And so we called it the Common Ground Campaign, just to emphasize that, actually -- and polls started coming out, in fact, from "The Deseret News" and other papers; 75 percent of Utahans agree on comprehensive antidiscrimination protections. And that sent a very powerful signal. And, frankly, you know, that's front-page news in Utah, certainly seven years ago -- and probably even today.

MR. EDWARDS: Yes. Yes, please, Mike.

MR. LEAVITT: As a person who's observed the elections --

MR. EDWARDS: Yes.

MR. LEAVITT: -- can I comment on this?

MR. EDWARDS: Yes.

MR. LEAVITT: This is, I think, a national observation I'm going to make. Over the course of the past 20 years, politics has changed. It has been, for many decades, that if you were to win elections, the idea was, hold your base, and erode enough from the center that you prevail. Over the course of the past 20 or plus years, that has changed to, whoever can light up their base the most tends to win the election.

And the consequence of that is that both sides tend to polarize and illuminate very hard lines at the extremes of their position. And, consequently, legislation that tends to find its way into the marketplace supports those themes, and it has a zero-sum component.

And what I have observed -- not just in Utah, but in marketplaces -- political marketplaces all over the country, what has been necessary and needful was some kind of legislative tool that allowed those zero-sum games to find their way into a solution. And the question, I think, is, will the marketplace begin to reward solutions, as opposed to simply the rhetoric of the zero-sum game?

And if there's anything new here --

MR. EDWARDS: Uh-huh.

MR. LEAVITT: -- I think and I believe there is -- it is that there is a legislative toolkit now that will be available to those in any jurisdiction to at least begin to say, this is the place, when there's enough pain, that we'll ultimately arrive. Why don't we get down to having a conversation about it now?

MR. EDWARDS: Okay. And in thinking about the pieces of that toolkit, then, what are the specifics in this "toolkit" that you see as important for the nation? Any of you can respond to that. Cliff, what do you see as specific pieces of the Utah toolkit?

MR. ROSKY: So, I think that there's some things that we went into the discussions that were core principles -- no specific exemptions that only applied to LGBT people, no exemptions that any religious individual could invoke as a license to discriminate, no sort of Hobby Lobby-type exemptions where any business owned by a religious individual or family could exempt themselves from the law.

And I think those are principles that I would hope that any local LGBT organization would stick to in these kinds of discussions, because they're important -- but also recognizing that people of faith deserve the same equal protections under antidiscrimination laws as everyone else. Some of those exist. Maybe some of them need to be refined -- and we're certainly open to that.

One important piece here, though, is that although it's a milestone, I don't think that it's a model for the following reason: Utah already had preexisting exemptions for religious institutions in its antidiscrimination laws that are wholly unlike any others in other states or in the federal. For example, religious organizations were completely exempt from our antidiscrimination laws and still are. So, churches could discriminate based on race, sex, disability, age, and other characteristics. That's unusual.

MR. EDWARDS: Now was there some additional protection added, though, for religious organizations or religiously-oriented organizations in this legislation?

MR. ROSKY: I think the key piece -- and, unfortunately, I think a lot of the focus on the journalism has missed this piece -- is, there are brand-new speech protections for employees outside of the workplace. That's quite significant.

MR. EDWARDS: And say a few more words about that, because these aren't just about religious expression.

MR. ROSKY: That's right.

MR. EDWARDS: Is that right?

MR. ROSKY: No, so these are based on labor laws in many other states which contain similar speech protections. But what they say is, if you engage in religious, political, or, really, any other kind of speech outside of the workplace -- for example, if you donated to support Proposition 8, or you donated against Proposition 8, your employer can't fire you when you come back to work for that donation. There are, of course, some reasonable limits placed on these laws, but it's essentially a labor law which is a speech protection that provides equal protection for religious and nonreligious

speech.

And that's quite significant. That's a clear win/win in this conversation.

MR. EDWARDS: Okay. And I do think -- and we'll leave some of this terrain for the next panel, but I think important to recognize that one of the issues that may come up in a structural framework for people that are looking at this as a potential model would be that -- are we looking at particular carve-outs in the law to make this all work, or are we looking for broad equal protection principles that will make this work?

And this one passage in the law about speech is one of the equal protection kinds of pieces that find its way into what ended up to be the compromise. There are some other important "carve-outs" or special protections in some of the other pieces of legislation.

MR. LEAVITT: Can I follow on Cliff on --

MR. EDWARDS: Yeah?

MR. LEAVITT: Utah is one of 50 states. There are thousands of jurisdictions who are having this conversation in one way or another. So, I think Cliff's right; every conversation will be unique into itself. But there is, I think, the making of a model in the pathway. There is a rhythm about legislation that typically this occurs, particularly in the political marketplace as we know it.

Each side starts off with a zero-sum game and a piece of legislation that they're for, and one that they're against. And they tend to look for ways in which they can overcome the other.

The unique part here is to acknowledge that if this is going to happen, it has to happen at the same time, because the other side will not trust that you'll come back and protect them later. It has to happen simultaneously. And I think that's a key element of the secret sauce here -- is moving to meet the needs of both simultaneously.

MR. EDWARDS: Now I think there are going to be some important questions from the audience here. Before we turn to that, I do want to ask Ben if you would say a few words about how that trust was built up over time, and if there are any

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lessons to be learned from the Utah experience -- and, again, from -- you know, throughout this last decade, as we've wrestled with these issues as a community.

MR. McADAMS: I think -- I mean, that trust, it was built up over time. It wasn't just coincidence that two months ago, the LGBT community and the church came together and had a dialogue.

But dating back to 2009, when these conversations started around the Salt Lake City protection -- but there was the Executive Director of Equality Utah at the time, Brandie Balken, who was a real hero -- no longer the Executive Director, but a real hero in this process. She developed great relationships with church public affairs and church leadership, and they really developed a fondness and trust for her.

I remember an experience, if I might share, where there was a gay rights group that was planning a protest right in front of the church headquarters. And I remember hearing this story. I don't remember who told me -- whether it was Equality Utah or officials from the church -- but that the church said, "Hey, we've been great to work with. Are you really organizing a massive protest in front of our headquarters?"

And, you know, the "great to work with" meaning there's a dialogue; not to say that Equality Utah was content with the status of where things were. But Brandie said, "You know what? In a show of faith, you're right. I'm going to reach out to this organization. We're going to move that protest as a rally in front of the Pride Center."

And just that token of, yeah, we're not going to protest you; we're going to rally. We care about rights, and we care about an agenda that we're looking to move forward, but that can happen constructively at the Pride Center, and not destructively, in front of church headquarters.

And so it's things like that that happen from both sides -- that the LDS church, I think, then reciprocated by inviting gay rights organizers to a holiday music festival. And they were treated as VIPs and seated very prominently. And that happened over time. That didn't just happen when people decided to come together and draft a bill. But there were gestures -- healing gestures to bring the two sides together, to say,

"We've got more in common," that, "My constituents are your constituents, and vice versa."

And that happened over time.

MR. EDWARDS: Okay. Well, we'd love to hear your questions from the audience. Yes, back here.

MR. SHORE: My name is Stephen Shore. You've said that --

MR. EDWARDS: And are you with an organization or just --

MR. SHORE: Just as an individual.

MR. EDWARDS: Okay.

MR. SHORE: -- that, of course, the doctrine, as we all know, of LDS is that marriage is between one man and one woman, but it's not a secret that, under Joseph Smith and Brigham Young, that the doctrine was of one man and a goodly number of women. So, how certain are you that the church will not, in the fullness of time, change its doctrine?

MR. EDWARDS: Okay. Mike, you've had close connections with some of the leadership of the church.

MR. LEAVITT: Well, I am not a spokesman for the church. I'm not an officer of the church. I want to make that clear. As you might point out, I've been able to observe this.

I think that the doctrine of the church is as it is, and as it will remain. A marriage is between one man and one woman. It is a -- but I also think it's important to acknowledge this -- that there is a narrative often about the church that I just think is fundamentally wrong.

