

Professor Hadley Arkes:
*Remarks at the Human Life Review's Great Defender of Life Dinner, October 15,
2004*

Well, after Robby [Robert George] and Father Neuhaus, I think I'll say goodnight, ladies and gentlemen. I'll stop there.

You know, when this praise gets going I find myself looking around to spot just who might have walked in the room who fits that description. And I say at times that I just came in to read the meter and they've asked me to stay around and say a few words.

My dear, dear friend Robby George has become so accomplished in the praise he tailors so precisely that I'm just reluctant to interfere with an artist at the height of his art. But everything he says about me is just amplified in his rendition. And yet, the praise is more aptly directed to him: It's just hard to find anybody who has stood more firmly in a more disarming way in the center of the academic universe at Princeton—he has acquired Woodrow Wilson's Chair, and yet stands against the political currents of the University. By the standing measures, he may be counted as the most popular professor with the highest-ranking scores. [Turning to Robert George] Is it 4.9 out of five? And persistently he confounds all those people trying to do us in because he's so resistant, enduringly charming, brilliant, penetrating. It's a remarkable story. There's nothing like Robby in the academic world right now [APPLAUSE].

And I have our beloved Richard Neuhaus, Father Neuhaus and—what's that journal of his called? *First Things*? [*First Things* is the title of a book by Prof. Arkes which was published before Fr. Neuhaus launched his journal—ed.] . . . But I have to say that I was just so touched to walk in here tonight and see such dear friends collected: Kevin and Jo[séphine] Lynch have returned after a couple of years abroad. Linda Bridges used to tutor Kevin when he was the young Articles Editor at *National Review*. Linda and I knew Kevin when he was a youngster—when that soft spot in his head had just hardened. Kevin and Jo met at *National Review*. I just think the whole country is better for having Kevin and Jo back. And here is Linda, Dorothy McCartney, with Rich Collier and Janet . . . John Cannon and Jeanne. You know, in the Hebrew Legends there are thirty six people who hold up pillars, and prop up the world. About twenty four of them are here tonight.

But I also saw another figure, reminding me of something else: A few years ago I was put up at St. Agnes to do a talk, and Dorothy McCartney and I had dinner. Returning that night, I found that I was locked out of the Rectory at St. Agnes at a quarter to twelve. I went to a phone booth on Third Avenue to dial the church, and I found only a phone tree until it said, "if you want last rites . . ." I selected that item and got . . . Father Shelley on the phone. [Searching the room] Where's Father Shelley?—I saw him here. I think he believes it's rather indecorous of me to be standing here, still alive, after all of that. Father, they say you're really a pushover in Confession; is that true?

In the brochure for the dinner Maria and the staff made references to my humor. I just wonder: What could they have meant? [Turning to Robert George] Robby, was it some schtick of mine that they're recalling? Is it the bit from *La Traviata*? I don't think

Richard Neuhaus ever heard that, and we can do it again; but it began with an item saved for me by Mike Uhlmann, and before I do it, a word on Michael Uhlmann.

About a year ago I was running a conference of my own at the time of the first awards dinner in memory of Jim [McFadden], with the award being given to Henry Hyde. And we had there the man to whom I dedicated my most recent book, Michael Martin Uhlmann. No one could have been better at invoking the memory of Jim than Mike Uhlmann, and I can't help thinking that if Mike hadn't made that appearance here last year and performed so handsomely, he would have been invited back to receive the Award this year.

For after Henry Hyde, it's hard to find someone who's done more to advance the concern for the pro-life issue in Washington than Mike Uhlmann. Mike wrote the first proposal for the Human Life Amendment, pushing this cause from every lever in the White House and, later, from his law firm. Someone mentioned President Reagan's address/article for us in 1983. Michael Uhlmann had some hand in that writing. He was, indeed, very much like Jim. And, of course, we must say, Faith and Maria have made it their mission to continue the work that Jim had launched, and which they helped him sustain. They've done it so handsomely; they've been really preeminent figures of this movement. It's a bit curious then, and a little awkward, I must say, to be receiving an award at their hands when they clearly have the premier claim to receive awards at the hands of this family [APPLAUSE].

