

1 (1<sup>st</sup> PUBLIC DRAFT --- RELEASED 02/23/09)

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4 University of Louisville Cardinals for Life present:

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6 **"Abortion: A Constitutional Right or a Moral Wrong?"**

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8 Thursday, January 15, 2009 7pm Debate Hosted by: University  
9 of Louisville, Red Barn  
10 Moderated by: Dr. Jay Brandi

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13 **Dr. Brandi:** Good evening ladies and gentlemen. First of all please let me welcome  
14 you to the Red Barn here at the campus of the University of Louisville here in Louisville,  
15 Kentucky. My name is Jay Brandi and I am a professor here at the University of  
16 Louisville and I also am a host on a weekly radio show here on AM 1040 WLCR radio.  
17 Tonight we are presenting a debate sponsored by the University of Louisville Cards for  
18 Life, a Right-to-Life student organization here at the University of Louisville, and the  
19 title of the debate is "Abortion: A Constitutional Right or a Moral Wrong?". The  
20 program is scheduled for a 2-hour time limit from 6:00pm until 8:00pm and I will get to  
21 the rules of the debate in just a second. But first I would like to introduce our  
22 panelists.

23  
24 Our pro-choice panelist this evening is Dr. Paul Simmons. Dr. Simmons is the President  
25 of the local chapter of Americans United for Separation of Church & State and, in  
26 fact, is the Chair of the National Board. He holds a PhD and is a Clinical Professor in  
27 the Department of Family & Geriatric Medicine in the division of Ethics and  
28 Professionalism at the University of Louisville School of Medicine. Dr. Simmons  
29 teaches courses in the School of Medicine in Medical Ethics, Business Ethics,  
30 Philosophical Ethics, and Human Rights and is also an ordained Baptist Minister who  
31 taught at the Southern Baptist Theological Seminary for twenty-three years. Dr.  
32 Simmons has written six books, has contributed to more than twenty others, and was  
33 the first recipient in 1994 of the "Dr. David Gunn Award" which is presented by the  
34 Kentucky Religious Coalition for Reproductive Choice. Dr. Simmons - (light applause)  
35 - is at the far table over there.

36  
37 Tonight's pro-life panelist is Mr. Mike Janocik, who is the Assistant Director for the  
38 Kentucky Right to Life Association. Mr. Janocik is a registered lobbyist, the host of a  
39 local radio talk show, and also is a well-known speaker on pro-life issues. He has  
40 been published in the Washington Times, realclearpolitics.com, the American  
41 Medical Journal, National Right to Life News, the Courier-Journal, the Lexington  
42 Herald-Leader, the Kentucky Post, Cincinnati Post and other regional and national  
43 news publications, and has been featured in interviews published in national

44 newspapers to include the Washington Post, The Hill (which is the Capitol Hill  
45 newspaper in Washington, DC), and the National Catholic Register. And in addition  
46 to his own show, Mr. Janocik has appeared on a number of other radio and  
47 television programs as well. Mr. Janocik - (light applause).

48  
49 I would like to get to the rules of the debate next before we continue with the  
50 program so that everyone understands exactly how this is going to proceed. Each  
51 side will be given three minutes to introduce their stance on abortion, and explain  
52 why they hold those views. Following the statements on their stance on abortion, I  
53 will read and the panelists will take turns addressing, three separate questions  
54 presented by their opposition. The questions were prepared and presented to the  
55 panels prior to this evening, to enable them to prepare their responses, and we will  
56 alternate between questions prepared by the pro-choice panelist and the pro-life  
57 panelist. Earlier this evening it was determined that Dr. Simmons will present his  
58 stance first, and Mr. Janocik will be given the first question. No pictures are to be  
59 displayed with the questions or the responses. I will read each question and the  
60 panelist answering the question will have five minutes in which to present his  
61 response. After the initial response I will read the question once again, and the  
62 opposing side will be provided three minutes for rebuttal. After all of the questions  
63 have been addressed and rebutted, I will accept questions from the audience.  
64 That's only after all three questions have been addressed by each of the panelists.  
65 At that point in time, in order to be recognized, simply raise your hand and when you  
66 are called (so that we can have it in somewhat of an orderly fashion), please come  
67 to the microphone in the front, specify which side of the panel - pro-choice or pro-life  
68 - you wish to ask your question and once your question has been addressed we are  
69 going to allow the opposing side to address the question as well if they so choose.  
70 With that, Dr. Simmons if you will please present your position on abortion and the  
71 reasons for having that position.

72  
73 **Dr. Simmons:** I have been involved in the abortion debate to one degree or the  
74 other for years. I was first of all involved as a Pastor in churches in North Carolina,  
75 where I met women who were facing difficult or complex pregnancies and faced a  
76 very ambiguous political situation. I was Pastor in North Carolina just out of the  
77 seminary when I first confronted this issue, both in terms of the women in my parish  
78 who faced complex problems with regard to their pregnancies and an ambiguous  
79 situation with regard to the law. The law allowed a woman to have an abortion  
80 under certain circumstances, where she had to go through the hoops to find out if  
81 she was going to qualify. And then a physician in town told me that if I had a  
82 woman that had a problem pregnancy, to contact him. Now he would not do an  
83 abortion, but he knew somebody that would take good care of her. And then also  
84 in the hospitals there were always these reports about women who were having a  
85 DNC. Well, it was interesting to put all that together because what emerged, the  
86 more you looked at it, was that it was commonly accepted that women did have  
87 abortions, but they were illegal. It was socially acceptable, even though illegal, just  
88 nobody enforced the law.

89  
90 So that sort of hypocrisy ran through society; now where it caught was with those  
91 who were least able to afford the termination of a pregnancy. The poor paid the

92 price for that hypocrisy and later on the Nader Institute showed that the  
93 enforcement of the law was discriminatory to the core. Well, the more I got involved  
94 in this, the more I studied it. I came on to Seminary here, and did my dissertation in a  
95 different area, the area of politics, and then joined the faculty in which my interest in  
96 bio ethics deepened. In each of my books I have addressed the issue of abortion of  
97 terms of its moral dimensions, religious dimensions, and the legal questions that it  
98 poses. This book was published in 2008, just one year ago as a matter of fact, "Faith  
99 and Health: Religion, Science & Public Policy". It has a chapter on abortion, but the  
100 entire book deals with bio ethics. It is a really good introduction to bioethical issues.  
101 It takes seriously the issue of those trying to ban abortion, and how you relate your  
102 faith to the question of abortion. That's the question. And if you look around, what  
103 you notice is people of faith are on both sides of the issue. There's nothing obvious  
104 about being a person of faith that dictates your stance with regard to abortion.

105  
106 Furthermore, as a Baptist, I was reared in the tradition of the separation of church  
107 and state. We go back to Roger Williams, first Governor of Rhode Island, which was  
108 also the first colony to establish the principle of separation of church and state. As  
109 Williams said to his constituents, "Doesn't matter who you are, Muslims or Jews or  
110 Baptists or Catholics or Atheists, there will be no law preventing your worship as you  
111 see fit."

112  
113 **Dr. Brandi:** That is time Dr. Simmons.

114  
115 **Dr. Simmons:** That is freedom of conscience. That is the hallmark of the Baptist  
116 witness and one that I still champion. Thank you.

117  
118 **Dr. Brandi:** Thank you sir. Mr. Janocik, your position on abortion, and your rationale.

119  
120 **Mr. Janocik:** Thank you. Thank you very much for having me tonight. It's a pleasure  
121 to be out here. I graduated from the University of Louisville from the Engineering  
122 Department over there and haven't used my engineering degree in about ten years.  
123 I actually got involved in the Right to Life movement in the mid 1990's and I will state it  
124 as briefly as I can. Most of you here are rather young and I would imagine most of  
125 you have a picture of your niece or nephew or younger sibling. You probably all  
126 have seen ultrasound images of maybe even yourselves. Some of you are maybe  
127 that young where you have some of the lower-quality 2-D ultrasound images of  
128 yourself or your family or your niece on your refrigerator.

129  
130 We believe that science and human reason has long established that the unborn  
131 child or the unborn fetus is indeed an unborn human being. In fact, the University of  
132 Louisville textbook that my wife, who is now a physician, used in her Developmental  
133 Biology course defines the beginning of a new human life at the point at which  
134 conception occurs. But before I go further with that, I just want to point out we have  
135 often been portrayed as a judgmental group. And some of us, I'm sure have; all of us  
136 have our issues in our own particular groups. But I'm not here to sit in judgment of  
137 anyone who's had an abortion or anyone who knows someone who's had an  
138 abortion. In fact many people in our own movement, in fact some of our national  
139 spokesmen, are women who have had abortions. We stand here to oppose

140 abortion as a civil rights issue, because the unborn child is indeed an unborn human  
141 being. Our country was founded on a creed and an ideal, that each human life,  
142 that *all* are created equal and endowed with certain inalienable rights, and the  
143 chief among them is the right to life. That creed has provided the very foundation for  
144 freedom, not only for America, but for the entire world. It has provided the  
145 foundation to turn over oppression, whether it be slavery or the civil rights movement  
146 under Dr. Martin Luther King. The idea that each human life is equal is an important  
147 foundational aspect of what it means to be free. It means that you can stand  
148 before your local magistrate or you can stand before your Governor and say, "I'm  
149 equal, you cannot put your boot on my throat." So what we see with *Roe vs. Wade*,  
150 which was the decision that made abortion legal for any reason whatsoever, and I'll  
151 go over that later if anybody has a question, in all nine months of pregnancy, not  
152 only removes protection from unborn human beings, but it undermines the very  
153 foundation of our country of freedom and it undermines the foundation for freedom,  
154 not only for America, but for other countries around the world. So I stand here today  
155 as pro-life, meaning that I believe that each human being, by nature - not because  
156 you have achieved certain goals, not because you are capable of doing things, but  
157 simply because you're human - you have an inalienable right to life and you are  
158 equal to each and every other human being. Legalized abortion absolutely  
159 undermines and contradicts the highest ideals of our country.

160  
161 **Dr. Brandi:** Thank you Mr. Janocik. As I indicated earlier, we have agreed that Mr.  
162 Janocik will address the first question. The question was prepared by Dr. Simmons  
163 and the questions from both panelists were provided to them in advance. So Mr.  
164 Janocik, I will address the first question to you: "Are you advocating that abortion be  
165 treated as a felony under criminal law? And what other country has anti-abortion  
166 laws that you believe the United States should emulate?" You have five minutes for  
167 your answer.

168  
169 **Mr. Janocik:** The short answer is no and I've been involved in this movement for ten  
170 years; I know of no organization or group that I've worked with that is advocating  
171 that abortion be treated as a felony. Number one, it's politically imprudent, it can't  
172 be done. And number two, there are other ways you can protect the unborn  
173 human child without making the woman or the mother a felon.

174  
175 Our immediate goal, as I said earlier, is to overturn the court decision *Roe versus*  
176 *Wade*. What *Roe v. Wade* did, coupled along with another decision called *Doe*  
177 *versus Bolton*, is it eradicated the abortion laws in all fifty states, and it took the  
178 decision away from the legislative process and representative government. So our  
179 immediate goal, through the due democratic process, is to elect presidents and  
180 leaders who will create a U.S. Supreme Court that will overturn the *Roe v. Wade*  
181 decision. What that will do is return the abortion policy question to the states where  
182 you and I can elect representatives that believe what we do and then we can make  
183 our own abortion policy at the state level. Most states, I believe, would enact a  
184 number of restrictions just as existed prior to the *Roe v. Wade* decision. Some of them  
185 would be more harsh than others. Some of them wouldn't be harsh at all; I imagine  
186 out in California you'd still be able to procure a legal, safe abortion through most of  
187 the months of pregnancy. So our first goal that we're advocating is an overturning of

188 Roe v. Wade. It was bad law and even people who support legalized abortion  
189 agree. It was not a right decision for the court. Ultimately our goal is for a human life  
190 amendment that would extend legal protections to the unborn child that you and I  
191 now enjoy. That's a much bigger task. Through both of these goals we understand  
192 that the only legitimate authority that will be able to grant these goals is if we are  
193 able to persuade enough of you to believe as we do and to elect representatives  
194 that will express these rules and laws through the just, authoritative government that  
195 we're trying to deal with. So with regard to other countries that we're seeking to  
196 emulate, we don't seek the laws of any other country; what we wish to do is have  
197 America aspire to her highest ideals, that is that each of us is created equal and has  
198 an inalienable right to life.

