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Excerpts of Speech by Robert A. Butterworth

Douglas Ray
St. Thomas University College of Law

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III. EXCERPTS OF SPEECH BY ROBERT A. BUTTERWORTH¹

This speech was presented on November 12, 2010, at St. Thomas University School of Law in Miami Gardens, Florida.

Michael A. Vera: And with that, I'd like to introduce our new dean, Dean Douglas Ray, who, again, as I mentioned previously, has been a constant champion, though he didn't know me, didn't know our Law Review. He has embraced us. He has helped us, and he has guided us every step of the way, and for that I am eternally grateful. So if you all help me welcome Dean Doug Ray.

(Applause)

Dean Douglas Ray: Good evening. It's my distinct pleasure to welcome you to this dinner tonight. We're especially honored to have with us the President of our University, Reverend Monsignor Casale, and the Provost of our University, Dr. Chan. Their presence here, I think, shows better than any words, their support for the law school and the law school community. Please join me in thanking them.

(Applause)

Dean Ray: I joined this law school only a month ago and there's a lot going on. This is a wonderful symposium. The students, Professor Kravitz and Professor Greenberg, have put together a wonderful program. I think we are learning the story behind the story. You have seen the advocates on both sides. Ten years later, they can talk to each other and we're learning a lot, and I'm sure tomorrow we will learn a whole lot more. I'd like to say a little bit about our law school.

This is not just another law school. Our students and faculty are engaged in the community. They're engaged in the world. In our clinics, our externships, our *pro bono* program, they serve the underrepresented throughout South Florida. The university and the law school sponsor a Human Rights Institute that represents 6,500 immigrants a year. Our students all participate in a *pro bono* program in which they provide over 15,000 hours of *pro bono* legal services a year under the supervision of licensed attorneys. Our moot court and mock trial programs are winning national honors.

1. Robert A. Butterworth, Esq., served as the Attorney General of Florida from 1986 to 2002.

We are especially blessed because of the richness of talent in Miami-Dade and Broward counties, and by all the incredibly talented adjunct professors who join us. All of you who are mentors to our students, all of you who are role models, all of you who come back and talk in our career programs, really enrich our law school community.

Our faculty members are people who have sophisticated practice backgrounds, are well respected in the Bar, are engaged in the community, and are published experts in their fields. And the staff, the administrative staff, the hourly staff, and the faculty are committed to our students.

Finally, this is not the only incredible symposium we're doing. Last week our Intercultural Human Rights Law Review sponsored a symposium on the economic, human, and legal challenges facing Haiti after the earthquake, and that, too, was well attended, and that, too, will have national and international impact.

I will now hand the program back to Mr. Vera. Both he and Nick Reed hope to practice in South Florida, and both have been central to the success of our moot court program and our Law Review. They are just examples of the hundreds of wonderful students we have here.

(Applause)

Michael A. Vera: Thank you, Dean Ray, for those kind words. He flatters us too much, but we do appreciate him very much. Thank you. It is now my distinct pleasure to introduce Professor Murray Greenberg. He is—I had mentioned earlier I met Murray last fall. The best term I can use to describe Professor Greenberg is jack of all trades and a master of quite a few. He's an adjunct professor at various law schools down in this area. He is a charmer. He was heavily involved in *Bush v. Gore* in the 2000 election. One of our best county attorneys here in Miami-Dade, and truly just an all-around pleasure to know, and I'm quite fortunate to call you my friend, if you'll allow it. So let me introduce Professor Murray Greenberg.

(Applause)

Professor Murray Greenberg: I've become a master at pulling mikes down. Without repeating everything that's been said before, as Mike just said, I do teach at various law schools. I'm the itinerant, journeyman adjunct professor. This is without a doubt the nicest, most professionally run, pleasant law school I've ever seen.

(Applause)

Professor Greenberg: And I think the administration deserves a world of credit, which brings me to what brought me to St. Thomas. As a former dean, Bob Butterworth, who's going to give our keynote address, I

first knew General Butterworth—I'd heard about him and I'm gong to tell you in a minute, there's not a position in government he has not held in every section, in every one of the three branches of government, he's been there. But he was kind enough, silly enough, whatever the word is, to have hired me a few years back to teach here and I'm still here. So thank you, General.

Let me tell you a bit about his amazing background. I try not to read from lists when I do things like this, but there's no way to do this without reading from a list. His last public governmental job was Secretary of the Florida Department of Children and Families. It's a thankless, very important job. He was a vigorous advocate. He was a Democrat appointed by a Republican governor. He served in that position. He has his former associate here now heading the department. Prior to that, he was dean right here at St. Thomas.

Prior to that, he served four terms as Florida's Attorney General. As Attorney General, his accomplishments ranged across-the-board. He enforced victim and consumer protection services, environmental, civil rights and anti-trust laws. He was the leader in that multistate action against the tobacco industry. He was voted the top Attorney General from the country by his peers. He was the impetus behind numerous amendments of the Florida Constitution expanding open government in all three branches.