When they mentioned my humor I was trying to figure out what could they have been referring to. As I say, I thought of the bit from *La Traviata*: Michael Uhlmann clipped that item for me from the New York *Times* several years ago. It was a clipping from the section called the "Metropolitan Diary," sketches of life in the city. The letter he clipped for me read in this way. It said: "Dear Diary, It was during Act III of *La Traviata* by Verdi at the New York City Opera. After witnessing Alfredo's confession of love, Violetta's rejection of the carefree life of Paris, their retreat to the countryside, Georgio's appeal to release Alfredo for the benefit of his sister's prospects of marriage, Violetta's compliance and pretended deceit, Alfredo's jealous rage, her reversal, and illness, Georgio's sympathy, the lovers' tragic reunion and Violetta's death . . . —after all of this I heard the woman behind me say to her companion: "The same thing happened to my girlfriend Gloria.'" [LAUGHTER]

I'd like to draw on the same blending of the grand and prosaic in offering these reflections to you tonight. But I think part of what Maria had in mind, in her comments on humor, is that point I used to make about philosophers being in the same business as comedians. They both make their livings by playing on the shades of logic, and tricks of language, contained in the jokes. And so we often use humor for the sake of making a substantive point and leading people gently into the argument. For years, in that vein, I drew on that entertainment offered by Professor Richard Lederer: The history of the world as culled through the papers of his undergraduates. It contained items such as these: Socrates was a Greek teacher who died from an overdose of wedlock. [LAUGHTER] David was a Hebrew King who did battle with the Philatelists. Louis Pasteur discovered a cure for Rabbis. And of course long before that, . . . Sir Francis Drake circum . . . cised the world . . . with a one hundred foot clipper! [EVEN LOUDER LAUGHTER]

The ensemble also contained these items: that Bach was the most famous composer of his age, and so was Handel. Handel was half German, half English and half Italian.

Now I used to say that the interval between the lines and the laughs here usually could be measured in milliseconds. You realize that you need to absorb a whole system of logic before you can understand so quickly what is funny about saying Bach is the most famous—and that so too is Handel. And of course adding up the three halves (half German, half English, half Italian).

Now at times the logical point runs rather deeper, and it begins to reveal flaws in what people take to be the anchoring principles of their lives. One thinks here of Bertrand Russell's joke about Mrs. Christine Franklyn-Ladd, who was a solipsist—that is, she professed not to know that there was anyone in the world apart from herself—but she was so disappointed she couldn't find others to come to meetings. [LAUGHTER]

I used to say that if our ears were tuned in the same way we would induce the same urbane giggling if we heard people say: "If there really are moral truths that hold in all places, they would be recognized in all places. And the very fact that there is such disagreement about them—that there is such a variety of opinions on these moral questions—indicates that there are no such moral truths."

Now the philosophers would point out that this proposition self destructs in about twelve seconds. For it reduces to this proposition: that the very presence of disagreement indicates the absence of truth. I would record my own disagreement with *that* proposition—and by its own terms, that would be quite enough to prove its falsity. And yet what is remarkable is how many people are willing to stake whole careers on the basis of a self-refuting proposition that dissolves in twelve seconds. With Harry Blackmun, in *Roe v. Wade*, it ran in this way: When so many learned people in philosophy and religion have disagreed on the question of when human life begins, obviously there is no truth that judges are in a position to render.

In this way, of course, we use humor to lead people into the argument and its logic. In my new book I try to do it in another way by recalling, as a launching point, that incident after the Battle of Gettysburg when General Meade had not grasped the full depth of the victory won by the Union armies under his command. But Lincoln did grasp the dimensions of what had taken place, and he tried to prod Meade to get his force together again and strike at Lee's army before Lee made it back across the Potomac. Yet, Meade held back, and in holding back, lost the moment.

He telegraphed to Lincoln and said that they could take consolation in the success of the army in "driving the invader from our soil." Lincoln turned to his secretaries, Hay and Nicolay, and said, How do I convey it to these people? "The whole country is our soil." When your own side begins to absorb the premises of the other side—that is when you are in trouble. Now part of what I was arguing in the book was that, in a similar way, we have found members of the political class absorbing premises utterly at odds with the very premises of this regime. Lincoln recalled Senator Pettit of Indiana, who had famously said that the "self-evident" truth of the Declaration of Independence was a "self-evident lie."