199  
200 **Dr. Brandi:** Thank you Mr. Janocik. Dr. Simmons, would you like for me to repeat the  
201 question again?  
202

203 **Dr. Simmons:** No, I understand the question. Each person does have equal rights.  
204 That's the point made by Roe v. Wade. The fertilized ovum is *not* a person. Each  
205 person begins as a fertilized ovum, but one is not a person at fertilization. There is a  
206 complex process by which we become people and by which we become citizens.  
207 But a fertilized ovum is not a citizen, and thus is not protected by the Constitution.  
208 Roe v. Wade made that very clear and the problem with all fifty states who had  
209 banned abortions were that those laws are based upon, premised upon, the  
210 assumption that this is a person, and/or if not, why should it be banned? Now that's  
211 the issue. Now that's the religious answer that we give to that. The question in terms  
212 of authority is, "Why would you believe that a fertilized ovum, or let's say an embryo  
213 or even a fetus for that matter, why would you believe that an in-utero entity should  
214 be regarded as having the same protection as a person? As the woman in this case.  
215 As a man. As any other citizen. Now the answer that one gives to that explains why  
216 you feel so strongly about it. Does it have a soul? How did it become a person? See  
217 that's the question of authority that lies behind the assumption upon which the law  
218 was built. Those laws failed because of their tests in the various courts. Why should a  
219 woman be banned from making reproductive choices because somebody believes  
220 that, well, it really is a person, whether it is a person or not. There's a metaphysical  
221 explanation for this. And that's why Blackman said, "You cannot impose some  
222 abstract metaphysical assumption as if that explains the reasons which that law must  
223 have for banning a particular procedure." It also shows the inconsistency of the  
224 argument we just heard. If you believe that a fertilized ovum is a person, terminating  
225 a pregnancy *is* a crime, by definition. You can't go around killing people. And that's  
226 how the rhetoric goes. Now Mr. Janocik is showing us a very ironic face tonight. But  
227 to be ironic is not necessarily to be consistent. Because if you ban abortion because  
228 it's a person, you can do nothing else except make it a criminal behavior or a  
229 criminal act for people who terminate that pregnancy.

230  
231 **Dr. Brandi:** Thank you sir. The next question was prepared by Mr. Janocik and it is  
232 addressed to Dr. Simmons: "To use the term 'embryo' or 'fetus' is like using the terms  
233 'infant', 'child', 'adolescent', or 'adult' in that each describe a period in the life of the  
234 developing human being. Most of the students here have the benefit of an  
235 ultrasound video of their own early living existence inside their mother's womb. A

236 good number of us have probably seen 3-D and 4-D color ultrasound videos of a  
237 sibling or a nephew or a niece. At one point, Dr. Simmons, in the development of a  
238 human being, should laws protect our lives from being killed by others?"  
239

240 **Dr. Simmons:** Good question. We have just received a picture of my niece who is  
241 about five months pregnant. It is an ultrasound picture. We can all celebrate the  
242 fact that here is a child on the way! But it is not a child; it is not yet a person. Except  
243 in two ways. When my niece declares that this is a child that she intends to bring to  
244 term, she has declared it's a person and she's going to nurture and cherish and  
245 protect that one, right on to childbirth. One begins as a person when the parents say  
246 it's a person. It has that value to me. Not every couple has that opinion about the  
247 conception that they have. It may not be a person, it may be a threat, a very big  
248 threat, and bonding is an important thing. Now the law doesn't deal, though, with  
249 emotions only. The law deals with the entity that we're talking about. We all agree  
250 about the scientific stages through which gestation goes. No disagreement about  
251 that. But the issue about law is, "At what point is there sufficient biological and  
252 neurological maturity in the gestating fetus to regard it as a person, reasonably"?  
253 Now a fertilized ovum, you know, that's pretty unreasonable. There's no brain, there's  
254 no where to think - nothing - there's no volition. And no muscles. There's no function.  
255 But by the time you get to viability, you do have a brain that's probably capable of  
256 some degree of thought, certainly of sensation. You do have muscles and bodily  
257 organs that are functioning. So it is reasonable, at about the stage of viability, to  
258 declare that the woman's freedom now is limited. Now the burden shifts rather to  
259 her. If there are extenuating circumstances that are strongly threatening to her life,  
260 then yes, a tradeoff. But if it is just a simple excuse, to want to go to Florida instead of  
261 show the bulges of pregnancy, that may not carry the day. So the burden of proof  
262 shifts as the pregnancy progresses. So my short answer is, one is sufficiently like a  
263 person, and the law may regard it as a person to protect it, when you get into the  
264 later stages of pregnancy. Until that, is the woman's call.

265  
266 **Dr. Brandi:** Thank you Dr. Simmons

267  
268 **Mr. Janocik:** So Dr. Simmons, it would seem to me, has placed the burden of proof  
269 for the life of an unborn child on the belief of his parents. Dr. Peter Singer, who is the  
270 Chairman of Ethics at Princeton University, has written that children have no self  
271 awareness until they are about twenty-one days old *after* birth and he has said that  
272 the parents, if the child is sick and it could bring greater happiness to everyone,  
273 might be able to decide to kill their twenty-one-day old baby after birth. So I don't  
274 know that we want to allow parents to determine when they believe their child is a  
275 person as a criteria for when that child should be protected in law.

276  
277 The other issue is, of course, viability. Dr. Simmons believes that after viability, in other  
278 words, when the child can survive outside of the mother's womb (biologically I  
279 assume he means, because I have two children and anyone here who has had  
280 children understands), that to leave that baby alone in a home after it's born it would  
281 die because it doesn't really know how to take care of itself at six weeks or four  
282 weeks or three weeks of age. So I don't understand how viability, that is the ability to  
283 take care of yourself without someone else, would be a criteria for allowing us to

284 declare that human being a non-person. I don't know any human beings that are  
285 not also persons. And again this goes back to the difference between beliefs; Dr.  
286 Simmons has what I would call an "instrumental" view of human life. In other words,  
287 when he believes that a human being - and I think he would grant that an embryo at  
288 some stage, two or three days after conception perhaps, is indeed a being, a living  
289 being, self-directed of its own intrinsic components and intrinsic direction - lives by  
290 itself, it directs itself to further mature development. It is a human entity, so therefore  
291 it is a human being. So Dr. Simmons has to have his criteria for when that human  
292 being becomes a person, one of which he claims is viability and of course that  
293 competes with other things. We'll get into that a little bit later with another question,  
294 as to what are just reasons for killing that human being. So it seems to be odd that  
295 you're going to erect a biological dependent standard but you're not going to have  
296 an economic one. There are people that are in hospitals today that are unable to  
297 live by themselves without the aid of technology or their caregivers. Are they non-  
298 persons? This whole idea of separating personhood from a human being is a very  
299 dangerous proposition. And as we begin to celebrate Dr. Martin Luther King's day on  
300 Monday, it's interesting because there have been entire classes of human beings  
301 that have been declared "non-persons" because they didn't meet the powerful  
302 criteria for what it means to be a person. So, I'm not necessarily rebutting what he's  
303 saying, I'm just clarifying the different positions. Dr. Simmons wants to have his own  
304 criteria for when a human being becomes a person. I don't. I believe we're either  
305 going to treat all human beings as equal and deserving of protection under the law  
306 or we're going to treat some human beings as non-persons. But of course the  
307 problem with that is who gets to determine who the non-persons are?  
308

309 **Dr. Brandi:** Mr. Janocik, thank you. Alright, the next question from Dr. Simmons to Mr.  
310 Janocik: "Since every moral statement relies on hidden presuppositions and/or  
311 philosophical or religious assumptions or teachings, as the authority on which the  
312 conclusions rely, please explain or outline the underlining assumptions for your anti-  
313 abortion posture. In other words, by what authority do you say that abortion is a  
314 moral evil?"  
315

316 **Mr. Janocik:** Very simply, by the same authority that tells me that killing a newborn  
317 baby is a moral evil. And that is, observation aided by human reason. If you look at  
318 a newborn child kicking about in a crib, I think we can all agree that we should not  
319 be allowed to kill that innocent human being. I don't see a magic moral point when  
320 the child is now twelve weeks in-utero kicking about in its mother's womb. I can  
321 plainly see there's a human being kicking and living inside of its mother's womb; I  
322 don't believe anyone has a right to destroy (or kill) that human being and again,  
323 there's no underlying presupposition or philosophical entity other than my own  
324 human reason aided by observation.  
325

326 **Dr. Brandi:** Dr. Simmons, your rebuttal?  
327

328 **Dr. Simmons:** Yes, what we have here is a massive amount of confusion. One, as a  
329 person, is not simply a human being. Mr. Janocik is involved in this whole language  
330 game of reductionism. Yes, a fertilized ovum is a human being, but it's not a person.  
331 Every cell in your body has your DNA and, theoretically at least, could be developed

332 into a person. And how the internal dynamics of growth happens is not true. Every  
333 fetus depends upon the environment of the uterus of the woman. It is not a self-  
334 directed organism, certainly not until it gets old enough to feed itself. That's why I did  
335 not define it as he represented me as saying, that it has got to be independent and  
336 all that. The woman declares it a person for her own purposes and nourishes,  
337 cherishes, protects it. She is its guardian and that is what makes it a person to begin  
338 with. She says it's a person, and that's enough to start

339  
340 with. The law has to have different criteria. That's why I said it has to have biological  
341 and neurological maturity to qualify as a person. The biblical portrait of a person is  
342 one with capacities of reflective thought, religious thought; Adam and Eve could  
343 relate to God, talk with God, they had imagination, they had some thought about  
344 their being, they were introspective: they knew values, they were prospective: they  
345 could think about the future (what will happen to us) and all those things go into  
346 what it means to be a person. And we acquire those over time, but you must have  
347 capacities to acquire it in order to be a person. Now when we talk about legal  
348 standings then, I did not hear my point of view represented by what Mr. Janocik had  
349 said. It's a much more complex issue than what he is saying. We cannot reduce  
350 what it means to be a person to the notion of a human being or a living organism or  
351 human - of course it's human; it's not bovine, feline, porcine, it's a person. It belongs  
352 to persons who are the parents. And so it is human, but that doesn't make it a  
353 person. This is a more complex issue than Mr. Janocik would have us believe. That's  
354 why we need to do some thorough thinking about what constitutes a person  
355 sufficiently in the eyes of the law and declare that one is a person with protections  
356 which are constitutional.

357  
358 Now I would like to know what group of people has ever been declared less than a  
359 person or a non-person, where our law is concerned in the United States. I know at  
360 one point that blacks were regarded as three-quarters of a person, but that does not  
361 mean that they were thinking of personhood. They were talking about economic  
362 calculations. How should we calculate slaves, in this case? The court was making no  
363 judgment about whether or not this is a person; they were making economic  
364 judgments about the status of slavery. We need to get clear about that, where the  
365 Dred-Scott case was concerned. So we do believe that all human beings as  
366 persons are to be protected by law, and the logic of that is: to kill a person one must  
367 have the parameters of the law to support that: capital punishment, war perhaps.  
368 In short of that, one cannot do that simply based on your own judgment.