I mean, the Church of Jesus Christ of Latter-day Saints has 15 million members. It does -- it has status in 195 countries. It operates under governments that are communist, monarchies, and democracies. What -- it has members as diverse as Harry Reid and Orrin Hatch, both who can stand on the floor of the United States Senate and debate the opposite sides of this issue -- and, at the same moment, both be

considered very good, practicing members of the church. What they have in common is a belief in the gospel of Jesus Christ, and some commitments that they have made.

So, as we begin to think about these issues, it's important to recognize not just that doctrine, but the broader doctrine that unites them, and the reason that they're together as one faith.

MR. EDWARDS: Okay. Other questions? Yes? And, again, if you can wait for the microphone, and let us know who you are, and if you're representing anyone.

MR. SPRIGG: Yes, I'm Peter Sprigg, representing the Family Research Council.

I read the text of the bill, SB-296, and it contains quite elaborate enforcement mechanisms for the nondiscrimination provisions. But the free speech religious protections are not accompanied by any particular enforcement mechanism, and I wondered -- I mean, that struck me as a weakness. I didn't know if it is implicit that a violation of those protections is religious discrimination, and, thus, subject to the same enforcement protections as the sexual orientation and gender identity, or should there not be other enforcement mechanisms for those protections?

MR. EDWARDS: Okay. Cliff, enforcement issues around the very clause that we were talking about.

MR. ROSKY: Honestly, I don't think that the issue is particularly clear in the bill. It's an insightful question. I will say that Utah's employment and housing code are both enforced by the Utah Labor Commission through administrative proceedings, so I would expect that if someone raised a complaint under those sections, that they would have to, like anyone else, file their complaint with the Utah Labor Commission, who would appear before an Administrative Law Judge to enforce them.

What the remedies would be, I would imagine, would be up to the judge in a particular case.

MR. EDWARDS: Okay. There have been, interestingly, critiques from other religious -- or spokespeople for religious organizations for some conservative

groups that this was a very well-intentioned piece of legislation on the part of what the LDS church did in making its initial move, but naïve, because they gave up too much. How -- is this a fair critique from the religious right?

MR. LEAVITT: I think we can expect that any -- I don't mean to imply this to one or the other -- but if organizations have been accustomed to focusing on the zero-sum approach to this, that this will seem as though it's different, and they will not see it as model, and they will not see it as anything that will be replicated. Time will tell that.

I would just suggest that there's a lot of pain, not just in Utah. There's a lot of pain everywhere. And people are looking for a solution to this. And we have this dilemma. And that is that if, suddenly, we conclude that religion is simply an excuse to discriminate, and we ought to protect people from it -- or we conclude that LGBT people ought not to have rights -- either one of those are unacceptable to the American people.

And if we continue to speak about them in those terms, no solution will be found, the pain will get bigger, and what I said earlier -- no nation can continue in peace, unless conscience is preserved. The American people are ultimately going to require that we find a place where both points of view can reside, and that we can move on as Americans. And it will naturally lead people to find -- look for a place to solve it.

And what we see here isn't a bill that's going to solve all the problems. This does not get into public accommodation. Why? That may be the next question. I'll give my answer now.

MR. EDWARDS: Okay.

MR. LEAVITT: It's because it couldn't legislatively be done. There wasn't agreement. There will be other things, like has been mentioned, that still need to be worked through. What we're working toward here, though, is that we're looking for a way now to solve this problem.

MR. EDWARDS: Okay, Cliff, but you've also received criticism from another flank, as well, right -- that this didn't go far enough, that this didn't accomplish

enough for the LGBT community in Utah. What's your response to that critique?

MR. ROSKY: Well, honestly, looking at a lot of the criticism, what I've seen is that, actually, the (inaudible) that we all wrote together is quite a complicated thing. And because of the unique history of Utah and its broad, preexisting exemptions for religious organizations, a lot of the criticism is blaming this law for things that already existed before it.

So, folks are saying that we traded basic protections for LGBT people in exchange for sweeping, unprecedented exemptions for religious organizations. Those exemptions have already -- always existed in Utah law because of its history. It was founded by a church.

So, a lot of it seems to be based on understandable -- both mistrust and misunderstanding. It is hard to believe that the Utah legislature would pass a law that protects LGBT people and offers truly equal protections for that community and for people of faith.

And so I think as people get to know the details of the law, and what it actually did and didn't do in Utah, I think they'll come to see that it's a good development.

MR. EDWARDS: Yes, back here.

MS. KAMBOURIAN: Hello. I'm Jennifer Kambourian, and I'm here just as a private citizen.

Governor Leavitt, you mentioned something that caught my attention. You said that a lot of the politicians and the political parties tend to try to light up their base by polarizing the issues in order to get elected or to pass legislation -- which is understandable.

And it appears, too, that the press -- the modern press, especially -- has really contributed to that, because in order for them to get the attention that they want, the readers that they are seeking and the viewers, they, of course, do contribute to that polarization of the issues.

What can the regular citizen, like myself, the housewife from Oakton --

what can we do? I care very much about the decision. I care very much. My friends care very much about finding a middle ground where both interests can be served.

What can those of us who are not in the press, who are not in the media, and who are not in politics -- what can we do to participate in this process, and to help to find a more moderate, inclusive, less polarized type of legislation -- and to find leaders that aren't so polarizing? And how can we not be drowned out by these loud, more powerful voices?

MR. EDWARDS: Thank you. Mike -- and, actually, let's also ask Ben, an elected Democratic official from Utah. But, Mike, go ahead. It was directed to you.

MR. LEAVITT: Well, I would just agree with your observation. The media is a marketplace, and who understand that they're looking to create an audience. And, hence, they have begun to speak in cohorts, as well, and so you end up with Fox versus MSNBC, and people who like to hear Fox News go there, and people who like to hear MSNBC go there.

And, consequently, we don't have a cable channel that's dedicated to finding a solution like this.

And I would just say, being involved in the public square with your voice is the most important -- and, likely, the only -- thing that any of us can do. What we need to make certain of is that all voices are protected and respected in the public square -- that there's fairness for all.

MR. EDWARDS: Ben, any thoughts on this?

MR. McADAMS: I would add, I'm deeply committed to my faith. And that deep commitment to my faith leads me to support basic rights and human dignity for people in our LGBT community. And I think the most important thing that can happen is for everyday citizens like yourself to be who you are, but be somebody who respects, loves, and cherishes somebody who's different from you.

And I think that's what's happened -- and is happening -- in Utah and, I think around the country -- is that we are finding that common ground, because we're

finding out that our coworker is gay, and that he's actually a pretty good guy and a pretty good coworker, and that's okay. And we're seeing this reconciliation of family love and family relationships that's happening around the country and is happening in Utah.

And that's what I'm proud of that has happened with the passage of this nondiscrimination protection -- is, it's a statement that my deeply-held convictions are not incompatible with my coworker whose family life is different than mine.

MR. EDWARDS: Okay. Other questions from the audience? I have one about the role of Kitchen v. Herbert. So, as we've talked about some of the narrative moving along here, there was a very important case decided in December of 2013 that somewhat stunned the state, I think, although it had been through the process of litigation. How does the Kitchen v. Herbert case -- if someone could -- Cliff, could you describe what that did in the State of Utah, and why it was somewhat -- well, just describe the holding of the case, and why it was important in this narrative.

MR. ROSKY: So, Kitchen v. Herbert was the first federal court ruling that struck down a state's ban on same-sex marriage after the Supreme Court had struck down the Federal Defense of Marriage Act. You know, it had its obvious shock value as not only the first, but, in Salt Lake City, Utah, many people think that everyone in Utah is LDS conservative Republican.

The idea that a judge would strike down a marriage ban seemed to signal the way things were going to go after the fall of DOMA. And then there was a slight wrinkle that made it particularly compelling, which was, the Attorney General had neglected to request a stay of the ruling, and, therefore, same-sex couples immediately rushed down to county clerks' offices all around Utah, and, you know, the sort of pent-up demand for marriage that had built up over years -- people were getting married. It was a very festive occasion at many county clerks' offices.