Now here was Senator Pettit, an officer of high rank, in a regime based on the consent of the governed. That regime sprung from that "proposition," as Lincoln called it, "all men are created equal." From that proposition came the inference that the only rightful government over human beings is that which draws its powers from the consent of the governed. And yet

here was Senator Pettit, who professed a deep contempt for the very premise on which his own authority rested.

Now if that can be true for senators, why could it not be true for judges? Why is it so inconceivable that judges, too, in their judgments, have put into place premises that are at war with a regime of law? As I have suggested, they have put in place the premises of an “anti-jural jurisprudence.” Part of the argument then in my book was that members of the political class had talked themselves into a “right to choose” [abortion], and as they’ve talked themselves into that “right to choose,” they’ve talked themselves out of the very premises of natural rights that underlie the American regime. They’ve made of themselves the infirmest allies for the rest of us, because they can no longer give an account, or offer a moral defense, of those rights. They are not in a position then to vindicate any of our rights. And so, even if there *were* such a thing as a “right to abortion,” they can no longer vindicate that right, for they cannot explain its rightness—or for that matter, explain and defend any of our other rights.

I was quite touched by the decision, supported by some generous donors, including our dear friend Michael Novak, to purchase for people at this dinner that new book with Cambridge, *Natural Rights and the Right to Choose*, now in its paperback edition. That handsome book, which you have in your bags, is being used all over Chicago by my family as coasters to put under drinks. [LAUGHTER] In my hopes for that book, and my pitch for it, I would take a line from Sam Goldwyn, when he said, “I don’t care if I make a nickel on this movie as long as every man, woman, and child in the country sees it.”

Now as it turns out, the new edition supplies the end of the story that was told in the hardbound edition: the story of our experience with that “most modest first step of all” on abortion, the proposal simply to preserve the life of the child who *survives* the abortion. We had Judge Clement Haynsworth confronting a case in Tennessee of a child who had survived an abortion for twenty days, undergone a surgery, and died; and the question was put: Had there been an obligation to preserve his life? The answer rendered by Judge Haynsworth was, no: That was not a child protected by the law; it was a fetus marked for “termination.” The right to an abortion was the right to an effective abortion, or a dead child.

We proposed that President Bush, the first one, begin with that point. The speech we had imagined for him, in offering this approach, was something that could have been used quite as well the other night by the current President Bush, during the debate, when he was asked a question on abortion and provided with an opening. He might have said: This matter of abortion has been handled so long by the courts that we need a conversation before we can begin to legislate again. People on the other side insist that abortion is not infanticide, and so they imply that they are willing to begin protecting a child at some point. Why don’t we start there? Why don’t we begin the conversation at the place where even pro-choicers agree that we can protect the child; and we’ll move step by step from there? Why can’t we begin simply by protecting the life of the child who *survives* the abortion?

Again, the story of our experience in bringing that bill back into play, and enacting it, is told in *Natural Rights & the Right to Choose*. The hardbound book went to press at a time when the action on the bill had been stalled, as a result of 9/11. In the aftermath of that tragedy, everything not directly related to national security was pushed to the periphery.

But then suddenly there was a clearing, with legislation starting again to move. The bill was brought to the floor of the House and passed without dissent in March 2002. And then, to our astonishment, the Democrats allowed the bill to be brought to the floor of the Senate in July, where it passed quickly, in the same way. The president signed the bill in August 2002, in a ceremony in Pittsburgh, and my friends at the White House were kind enough to invite me to the signing.

As I say, the story of that bill—its rationale and strategy, the strains of dealing even with our friends in Congress—that story is told within my book, and it's not my purpose tonight to replay the book. I'd draw on a couple of passages for the sake of making my way to the argument I would put before you tonight, as we look ahead—as we consider the kinds of possibilities that now come into sight as a result of passing the Born-Alive Infants' Protection Act.