369  
370 **Dr. Brandi:** The next question is for Dr. Simmons: "In 2004, the Kentucky legislature  
371 passed the "Unborn Victims of Violence Act". This law says that if an unborn human  
372 being is killed under the condition of a crime against his or her mother, the assailant is  
373 charged with two homicides, homicide of the mother and homicide of the unborn  
374 human being. Dr. Simmons, do you believe the "Unborn Victims of Violence Act" is an  
375 unjust law because a person could be prosecuted for the homicide of an unborn  
376 human being?"

377  
378 **Dr. Simmons:** I believe the 2004 law is misguided and unwarranted. I believe it points  
379 to a real problem. What do you say to a woman whose late-term pregnancy has

380 been killed by an assailant (and that's happened right here in good old Kentucky)? I  
381 understand the momentum behind that however, the very language of that law was  
382 unconstitutional as the Supreme Court of the state of Kentucky said. The "unborn  
383 victims of violence"? Well, at what stage? See the original language of that dealt  
384 with "from conception"; the Supreme Court came in and said "no, no, that's  
385 unconstitutional. It is from 'viability' that you may apply it, not before ". Now there's  
386 the problem I've been talking about. We cannot settle simply for the reductionistic  
387 language of human or human being; we must talk about "persons". Now I  
388 understand and support the notion that there needs to be some compensatory  
389 response to a woman who has had such a massive loss. But it should be to the  
390 woman, not because someone has killed a fetus. Compensate the *woman*, it's *her*  
391 loss. Now you also have, and there have been mitigating circumstances in  
392 Kentucky, someone who, with malice of forethought, kills a woman who is pregnant.  
393 Then the Attorney General would prosecute probably  
394 on the terms of two people being killed. But if there is not malice with forethought,  
395 rather there are mitigating circumstances, likely the Attorney General will not  
396 prosecute as if two people had been killed. So this is a complex problem, but one  
397 that I think Kentucky is at least on the right track getting ironed out. But the original  
398 wording of the 2004 Act was clearly unconstitutional as the state Supreme Court said.  
399

400 **Mr. Janocik:** I think Dr. Simmons is a little shy on the facts. The 2004 law was signed  
401 into law and has not ever been challenged. It has not been declared  
402 unconstitutional; in fact that law is in effect in approximately twenty-something other  
403 states and it has been challenged at the Circuit Court levels and has been upheld.  
404 He may be referring to a case or some case law prior to the 2004 law that was  
405 passed, where the court referred to common law and struck down a case, but with  
406 this particular law, the language is not the same as it was in the original case. It was  
407 very clearly defined and it *is* constitutional and there have been prosecutions on the  
408 2004 "Unborn Victims of Violence Act". You may all know it as the "Lacey & Connors  
409 Act", you remember Scott Peterson - he was on television for killing his wife and  
410 unborn child. The law was modeled and drafted after that case, which was the  
411 Federal Law, which was not struck down, nor was it challenged by the U.S. Supreme  
412 Court.

413  
414 But I want to use a bit of my time to comment on what Dr. Simmons said. I guess I  
415 would have to agree with him that if we would have to look for the words for either  
416 African-Americans or other oppressed groups, I don't think you would say that  
417 they've been declared "non-persons", but I do think we would all agree that to chain  
418 someone to a tree and demand them to work for free or to make them sit at the  
419 back of the bus because their skin color is different, we don't necessarily need a  
420 written, explicit denunciation of their personhood. I think to treat someone  
421 inhumanly such as that is a demonstration that those people are not considered or  
422 were not considered "persons". So again, we need to be very cautious about trying  
423 to "separate", and by the way, I'm not the one reducing a person to a human being  
424 or vice versa. I'm the one that's saying that all human beings should be declared  
425 human beings and persons and should be protected by law. Dr. Simmons is trying to  
426 reduce the humanity of the human being by saying that some persons may be  
427 legitimately killed by other persons or other human beings. So I want to clarify that I

428 don't think any of us should have to meet Dr. Simmons' criteria for being a person. He  
429 talked about being able to reflect, to be able to have theological reflections. How  
430 many four-week old babies who are born have those kinds of reflections? How  
431 many elderly people who are past the age of eighty-five and laying in a comatose  
432 state or a semi-conscious state can have those kinds of reflections? I'm not willing to  
433 declare any of those human beings as being non-persons for the purposes of  
434 declaring them something other than what they are so that we can get rid of them. I  
435 think it's *wrong*; I think it's arrogant to try to declare that some human beings are not  
436 persons. And what I said about being directed - yes, the unborn fetus is self-directed,  
437 of course it relies on being nourished by the mother just as we all rely on being  
438 nourished by food and water every day. But the entity itself is indeed a self-directed,  
439 unique human organism (human being), and I'm not willing to differentiate between  
440 a human being and a person. History shows what happens when we have done  
441 that.

442

443 **Dr. Brandi:** Thank you Mr. Janocik. The next question is directed to Mr. Janocik: "Why  
444 do some embryologists say that God is the "great abortionist"? And what is your  
445 response to them?"

446

447 **Mr. Janocik:** That's an interesting question because I tried to do some research and I  
448 couldn't find anywhere where embryologists actually said that God was the "great  
449 abortionist". I can't comment; I didn't really come here to talk about God or religion.  
450 I came here to talk about civil rights. But I think, and he can correct me if I'm wrong,  
451 what Dr. Simmons is referring to is the fact that there is a certain percentage - I've  
452 seen statistics from thirty to sixty or seventy percent - of newly created human  
453 embryos, after conception, who are unable for some reason to implant into the  
454 mother's womb and are then flushed out and killed during the menstrual cycle. So I  
455 would respond this way: that it's unfortunate - my wife and I have had two  
456 miscarriages - but that human beings die at all different stages of life. Some of us die  
457 very early, as this question refers, some of us may die in the womb; my niece died at  
458 twenty-two weeks (gestational age) and we had a funeral for her and she was very  
459 whole, very personable, very adorable. The infant mortality rate in some parts of  
460 Africa is nearing about twenty percent. Children under five are dying all over Africa  
461 in very large percentages, for various reasons. And of course most people, once  
462 they reach beyond eighty-five or ninety, the rate of people who die at those ages is  
463 significant. I don't believe Dr. Simmons is advocating that because some of us die  
464 very, very early in our lives, that gives others of us a right to kill them. But it almost  
465 seems that way by the nature of the question - because of God, myself or nature-  
466 that some human lives die very early on. I guess that's supposed to relieve our  
467 conscience for doing the same. I don't buy it; I understand that human beings die at  
468 all different points of our development and I don't think that confers upon other  
469 human beings the right to kill them.

470

471 **Dr. Brandi:** Thank you, sir. Dr. Simmons?

472

473 **Dr. Simmons:** Well, the moral question is posed by a lot of embryologists who say  
474 that fully sixty percent of all fertilized ova do not come to term. Now that's nature's  
475 way and Mr. Janocik is right that that is a process that is often related to genetic

476 problems, but nature has its own way and sloughs off any numbers of fertilized ova  
477 from ever coming to term. It never becomes a child; it is never born. And those  
478 spontaneous abortions - one woman told me about a twelve-week old fetus that she  
479 dropped in the toilet one day, picked it up, examined it, and continued to flush it -  
480 and it meant nothing to her. Now the point that is being made is a moral question:  
481 "What is the difference if nature sloughs off that many fertilized ova or the process of  
482 gestation already begun, what is the moral difference in people doing that?" What  
483 about a woman who decides, well, nature's not going to take care of this problem, it  
484 would be nice if it did, but I must decide whether or not to bring this pregnancy to  
485 term. Now that's the reason that they bring that up and there is some moral issue  
486 there. Are we to say that God does what is right even if it is wrong for people? That's  
487 quite a philosophical debate and we'll talk about that some other time. But the  
488 woman who may act in a God-like way in terminating a pregnancy, has an awfully  
489 good argument on her side.

490  
491 But I want to go back to this thing about the unborn. I did *not* say as Mr. Janocik has  
492 represented me as saying, that we can decide when to kill people. No, and  
493 furthermore a spontaneous abortion is not "killing" an unborn child or a human being;  
494 we do not speak of a natural birth as killing anybody. It's death, death does take  
495 place. But what happens naturally we do not speak of as killing. Killing is a direct,  
496 intentional act of terminating another entity's life. That's killing. That is a part of some  
497 abortion decisions. You are killing. Are you killing a person? The answer is no. You're  
498 killing a fetus or some product of conception at some point before viability. State  
499 laws now are very strict about third-trimester abortions. And to say that a woman  
500 can have an abortion for the entire nine months is *not* true. Ninety two percent of all  
501 abortions take place in the first trimester, the first twelve  
502 weeks; only three percent nationwide are terminated in the last trimester. And in  
503 those cases, you're facing very severe problems for the mother. It is virtually a  
504 tradeoff: life of fetus for life of mother. And there I think it's right to say that it's the  
505 woman's call. Some women will say, "Well, I'll take my chances" or "I'd rather die than  
506 see my child about to be born to die". Well, that's her call. That's okay. It should not  
507 be made a law that she decides that way.

508  
509 **Dr. Brandi:** Thank you Dr. Simmons. Question for Dr. Simmons: "Recent statistics from  
510 the Kentucky Office of Vital Statistics reported 4,389 procured abortions for 2007. Of  
511 these 4,389 abortions, 38% of them were repeat abortions. In fact in 2007, 1,057  
512 women procured their second abortion, 378 their third, 132 their fourth, 66 their fifth,  
513 18 their sixth, 13 their seventh, 6 their eighth to their ninth, 1 their 10th, 1 their 13th, and  
514 1 their 15th abortion. Alan Guttmacher Institute Surveys report that fewer than 1% of  
515 all abortions result from rape or incest combined. Dr. Simmons, should the state have  
516 any role in legally protecting any of the unborn human lives lost to abortion in 2007?"

517  
518  
519 **Dr. Simmons:** Well, I don't know because I don't know all those cases. I do know that  
520 the state is already acting to protect some in the third trimesters, as I've just explained  
521 previously. I think those are usually reasonable laws. But if there's a tradeoff of the  
522 life of the mother, her life must come first. There ought never be any confusion  
523 between the actuality of the woman's life and the potentiality of a fetus' life. Those

524 are *not* equals. Now the statistics information is interesting. But what does it prove  
525 morally? I don't know what these women's circumstances were; I'm willing to admit  
526 though, that probably some of them were pretty flippant reasons. Flippant for *me*.  
527 I'm a man. I will never be faced with the problem of a problem pregnancy. Never.  
528 This is a woman's issue, and until I know the woman's mind and something of her  
529 circumstances, I cannot make a judgment about her choice. That's *her* call. It's a  
530 burdensome choice. Now statistics are interesting for another reason. I take it that  
531 the reason for giving these statistics is to make people angry. As if we ought to go  
532 out then and insist that the law should intervene. I would admit also that probably  
533 there is some pathology here; it gets my attention that someone would have 18  
534 abortions. In a single year? Something's going on here. Either the statistics are not  
535 right, or the woman has personal struggles that are exceptional. But again, that's  
536 something for *her* to straighten out, not me, and it will not be straightened out on  
537 *moral* grounds. There's also another thing about these statistics, and that is the  
538 implication seems to be that if we had a law against abortions, we would not have  
539 all these abortions. Is that true? Before we had *Roe v. Wade*, we had hundreds of  
540 thousands of abortions every year. Abortion is the other side of pregnancy. Just like  
541 divorce is the other side of marriage. Women facing difficult pregnancies *will get an*  
542 abortion. Legal or illegal. So these statistics may be interesting; there's also a factor  
543 of voyeurism about them. Why should I be interested in what women are doing? It's  
544 their life, not mine. It's their conscience, not mine. It's their religious beliefs, not mine,  
545 that are at stake. Why am I prying into their affairs and their private decisions and  
546 looking through the blinds to see what is going on? That's what these statistics mean.  
547 I've got to pry and see what I can see and find out so as to make judgments about  
548 what somebody else is doing. I find the statistics interesting, but what it compels me  
549 to do is to say why? And are some of them being caught for lack of information  
550 that's provided? Are they suffering contraceptive failure? Let's be sure they get  
551 accurate or adequate contraceptives. Let's deal with the problem before it  
552 happens. Prevention is far better than trying to "cure". So better information is what is  
553 required and we should be able to do that. Nationally there is a Senate bill now that  
554 proposes that we provide all that  
555 information and all optional counseling to women and that we assure them the best  
556 support services so that we can prevent unwanted pregnancies. I support that  
557 entirely. I think *that's* the best choice.