And so that obviously put Utah front and center once again in the question of same-sex marriage. And, also, really just showed, well, same-sex marriage can come to Utah, and, after it's there, things are much like they were before. I think that,

actually, many people's friends and family were in the county clerks' office. And so the conversation took a different turn at that point.

MR. EDWARDS: And I -- from my observation, in that fall of 2013, there was actually starting to be, again, some discussion about the potential for a grand bargain on this issue of how to balance potential challenges to certain religious freedoms and the importance of antidiscrimination legislation statewide.

I do think that Kitchen v. Herbert put a pause in those discussions, and may have stopped for a period of time getting to this particular moment.

Yeah?

MR. LEAVITT: Could I comment briefly on this? Not so much the specifics of it, but I think what it illustrates -- and this is something that every faith community has to come to, I think, appreciate -- and that is, we live, in our country, in a democracy -- and that the instruments of democracy will decide what the government will protect, and what the society will value.

Churches, on the other hand, have the ability to decide what their doctrine will be. The brilliance of the American government is that we have allowed that decision on doctrine to be separate from that which we have -- we've allowed them to exist simultaneously, and that has allowed conscience to be protected.

Back to my point -- if there's ever a point when conscience is not protected, then the security and the capacity for that society to exist in peace will go away. And so that's the reason I think this is so important -- is that we've acknowledged the role of both of them.

MR. EDWARDS: Okay. I just -- as we're coming towards the end of our panel here, I do want to express my deep appreciation to the Brookings Institution for working with "The Deseret News" on hosting this.

As Jonathan Rauch noted at the beginning, Jonathan and I have been having discussions for a period of time about the promise and perils associated with religious exemptions in this antidiscrimination environment.

And I think -- I can't speak entirely for Jonathan here, but I think we share an intellectual belief -- kind of a distaste for the judicialization of policymaking that can happen, where you end up with a "one winner takes all" kind of approach. And I think one of the things that we're seeing demonstrated in this kind of a discussion is that, you know, there really is an opportunity for the promise of Madisonian democracy to work quite well.

That is, if you have well-designed, democratic institutions and well-functioning civil society, that you can get to a decent and self-governing pluralistic -- you know, a blessedly pluralistic society.

So, I'm really grateful to be able to work with Jonathan on pushing that kind of a discussion forward. I also just want to acknowledge the great support of two great American philanthropists, Karen and John Huntsman, who also made today's event possible.

So, we probably have time for one or two more questions from the audience. Yes, right here.

MR. HOWELL: Craig Howell, speaking for myself.

I just heard something I'd like to get clarification on. Most laws have a severability clause that says if one provision of this law is thrown out, the rest of the law remains standing. Am I to understand that there's no such language in this bill -- so that if one part of this compromise falls apart, the whole thing falls apart, hereby giving an incentive to both sides not to challenge?

MR. EDWARDS: Cliff?

MR. ROSKY: Yes, there is a non-severability --

MR. EDWARDS: Why non-severability?

MR. ROSKY: Some stakeholders apparently wanted to make sure that, as you said, if any part of the law were challenged in court, then the entire law would have to be struck down, and the negotiations or discussions would have to begin again.

In fact, the bill itself says this has been an effort to find a balance

between these two points of view. And, therefore, taking one out and leaving the other would, in fact, destroy that balance. So, it's not only there; it's explicitly explained in the language of the bill.

MR. EDWARDS: Yeah. That is unique, right? So, it does give this specific mention that because this was an effort to deal comprehensively with the issues, it needed to be non-severable.

Now one thing I think should also be noted is that I think there were -- we've talked a lot about 296. That's the bill that deals with an amendment to the antidiscrimination laws in the State of Utah.

There was other legislation -- and this may be a part of the next panel -- that dealt with issues related to solemnization of marriages in the state, who could do that, who could opt out of that -- including whether or not government officials might have some choice. That bill did not have a severability piece to it, although it did note that it was related to the overall legislative package.

There were other kinds of interesting protections passed in trying to deal with same-sex marriage coming to the state and concerns about what families might be able to do, in terms of teaching about human sexuality within their homes. So, there was another piece of legislation passed that was seen by some as an important part of the religious conscience protections for families that simply codified and clarified an existing state regulation about parents' ability to opt their children in or out of human sexuality teaching within the public schools.

So, there's a lot of work going on around these measures.

Another question, and then we'll probably have to conclude this panel.

Well, with no other questions from the audience, let me -- oh, I missed it. In the very back, in the very back -- yes.

MS. GALLAGHER: Hi. Thank you. I'm Maggie Gallagher. I'm just here representing myself, but I'm thinking about writing for "National Review."

And I just, first of all, want to thank Professor Rosky for pulling out the

protections for non-workplace speech. And I do think that the question of whether those are substantive or decorative -- which maybe we can't answer now -- is going to affect the way a lot of people who oppose same-sex marriage -- or who are members of traditional religious communities -- are going to perceive the bargain.

But I wanted to ask Ben McAdams -- and this is related, again, to the difficulty of getting to a better place -- because I think gay people feel, quite reasonably, that they grew up in an environment where they were repressed, oppressed, stigmatized, and marginalized, and I think it's hard to give credit as real to the growing sense among traditional believers that it's hard to make a livelihood if you're known to not believe in gay marriage.

And so my question for you is -- since this is under your jurisdiction -- do you think its right for the Salt Lake City Police to discipline a police officer merely for requesting a religious accommodation? Because to us, it kind of feels like, okay, you put these religious accommodations in, and then, if we try to use them, we get flagged as traditional believers, and then we get punished.

So, I don't know if you have anything -- I know you may not able to speak about the specific case --

MR. McADAMS: Yeah, no, I'm happy to, both as a Mayor -- but let me start with maybe a little bit of background. When I -- so after I had worked --

MR. EDWARDS: We'll have to keep this brief.

MR. McADAMS: Okay, I'll keep it brief.

So, when I worked for Salt Lake City, and we passed the nondiscrimination ordinances in 2009, and then I ran for the State Senate, I remember talking to a law colleague of mine at the time who said -- you know, I told him I was running for the State Senate. And I practiced law in New York, so I was talking to a Jewish friend of mine out of New York City. And he said, "So, tell me kind of the strengths and weaknesses of your campaign."

And I said -- we had talked for a little while, and he said, "So, let me

summarize this. The biggest weaknesses to your candidacy are the fact that you're straight, married and Mormon?" Because I represent a very liberal part of Salt Lake City. He said, "I clearly don't understand Utah like I thought I did."

And I would start with that. I think many throughout the country don't understand Utah like they think they may -- to put us into stereotypes and to clichés. You don't understand Utah. And I think this clearly is evidence of that.

On the night that this legislation passed, Senate Bill 296 passed the House; I took my nine-year-old daughter to watch the debate, and to see the vote. She was happy because it was a school night, and she got to stay out late. But what a proud moment for Utah, that we showed the country that respect and human dignity for our LGBT neighbors is not inconsistent with our faith. And I was very proud about that.

Salt Lake City -- I'm the Mayor of Salt Lake County, so the instance you cite is not within my jurisdiction, but I feel very strongly that, as a servant of the people of Utah, that I will uphold my duty without question and without discrimination, and that's something I feel strongly about.

MR. EDWARDS: Okay. And I'm sorry we don't -- Maggie, I'm sorry we don't have time to get into the very specifics of this case, but it did become part of the discussion in the passage of the legislation in Utah about a particular case involving a Salt Lake City police officer, and what his particular role was in a gay pride parade -- being asked to do, and could he receive an exemption. And so thank you for the question.

As we wrap up, what would you like to see -- what's left undone? What needs to be done next, Mike?

MR. LEAVITT: I think the fact that we all recognize more needs to be done. We're going to see questions related to public accommodation continue to be discussed. We're going to continue to see litigation on what -- on small business, and large business, and individuals. This was not comprehensive, but it did create a pathway, I think, and it did begin to create a construct.

MR. EDWARDS: Okay. Ben?