In the book, I cut into the problem in the spring of 1998, when we were suddenly finding a concert of the federal judges to strike down the bills on partial-birth abortion in the States. The federal judges pulling off this feat were willing to use all manner of arguments, including arguments that were at odds with one another, and yet reaching the same conclusion. But the subtext, as they say these days, was that *they just wouldn't have it*: The people in charge of the federal courts were telling us they would not brook even the slightest restraints on abortion. Plainly, they had come to regard the right to abortion as something like a first freedom, the real anchor of personal privacy and freedom under the Constitution. And so my friend Nik Nikas, defending the law in Arizona, argued to Judge Richard Bilby that the legislators were simply trying to erect a “firm barrier against infanticide.” Judge Bilby thought that was an interesting argument, but he eventually explained, in language suitably muffled, that we couldn't really do that any longer: We couldn't erect a barrier indecorously firm against infanticide if it would inhibit an abortion. The trend reached its decisive point in June, 2000, as Robby [George] suggested, when the Supreme Court struck down the bill on partial-birth abortion in Nebraska and, by implication, the same bills in thirty other States.

Around the same time Judge Richard Posner in Chicago, in the Seventh Circuit, was dealing with the comparable law in Wisconsin, and he took the occasion to twit us: He remarked that the law had never claimed the authority to protect the child herself—and so why should the State have a compelling interest in moving the killing of the child from the birth canal back to the uterus? And in a way he was right. For the drafters of that measure had never filled in that elementary point that we had sought to fill in with our “most modest first step”: namely, that the child really was an entity, a being, who came within the protection of the law.

And so, when the Supreme Court struck down, in a sweep, all of those laws dealing with partial-birth abortion, some of us thought we would take our guide from Andrew Jackson. In that line attributed to him at the Battle of New Orleans, Gen. Jackson had supposedly said, “Boys, I want you to elevate them guns a little lower.” We wanted to raise our sights by drawing back to something more modest. We suggested that our friends on the Hill return to the most modest bill of all and fill in that elementary point: that even the child marked for an abortion has a claim to the protection of the law.

Establish that premise, and we'll come back later to the bill on partial- birth abortion, but come back on a firmer ground. The bill was indeed about planting premises, as Robby suggested; but the enduring irony of the story is that our adversaries always understood this measure better than our friends did. Our friends couldn't understand what the import of this was—why something so simple could yield anything of much use to us. But our enemies were moved to a desperate opposition at once, because they saw the principle that lay at the heart of the thing.

I was given the privilege of leading the testimony in the Judiciary Committee of the House, where I was joined by Robby George. And to the astonishment of Doug Johnson of National Right to Life, on that day when the hearings opened, the National Abortion Rights Action League actually came out *in opposition* to this move to protect the child who is born alive, following an abortion. Doug was astonished and delighted, for he never quite believed they would actually do that.

Congressman Jerry Nadler, from Manhattan's Upper West Side, saw the import of this quite clearly, and he offered counsel to a circle of feminists gathered around him after the hearings in a nervous cluster: He advised them, in effect, to play rope-a-dope: Just go along with it. The bill was modest; it would make little change. And so, don't play into the hands of the pro-lifers by giving them the argument they're seeking, the argument that would only draw attention to the bill. With most of the Democrats folding, the bill went through the "markup" in committee, with a vote of 22-1.

Now if the other side had us in this position, they would have been squeezing us hard. And so we needed to raise the level of tension a bit for the sake of drawing the argument that we needed to hold in order to bring out, to a larger public, the significance of this measure. With the fine work of the staff, then, we brought out the statement marking off the premises and the reasoning behind the bill. We could earnestly say then, "If we have this wrong, just amend the statement and correct any of these sentences. But we don't see how you could vote for this bill coherently unless you understand that even the child marked for an abortion has a claim to the protection of the law, a claim that cannot pivot on the question of whether anyone *wants* her. Now do we have that right? Or are you protecting the child merely because it *pleases you* to protect the child? Would you cease to protect the child when it ceases to please you to protect it? Well *tell* us that. Amend it. Tell us why you're voting for this bill.

"But if you're not changing it, then the further implication seems to be that that child has a claim to the protection of the law that cannot be *contingent* on her location or whether she serves the interests of anyone else.

"She must have, then, an intrinsic dignity, which becomes in turn the source of rights of an intrinsic dignity."

Well, with the presentation of those findings, we did set off tensions. But not among the Democrats—among the Republicans. Thirty-five so-called "moderate" Republicans demanded a meeting with the Republican leadership in the House. They threatened to adjourn the House and close down the government at the height of the presidential campaign if we went to the Floor with those "inflammatory" findings. Charles Canady, who introduced and managed the bill, was taken aback, and said, What do you mean inflammatory findings? Do you think there's a constituency for infanticide back in your district?