558  
559 **Dr. Brandi:** Mr. Janocik?

560  
561 **Mr. Janocik:** Okay, so many things to address. First off with regard to late-term  
562 abortions after viability, Dr. Simmons is not alone in not understanding this fully. Keith  
563 (last name inaudible) of the *Courier-Journal* also challenged me on this and I  
564 promised him a dinner at Ruth Chris's if he could provide for me one successful  
565 prosecution of a post-viability abortion in the United States and there doesn't exist  
566 one. Here let me tell you why. On January 22nd, 1973, *Roe v. Wade* was decided,  
567 which was the U.S. Supreme Court's decision that legalized abortion, and there was  
568 language in the U.S. Supreme Court decision that in the first trimester the state has *no*  
569 role in restricting women's access to abortion. They went on to say that in the second  
570 trimester there begins to be a competing and growing interest between the state  
571 protecting the unborn child and the rights of the woman to have an abortion. And

572 then in the third trimester the interest grows even further. But Doe v. Bolton was a  
573 companion case: it was also handed down on the very same day, along with Roe v.  
574 Wade. And in the Doe v. Bolton case it said yes, the state has an interest in restricting  
575 those abortions, however they may not do so if the life or health of the mother would  
576 be in danger. And they went on to use the World Health Organization's definition of  
577 health, which included not only physical health, not only emotional health, not only  
578 psychological health, but included familiar health and all factors relating to not the  
579 health, *but the well-being of the mother*. There's virtually no reason a woman can't  
580 give to have an abortion in Kentucky and these statistics demonstrate that.  
581 Additionally, the Partial-Birth abortion was tried in the year 2000 and was banned,  
582 and the U.S. Supreme Court said no, you may not ban a partial-birth abortion. A  
583 woman has a right to an abortion under Roe v. Wade. Partial-birth abortions are  
584 routinely done in the seventh, eighth and ninth months of pregnancy *past* viability. In  
585 Kentucky alone, each year there are *hundreds* of abortions that are performed after  
586 the twenty week mark. Abortion is legal throughout all nine months of pregnancy for  
587 any reason whatsoever. Now the law may state what Dr. Simmons said, but if a  
588 woman goes in and says, "My career is in jeopardy... "

589  
590 Dr. Simmons also asked about the statistics. These statistics are not from me, these  
591 are from the Kentucky Vital Statistics and the Alan Guttmacher Institute which is the  
592 statistics gathering arm of Planned Parenthood. Planned Parenthood is the world-  
593 leading abortion provider, so if he has to make a charge of voyeurism, he needs to  
594 go after Planned Parenthood because they're collecting far more statistics on  
595 abortion than anybody else. So, it is true that women have abortions throughout all  
596 nine months of pregnancy for virtually any reason. That's just the way it is. No one  
597 has ever been prosecuted for performing an abortion after viability.

598  
599 Now, I think everybody up here knows that I understand that if we pass a law that  
600 restricts or prohibits abortion, I know we're still going to have abortions. Nobody's that  
601 stupid. I think it's rather insulting to think that we believe that if we pass a ban on  
602 abortions we're going to eliminate all abortions. Of course we're not going to  
603 eliminate all abortions; there are people who are murdered every day and we have  
604 laws against murder. But it's important to pass a law because it is a teacher, and it's  
605 a moral teacher. Furthermore, part of this battle is not just about protecting these  
606 babies, as important as that is. Much of this is about protecting the *ideal* that makes  
607 us a great country, that  
608 makes us free, that gives the foundation to achieve universal human rights. If we're  
609 to determine, as Dr. Simmons is proposing, that we get to decide who is and who is  
610 not a person or which human beings are or are not persons then we have  
611 undermined and contradicted the basic ideals of human freedom that will be the  
612 deliverance of oppression for as far as the eye can see. It's worked in the past; it's  
613 been a great struggle, but it has provided the foundation for human freedom.

614  
615 **Dr. Brandi:** We're going now to open it up to questions from the audience. But first I  
616 think we would like to thank our panelists for their time and their comments.  
617 (applause) Now if you have a question that you would like to address to the panel,  
618 as I said earlier, what I would like for you to do is simply raise your hand so you can be  
619 recognized. And if you will come to the microphone, and indicate which of the

620 panelists you'd like to address, either Mr. Janocik or Dr. Simmons, and then once they  
621 have addressed your question, we will give the alternative opponent a chance to  
622 respond as well.

623

624 **Woman's voice:** Hello, my name is Ann Marin and I'm the current Chair Person of the  
625 Kentucky Religious Coalition for Reproductive Choice. We provide all options and  
626 clergy counseling to women facing what they would define as troubled  
627 pregnancies. And we also work very hard at establishing comprehensive sexuality  
628 education programs. That's what we've been working on, because we also believe  
629 that the best way to reduce the number of abortions is through prevention. You  
630 defined the stand you take as a civil rights stand and a moral stand. You believe  
631 that the embryo or the fertilized egg is immediately imbued with a human soul.

632

633 **Mr. Janocik:** Is that your question?

634

635 **Ann Marin:** No, it's not my question, I'm just trying to make sure I'm understanding you  
636 correctly.

637

638 **Mr. Janocik:** I don't know. I can't answer that.

639

640 **Ann Marin:** Okay, well, as a civil rights issue then, what gives this fertilized egg more  
641 civil rights' standing than the mother? Why should the rights of this embryo be  
642 elevated above the rights of the mother? And maybe the father?

643

644 **Mr. Janocik:** Okay, that's a good question. And I applaud the work you do to  
645 counsel women and from my perspective, I hope the counseling results in them  
646 choosing life. With regard to the human soul, I'm not in a position to declare who has  
647 a soul and who has not, because if I'm asked to say okay, that embryo has or doesn't  
648 have a soul, what limits me from discussing whether Michael over here has a soul or  
649 not? I'm not in a position to make that declaration; I'm not that arrogant. I don't  
650 think it's right for any of us to determine to kill another human being because we've  
651 decided they do or don't have a soul.

652

653 Now with regard to the civil rights issue, I do not believe that the human life or human  
654 embryo has more rights than the mother. I don't believe that at all. I believe they  
655 each possess an *equal* right to enjoy the life that they have. Most abortions are not  
656 performed at the embryonic stage. Most abortions, as Dr. Simmons pointed out,  
657 occur well below ten or eleven weeks. Most of them are probably in the seventh or  
658 eighth week and at seven or eight weeks we don't have an embryo, we truly have a  
659 little human being, with arms, legs, rib cages and so forth. We have a little tiny  
660 human being. But let me answer your question. I believe that the right to life of the  
661 unborn child has a

662

663 higher precedence than the right to privacy for the mother. There is a hierarchy of  
664 rights and I believe that a right to a continuation of life supersedes a right for a  
665 woman to privately do something to that child. Now in the rare cases where the  
666 woman's life is in danger as a result of a pregnancy, I believe the physician ought to  
667 try to save both. Just as if my wife and my daughter were stuck on an elevator in a  
burning building, I wouldn't tell the fireman to kill the daughter to save the mother. I

668 would say please try to save them both. Do what you can and if you can't save  
669 them both I understand, but at least you've given them the honor and dignity of  
670 *trying* to save them both.

671  
672 **Dr. Brandi:** Dr. Simmons, would you like to respond as well?

673  
674 **Dr. Simmons:** The woman is unquestionably a citizen with all the rights and privileges  
675 pertaining thereto. She is fully protected with all the constitutional guarantees that  
676 we could talk about. The Supreme Court and the Congress are charged with seeing  
677 to it that all people of the United States are assured those rights. The debate that  
678 we're having is whether or not we should include the unborn under that umbrella.  
679 And the question then becomes: Why would some people believe that the unborn,  
680 at any stage but particularly in the early stages - that's what we've really been  
681 debating, the first twelve weeks, the first few weeks, the fertilized ovum - should be  
682 accorded the same standing, constitutionally, as the woman has? There's no  
683 debate about her rights. Presumably. Now that's why the Right to Life movement is  
684 trying to get through this reductionistic language of human life, human, human  
685 being. Well, we all agree that that's true. But the question is "person" - is it a person?  
686 The answer is no, a fertilized ovum is not a person, and should not be accorded those  
687 rights. Science is universally agreed about that, most of us accept that, but Right to  
688 Life posits value that is not related to biological standing. Now there's the debate  
689 and I want to say that the woman is the one whose rights ought not be curtailed with  
690 regard to her reproductive life. That is a part of the right to "life, liberty and the pursuit  
691 of happiness" for women. There is no guarantee constitutionally that we have a right  
692 to be brought into being. There is a right that you can order your life according to  
693 your own values.

694  
695 There's another element that I've not talked about yet, but there's a very old social  
696 contract that we have in this country that says that people have different opinions  
697 and different persuasions and they see things in different ways. Religious groups used  
698 to fall out in terrible fits of anger toward one another. The Constitution resolved that  
699 with the first amendment, saying you have a right to believe as you will, but the social  
700 contract is: if it is eccentric or unless everybody accepts it, then you must defer to  
701 allow others to believe as they will. It is called the First Amendment Religious Liberty  
702 Protections. Congress shall make no law respecting an establishment of religion nor  
703 prohibiting the free exercise thereof. To declare a fertilized ovum or even an embryo  
704 for that matter, at the eight week stage (that's an embryo), to declare that to have a  
705 standing of person and citizen that is equal to the woman would be to impose a  
706 metaphysical opinion that not everybody shares and that is not provable on  
707 scientific grounds. That's why incoming President Barack Obama says if you're going  
708 to argue religion, you need to put that in terms that everybody can understand and  
709 accept. That's secular language. And that's what we're talking about here. We are  
710 talking about what degree of development is necessary. So the woman's rights  
711 ought not be curtailed except in the later stages of pregnancy. The *Gonzales v.*  
712 *Carhart* case does say that partial-birth abortion is *not* legal. One can't do that.  
713 They've told physicians, no matter what the woman's circumstances may be, you  
714 cannot do this particular procedure. Now that does not settle the question about

715 does she get an abortion anyway? I disagree with Mr. Janocik: in the third trimester  
716 you can hardly get an abortion in the  
717 United States, fewer than 4%, and then you can hardly find a physician that will even  
718 do it. So we have a kind of consensus nationally that late-term pregnancies are not  
719 open to abortion for reasons other than the threat to the life of the woman. Now  
720 that's the kind of consensus we have at this stage - you don't have to have a law, I  
721 think we have sufficient laws to enact that right now. That's where we are.

722

723 **Dr. Brandi:** Thank you sir. Are there any other questions from the floor? Yes Ma'am?

724

725 **Woman's Voice:** This is just a quick question. I know you're not a fortune teller, either  
726 of you, but I'm interested in learning what's going to happen during our lifetime with  
727 the President that we have now. President Bush said that he would do his best to  
728 strike down partial-birth abortion and abortion in general, and President-elect  
729 Obama said that he's going to do his best that it stays in the Constitution, and  
730 becomes a law. I mean what kind of fight are we looking at? Is it just going to see  
731 another surface like it has been for years? Do you ever think it's going to come to a  
732 head where there's going to be a yes or a no? I mean with the political agenda that  
733 we have now, is he going to do the same thing that Bush did, just kind of say he's  
734 going to work on it and then nothing ever happens? You're both up to date on  
735 what's going on; I'm just wanting either of you to tell me. Thank you.