MR. McADAMS: I think we need to continue to build trust -- that this dialogue is the start of a dialogue in our community, but bringing back -- people from our LGBT community are coming back to faith, and that's wonderful -- and faith is coming to our LGBT community.

And then in the civic dialogue we need to have, promote one of understanding and mutual respect.

MR. EDWARDS: Cliff?

MR. ROSKY: In addition to public accommodations, there's a real opportunity on hate crimes legislation. Utah really has, frankly, a fairly terrible hate crime piece of legislation. There was recently an attack against two gay men in Salt Lake City, and the district attorney wanted to charge it as a hate crime, but he couldn't because of what the legislature had done, frankly, to prevent sexual orientation from being included in the state's hate crimes law.

That's something where I really think the religious liberties issue is -- this is -- we're all against hate, and we're all against hate crimes. So, I think it's a much easier issue to tackle, but, of course, fully committed to working on public accommodations.

MR. EDWARDS: Okay. Will you join me in thanking our panelists for what I think has been a very informative discussion? Thank you.

MR. RAUCH: Thank you all.

Well, that's a hard act to follow, Paul -- not only covered a tremendous amount of ground, but did it in a stupendously short amount of time.

We have another extraordinary panel here. What a group we've assembled today. We're very fortunate. I'm Jonathan Rauch, as I've mentioned, with Governance Studies here at Brookings. I'm a Senior Fellow.

Next to me is Nathan Diament, who's something of an old friend by now. I won't emphasize the "old" -- Executive Director of the Orthodox Union Advocacy Center.

He and I have never discussed this bill or these events, so I have absolutely no idea what Nathan is going to say about the events in Utah.

Next to Nathan is Sarah Warbelow -- very honored to have Sarah. She's the Legal Director of the Human Rights Campaign, which, as we'll discuss, has played a central role in the events that have unfolded in Utah since the LDS church's announcement in January.

And, finally, at the far end, another long-time friend of mine on this issue -- someone who's worked in the trenches in multiples states, and who is just back, I guess, Friday, Saturday from Utah, where she was in the trenches working on this bill -- Robin Fretwell Wilson, Roger and -- I'm not sure I'll pronounce this right -- Stephany Joslin Professor of Law at University of Illinois College of Law.

So, I'm going to start with Sarah, because of the interesting things that happened here is that this bill in Utah was warmly endorsed by the Human Rights Campaign just down the block. By "warmly endorsed," I meant they said "no downside," I think, was the expression that was used. Why did HRC endorse this bill in Utah?

MS. WARBELOW: Sure. So, this bill is appropriate and a solid piece of legislation for the State of Utah. And I can't emphasize that enough. It is not a model for the rest of the country. It is not a model for the federal government.

As Cliff mentioned earlier, underlying nondiscrimination protections for other classes, including race, sex, religion, and age had carve-outs across the board for religious organizations.

The goal of the Human Rights Campaign -- and many of our allies and other organizations -- is to ensure that LGBT people are treated the same as all other protected classes. And that's what happened here in Utah with regards to employment and housing.

MR. RAUCH: Not a template -- which is the next question I'm going to come to. What's good about this law? Why such an enthusiastic endorsement?

MS. WARBELOW: Right. It provides real, needed protections for LGBT

people in this moment.

And one of the things I think it does particularly well is not even a direct consequence of the legislation, but that is to provide a path forward for LGBT youth growing up in Mormon homes, whose parents have been struggling with how to accept their children.

The church endorsing this legislation, I think, provides a critical path forward for embracing of LGBT youth. We know that when youth are rejected from their families, regardless of their family's background, they have higher rates of attempts of suicide, suicide ideation, abuse of drugs and alcohol, school dropout rates. And so this is going to have a dramatically positive impact on the LGBT youth of Utah.

MR. RAUCH: Nathan Diament, what was your reaction in your capacity at the Orthodox Union to this bill?

MR. DIAMENT: Well, I would say, first of all, thank you, Jonathan -- and to Brookings -- for having us here. I would say we were very pleased that the religious liberty advocates and the LGBT rights advocates came together and struck a compromise. I cannot resist but noting -- especially since you said we are old friends -- that --

MR. RAUCH: And getting older by the minute.

MR. DIAMENT: And there must be something about mid-March, because March 13, 2009 was when we last sat here and talked about the intersection of religious liberty and LGBT rights. We were particularly focused on marriage, because you and a colleague had written a very notable op-ed in "The New York Times."

And what I said at the time was that before -- I thought it was premature to talk about marriage. People generally engage in a period of dating prior to marriage, and that the LGBT community and the religious liberty community had to go on a few dates before getting into the marriage topic, and that rather than going to the big issue of marriage, there was work to be done with regard to discrimination in the workplace that both religious people and gay people were encountering -- and still encounter -- and

other areas, as well.

So, it's interesting to me that now, several years later, as the country is in a much different place on the marriage agenda itself, that Utah seems to have been engaging in the courtship and the dating period, not dealing with the big issue of marriage on some of the topics that are in this legislation -- and I think that's a very productive model for a lot of reasons, including a model, at least in terms of approach, that Governor Leavitt talked about, for folks here in Washington, D.C.

MR. RAUCH: Do you like the bill?

MR. DIAMENT: It's a very good bill.

MR. RAUCH: Could you see it as a template for other states?

MR. DIAMENT: It may or may not be a template for other states. I think I would definitely agree with what Governor Leavitt said. I think the template to be looked at is the religious liberty advocates and the gay rights advocates sitting down and trying to forge some compromise and a path forward, rather than continuing to play the zero-sum game.

And I'll say further that, at least here in Washington, at the federal level, the zero-sum game still prevails. And that's why you've seen ENDA in a perpetual stalemate. That's why you've seen workplace religious freedom legislation in a perpetual stalemate -- and some other things, as well.

MR. RAUCH: Well, we'll come to that, since, Nathan, you lobby the federal government.

So, Robin, you've heard a couple of people now say that this is not a template. You've worked in many states on other statutes. Do you think there's something here that can be built on? And if so, what is it? And if not, what are the obstacles?

MS. WILSON: So, one thing to point out is that there are actually two protections, two sets of protections here, and they needed to go hand-in-hand.

So, you have the grand bargain bill, the trading of LGBT rights for some

modest political speech protections that Cliff described already.

And you have a second bill, too, which is 297. And there's a handout that I created that tries to talk about those two together. But the second bill is an essential part of that package. Without the second bill, I don't think you have the first.

And the reason I believe that, and the reason I think Utah is an important model, an important moment -- I didn't realize that was five years ago that we were on that panel -- but the reason this is an important pivot is because this is the first time that we have tried to have LGBT rights extended after the marriage right was granted. It's the first -- so in the voluntary same-sex marriage states, which you see presented on this chart that I created, basically, you have the blue-state glide path. You first had LGBT protection, sexual orientation nondiscrimination protections in statewide law, and marriage followed.

When marriage comes first, especially when it comes in a way that many people would see as nondemocratic -- I cannot tell you how often I've heard that over the last three weeks -- people are --

MR. RAUCH: In Utah?

MS. WILSON: In Utah, people are in mourning about the fact that they lost on the marriage question. And now they are trying to do something that they believe is fundamentally right and decent for the LGBT community, but they also are concerned to preserve what they believe is the uniquely religious character of marriage.

And 297 does that piece. The second bill does that piece. And I think if the religious right does not believe that it's going to have those protections as to marriage, it cannot push forward these other rights. They see them going hand-in-hand.

So, the reason it's a pivot is it's because the first time -- this is the first time that has ever been tried. And I think, together, that package gives great assurances to religious believers that protecting LGBT people in the community is not meant to wash out the religious character of their own faith communities, and nor does it destroy the religious character of what they see as a sacrament.

MR. RAUCH: So, in your opinion, can this kind of package be dealt -- be built on in other states, or is it more the kind of pathway that Governor Leavitt spoke of, where it's not this package, but it's a process?

MS. WILSON: Well, all respect to the Governor --

MR. RAUCH: Well, let's mix it up.

MS. WILSON: Let's just say he's wrong. And the reason he's wrong is because 297 has to be a part of this deal. Without those marriage protections, you're going to have to have a process. People have to sit at the table and treat together. I get that.