We had expected that the leadership would help settle these people, calm them down, soften something here and there, but keep the bill, with its findings, intact. We were quite surprised, and a bit jolted, when our friend Henry Hyde came to the judgment that the leadership had better placate these rather intemperate, panicky “moderates.” Henry decided that the findings had to be jettisoned. And his reasoning ran in this way: In order to preserve a pro-life Congress, we needed a pro-life Republican majority. That means we had to go to the aid of certain pro-choice Congressmen who were hanging by a thread, men like Steve Kuykendall in Los Angeles. As it turned out, the move didn’t save Steve Kuykendall. He went down anyway.

But that decision rather sealed the fate of those findings, at least for that season and this first effort on the bill. We never did manage to draw then the argument we were seeking. Now all of this was taking place during the presidential election and to our real astonishment, candidate Bush never showed the slightest interest in making use of this device, the most modest first step on abortion. He would say nothing about this bill and, indeed, he would never say anything about it. He would never even endorse it. Even as President he wouldn’t endorse it. A decision was made to have an endorsement issued by the Executive Office of the President. That was rather different from having a statement issued by the press secretary at the White House, in the presence of the press, where a statement could elicit questions in turn. But when the bill was endorsed in this way, no questions would be directed to the White House. Once again, Mr. Bush would avoid the occasion to speak some disarming words, in offering the simplest, most disarming first step on abortion.

The situation draws us back to Robby George’s line about the first George Bush—that his problem for the pro-life movement is that he was “all action and no talk.” And we needed the talk. We needed the talk that framed the argument. But we find ourselves now, with the passage of the Born-Alive Infants’ Protection Act, and with the bill on partial-birth abortion now enjoined in the courts—we find ourselves in this most curious situation: that this modest bill of ours, the most modest bill of all, supplies now the most powerful lever we have, in a way that even we hadn’t expected. And even our own friends in Congress haven’t come to the recognition of how powerful an instrument it is.

For over a year now, the White House has been apprised of these things, and of the simplest steps that could be taken, with a considerable effect— steps that would not even involve an Executive Order. Yet, when we consider even the slightest, useful things that could be done, the White House has looked for a way of doing something notably less than those slightest things.

And when I say slight, I do mean slight: I mean, for example, taking the first step of simply informing hospitals and clinics that there is such a law on the books as the Born-Alive Infants’ Protection Act. At the same time, the government could make the straightforward inquiry: Are these hospitals or clinics withholding medical care from babies that survive abortions? Are they performing a version of the so-called “live birth abortions” performed at Christ Hospital in Oak Lawn, Illinois where babies were delivered alive and put aside to die? We could quite simply, and decently, raise these questions. One friend in Washington, a seasoned lawyer, remarked that the mere posing of that question is a move likely to tighten sphincter muscles throughout the landscape.

For hovering over that inquiry, coming from the Administration, is the prospect of losing federal funds.

About a year and a half ago, we thought we had an assurance from the Secretary of Health and Human Services, Tommy Thompson, that the letter would be forthcoming to inform the hospitals and clinics, and to lodge this query. Not too long ago, a friend in the pro-life movement wrote to Tommy Thompson to ask, whatever happened to that letter? Recently she received a reply from the Secretary, reporting that it hadn't seemed useful, after all, to send out such a letter. Precisely why it did not seem useful is something that still hasn't been explained.

The Born Alive Infants' Protection Act contained no penalties. It provided neither criminal punishments nor civil penalties in the form of fines. And that sets the stage for another move. The President could point out that we had never established the penalty for delivering a live child and letting the child die. He could simply invite the committees on the judiciary in the Senate and the House to hold hearings and reflect on the question: What *would* the penalty be for killing a baby born alive? Would the offense be at least as serious as a moving violation in traffic? Would it justify a criminal penalty or a hefty fine? But the President could suggest that, once again, we take a step in moderation. Instead of having criminal penalties or knockout fines, why don't we merely withdraw federal funds from hospitals and clinics that may be engaging in this awful procedure? And then the President may ask, Would the formulas of the Civil Rights Restoration Act apply?