736

737 **Dr. Brandi:** Gentlemen, before you address the question, I would like to ask if you  
738 please keep your responses to about five minutes as we have more people who  
739 would like to ask questions.

740

741 **Mr. Janocik:** (To Dr. Simmons) If you don't mind, I think I'll try to take that.  
742 President Bush has done some good things in the realm of the pro-life perspective,  
743 especially on the issue of embryonic stem cell research. But you're asking me what I  
744 think will happen. Boy, I don't know, because Barack Obama is doing some things  
745 now that I didn't expect him to do. I notice that he's back peddling on Guantanamo  
746 and so I don't know if he's going to back peddle on this issue or not. I do know that  
747 he said one of the first things he would do in office would be to call for the Freedom  
748 of Choice Act. I don't know if you're familiar with the Freedom of Choice Act, but the  
749 FOCA is a very radical piece of legislation that would wipe out all of the incremental  
750 restrictions, or I call them protections, on unborn human life that have been passed  
751 over the last thirty years. In other words, parental consent would be gone; you  
752 wouldn't have to tell your Mom or Dad that you, a minor, were having an abortion.  
753 Informed consent would be gone; there would be no major efforts on the part of the  
754 abortionist to actually share with the woman what the unborn fetus is - what it looks  
755 like, what it's doing in her body. But I do think that depending on how he does, if he  
756 has a good Presidency, I can see in eight years, we will probably lose the U.S.  
757 Supreme Court; in other words we will be shy of the ability to overturn Roe v. Wade. If  
758 his Presidency is limited to one term, I suspect he'll have two appointees on the  
759 bench, and those two will be people who are already sympathetic with the right on  
760 abortion. So he really won't be able to gain much in the Court in his first term. If he's  
761 re-elected, I do fear however, that he would be able to pick up another vote or two  
762 on the Supreme Court and I think the Court would reaffirm Roe v. Wade and we

763 would be at this for another three or four decades. We're not going away; this is an  
764 issue that is very, very important and it's the center of what we believe about human  
765 life and it's not going to go away with any laws, either for or against abortion. We will  
766 continue to fight for the lives of those who are being destroyed by abortion.

767

768 If I can have just a couple more minutes, I'd like to address a couple of issues that Dr.  
769 Simmons brought up. First off, I never argued that receiving a late-term abortion  
770 wasn't difficult. Of course it's difficult; there aren't a lot of abortionists that are willing  
771 to do them. In fact there are few abortionists in general, because abortion is so  
772 generally viewed in the medical community kind of like ambulance chasers: they're  
773 not well respected because what they do is they kill unborn human babies. So yes,  
774 it's difficult to get a late-term abortions in America, but even at 3% of all abortions,  
775 that's about 35,000 or 40,000 post-viability abortions that are done every year. What I  
776 said was it is legal to procure an abortion through all nine months of pregnancy and  
777 that is the case and you can see it through the partial-birth abortion ban that was  
778 struck down in the year 2000 because at the time the Court said a woman has a  
779 fundamental right to have an abortion. Now the new partial-birth abortion ban was  
780 upheld, but they're still doing late-term abortions; in fact up at Harvard University  
781 they've perfected a procedure for a late-term abortion where they go in with a  
782 syringe and find the baby's heart and they inject it with potassium chloride and kill  
783 the baby and then expel the entire baby out of the woman's womb. Look it up on  
784 Google, you'll find it, it's at Harvard University.

785

786 Dr. Simmons also said that the idea that an unborn child is a person is a metaphysical  
787 reality that can't be proven scientifically: well, there's no metaphysical proposition  
788 that could be proven scientifically. A metaphysical proposition is outside the bounds  
789 of science. But let me just add, I can't prove that I'm a person metaphysically. And  
790 every argument that Dr. Simmons advanced for the right to choose to kill an unborn  
791 child - every single one of them - is equally applied to the newborn child. And you  
792 cannot stop - there's no magic point where the baby stops kicking in the mother's  
793 womb and starts kicking outside the womb - there's no magical moral dividing line  
794 that now changes the ontological entity of that child. It's either a person or it's not a  
795 person, but it doesn't change based on its location. So it's a dangerous game to  
796 begin declaring that certain human beings aren't persons because of their locale,  
797 because of their development, because of the color of their skin, because of the  
798 state of their brain waves. It's dangerous; it leads down the road where the powerful,  
799 the strong, get to determine who is a person and who is not.

800

801 **Dr. Brandi:** Thank you, sir. There's another question. Sir?

802

803 **Man's voice:** My question is: Conservative politicians would ban abortion but then  
804 they would also roll back social welfare programs and they would take hawkish  
805 stands on war; so they would force a child into a world that otherwise would have  
806 been ended, at the hands of a doctor, mercifully, quickly. They die slowly during the  
807 course of their lives from malnutrition and then by preventable diseases and they get  
808 killed in war. So how is that morally justified? How do you justify coupling those  
809 policies?

810

811 **Mr. Janocik:** I assume that question is for me. First off, if you want to talk to Vince  
812 [Heuser] in the back, I think he would take issue with you characterizing me as a  
813 conservative. It's a big question, but in short, you can't justify killing an innocent  
814 human being because they may die another way or they may not have nutrition or  
815 they may be economically depressed. If we're going to go down that road, again,  
816 that can't be limited to the unborn child. Private school is going to cost my family a  
817 load of money; if I killed one of my children it would be a lot cheaper and we'd get  
818 along much better. You can't restrict that question to the unborn human life. Now if  
819 you're willing to go beyond that, then we can begin to talk, if it's justified to kill this  
820 lady up here so that she doesn't have to die a suffering  
821 death later on in life. But I'm not willing to start bartering that position - that's not for  
822 me to determine.

823  
824 **Man's voice:** (inaudible)

825  
826 **Mr. Janocik:** Do you know that I don't want more social programs?

827  
828 **Dr. Brandi:** Sir, we can't hear your question. If you want to come back up to the mic  
829 and complete your question...

830  
831 **Man's voice:** I just assume that you have..., my being a liberal..., I want to know  
832 from..., why not just support the, like take care of the child, don't force the mother to  
833 take care of it, so we...

834  
835 **Mr. Janocik:** We have a number of crisis pregnancy centers that are established to  
836 help women. My wife is a physician and she sees women from the Lifehouse in her  
837 practice free of charge, to try to help them have their babies. We financially support  
838 them. There are all kinds of support agencies that encourage and help women give  
839 up their babies for adoption. I think the assumption you're making is because we  
840 deem it important to stop killing unborn human lives that we don't care about others.  
841 That's been a charge leveled against the pro-life movement for years. But as  
842 statistics and tax returns will show, we are the most charitable people on the planet.  
843 Those are facts from statistics that have been released by the Census Bureau  
844 regarding who gives more money to charity to help others and who don't.

845  
846 The short answer is one of the reasons some conservatives don't support welfare  
847 programs is because they don't work. Now if you've ever been to Frankfort, as I  
848 have, and you see the utter waste, it's easy to go on t.v. and say that we're going to  
849 use your tax dollars to support the poor. But when you walk into Frankfort and they're  
850 all carrying expensive briefcases and wearing \$500.00 suits and the poor remain  
851 poor, you have to start asking the questions. The other example: we have two  
852 employees at my wife's practice, both of whose husbands just lost their jobs. We've  
853 put them on our healthcare plan at about \$14,000.00 a year, so why would I want my  
854 taxes to go up? Am I a better provider of healthcare as a small business man to  
855 these people or should I give my tax dollars to Frankfort and let them provide  
856 healthcare? This isn't about whether or not we care, this is about who is better to  
857 take care of their neighbor - is it the government or is it the neighbor? Okay, so that's  
858 kind of the conservative perspective. There's a great book written by a Texas

859 professor called Marvin Olansky called "The Tragedy of American Compassion". His  
860 point is basically that because we've seeded our charitable obligations to the  
861 government, that we're not nearly as charitable as we should be because we're  
862 giving all our money away in taxes.

863  
864 **Dr. Brandi:** Dr. Simmons?

865  
866 **Dr. Simmons:** That is the conservative point of view, and it was the one embraced by  
867 Mr. Bush when he was elected President. He's going to be this "compassionate  
868 conservative". Olansky was the one who coined that term. And we have seen the  
869 results of that. We've seen a lot of conservatism, but we haven't seen much  
870 compassion. And while we may applaud and ...

871  
872 **Mr. Janocik:** (To Dr. Simmons) I agree with you, by the way.

873  
874 **Dr. Simmons:** ...support merciful actions that have been described on the  
875 individual's part, those are always applaudable. It's *wonderful* when people reach  
876 out and support a neighbor. But we can't do it all. The great irony of the Right-to-Life  
877 movement is that it invests so much attention on the pre-born that it cares little for  
878 the after-born. Why is it in Mr. Bush's administration, you don't have a continued  
879 health-education for the children; there was an effort to expand that coverage and  
880 it's a point well made to ask: how can we believe so strongly in protecting fetuses  
881 when we cannot believe very strongly in supporting those who are already born?  
882 Now that could be demonstrated nationally by looking at the administration's  
883 policies and the perspectives of National Right-to-Life. Everything seems to be  
884 invested in being "against" abortion. It seems to me that we need a more  
885 comprehensive...

886  
887 **Mr. Janocik:** Hey Dr. Simmons, I will challenge you to come back here next weekend  
888 and we will share our tax returns.

889  
890 **Dr. Simmons:** Excuse me, this is my response.

891  
892 **Mr. Janocik:** And I will bet everybody in this place a dinner...

893  
894 **Dr. Simmons:** Do you mind? This is my response! Do not interrupt while I am talking.

895  
896 **Mr. Janocik:** ...that I as a conservative give more money to charity than you do.  
897 Would you take the challenge?

898  
899 **Dr. Simmons:** I gave you the privilege of saying what you had to say...

900  
901 **Mr. Janocik:** Would you take the challenge?

902  
903 **Dr. Brandi:** Alright gentlemen. Please. Alright.

904  
905 (Audience voices - inaudible)

906

907 **Dr. Simmons:** I want to say one more thing. And that is that the direction I think for  
908 the future is this: we can already plot that those in the Right-to-Life movement are  
909 beginning to break up. Ever since Roe v. Wade we've had about 20% of our society  
910 who believe that all abortion should be banned and about 20% who believe there  
911 should be no restrictions on abortion. Well, okay, those are the fringe ones. What's  
912 happening is we're beginning to see that those who believe that there should never  
913 be any abortions are beginning to moderate. And that may be because of the shift  
914 of this nation against the values that Mr. Bush promoted so strongly and the nation  
915 said, "We're going in the wrong direction". There are too many contradictions for this  
916 civil society to live with. So we need to change that. I welcome that because we  
917 may get to an era when we can have civility in this discussion and reach consensus  
918 in a way that does not ban some people to perdition. I think the consensus that I  
919 described a while ago is the way that we ought to come out. No, we do not want  
920 abortions for any reason in the last trimester of pregnancy. There is a different  
921 burden of proof. But earlier on it should be the woman's call - it is her life in a unique  
922 way that she is safeguarding. There should be no compulsory pregnancies in  
923 America. Nor should there be any compulsory abortions in America. Those should  
924 be by choice. The woman's choice, not someone driving her to that. And we should  
925 have a more generous public policy toward those who are the least benefited by  
926 the economics of this country. To say that we as individuals can accomplish that is  
927 simply untrue, though I support every Good Samaritan that I hear about. That's  
928 wonderful. Compassion is marvelous in this country. We also need truly a  
929 compassionate and generous federal government. We can pour billions upon  
930 billions making war, but we have no billions for people at home who are hungry and  
931 starving to death. That's unacceptable.