But if protections for the religious nature of marriage are not present, I don't think there's much of a discussion to be had -- just like, by the way, if the "T" is not there in LGBT -- notice that that derailed things in Michigan. If that's not there, the other side cannot come to the table and have this discussion, either.

So, I completely agree with the Governor about the fact that we cannot be playing zero-sum games, but that is not going to be helpful or constructive. It's not going to help us call a truce in a culture war.

But, that said, just like the "T" is non-negotiable -- am I right? Is it non-negotiable?

MS. WARBELOW: Non-negotiable.

MS. WILSON: Non-negotiable -- notice that the "T" is non-negotiable -- marriage and that uniquely religious character of marriage is non-negotiable. So, that has to be there.

MR. RAUCH: Just so folks know -- it's complicated, so I may explain this wrong, but there are two bills that we're talking about. One is the main bill that you've heard about -- the grand compromise, which has LGBT antidiscrimination protections, plus religious liberty accommodations.

There's a separate bill which does something interesting. Utah -- you'll all correct me if I'm wrong; the experts are here -- but Utah was not a state which had a

right for people to go and get married. They could be turned down by clerks across the state. That's something that gay people would actually have to look at as Utah became a marriage state. What if the clerks just said, "No, we won't do it"?

So, they added a bill, SB-297, which did two things. It said, first, we will exempt particular clerks from having to marry couples against the clerk's religious belief. So, that clerk could have an opt-out.

But, second, we will create an obligation on the part of the clerks' office to marry people -- so that if the gay couple walks in, they may not get a particular officiant, but they will be able to get married.

So, you have an interesting balance there where the gay couple's right to marriage is assured, but the officiant's ability to exempt themselves individually is not.

Has that been tried anywhere else? Does anyone know? Is that a first?

MS. WARBELOW: There are a number of states that have pieces of legislation pending addressing this question. I will say, though, it's not clear that those clerks in Utah could have turned away same-sex couples. That would've been a question for the courts. Certainly, an argument could be made that the clerk, as an agent of the state, was required under the equal protection clause of the U.S. Constitution to treat all who came to their doors equally. And that's why we do see in Alabama, where there are clerks who are refusing to marry both same-sex and opposite-sex couples, in order to avoid having an equal protection issue.

MR. RAUCH: Does legislation like this at least close the door to some of that long, drawn-out litigation? Will it mean we have less protests by, you know, clerks or whatever in Utah?

MS. WARBELOW: Provided that there are individuals who are actually providing the marriage licenses, it will likely deter litigation.

MR. RAUCH: So, what's been the reaction in the gay world to these developments? Has it turned any heads, changed any minds, or what?

MS. WARBELOW: So, the secondary bill is a bit more troubling for the

LGBT community, in large part because we didn't feel that we were equal partners at the table from the beginning, being able to have the conversations that needed to be had around the legislation. I think that it ended up in a position that was not nearly as upsetting as the original format that the bill arrived in the legislature in.

And there are a number of provisions that are not dissimilar to provisions that the LGBT community worked out in other states when passing proactive marriage equality legislation, including, you know, a piece that was taken -- I don't know if directly from Washington State, but certainly modeled after Washington State -- that allows religious organizations to continue to limit for purposes of marriage-related counseling, marriage-related retreats only to opposite-sex couples.

MR. RAUCH: I didn't mean to cabin the question just to SB-297. What's the reaction in the LGBT world to the whole bargain? Has it had an impact? Are people noticing? Will this make anything easier or harder anywhere else?

MS. WARBELOW: Everyone is absolutely noticing. I mean, that's one thing we can guarantee. The whole world is paying attention to this -- or at least the United States.

The reaction has been very mixed within the LGBT community. There are some advocates who actually were so anxious to have nondiscrimination legislation that they probably would have accepted deals that Equality Utah and organizations like the Human Rights Campaign would not have accepted.

There are those in the LGBT community who are upset by the compromise -- though, in large part, I do believe that's because there's a misunderstanding about what existing Utah law does. So, I think it is really is very much a fundamental misunderstanding. It's going to present some real challenges, moving forward. Our bottom line is that LGBT people should be treated the same as every other protected class, and that we should do no harm to any other protected class.

Utah is fairly unique. I won't say it's the only one, but fairly unique in the way that it treats religious organizations. And so, therefore, this can't be lifted and

imported into a state like Michigan, for example, which has dramatically different treatment of religious organizations under existing law.

MR. RAUCH: Will this build any increased trust in the gay community, in terms of willingness to talk about religious accommodations, or will this be seen as kind of a one-off because of stuff that happened in Utah with the church? And you heard Ben McAdams talk about how much trust-building had gone on. What's your take on that?

MS. WARBELOW: I think that there will be a greater willingness to have these conversations. They are conversations that need to be had. They're not an endpoint, and that's why the Utah legislation can't be picked up as a model and used as-is around the country.

But I do think there's an understanding that we do need to come together and figure out path forward. The LGBT community does not oppose religious liberties. In fact, there are many in the LGBT communities who have fought very hard for religious liberties, in part because we see ourselves as protecting our own religious liberties on these issues. So, it's not a zero-sum game.

MR. RAUCH: Nathan Diament, same question for you. What's been the attention and reaction in your world to this, if any?

MR. DIAMENT: I'm going to define my world as those who engage in religious liberty advocacy. And people have noticed, and people, I think, are -- a little bit of an Alphonse/Gaston moment, you know, wondering, is this a new chapter to reengage with LGBT advocates around some of these questions? Because there have been -- at least at the federal level -- there have been pieces of religious liberty legislation that, at least in the past, HRC or other LGBT advocacy organizations have opposed. And not to say that they weren't against some components of religious liberty, but there were other components where, you know, we just couldn't bridge the divide and find a compromise.

And so there have been instances where we've sort of checkmated -- the religious community and the LGBT community, as I said before, sort of checkmated each other out. So, if this is a new opening to reengage with that conversation, that's great.

MR. RAUCH: So, wait and see, but it's at least possible this might sort of reignite conversations.

MR. DIAMENT: Mm-hmm.

MR. RAUCH: Doesn't change the underlying substantive positions, but it may open some doors.

MR. DIAMENT: I don't know that the Utah bill, per se, changes underlying (inaudible) positions, and no piece of legislation, certainly, is going to change theological doctrines held by religious denominations that go back millennia. But, you know, in trying to navigate and negotiate, you know, workable public policy and modus vivendi in a pluralistic, democratic society like we have here in the United States, you know, we have to all keep trying at that.

But, you know, part of what has to happen here, also, I think, is, you know, just like we have to not get lost in Utah-specific activity being, you know, too much or too little a model for other things, I think it's also instructive to keep in mind that we can even, in this arena, get focused too much on only the debates around gay marriage or gay rights and religious liberty, because there are other models from other contexts to look at, as well.

You talked about -- both of you talked about, okay, so what's our view of a marriage licensing clerk, and whether an individual marriage licensing clerk has the ability to get, so to speak, a religious exemption from providing a license to a specific same-sex couple, so long as another marriage clerk is available to do that so the couple does get served. And that's a point of contentious debate.

To borrow from a very different context, in the State of Washington, where physician-assisted suicide is legal, there's an absolute right for a pharmacist in the State of Washington to refuse to furnish somebody with a legally-authorized assisted suicide prescription from an individual pharmacist giving that person that prescription, and there's absolutely no debate about it whatsoever.

And there are many, many other examples of individual rights of

conscience in other contexts, where, I think, Americans in general feel that, oh, yeah, that's appropriate; we shouldn't impose that on that person. This is a very flawed issue. And it's on the right side and on the left side.

So, we have to have a broader lens for some of these conversations (inaudible).

MR. RAUCH: Very important, yes. It's not just gay; it's not just marriage or LGBT. We're talking about abortifacients, and pharmacies, and Hobby Lobby comes into this.

MR. DIAMENT: And lawyers working on death penalty cases, and lawyers working on -- maybe this is a little dated now -- tobacco litigation. I mean, there are lots of (inaudible).