For example, if a student at a college has a federal loan, the college is itself regarded as a recipient of federal funds. In that event, all federal regulations would come to bear on *all* parts and programs of that college. In a spirit of genuine inquiry—without the need yet for an Executive Order—the President may pose to the committees this innocent, but intriguing, question: What is a “recipient of federal funds”? Do the formulas of the Civil Rights Acts apply, and particularly the Civil Rights Restoration Act of 1988: If a clinic has a patient covered by Medicare, or another patient with a Social Security check, or a loan from the department of Veterans' Affairs, does the whole facility become a recipient of federal funds? But of course every hospital in the country depends on federal funds, and the funds could be withdrawn now from the whole hospital or clinic, not merely from the section from which the offense comes.

The mere posing of these questions is bound to set off tremors among the Democrats. Would the Democrats find this application of the Civil Rights Act objectionable? Would they like to dismantle this whole scheme of legislating by indirection, the scheme by which the federal authority has been extended over the past forty years to coincide with the reach of the liberal agenda? After all these years, we still can't say exactly how the federal government reaches a private clinic counseling birth control. We simply give federal grants, and if a clinic doesn't accept the money, the federal rules do not apply. There are no binding rules, therefore no legislation in the strictest sense. We could make use of the same device in legislating now, by indirection, to restrict abortion. Would the Democrats now find this arrangement disturbing and wrongful? Would they like to start

dismantling this whole scheme, so critical to the liberal project in politics? If so, we will help you. For the White House, this is a win/win proposition.

And yet nothing. No move in this direction, when all it would require is the raising of questions. But we have had ample reason already to see what remarkable effects can be generated with such simple moves, or the lodging of questions. Ronald Reagan once made the point, in passing, in a State of the Union Address, that fetuses can feel pain. That remark of the Gipper's set off long evenings of discussion on late night television, and it even led to hearings by the Senate Committee on the Judiciary. In that vein, we need only consider the convulsions that took place, more recently, when the announcement was made that if—just if—the act on partial-birth abortions was finally cleared by the courts, the enforcement of the act would be placed in the hands of the Civil Rights Division of the Department of Justice. Even to suggest that the protection of the child could be likened to the defense of civil rights was enough to set off displays of spleen and pointless rage, which were hardly edifying, and which only managed to show just how effortless it is to spark panic among the Democrats and send them spiraling off into useless fits.

The Democrats could not possibly stand by with indifference if the President merely raised the question about the withholding of federal funds—and then applied that familiar device to this problem of partial-birth abortions.

After all, what the courts have enjoined so far is the bill that bars the grotesque surgery known as partial-birth abortion. The path is clearly open now for the President, or any member of Congress, to say: We're appalled that the federal courts have enjoined us from barring this procedure performed on a child at the point of birth, collapsing the head of the child, sucking out its brains. This is a procedure opposed by about eighty percent of the American public. But while the courts have enjoined the bill forbidding the procedure, the American taxpayers should not be forced to become accomplices in this business. They should not be compelled, through the tax system, to fund something they regard as abhorrent. And so, we would have Congress simply remove all federal funds from hospitals and clinics in which this procedure is performed.

As I say, the Democrats could not possibly ignore this move because they know that if we take this move of legislating by indirection we will move step by step on abortion. They can't possibly hold back from resisting it, but if they do resist it, they would take the first steps in dismantling the structure of power they had put in place over forty years.

Nothing could be relied on more to create a crippling tension among our adversaries. Or this move could have the effect of finally administering that short, sharp, shock that pushes people over the edge—that finally persuades hospitals that they'll have none of this, that they'll get out of the business altogether. In the case of doctors, it may be the shove that jars them into sobriety and induces a few of them finally to turn to one of their patients and say, "Really now, we might as well settle on the truth of the matter: that real human beings are killed in these surgeries."

But even beyond this move on partial-birth abortions, an even deeper surprise may come when our Born-Alive Infants' Protection Act is connected to a case that now has iconic standing among the liberals: the famous case of the Bob Jones University (1983). The university lost its tax exemption because it barred its students from dating and marriage across racial

lines. The allegation was that the policies of the university were in opposition to the public policy of the United States. The university could not be sued under the Civil Rights Act because no one had been denied admission on the basis of race. The case was brought by *private parties* complaining to the IRS. And yet in all strictness there was no public policy, *nothing* in the statutes or Executive Orders of the United States that barred people, in their private choices of partners, from discriminating on the basis of race. But now, in sharp contrast, there is indeed a statute of the United States that explicitly forbids the withholding of medical care from a child who survives the abortion.

