

## I. WELCOMING REMARKS

**Nicholas Reed:** Good evening. Welcome to our symposium commemorating *Bush v. Gore*, ten years later. We'd like to thank you all for coming. At this time, I would like to introduce our dean, Dean Ray. Dean Ray is a prominent author and speaker in the field of labor law, and he became the eighth dean of our school in October, just a couple months ago. Before that, he served as dean at the University of Toledo College of Law from 2006 until 2010; and before that, at Widener University School of Law, from 1998 to 2005. Dean Ray is an Honors graduate of the University of Minnesota and Harvard Law School, and before that he served in the U.S. Army and also in the U.S. Department of Labor as an economist.

After law school, Dean Ray practiced with Dorsey & Whitney in Minneapolis and taught at the University of Richmond School of Law and the University of Toledo College of Law, where he was the Charles W. Fornoff Professor of Law and Values. He's the past chair of the American Association of Law Schools' Section on Labor and Employment Law and, since 1999, has chaired labor law programs for the Center for American and International Law in Texas.

Dean Ray has served as a labor arbitrator or mediator in over 200 labor-management disputes. He has also published over 20 journal articles and has co-authored two labor law treatises, *Understanding Labor Law* and *Labor Management Relations: Strikes, Lockouts, and Boycotts*. At this time, please join me in welcoming Dean Ray.

(Applause)

**Dean Douglas Ray:** Good afternoon. It is my distinct pleasure to welcome you to this symposium. Today and tomorrow we will hear from distinguished members of the bench, the bar, and academia on what remains one of the most controversial legal decisions of our time. I'd like to begin by thanking the members of our Law Review and their advisor, Professor Gary Kravitz, for their work in putting together this program. I would ask all of them to stand – and Professor Kravitz is back there – so we can thank them for their very outstanding work. All members of the Law Review please stand.

(Applause)

**Dean Ray:** On December 9, 2000, the U.S. Supreme Court halted the recount of Florida presidential ballots, and on December 12, 2000, almost ten years ago, issued its historic decision in *Bush v. Gore* one day after

hearing oral argument. This is a case that forever added the term “hanging chad” to our vocabulary. This is a case that has created a decade of controversy and a decade of questions, both practical and legal. Today and tomorrow, through the expertise of our speakers, we’ll have the opportunity to look back and evaluate the continuing impact of this decision. We will have the opportunity to ask what questions it answered. We will have the opportunity to ask what questions it created. The questions we will face are political, psychological, legal, and go to the structure of our government.

For example, Justice Stevens, in dissent, suggested that the nation’s confidence in the judiciary would be shaken. Has this occurred? Was he right? Was our confidence in the presidency shaken? Where do we stand on that ten years later? The decision raises broad questions about federalism and the separation of powers among branches of federal government. It causes us to wonder for the future how broad is the Court’s power to review a state supreme court’s interpretation of state law. Most importantly, for our current needs, it causes us to wonder about the extent of the impact this decision has as precedent.

Even though the Court sought to limit the opinion’s reach to the decision before it – to the case before it, this case has been cited by several federal courts around the country in cases involving election problems and election irregularities. In 2008, for example, the U.S. Court of Appeals for the 6th Circuit cited the case in upholding a cause of action challenging or involving Ohio’s 2004 elections in a case where some polling places had much longer waiting lines than others due to the limited number of voting machines. So even if you have touch-sensitive voting machines, election problems arise.

This is not just about hanging chads and punch cards. Right now in Alaska, U.S. Senate candidate Joe Miller has filed suit challenging the Board of Elections. The Board of Elections has announced that it will try to determine voter intent in evaluating write-in ballots which misspell Lisa Murkowski’s name. Mr. Miller seeks, in citing *Bush v. Gore*, to have all such ballots thrown out unless they have spelled her name properly. This will be a timely and provocative symposium. We just finished an election cycle.

Around the country we have recounts going on, we have challenges going on, and as a nation, we still vote by a variety of means. We vote by punch card. We vote by lever machine. We vote by paper ballot. We vote by optical scan. We vote by electronic touch screen. And, as you look at news stories around the country, there are problems with each of those

means. We still have close and challenged elections. I think the message we all get out of this case is that every vote matters when we're looking at challenges that may involve less than 200 votes in a six million or more election pool.

To tell you how the symposium will proceed, we are fortunate to have with us, the Editor-in-Chief of our Law Review, Mr. Michael Vera. He and Mr. Nick Reed, whom you met as he introduced me, are among the leaders of our Law Review who put together this symposium. I ask that you join me in thanking them both for all their efforts.

(Applause)

*Michael Vera:* With regard to the symposium, as Dean Ray just mentioned, we are very excited about being able to host this. Personally, my interest for election law goes far back, and a speaker you'll get to hear from over the weekend is Professor Murray Greenberg, who further cultivated that. As Dean Ray also mentioned, this is a timely event, and our goal over the next four panels in these two days is to, in essence, go behind the popular culture that has now surrounded this symposium and to arrive at a place where we can truly understand some of the issues and the true long-lasting effects of that momentous decision. Before I introduce Professor Greenberg, there are many people who are responsible for this event taking place, and I want to briefly acknowledge and thank all those people for their assistance and support.

First, I'd like to thank the Administration of St. Thomas University and the Law School for their invaluable encouragement and guidance through this very long process. I'd like to particular recognize Monsignor Casale, our president; University provost, Dr. Gregory Chan; Dean Ray, Dean Dykas; and I also would like to acknowledge the support of our previous dean, Dean Garcia, who together with Professor Greenberg first brought this idea to us.

I'd like to, in addition to the administration, recognize the Law Review, also another group of people who have taken a large amount of abuse from me over these last few months. And it goes without mentioning – excuse me, it goes without saying, I'd like to thank Elaine Aliberti, assistant to Dean Ray; Professor Gary Kravitz, who has been a great source of help and guidance; and also Mickey Budlong, who without her, this Law Review would crash and burn in a horrible fire. No kidding.

We're also very grateful to U.S. Magistrate Judge Peter Palermo, who has been a long-term friend of the St. Thomas Law School, as well as state Circuit Judge Michael Genden. There are two specific people who, aside from all the help that I've already mentioned, these two people have given

us a great amount of support, guidance, and quite frankly the technical know-how about what we were doing when we first started this process midsummer. And so I'd like to recognize at this time Professor Nathaniel Persily of Columbia Law School and Professor Murray Greenberg of St. Thomas University.

(Applause)

*Michael Vera:* They have been involved in every aspect of the planning, and without this, today and tomorrow would not be possible. So, again, deep thanks to both of you. It is now my honor to introduce Professor Murray Greenberg, and I am slightly biased. I've had the pleasure of being a student in Professor Greenberg's class. It was a truly wonderful experience to be able to learn the law from someone who is so knowledgeable, so experienced and with such a stellar reputation. So with that, Professor Greenberg.

(Applause)