MR. RAUCH: I often comment sardonically on how much we LGBT people love being the canary in the mineshaft. The point of the spear of every culture war debated always starts with us, but it never seems to end with us.

Another quick question before we move on, which is, the previous panel -- for both of you, and then I want to go to Robin on something else -- but the previous panel -- I think it was Governor Leavitt -- emphasized the importance of simultaneity. You got to do the whole thing at once. Do you both think that's correct and important?

MS. WARBELOW: I think it's right within the context of the law that you're talking about. So, if it is nondiscrimination, it does make sense to address where the lines and limitations -- and, you know, to the extent -- I don't believe that there's any state, except for those that have no nondiscrimination protections, that don't currently have nondiscrimination protections on the basis of religious and employment.

But were you to find an instance like that, you know, really having those conversations all at once, I don't think that it's necessary or even always appropriate to bring in a religious freedom restoration act as part of a discussion or a negotiation around employment nondiscrimination, for example.

MR. RAUCH: So, there may be piece by piece ways to do it in certain

situations. Nathan, did you want to add anything to that?

MR. DIAMENT: I think where we are in this general arena -- the more -- ironically, the more issues and the more avenues for compromise on the table, probably the better.

MR. RAUCH: So, I'm tempted to say that we should adjourn right now, because these two have to have a negotiation, having now said that there may be room for a conversation. We could let them do it right here.

But instead, I want to go to Robin, and talk about this term "RFRA" and "religious freedom restoration act," which has come up again and again. So, broadening the lens a bit, we've had a series of states either pass or try to pass religious freedom acts, which -- I'm going to summarize this my way. I'm a gay person; I'm biased -- but which do nothing for gay people. These are states that don't have antidiscrimination protections -- or, in many cases, other kinds of protections. But they do pass laws that say -- that give additional legal protections to -- and opt-outs -- for religious folks.

Mississippi passed one. One failed in Kansas. One very narrowly failed in Arizona. I think one just succeeded in Oklahoma. Is that right? Did Oklahoma just do one -- or Nebraska -- one of those states?

MS. WILSON: I don't think so.

MR. RAUCH: Good. I'm glad to be misinformed about that. So, we're seeing those pop -- that's a very different track, right? That's a whole different approach to this. What do you see happening, Robin, with this other wave on this other track of RFRA's, and how does it interact with the negotiation track that we just saw in Utah, if at all?

MS. WILSON: So, I disagreed with the Governor. Now I'm in the awkward position of disagreeing with one of my coauthors, Doug Laycock, in part. So, let me talk about a difference between religious freedom restoration acts -- which I call generalized protections -- and the kind of specific exemptions that we talked about in Utah.

So, a generalized protection is a standard. It's written to ask a series of questions. And it would say, is there a substantial burden on religious practice? Is there a compelling interest for the government to do that, and is there a less substantial way, right? And that's all a way of trying to say, does the government need to kick the bejeezus out of religious people just because it can?

Okay, there is a good reason to have religious freedom restoration acts that have nothing to do with gay people -- nothing at all. So, think about the Amish. It turns out they have these buggies, and they like to have steel wheels on the buggies for some reason I don't completely understand. And the government wants to say, you can't run those down a highway -- because, you know, we tell you you can't.

Okay, that's the classic RFRA case. Should we have try to have some room for the Amish to live out their -- this is a religious conviction; don't ask me why, but - - should we have some room for them to try to do that without the government just stepping on them? I think the general answer ought to be yes, right?

But what happens is, you have religious folks around the country who latch onto a religious freedom restoration act at a time of great social change, as a way to say, we want to have our faith communities protected as they are. And then they say wildly stupid things; like in Arizona, they would say, "We have to have a religious freedom restoration act to 'stave off' gay rights."

Now, look, if you think you're going to get those kinds of protections to stave off gay rights, you're wrong, part one, and you should lose, in my view, right? These are minoritarian statutes. They are really not about the gay rights debate.

Now contrast that with specific exemptions. Specific exemptions literally are the line-drawing that you just described. They are saying, wow, we want to advance LGBT rights, but we want to draw careful lines so that we don't inadvertently wash out the religious character of religious communities. Now that is actually a conversation where both sides can win at the same moment in time. It's going to be a harder trick to do that if the vehicle that you want to use to protect religious communities and their unique

character is a religious freedom restoration act. You shouldn't want to do that, anyhow, as I told the House Caucus in Utah.

MR. RAUCH: You're saying it's going to be more promising to look for these negotiated agreements, rather than these big global frameworks.

MS. WILSON: Absolutely. And, also, look -- I mean, frankly, from the side of religious people, the specific exemptions are going to do the work here that the religious freedom restoration acts can't -- because if I have a specific exemption, like the ones that are in 297 or 296, and somebody says, "You know what? You should've served me as a gay person," and I say -- well, to go back to your marriage retreat, right?

The marriage retreats, the counseling -- these are, like, Baptist marriage retreats. And the Baptists want to have people at the Baptist marriage retreat that are in Baptist kind of marriages. There's nothing wrong or evil about that.

But if, let's say, for example, a gay couple presented and said, "I want to go to y'all's Baptist marriage retreat," you just say, "No thank you," very politely. It's specifically exempted. And if it comes to litigation, you walk into the court, and you hand them the 296 or 297 where that appears. You win on summary judgment, and it's over.

If it's a religious freedom restoration act, look at all the litigation around Hobby Lobby, right?

MR. RAUCH: Yeah, it can go on, and on, and on, yeah.

MS. WILSON: I mean, it could just go on for years, and years, and years. That is not going to do for religious people.

MR. RAUCH: So, we need to get to questions, but there's -- before we do, there's one more angle I want to explore, which is what looked to me quite innovative in this bill were the protections for speech -- not just gay speech, not just religious speech, but it basically said that if I'm engaged in speech, and it's outside the workplace or doesn't affect my job, I should not have to worry about getting fired for it.

Ben McAdams was, in the previous panel, was being a little bit modest, because this surfaced, actually, in 2011, in a bill that Ben McAdams, then a Utah Senate

Senator, cosponsored with a Republican. They floated this as part of an antidiscrimination bill. It did not pass in 2011, but it did pass in 2015.

Tell us both, you two guys, what you think of this idea of workplace speech protection. And is it important as sort of a way of expanding the box in which negotiations occur, or is it unrelated? Nathan, why don't you go first, if you will?

MR. DIAMENT: Sure. I think it's great. I think we should have, you know, as expansive -- not just free speech, but, you know, it should obviously apply to free exercise of religion, also, and we should try to allow people to have as an expansive performance and action in consonance with their conscience -- certainly, in their private lives, outside the workplace -- but even in the workplace, we should try to have accommodations where possible.

It's very -- I'm always worried when religious freedom gets talked about as freedom of conscience. There was a big debate in the founding era of this country among the framers -- because freedom of conscience means, yeah, you can believe whatever you want -- but then, when you want to manifest those beliefs in terms of action, well, maybe not.

We have a view -- my community and I -- I have a view, and I think others do, as well -- that, of course, freedom of conscience has to be protected, but to, as much as possible within a pluralistic, complicated, human society, your ability to act in conformity with those beliefs proactively -- or to refuse to do certain things because they violate your conscience -- is just as much inherent right of your freedom of conscience, of your religious liberty, as whatever it is that's going on inside your head.

MR. RAUCH: So, you see this as kind of expanding that safe harbor for expression of conscience, religious and otherwise.

MR. DIAMENT: Yeah, and it should apply to, you know, not just -- you know, it should apply to atheists who have expressions of conscience, too, that are not religiously informed; it should apply to everybody. That's a core First Amendment principle.

MR. RAUCH: So, what was your and HRC's view of that particular provision -- the free speech provision?

MS. WARBELOW: We think it's great. You know, in an era of Facebook, and Twitter, and Instagram, and everything else, you know, people end up engaging in very public forums that they don't realize are public forums, as I like to tell my 13-year-old on a regular basis. You know, what individuals say and how they express themselves should not be grounds for termination.