Once again, the situation requires only the simplest of moves. There is no need for Executive Orders or litigation. In the case of Bob Jones University, there were simply complaints made to the IRS. Complaints may be made now as well by private persons, or taxpayers, that the clinics performing the live-birth abortions are not in accord with public policy; indeed that they are in violation of federal law. They should have their tax exemptions removed, or they should face the serious threat of that removal. And of course all of these clinics depend critically on tax exemptions.

These are the simplest moves, requiring the slightest of exertions, and I'm afraid that we find the measure of the current White House when we recognize that even these slightest of all things are reckoned beyond the will of this President to do. He does not seem inclined to say, on this matter of abortion, one word that he is not strictly compelled to speak.

Which brings us to this melancholy statement of our current situation. The two President Bushes had the wit to build on the coalition that President Reagan had drawn to himself, including many Catholics and Evangelicals. That movement has now converted the Republican party into the pro-life party in our politics.

Thanks to President Bush, continuing to build on that party, we have an Administration now thoroughly peopled with pro-lifers at every level of the government, and in virtually every outpost. This may be the most pro-life Administration we have seen since *Roe v. Wade*. And what is at stake in the election is nothing less than the preservation of this Administration, with the judicial nominees it may yet serve up, and its willingness to sign on to the pro-life legislation passed by a Republican Congress.

But the deep and unsettling irony in our situation is that we have, at the very top of this Administration, at the head of the pro-life party in our politics, a leadership that will not articulate the pro-life argument in public, mainly because it doesn't articulate arguments. Mr. Bush is an admirable man, on many counts, and I believe he is our true friend. But his inclination has been to sound themes or sentiments, not to frame arguments and make a case. And my own sense is that, in holding back from making arguments, he has held back from cultivating the discipline of getting clear on his own reasons.

We may preserve a pro-life administration and avoid the deep evil, I think, of a Kerry administration; an evil that is as certain as anything in politics in this life is likely to be. But we may make that gain while preserving a political leadership that teaches, as part of its legacy, this corrosive or destructive lesson: that it is somehow impracticable or impolitic to make the pro-life argument in public. That is a debilitating and destructive lesson, for it begins to suggest that the public cannot understand such an

argument, or that the argument cannot be made—that there are not in fact reasons accessible to the public, reasons that ordinary folk could understand and find compelling.

As an old friend—and I think I can count myself, in this setting, an old friend—I hope you will give me the indulgence of permitting me, in ending, to sound the sentiments I sounded at the end of my book. I had recounted our experience with the Born-Alive Act, and the surprises we had encountered at the hands of our own, nominal allies. It was a sobering experience, revealing something unsettling about the state of the political class, even on our side—and I was moved to say this:

A political class that has lost the sense that reason—and arguments—matter is a political class that may serve in positions as officers of state, and yet its members will have lost their vocation. At times, the need to clarify the principles entails the need to stage the confrontation or the debate, and that may indeed involve the need to pick a fight. A political class that is persistently reluctant to show that spirited nature will produce, not merely a politics that is banal, but one that is denatured. In removing the conflict, or removing the argument, one may gently remove as well the moral substance. Aristotle remarked, in one of his most memorable observations, that if the art were in the material, then ships would be springing, fully crafted, from trees. [*Physics*, 199b 28] But ships were not part of the world of “causation,” produced through the workings of the laws of nature. Ships were part of a world governed by design, by the awareness of ends, and the shaping of reasons. We may be bringing forth now a political class more and more detached from the sense that there is any particular importance in compelling the other side to come out with their reasons, and claim them as their own. To a political class molding itself in that way, we may not only ask, where is the reason that gives meaning to political life, but where, in all of that, is the *art*? Where do we find the distinctive hand that shows your work? Where do we find the design that marked your understanding, the touch that reflected the experience you had cultivated? And where, finally, do we find the impression, lingering through time, that you were here?