932  
933 **Dr. Brandi:** Thank you, Sir. Before the next question let me remind people that the  
934 topic of the debate is "Abortion, A Constitutional Right or a Moral Wrong". If we  
935 could please keep the questions and the comments to that issue as opposed to  
936 other types of social welfare issues, we might be able to get a little further with  
937 additional questions. Sir?

938  
939 **Man's voice:** First of all, I have to rebut Dr. Simmons in that...abortion is not a  
940 women's-rights issue and it's not a reproductive-rights issue. It's a human-rights issue  
941 and it's the most grotesque abuse of a human-rights issue that I know of. My question  
942 is for the pro-life gentleman: Is it true that after Chief Justice Harry Blackburn died,  
943 that they found papers, his papers, that show that the Court set out to *find* a  
944 constitutional right to abortion and that they did not just *discover* the right?

945  
946 **Mr. Janocik:** In short, yes. But I apologize, I can't provide more details as to the  
947 content of those letters. But I would encourage people to look that up. But yes,  
948 there was an agenda driven to find a right to abortion before that case ever went to  
949 trial; in fact Norma McCorvey, many of you may not know Norma McCorvey, Norma  
950 is the Roe in Roe v. Wade. She was used as the plaintiff in that case and I had dinner  
951 with her about four or six months ago, because she's now pro-life and has been pro-  
952 life for decades - you probably haven't known that. She never did have an abortion  
953 and her testimony is that she was very much used by the attorneys and they lied  
954 about her extensively in the case. So the entire edifice of the Roe v. Wade case was

955 founded upon lies, the first one being that Norma McCorvey was seeking an  
956 abortion - she wasn't. She had her child, she's had three children, and she has been  
957 pro-life I guess 15 or 20 years now and has been working tirelessly with our movement,  
958 to try to restore legal protection for the unborn children. But yes, the Blackman  
959 papers are there and I apologize that I don't know more details, but you're right, I  
960 remember reading about it a few years ago, that there was an agenda to find a  
961 right. There's no right to an abortion in the U.S. Constitution, it doesn't exist. Not only  
962 does it *not* exist, but it's utterly contrary to the founding principles of our government,  
963 that all are created equal and endowed with the inalienable right to life. It was  
964 rooted in a notion of "privacy" and Dr. Simmons has relied extensively on the privacy  
965 issue here, but again, as he makes these arguments I just want you to consider how  
966 they might be restricted to the unborn child in the womb. Why don't they extend it to  
967 the newborn child? Or the sixth-month-old child?

968  
969 **Dr. Brandi:** Thank you, sir. Dr. Simmons?  
970

971 **Dr. Simmons:** Well, just to start right there, the privacy issue pertains to religious  
972 conscientious judgments. That's where that came from. There is a history to that in  
973 this country - it's all embodied in the First Amendment. You have a right to your  
974 religious conscientious convictions. And no one else has a right to impose theirs upon  
975 you. Now that is a part of the debate with regard to whether or not a woman should  
976 have a right to terminate a pregnancy. She is a person fully invested with human  
977 rights and the young man who said it is a human rights issue - I agree. But it is her  
978 right to control her own body. The Supreme Court has said since 1914 that one's  
979 body belongs to one's self. No one can touch you without your permission. That  
980 includes doctors. Your body is yours. Now when a woman is threatened with a  
981 pregnancy, who makes that decision, as to whether or not to keep the pregnancy?  
982 It's *her* life that is at stake in a unique way, that men will never understand. Now  
983 that's why the human right of autonomy (or self-governance) belongs to the woman,  
984 first of all in this debate you see. Now was there something compelling with  
985 Blackman, and others, in 1973? Yes. Abortion was not a new issue in 1973. In 1965,  
986 Sherry Finkbine, a television personality from Arizona, discovered that she was  
987 carrying a fetus that had been congenitally affected by Fultamide. It had been  
988 used in England; it's a wonderful sedative, but if a woman uses it in the first trimester  
989 of pregnancy, radical things will happen to the developing fetus. And she  
990 discovered that she was one of those women; she wanted an abortion. She had to  
991 fly to Sweden to have an abortion by competent physicians! Now that was some of  
992 the momentum behind 1973. There was also a restlessness on the part of women in  
993 the United States. Think of the sixties: the women's movement gained great  
994 momentum in the 1960's and rode piggyback on the Martin Luther King Jr.  
995 movement about civil rights. Blacks get civil rights, why should women not get civil  
996 rights? See there was the parallels and the connections. Yes, we can quote Martin  
997 Luther King Jr. with regard to women's rights also. But that does not mean a fetus has  
998 the same rights as the woman who is pregnant with the fetus. It is the woman whose  
999 rights are uniquely at stake, to have or not have a child. She can be pregnant or not  
1000 pregnant, that's her call. Now that's very important for us as a society and I like the  
1001 way that we hear now and then about the ideals of America; I can get as teary-  
1002 eyed about those ideals as anybody. We are debating what are the freedoms that

1003 belong to individuals and groups in the United States. Freedom is a very big word for  
1004 me and I should have the freedom to make decisions with my wife and with my  
1005 daughter, without anybody else's interference. There is that right to privacy that in  
1006 our own private sphere of religious judgments before God - who is our helper beyond  
1007 the law - we make decisions without the interference of people who are simply  
1008 inquisitors or persecutors or believe they have some prerogative to make decisions  
1009 for us. No! That is our zone of conscientious judgment founded on religious  
1010 commitments and belief that belongs to us, not to someone else. That's what the  
1011 abortion debate is all about. So I call on those who are trying to impose their points  
1012 of view on others to back off. The woman's judgments are hers; that is her religious  
1013 convictions at stake.

1014  
1015 **Dr. Brandi:** Thank you, sir.

1016  
1017 Voice from audience (inaudible)

1018  
1019 **Mr. Janocik:** Hold on, I'll get you the microphone there. There it is.

1020  
1021 **Woman's voice:** Thank you Doctor. I'd like to ask you a question, sir. Would you be in  
1022 favor, if the mother chose to have an abortion or terminate the pregnancy, for a  
1023 person who is known to be disabled, if they know the person is going to be disabled,  
1024 would you say that that right to an abortion is unequivocal and would you..., we  
1025 talked about the ability to raise..., isn't that a dangerous road? If we define  
1026 personhood by the ability to reason and not exist?

1027  
1028 **Dr. Simmons:** Let's start with that one. Right, when I was talking about personhood, I  
1029 was talking about the complex way in which we refer to persons or what it means to  
1030 be a person. There's no simple answer to that. But when you talk about a person, to  
1031 come up with a definition, where would you start? You have to start globally. What  
1032 does it mean to be a person? And that's what I was describing. And that's what the  
1033 Bible does with this portrait, it is a portrait, not a description of Adam and Eve. We  
1034 agree, you know, people, made in the image of God, now what does that mean?  
1035 Theologians grapple with this and I've struggled with that quite extensively. I'm  
1036 working on another book on that very question. The question is how do you become  
1037 a person? Well, my point earlier was that the first step in that process is when the  
1038 woman says "I've got me a baby on the way." That assures that what might  
1039 otherwise never be a person will likely become a person because she will nourish it  
1040 on the way toward that. She names it, she calls it into being, that's where it starts.  
1041 But that doesn't mean that it is a person because she had sexual intercourse last  
1042 night. And where the law's concern, you have to have more specific definitions for  
1043 who constitutes a person, that is a person. We're interested in citizenship. Citizens  
1044 have rights. Now that's the issue. Now we do regard as persons people who have  
1045 very limited cognitive capacities, that's not the issue. One is a person, by law if  
1046 nothing else, and one may have lost all cognitive capacities and still be a person.  
1047 That's doesn't justify terminating them just because we say that they've lost such  
1048 cognitive or personal capacities. And yet that's true, many of us do fear the loss of  
1049 many of those personal capacities. But we're still people, still a person.

1050

1051 **Dr. Brandi:** Thank you, sir.

1052

1053 **Man's voice:** Hi, before I begin my question, I just want to say to Mr. Janocik that I  
1054 find it a little ironic you feel the government is not as well suited to raise and rear the  
1055 child as a family, but better suited to choose for the woman whether she can remain  
1056 pregnant or not. So here's my question: Although it can be debated whether  
1057 punishment is a deterrent or not, for the majority of citizens, it is. So, Mr. Janocik, you  
1058 stated earlier that you are not in favor of criminally prosecuting those administering  
1059 and receiving abortions if Roe v. Wade is overturned. As commendable as your  
1060 stance on raising the quality of human life for everyone is, without some type of  
1061 punishment, in order to prevent it, it's nothing more than a stance. For example, I  
1062 could take a stance against people breathing oxygen, but until I find a way to make  
1063 people stop breathing oxygen, it's only a stance.

1064

1065 **Mr. Janocik:** Let me take a stab at it, because you're getting more....

1066

1067 **Man's voice:** Here's my question: What do you propose we do if there is no  
1068 punishment for the people administering and receiving abortions?

1069

1070 **Mr. Janocik:** Maybe I wasn't as clear as I should have been. I'm not proposing that  
1071 there be no punishment. Dr. Simmons asked me if we were advocating now that  
1072 abortion be treated as a felony, and my answer was no, because we understand  
1073 that we don't have a consensus in America now, that abortion is the direct taking of  
1074 an innocent human life. So it would be imprudent to push for that kind of punishment  
1075 because number one, we would never get it, and number two, it would marginalize  
1076 us as Dr. Simmons' question I think was intending to do, as being unrealistic and  
1077 extreme. What we're hoping for is that the more of these kinds of things we have,  
1078 we're hoping that we can persuade others to understand that when we watch a  
1079 monitor of our grandchild or another person's child on the screen we understand that  
1080 the unborn human life is indeed worthy of being protected in law. At that point,  
1081 when we arrive at a consensus, as I said, I would welcome severe and harsh  
1082 punishment for killing unborn human lives, because at that point, there would be a  
1083 community consensus which laws protecting those children would then derive their  
1084 just authority from. So I'm not up here saying that abortion should be illegal, and that  
1085 there should be no punishment - but what I am saying is up until this point, many  
1086 abortions, many women have sought abortions under very desperate situations.  
1087 They've been pressured by either mothers or boyfriends or husbands; they're in a  
1088 terrible situation, and their culpability is in many ways mitigated against the objective  
1089 injustice that they're participating in. I'm not saying they shouldn't be punished, I  
1090 hope and pray that one day our community will arrive at a consensus just as we  
1091 have over civil rights, as we did over slavery, that killing an innocent, unborn, human  
1092 being is a grave injustice that should have commensurate laws. But no that's not  
1093 something that we're advocating now, for the reasons I stated, because we're not at  
1094 that point where we could do that.