There are limits to that, of course, but in general, when people are expressing their sincerely-held beliefs -- and not just in a religious context, but, you know, with regards to family writ large -- and that is the way that the legislation is written with regards to sexuality writ large -- greater protections are in everyone's best interest.

I will caution, though, I'm not sure that, in the long run, everyone is going to be happy with these protections. I think that these protections will probably allow for a much greater discussion outside of the workplace around sexuality than perhaps people are prepared for, and we'll have to see how that works out.

MR. RAUCH: They mean that I'm working next to somebody who has -- who I find out has published an article somewhere that says something I think is abhorrent. I have to come to work and deal with that.

MS. WARBELOW: Or it may mean that you come to work, and the individual sitting next to you is posting on Facebook regularly about -- oh, great -- what's the name of the bondage series that's so popular right now? "50 Shades of Grey," right, and how they want to check it out in their own lives. That means someone can't be fired for that. I think that that's a good thing, but I do think that there may be some surprises along the way.

MR. RAUCH: So, that's interesting. We have -- we had -- got "great"s from both of you guys. Robin, so we can get to questions, one-sentence response -- has there been -- is this a first, tying this free speech protection to an antidiscrimination bill? Is this an innovation?

MS. WILSON: Parts of it are. Certainly, you had, as Cliff said, labor protections in other contexts. So, for example, the donation to Prop 8 a decade ago --

MR. RAUCH: In terms of tying it to part of this package deal on antidiscrimination?

MS. WILSON: Oh, absolutely. Tying it to these deals about marriage and antidiscrimination.

MR. RAUCH: There's a way to sort of frame the negotiations and what we're talking about. This is something interesting. So, anyway, that's potentially an interesting (inaudible).

So, why don't we go to our audience, if there's anyone who wants to participate? I would remind everybody that they should tweet questions, if they want to, to the #lgbtLDS with no punctuation. And why don't we go -- wow, we've got a lot of people. I'm going to start in the very back. Behind the camera, almost obscured, is a man in a blue blazer and a red tie.

MR. ANGELO: Hey, Jonathan. I'm back so far you can't even recognize me. It's Gregory T. Angelo, the Executive Director of Log Cabin Republicans.

Great panel today. Thanks very much to you and to Brookings for --

MR. RAUCH: (inaudible) that is in, like, three words?

MR. ANGELO: Oh, yeah. Log Cabin Republicans -- for those who don't know, we represent gay Republicans and straight Republican allies of equal rights for gay and lesbian Americans.

We're really happy to stand shoulder-to-shoulder with HRC in pushing for this most recent version of the Employment Nondiscrimination Act. To HRC's credit, even after the Hobby Lobby decision, you guys and gals were standing shoulder-to-shoulder with us to pass that.

Obviously, it seems, just from the discussion today on the panel, that the goalposts have moved a little bit. We do see this Utah legislation as the potential for a template, especially considering federally the fact that we have a Republican-controlled

Senate, Republican-controlled House. Republicans are probably going to control the House for a number of years more.

What -- I mean, this is to HRC specifically, but I guess to anyone on the panel -- what is a reasonable religious exemption, moving forward federally?

MS. WARBELOW: Treating LGBT people the same as we treat all other protected classes. There are existing carve-outs for religion in Title VII. In addition, the Supreme Court has issued a number of decisions regarding ministerial employees.

And for those who are not familiar with this line of case law, ministerial employees don't just include, you know, the priest or the minister. That has been interpreted fairly largely to include professors, lay teachers, and cemetery workers. So, it is a very expansive view of a minister -- but that we already have very significant and real religious protections in place, and that we want to see LGBT people treated equally.

We are at a moment when the majority of LGBT organizations have come together, and are working with Congress on a brand-new type of legislation that would address not only employment, but, also, housing, public accommodations, federal funding credit, education, jury service. It is a comprehensive nondiscrimination bill, and it is this time when it is ripe to begin a new conversation.

MR. RAUCH: And that's a bigger bill than ENDA?

MS. WARBELOW: That is a substantially bigger bill than ENDA.

MR. RAUCH: Has it been announced? Did I miss the memo?

MS. WARBELOW: It has been announced. The Human Rights Campaign came out calling for this bill last July, I believe it was. And Senator Merkley will be the sponsor of the bill in the Senate. And Representative Cicilline has agreed to be the sponsor of the bill in the House.

There is not language yet. That is all still being worked out, but in concept, it is there.

MR. RAUCH: What does the -- what do you think the Orthodox Union thinks about that effort? Oh, here he is.

MR. DIAMENT: My organization does not have an official position on the bill yet, because we haven't seen a bill text. But what I will say is, to some degree, I think our test will be -- to a large degree, our test will be whether it hews to Sarah's stated principles, which is, is it treating LGBT folks the same as others are treated elsewhere in the law, or is there -- because they're doing a separate bill, is there some sort of enhanced treatment?

And to unpack that a little, as Sarah said, in the Civil Rights Act, right, the grandmother of all civil rights bill, you have all kinds of provisions for religious exemptions and accommodations, and so on and so forth. And is that going to track equally in whatever this new bill is, or are there going to be some discrepancies?

It would -- one interesting question that I've had has been, if the LGBT community is looking for literally equal treatment across the board, why write a separate statute? Why not amend the Civil Rights Act to wherever it says in the Civil Rights Act, from beginning to end, you cannot -- thou shalt not discriminate on the basis of race, gender, ethnicity, et cetera, add sexual orientation?

And the advantage of doing that, it seems to me, is, by doing it that way, you don't have to write a new -- a whole new section about religious accommodations, exemptions, and so on and so forth; it's all baked into the cake already.

MR. RAUCH: You guys should definitely trade phone numbers after this panel. Is there any chance of getting federal legislation in the near future on this, right? This is, like, another of these hopelessly stuck in Congress things, right?

MS. WARBELOW: I don't think so. I think that there has been dramatic change in the states. I believe that marriage equality, nationwide, will dramatically change the conversation, as well. I actually believe that having marriage equality helped Utah come to this place, right -- that it was not a detriment in passing this legislation, but a boon. It took a topic of conversation that has been somewhat controversial off of the table.

The American public is also moving rapidly in their views of LGBT

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people, including amongst the conservatives. It's not going to happen this year. It's not going to happen next year.

MR. RAUCH: They could put it on the debt limit. Oh, they're not passing it.

So, let's go back to our audience. I'm going to discriminate for the back, because they're always discriminated against -- the gentleman in the blue blazer with no necktie, kind of a reddish shirt.

MR. BOWMAN: Thank you -- Matt Bowman, with Alliance Defending Freedom.

Professor Wilson, you've written extensively on legislation that happened 40 years ago; right after Roe v. Wade, the 50 states and federal government passed specific legislation saying if you don't want to assist in an abortion or a sterilization, not only can't you be forced to, but it's unlawful discrimination to force you to do that. That's a protected class -- people who don't want to assist abortion.

And even though Mr. Diament said that's a different context, we've seen in the last year or two, the abortion rights groups and the gay rights groups teaming up and saying people who don't want to assist gay wedding ceremonies are like people who don't want to assist abortions. And all of those people, they're the discriminators, they're not the protected classes.

And so it seems to me that under that approach, either we should be protecting the people who don't want to assist gay wedding ceremonies the same way we protect nurses who don't want to assist abortions -- or we need to start forcing the nurses to assist the abortion. And I wonder how you approach both of those issues as they overlap.

MR. RAUCH: So the audience knows, Alliance Defending Freedom is one of the major litigation groups that's active on religious liberty. So, these guys are very involved.

MS. WILSON: Thank you for the question. You know, my basic position

has always been that both sides need to win, right? So that religious liberty doesn't have to come at the expense of access. And, actually, this is a nice opportunity to correct something that we've been saying about the "willing clerks." We are not actually providing a conditional exemption to clerks in 297. What happened is, the Utah legislature created a new duty for the first time in Utah law that says that there has to be a forum of last resort for marriage -- that that forum will be the clerks' offices.