1095

1096 **Dr. Simmons:** May I respond? Now hear him; no you're not advocating it now  
1097 because nobody would pass that law now. But if we ban abortion, it will be a felony  
1098 and the woman will be a criminal and anybody who associates with that action will

1099 be a criminal. If you want a country that's doing that right now, go to Nicaragua.  
1100 They have that law. Women are prosecuted, doctors go to jail for years. Now that's  
1101 where you go, there is no such thing as having a law without coercive power, that's  
1102 the point the young man made. If you have a law against it, you have to have a law  
1103 to penalize those who violate the law. Sam Brownback admitted them going for  
1104 criminal prosecution of women and doctors, if they get the Roe v. Wade overturned.  
1105 That's the logical consequences. Of course that's what they're going for. If it is a  
1106 person of equal worth to the woman, you would prosecute it just as if you had killed  
1107 the woman. This is preposterous and that's why Americans have turned their backs  
1108 upon the arguments of Right-to-Life in this most radical form. We have a consensus  
1109 that abortion is not a good thing, it would be better to prevent ever facing a  
1110 problem pregnancy. But some groups even try to oppose contraceptives. And then  
1111 they're blocked also. Right-to-Life right now is trying to get us to block even a lot of  
1112 contraceptives: the morning-after pill, a supposed abortifacient, and so should it be  
1113 blocked and banned? Americans have better sense than that. Women should  
1114 have access to anything that will benefit her choices that can be carried out in  
1115 private and with the least risk to her physiological and/or bodily functions, her health  
1116 in other words. Protect *her* health. Protect her life, and she'll take care of the issue  
1117 about bringing babies into the world.  
1118

1119 **Mr. Janocik:** Dr. Simmons and I aren't really as far apart as he would lead you to  
1120 believe. I suspect if someone would stand up and ask Dr. Simmons if a woman did  
1121 just as he suggested, that she make decisions with regard to religious ontology of her  
1122 children and killed them in the privacy of her home, I suspect he would say no, he  
1123 wouldn't support the killing of a *born* child in the privacy of her home. Again, his  
1124 arguments are limited to *inside* the womb and all I'm saying is, that's preposterous  
1125 because there's no ontological difference between an unborn child at 17 weeks in  
1126 the womb and a newborn child at one week outside the womb. So if I ask Dr.  
1127 Simmons, does he believe that a woman should be prosecuted now, for killing her  
1128 one-week old baby, I would *hope* he would say yes. But yet, I'm an extremist  
1129 because I believe that at some point, when the community decides it's the right  
1130 thing to do, that an abortionist and perhaps the woman also be punished for killing  
1131 an unborn child that was in the womb two weeks earlier. It's not an extreme position  
1132 and in fact polls have shown time and time again that about 80% of Americans  
1133 believe that about 85% of abortions should be illegal. And that was the case prior to  
1134 the Roe v. Wade decision of 1973. Most states did restrict most abortions; it wasn't  
1135 extreme then and people wouldn't think it was extreme now if we were to say, as an  
1136 example, ban abortion as a means of birth control. So he's trying to portray me as an  
1137 extreme nutcase, but I don't think we're as far apart as he would lead us to believe.  
1138

1139 **Dr. Simmons:** Excuse me, that's why I said "radical" Right-to-Lifers. I do not regard Mr.  
1140 Janocik as a radical Right-to-Lifer. I agree we have more in common than one might  
1141 think.  
1142

1143 **Dr. Brandi:** Thank you, sir. Please speak into the mic.  
1144

1145 **Man's voice:** Well, assuming that this debate is way off course, I'd like to redirect it  
1146 toward the debate between the assumption of legal rights and moral ideology and

1147 since you've often stated, Dr. Simmons, that you were a Baptist minister and have  
1148 referred to that many times, I just wonder how your belief coincides with the Bible's  
1149 teachings that child-bearing was a generational curse against women based on  
1150 Eve's original sin.

1151

1152 **Dr. Simmons:** Well, to be brief, I don't think the Bible says anything about that. It does  
1153 not say any doctrinal conclusion like that. Eve's sin, as original sin, that was invented  
1154 by the Church many years after the Bible was closed. There's nothing about that in  
1155 the original text. We could talk about that at length, but I think my view is consistent  
1156 with the Bible and I argue that very extensively in the books that I have written.

1157

1158 **Dr. Brandi:** (To Mr. Janocik) Do you want to hit that one?

1159

1160 **Mr. Janocik:** I think I'll pass on the theological perspectives. Thank you.

1161

1162 **Dr. Brandi:** Please speak into the mic.

1163

1164 **Man's voice:** My question is for Dr. Simmons: I assume you have heard of the young  
1165 lady at Bellarmine not too long ago who gave birth to a child and then placed that  
1166 child in the trash can where it died. Do you believe that that was a right thing for her  
1167 to do? Do you think she should be charged with a felony for that? If you think that  
1168 was wrong of her to do that, how do you distinguish it from partial-birth abortion?

1169

1170 **Dr. Simmons:** Well, no I don't think that was a right thing for her to do. I think it's a  
1171 very tragic story, and we need to ask ourselves as a society, how could a young  
1172 woman in college place herself in such a very awkward and untenable position.  
1173 Why? There are agencies with which she could leave that child without any sort of  
1174 criminal accusations or charges being made; we can leave children now. She could  
1175 put it up for adoption. Why did she abandon it in a trashcan? I really don't  
1176 understand her mental processes. I do think that there will have to be charges made  
1177 so as to bring it before a jury who will decide by her peers the degree of severity of  
1178 her criminal actions. That's the genius of the American system; you get to bring your  
1179 case before peers who can look at all the issues and decide, sympathetically or not,  
1180 how to adjudicate that. So I think that's the only way to deal with something like  
1181 that. Meanwhile we'll all just cry together about that young woman.

1182

1183 **Man's Voice:** Sir, how then do you distinguish between partial-birth abortion where a  
1184 woman can very easily give birth to a child and give it up for adoption or whatever  
1185 else you were saying her options were. What's the basic distinction?

1186

1187 **Dr. Simmons:** If there is a sufficient reason for abortion at the stage at which you  
1188 apply the term "partial-birth abortion", which is not a medical term, by the way, if  
1189 there's a reason to terminate, the physician is the best person in place to decide the  
1190 best way to terminate. Because what must be done is to preserve the integrity of her  
1191 reproductive system. And I suppose I need not go into details about what that is,  
1192 but the reason it's used is to preserve her uterus and her cervix without tearing them  
1193 unduly. It is a judgment made on the basis of how we can best serve this woman's  
1194 interests when there's already been a decision to terminate a pregnancy. See the

1195 two go together. That's why I say I think the courts ought not say you can't do that;  
1196 that's the doctor's call. The physician is the best one, in the best position, to say  
1197 'here's the best procedure to use' and that is what we're talking about, a  
1198 "procedure".

1199  
1200 **Mr. Janocik:** So for the first hour and twenty minutes of the debate, Dr. Simmons  
1201 defended the position that a mother thinking about it herself through her own  
1202 religious perspectives, through her own views of life, should make the decision to  
1203 terminate her pregnancy or to abort her unborn fetus. But in the last five minutes, a  
1204 question was posed about a woman's newborn baby whom she threw in the trash  
1205 can and killed, and now Dr. Simmons wants criminal actions against a woman who  
1206 did exactly the same as a woman who would procure a late-term, or mid-term or  
1207 even an early-term abortion. She expelled her child and threw it and killed it in the  
1208 trash can. But furthermore, Dr. Simmons now wants to erect that we must have  
1209 sufficient reasons to do so. So the position is inconsistent because there's no  
1210 distinction between an unborn, kicking, human child - with arms, legs, smiles, they  
1211 suck their thumb, they suck their toes, they kick their feet around, they dance in their  
1212 mother's womb - and one that's born. And that's why the positions now are utterly  
1213 inconsistent from Dr. Simmons.

1214  
1215 **Dr. Simmons:** Well, they're not inconsistent at all. I'm not arguing she's making this  
1216 religious judgment strictly on her own; I am arguing that nationally the assumption  
1217 that a fetus is a protectable entity as a person is a religious judgment. And those  
1218 who have that religious judgment are trying to impose that on all the rest of us. What  
1219 I did say was that early in pregnancy, when she gets pregnant, her religious valuation  
1220 brings her to a moment of saying 'this is a baby, I'm going to bring into the world'.  
1221 She's making that privately. But we're also arguing this publicly, nationally, for  
1222 constitutional reasons. And I think Mr. Janocik can truly understand that distinction.

1223  
1224 **Dr. Brandi:** Your question?

1225  
1226 **Woman's voice:** Yes. Hello, thank you all for being here tonight. My name is Mary Jo  
1227 Davis, I'm a volunteer with the ACLU Reproductive Freedom Project, and our mission  
1228 is to defend women's reproductive health issues which include access to not only  
1229 abortion, but contraception and all of the wealth of reproductive health measures  
1230 that are available to women. The topic of this discussion tonight was "Abortion: A  
1231 Constitutional Right or a Moral Wrong?" When I think about that it also brings to mind  
1232 the myriad of other reproductive health issues that are available to women. And I  
1233 address this question to both of you: Could you put something else in that heading -  
1234 "Contraceptives: A Constitutional Right or a Moral Wrong?" or "Comprehensive Sexual  
1235 Education for Our Children: A Constitutional Right or a Moral Wrong?" And the  
1236 second part of my question I address to you, Mr. Janocik: would you support  
1237 comprehensive sex education as part of the goal of Kentucky Right to Life, which  
1238 would be to reduce the number of unwanted pregnancies and in turn reduce the  
1239 number of abortions in the state of Kentucky? Thank you all.

1240  
1241 **Mr. Janocik:** With regard to comprehensive sex education, every person in the Right  
1242 to Life movement has been in favor of comprehensive sex education. Of course, the

1243 issue becomes how do we define 'comprehensive sex education'. I have two  
1244 children and I believe very strongly that comprehensive sex education is the role of  
1245 the parent, not a curriculum written by the government. So of course, and I am now  
1246 engaged with comprehensive sex education with my own children, to encourage  
1247 them to abstain from sexual intercourse until they're married and prepared to make  
1248 a commitment to their wives or husbands, and the children that would result from  
1249 their marital love. I think that is a sure way to reduce the number of abortions for two  
1250 reasons: 1) The sacredness of the marital act between husband and wife is so  
1251 profound and life-giving that people then begin to view children as gifts rather than  
1252 burdens and rather than a "sickness" that needs to be destroyed by chemicals and 2)  
1253 I think when they understand that children are a gift they certainly wouldn't be in a  
1254 position to try to kill one should they become pregnant. So yes, I do believe in  
1255 comprehensive sex education but I believe it not only in terms of a clinical  
1256 perspective in terms of what prevents pregnancy, but also what is the beauty of  
1257 marital love and the beauty of children and the supreme sacredness of the human  
1258 sex act and not one to be diminished by treating it solely as entertainment and lust. I  
1259 hope that answers your question.

1260  
1261 **Dr. Simmons:** I support the proposal before Congress now - Senate 21? - which  
1262 proposes that there should be comprehensive sex education and full availability of  
1263 reproductive matters, that is contraceptives, abortion pills, whatever. If you want it,  
1264 as an adult you should be able to access those things without going through forty  
1265 different hoops or explaining that to forty different people. It should simply be  
1266 available. I wrote a little book a few years ago for middle-school students that was  
1267 about "comprehensive sex education". We talked about everything! One  
1268 psychiatrist, the chair of a department, said it was the best book he'd ever seen on it.  
1269 But that can no longer be used under the federal programs sponsored by Mr. Bush  
1270 for abstinence only, though I talk about abstinence in there (that's one approach).  
1271 We know also it's a *miserable* failure in the United States. We've got to talk to young  
1272 people as real people, not as cardboard cutouts. They're going to make decisions  
1273 whether we say they can or think they should. And they play games with us: they  
1274 sign up and get their little rings that they're going to do all this - abstinence, wait until  
1275 marriage - sure! Curiosity wins out. Nature's passionate play is usually very strong.  
1276 We've got to be there for them. And those who  
1277 try to ban or bar such information from young people are doing them no favors  
1278 whatever. We need to give them the equipment to think through these issues and  
1279 be there for them when they're meeting a difficult thing. We ought not put young  
1280 people in the awkward position of depriving them of information and then say 'wait  
1281 till you get married'. You can't brush the rice off the bed and all of a sudden have a  
1282 fully satisfying sexual life, because ignorance is no friend to intimacy. They need all  
1283 this information. Let's give it without prior judgment.