So, it literally put a duty on the clerks' offices that never exist in statewide law before. And then it said it could dispatch that duty in many different ways -- likely in rural parts of Utah -- you know, like the bottom of Utah, like Monroe, where there ain't anybody -- there aren't so many people there -- that's going to be an authorized celebrant under Utah law. It doesn't even have to be the elected clerk or any employees.

And what that tells you is, access, right, to marriage, which I think has to be guaranteed to people after the federal decision -- whether they like it or not, right -- is not coming at the expense of government employees, right, who have been in these jobs sometimes decades before same-sex marriage was recognized anywhere in the world.

Now, as you know, that's exactly what we did in the Church Amendment back in 1973 -- a little hidden in that discrimination language is that there is a right to your moral or religious beliefs "about abortion." So, if you are a doctor's office that wants to do abortions, you couldn't be discriminated against by the Catholic hospital where you happen to have staff privileges -- or any other hospital. And if you are an abortion objector, you were given the same rights of protections against discrimination. That's the nirvana point -- a win/win for both sides.

You see that, by the way, in the political speech provisions here. Notice that those are protections that run to both sides equally. So, I can wear my Equality Utah pin to work right next to my cross. Neither party loses.

MR. RAUCH: Did either of you want to add anything on this -- abortion (inaudible) and all that?

MR. DIAMENT: I would just add, I think the -- I agree with the questioner

in the following sense: The rubber meets the road for the LGBT advocates community, like it does for other communities, as to whether they're going to insist on, no, because I walked in, and because I, individually, am entitled to be served, you, whoever I walk up to first, must serve me -- or whether there's room for a conversation around accommodation.

Again, to borrow from the other context -- Massachusetts -- not exactly a red state -- Massachusetts has a law on the books -- and it's had it on the books for a long time -- saying that nurses and other healthcare workers do not have to, you know, work on an abortion case -- or, frankly, any other kind of case that they have a conscious objection to, so long as there's another nurse on staff or someone else in the hospital can do what needs to be done so that the patient who's there gets the service that they are legally entitled to.

There are some folks -- I'll leave you out of this for a second -- there are some folks in the reproductive rights community that say, "That is unacceptable; every nurse must deliver the service as if they had their policy preference. This is something that the patient is legally entitled to. You, as the nurse, don't have a right to legally refuse them, because the law says they can get it." That's --

MR. RAUCH: So, the same principle, both contexts. Sarah, do you want to add anything to that before we move on?

MS. WARBELOW: I mean, look, I think within the context of LGBT people, there's two issues here. I mean, one is that LGBT people need to be able to go to the government to get a license and to be married. Now -- and they need to do it -- be able to do that in a way equal to opposite-sex couples who are getting married.

And so when there are options to come up with ways where LGBT people are still treated equally to opposite-sex couples, there's a conversation to be had.

I do think we need to divorce from the conversation, though, individuals who are performing marriages, right -- we have never required, in any state -- including any state that has legislatively passed marriage equality -- that a clergy member perform

weddings that they disagree with. In fact, clergy members can refuse to perform any marriage that they want, for any reason. They can refuse to perform interracial marriages. They can refuse to perform interfaith marriages. They can refuse to perform a marriage because they think the couple's young and foolish and shouldn't get married. They have the right to do that.

But there is a difference between performing a marriage and providing a service that goes towards the wedding ceremony or reception. So, the florist who was literally selling flowers that the couple is going to carry down the aisle is not participating in the wedding. They are providing a good and a service.

MR. RAUCH: Yeah, this gets us -- the tough issue that, of course -- the big elephant in the room is public accommodations, which was not dealt with in Utah, was not, as I understand it, a preexisting part of the Utah law, so it didn't have to be dealt with.

But in my state, which is the next state over, Arizona, where I know some LGBT folks who would love to get some antidiscrimination laws on the books, public accommodations are covered, and that's the discussion about the florist, the baker, the candlestick maker, right? So, that's the next -- that's the tough thing coming down the pike, yes?

Let's go back to our audience -- gentleman in the -- let's go by the aisle here -- light blue shirt.

MR. JOHNSON: Thank you. My name is Chris Johnson. I write for "The Washington Blade" newspaper.

And this question is for Sarah. I just wanted to follow up on a point of clarification on what Gregory Angelo asked. When you say that, at the federal government, the way it should be is that protections for LGBT people are the same as with existing civil rights laws for race, and for national origin, for other categories, does that mean that anything less would be unacceptable in this upcoming bill by Senator Merkley and Representative Cicilline?

MS. WARBELOW: Yes.

MR. JOHNSON: Unacceptable. So --

MS. WARBELOW: (inaudible) LGBT people to be treated the same as all other protected classes.

MR. JOHNSON: And HRC will oppose a bill that has (inaudible) under Title VII?

MS. WARBELOW: Look, we are certainly open to having conversations about potentially codifying existing Supreme Court law, because it applies to all protected classes. But, you know -- look, the Human Rights Campaign and most other LGBT organizations never liked the religious exemption that was in the Employment Nondiscrimination Act. It was something that groups decided to do over 20 years ago, when what equality looked like for LGBT people was very different. What our lives looked like was very different, and it was a bit about grabbing at scraps.

The LGBT community is in a very different position today. We do not want to have protections that other groups do not have. We're not looking for special treatment, but we do want to make sure that the LGBT community is on an equal footing with everyone else.

MR. RAUCH: That's a good, clear answer. Let's go to, I think, Nick.

NICK: I just have a question from Twitter. Just one second. Question for Robin: What specific exemptions exist in SB-297 for small business owners, if any?

MR. RAUCH: This is Nick, who's with Brookings.

NICK: This is from Twitter. This is from Nate Madden.

MS. WILSON: Okay. And so the question is, what are the exemptions for small businesses? So, this is actually an interesting discussion point that both of our panelists have talked about, which is how unique Utah is, in some ways. But one of the exemptions that gets -- that was already existing in Utah law, based on categories of discrimination, like race or gender -- and now adds to sexual orientation -- would be exemptions for small employers that have 15 employees or less.

My sense is that that was really a pretty generous -- I'm sorry; less than

15 employees -- but that's a generous exemption in statewide law. Am I right about that, in terms of the size of the small employer exemptions?

MS. WARBELOW: It varies dramatically from state to state.

MS. WILSON: Yeah, yeah.

MR. RAUCH: It's the federal standard.

MS. WILSON: It is the federal standard on some of the statutes, but my sense in statewide law is that it was more robust than other states.

But the point being that the places in public accommodation laws, where the bakers -- that we really do want to think hard about protecting -- are those small mom-and-pop businesses, where there's an identity between the business and the people that are running it.

So, for example, I learned in Utah that almost everybody I met had eight children. And, you know, if they had --

MR. RAUCH: (inaudible) was tweeting that.

MS. WILSON: Oh. Well, this is true, but I stick by that statement.

But in any event, almost everybody had eight children. Look, if they're going to create a bakery, they're going to want to hire their children without worrying about whether they're going to get litigated about -- for that.

So, these exemptions are there, and they do provide a sense of security for small businesses, which aren't really the focus of what we're trying to do when we're pushing gay rights and the ability of gay people to live equally in a community. We're not trying to get rid of these small employer businesses, either.

Now that's a little different than 297. 297 is actually more focused on the unique character of marriage. It gives guaranteed access to marriage, as we've said. It's seamless, from the perspective of LGBT persons or any person walking up to marriage. But the exemptions are tailored to things more closely identified with marriage itself -- like, for example, the Baptist marriage retreat, that kind of thing.

MR. RAUCH: It is time to wrap up. Would the panelists -- who would

like to add anything?

Well, let's poll the room. My favorite part of the event today -- raise your hand if you think the Supreme Court in June is going to order same-sex marriage nationally, or is not going to order same-sex marriage nationally. Raise your hand if you think it will order same-sex marriage nationally. Raise your hand -- interesting -- raise your hand if you think it will not; it'll do something else -- it won't order same-sex marriage nationally. A lot of people are abstaining from this one.

Thank you all very much for coming. It's been an amazing day. It's good to have you.

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