1284  
1285 Now it seems to me that that *does* carry over to the abortion debate. We had to  
1286 fight for years against the Comstock laws in the United States that banned  
1287 contraceptives. 1965 is when the Griswald v. Connecticut decision was made, that  
1288 it's unconstitutional to ban contraceptives. That belongs to people's private religious  
1289 judgments as to whether they will use them or not. That was the law behind Roe v.  
1290 Wade in 1973, just eight years later, that said Comstock had it right. If you have a

1291 right to use contraceptives you should also have a right to make reproductive  
1292 choices if you're already pregnant. So one law built upon the other, but the internal  
1293 logic is consistent. It belongs to your personal values and your choices. If you  
1294 believe all abortions are wrong, don't have one. If you believe it's wrong to use  
1295 contraceptives, don't use them. But don't tell your neighbor who does believe that  
1296 those are acceptable on moral and religious grounds, don't tell them they may not.  
1297 That's imperialism of the worst sort. Each American should have the right to make  
1298 those decisions in terms of their own commitments morally and religiously. That's why  
1299 the constitutional right should always be governed privately by the moral opinion of  
1300 those who are making the judgment. That's where the moral opinion is made.

1301

1302 **Mr. Janocik:** I just want to point out again that Dr. Simmons spent quite a bit of time  
1303 talking about private, moral decisions and don't impose your views on others and  
1304 back off, but before he started that he's in full support of a piece of legislation that  
1305 would *mandate* sexual education to our children in our public school system. So  
1306 again, we see the inconsistency and it's inconsistent because it's not a tenable  
1307 position to argue two different points of view at the same time.

1308

1309 With regard to the abstinence comment, all of us understand that people make  
1310 mistakes and people slip and people fall and people aren't perfect, but it seems to  
1311 me that the idea of handing out a bunch of condoms and contraception to children  
1312 is mistaken because they're not in a position to be able to deal with those things as  
1313 an adult. That's why they call them *children*. So I don't think Dr. Simmons' prescription  
1314 for eliminating or reducing teenage pregnancies is a good one. Access to  
1315 contraception has been basically universal for thirty years in this country; you can  
1316 walk into any convenience store or restroom and find condoms; there are ladies  
1317 giving them out right up here at a public forum. Contraception is easy to find and it's  
1318 universally accessible, but what has happened is pregnancy rates continue to rise  
1319 because we, rather than try to show restraint as human beings, we tend to act like  
1320 animals if we think there's something there to keep us from the consequences of our  
1321 behavior. And I don't say this in any judgment; I certainly have slipped many times in  
1322 my young life and I'm glad I had someone there to encourage me along the way  
1323 rather than just giving in to my passions and letting me go my way with a handful of  
1324 condoms.

1325

1326 **Dr. Simmons:** Did anyone hear me say that we ought to be handing out condoms to  
1327 children? (audience murmuring) Did anyone hear me say that we ought to be  
1328 *demanding* that every parent accede to universal sex education in school? Did you  
1329 hear me say that? I did not say that. What I said was it should be available. Now we  
1330 need to talk about parental choice.

1331

1332 **Mr. Janocik:** It is available.

1333

1334 **Dr. Simmons:** Well...

1335

1336 **Mr. Janocik:** Google.

1337

1338 **Woman's voice:** Only if you have access to the internet.

1339

1340 **Mr. Janocik:** Libraries have internets.

1341

1342 **Dr. Brandi:** Alright ladies and gentlemen. We have about seven minutes left before  
1343 the scheduled end of this debate. We have time for one more question, assuming  
1344 that we allow five minutes to each of the panelists. So if we have just one more  
1345 question... and please, again, I would ask that we would restrict the questions as well  
1346 as the responses to the issue of constitutionality or morality of abortion.

1347

1348 **Woman's voice:** Thank you. Good evening gentlemen. And I would like to start with  
1349 a comment about language. There's no such thing as "partial-birth" abortion. We're  
1350 talking about intact dilatation and extraction; saline abortions, as you mentioned  
1351 earlier, have not been available in the United States or widely used since the mid-  
1352 eighties. My question is: I work with the A-fund which provides funding for low-  
1353 income women to procure abortions. As we all know, parenthood is a right, it is a  
1354 privilege and can often be very burdensome. Now I would like for Dr. Simmons to  
1355 speak about the morality of someone of making the decision that they do not have  
1356 the resources at hand to fulfill that right or responsibility and where the burden  
1357 becomes more than someone can actually bear. Thank you.

1358

1359 **Dr. Simmons:** Well, what constitutes a burden to a woman is her call. And economic  
1360 reasons are very strong in the United States. Those of us who are relatively  
1361 comfortable financially do not understand the terrible strains that are placed on  
1362 people who are *not* comfortable. And you can plot it on a graph: whenever there is  
1363 a recession or a big loss of jobs, the abortion rate goes up. Women are making  
1364 judgments that they cannot afford this and they're speaking economically. And  
1365 that's a tragic choice. They would rather be a parent, a mother, in this case. But  
1366 because of the pressures that we're not quite willing to look at in this country, she's  
1367 not able to afford to raise a child. And that dilemma is a real dilemma and as far as  
1368 I'm concerned that belongs right alongside all the other considerations that she has  
1369 to make. She may not make it wisely, but we all have a right to make bad choices, if  
1370 they are bad. But if they're ours, they cannot be *all* bad.

1371

1372 **Mr. Janocik:** I would like to comment very briefly again that the concerns expressed  
1373 just now with regard to economic pressures and stresses - that certainly is an issue -  
1374 cannot be restricted to the unborn child in the womb. So I don't think Dr. Simmons is  
1375 advocating that women who have newborn or young children who are under  
1376 tremendous financial pressure have a right to choose to kill one of their children, but  
1377 again, it's difficult to limit his prescriptions to the unborn child of the womb that is  
1378 every bit the same as a child born outside of the womb.

1379

1380 But there have now been two objections to the use of the term "partial-birth  
1381 abortion" and I think I was correct that, with regard to the medical term, which is  
1382 intact dilatation and extraction. *Intact* is an important word to remember. So let me  
1383 describe to you the partial-birth abortion so that we all understand what we're  
1384 talking about because there apparently has been an objection. A partial-birth  
1385 abortion, and you can look this up, Dr. Martin Haskell presented this...see now we're  
1386 going to get the objections because they don't want you to know. Dr. Martin Haskell

1387 - I'm going to give an accurate description because I can copy it right from Dr.  
1388 Haskell's paper that he presented at a conference - and please look it up, don't take  
1389 my word for it. Go home, type in "Dr. Martin Haskell, Intact Dilatation and Extraction  
1390 at Conference" and read it. What they do in a partial-birth abortion is, in the late  
1391 term of pregnancy - seven, eight or nine months - the physician reaches inside the  
1392 womb with forceps and turns the unborn child around so that they can deliver the  
1393 child in a breech position, and they pull the child out by the legs (in the breech  
1394 position) of the mother's womb; they pull out the torso, and they pull out the arms, so  
1395 that the only thing remaining inside the mother's womb or in her body is the child's  
1396 head. So most of the child is outside of the mother's womb, and the arms and legs  
1397 are kicking. Next the surgeon places a finger on either side of the child's neck, like  
1398 this, he takes a pair of forceps (or scissors) and he inserts the forceps in through the  
1399 back of the skull of the unborn child, and expands the forceps to make a hole in the  
1400 child's skull, all while the child's arms and legs are still kicking. Of course shortly  
1401 thereafter the child dies; the arms and legs go limp; he then takes a hose (a tube),  
1402 and places it in the hole in the child's brain, and suctions the brain into the sink. The  
1403 child is dead and then they pull the entire child - intact - out of the mother's womb,  
1404 dead. That is the "intact dilatation and extraction" method. Did I describe it  
1405 accurately? Would you like to share what I missed?  
1406

1407 **Woman's voice:** I think the superlatives that you used in your description missed the  
1408 fact that it's not quite that simple.  
1409

1410 **Mr. Janocik:** Okay, tell me what superlatives that I used that you disagree with.  
1411

1412 **Woman's voice:** I think that at the point when you start talking about flailing arms  
1413 and kicking babies...  
1414

1415 **Mr. Janocik:** What would you call the flailing arms?  
1416

1417 **Woman's voice:** Well, I don't know, I haven't seen an intact dilatation and extraction.  
1418

1419 **Mr. Janocik:** Okay, but you know about it?  
1420

1421 **Woman's voice:** Yes, I have read...  
1422

1423 **Mr. Janocik:** Okay, let me ask you the question then: do the arms come outside the  
1424 mother's womb for the procedure?  
1425

1426 **Woman's voice:** Not every time.  
1427

1428 **Mr. Janocik:** What happens when they don't?  
1429

1430 **Woman's voice:** Then the fetus is the...at the point that the fetus is delivered up to  
1431 the torso, the skull is collapsed and the rest of the body is delivered.  
1432

1433 **Mike Janocik:** But what happens if they don't pull the arms out? Are you saying...do  
1434 they still go inside with the scissors or forceps?

1435

1436 **Woman's voice:** Well, with an intact dilatation the forceps are used to collapse the  
1437 skull, inside the body. It is not actually pulled all the way out of the body. And the  
1438 point of all of this is that there are cases where medically necessary procedures are  
1439 done to save the life of the woman or the health of the woman. This is not a  
1440 procedure that is used lightly, and this is not a procedure that is widely available.

1441

1442 **Mr. Janocik:** There are about six or seven thousand done a year, is that "widely"?

1443

1444 **Woman's voice:** That's a pretty small percentage of the number of abortions that are  
1445 completed every year.

1446

1447 **Mr. Janocik:** Oh, of course it is. But isn't it a lot of babies?

1448

1449 **Woman's voice:** When you end up talking about a woman who has MS and is going  
1450 to lose all use of her extremities and lose her eyesight, at the continuation of a  
1451 pregnancy or a delivery...

1452

1453 **Mr. Janocik:** Why don't they just deliver the child in the regular position rather than  
1454 breech?

1455

1456 **Woman's voice:** Potentially...because that's not the procedure.

1457

1458 **Mr. Janocik:** I know it's not the procedure, but wouldn't it be lighter on the woman's  
1459 body to deliver...

1460

1461 **Woman's voice:** I'm not a physician, I don't know the answer to your question.

1462

1463 **Mr. Janocik:** Well, let me explain why they don't. Because if they deliver...

1464

1465 **Woman's voice:** Well, I don't think you're a physician either.

1466

1467 **Mr. Janocik:** If they do the less trauma on the woman's body and remove the baby  
1468 head first, as would be the natural way a child would be delivered, which would  
1469 preserve most of the integrity of the woman's body in most cases, then they would  
1470 be charged with *murder*, as you see, because the head would be outside of the  
1471 womb. And again, I beg you all to go home and look this up. Do not take my word  
1472 for it.

1473

1474 **Dr. Brandi:** With that, ladies and gentlemen, I suggest that you check it out on the  
1475 Web yourself, and come to your own conclusions. This brings to a conclusion our  
1476 debate on "Abortion, A Constitutional Right or a Moral Wrong?" I would like to take  
1477 this opportunity, first of all, to thank our panelists - Dr. Paul Simmons, and Mr. Mike  
1478 Janocik. I would like to thank the audience for your kind professional participation,  
1479 keeping things organized and professional, I appreciate that. The panelists  
1480 appreciate that. And I hope that you have gained...something else, I would like to  
1481 thank the people here at the Red Barn for providing the facilities and the staff for  
1482 providing the equipment that we've been able to use, and the students from the

1483 "Cards for Life" program for offering to sponsor this program on a very important topic  
1484 to allow everyone here to hear the facts and the information that has been  
1485 provided. Thank you very much and have a safe trip home.

1486

1487 **Mr. Janocik:** Thank you.

1488

1489 **Dr. Simmons:** Thank you.

1490

1491 (audience applause)