He also was responsible for reforming the state's antiquated capping system. I'm not so sure we had such a good result, General, but thank you. He was also a judge. He was a county judge, a circuit judge. He was a prosecutor. He was a Broward County sheriff. Once he headed the Department of Highway Safety and Motor Vehicles. And we're not done. He was the interim mayor of a South Florida city which shall remain nameless for the moment, a city that was plagued by political corruption. He also was an adjunct professor at Nova Graduate School of Criminal Justice.

He holds honorary doctorates from Stetson University, Nova Southeastern, Florida A&M University, and Barry University. He's currently a practicing lawyer in Ft. Lauderdale. Suffice it to say, the lists sound impressive, and indeed, they are, but he is a warm, caring human being. He is very much committed—I know how committed he is to helping people in Florida. And nothing can provide it more than he undertook the daunting task of heading the division of Children & Family Services. So without that, he doesn't need any introduction anymore here at St. Thomas. General Butterworth.

(Applause)

Robert A. Butterworth: I will re-position the mic. Professor, thank you so very much for that kind introduction. Dean Ray, congratulations on becoming the dean of St. Thomas. As you have already articulated, this is a fantastic law school, and it's very well thought of not only in this community but throughout the state and the nation. And I'm glad that the only reports that you are receiving—that the students are receiving is that they're so well justified.

The faculty here, I believe, is second to none, I agree, and also the administration. I will assure you, though, Monsignor, my speech will be shorter than my introduction. Monsignor Casale always says brief is good. Monsignor, when we first met, I just had a tremendous feeling you and I would be able to work together. And I've enjoyed my three and a half years working with you and also in our continuing friendship afterwards. And you've done such a wonderful school with this fine university and it's such a beautiful place to walk onto campus, drive onto campus. And in my seven years since I first started here, I think you've done a great job. I certainly congratulate you and also Provost Chan.

(Applause)

Robert A. Butterworth: It really makes you feel good when you come back and notice that everything gets better after you left. But still, it's really great also to be—I think someone said earlier today that—where were you when you heard about *Bush v. Gore*. Well, I can tell you where I was. Marta and I—we were in Plantation, Florida. I was the state chair for the Vice President, and my good friend, Jeb Bush, was the state chair for his brother. And we had a lot of good interrelationships along the way. We had been in Plantation, Florida in a big rally, and it was like Gore wins. They were down in Miami Beach and it was like, we're not too sure.

So we drive home early in the morning, and I see my friend Charles Burson, who was the former attorney general of Tennessee and then chief of staff for the Vice President on TV. At that point in time Bush was ahead by 250,000 votes. Charles says, well, you know, you'll probably see it on TV that they're having a motorcade and they are going to concede the election.

And all of a sudden on the screen, it went from 250,000 down to 50,000 votes, and we still had a number of precincts left, a fairly large percentage. So I said, are you watching TV? He says, no, I'm in a car. I said, well, something just happened. My guess is there must have been a malfunction in one of the counties and the vote shifted. It ended up being Volusia, I found out later. I said I don't know why the Vice President

wants to concede for. Everything seems to be going in his direction. Charles was not in the same car with the Vice President. Also, Bill Daly—his secretary Bill Daly, his campaign manager, was not in the same car either.

It was raining. And they said do you mind if I have Daly give you a call. I said, I'm fine. So Bill Daly gets on the phone and says to me, we see what's happening. What's the law in Florida on recounts. I said, well, the law in Florida on recounts is very simple. If you're within one-half of 1%, it's an automatic recount. It happens automatically. The supervisor of the smaller counties, the medium-sized counties will probably already start doing it. That's the way they do business. And he said, what happens if someone concedes and finds out they win? I said, I don't know. My gut feeling would be you'd probably still win, but the guy you conceded to is going to say, I'm sorry, but, you know, I've already been sworn in.

So then I saw that the motorcade started to turn around on TV. I didn't think anything of it. That's probably the best thing to do. Then I get a call from Charles Burson again. He says, oh, by the way, we really don't feel comfortable in telling the public, you know, what the recall law is in Florida. Would you mind if an NBC station drops in and you talk to one of them? I have no problem. I said my house in Hollywood is ten miles from their Ft. Lauderdale office or ten miles from the Miami studio. I said I'll go either place. No, no. I got an NBC guy here. They'll come to you. So, you know, not much time. So I said to Marta, I said, I think I might have a TV station here.

So maybe about an hour later, a little less than an hour later, the TV station shows up. Now I had made a couple phone calls before that. One was to call Paul Hancock who lives a couple blocks away, my deputy for the south, and also George Sheldon, a deputy for Central Florida. I also contacted Jim Tierney, the former AG in Maine who also teaches at Columbia and he teaches powers and duties of the attorney general. And he literally stayed with us for 35 days in Tallahassee and in Hollywood, Florida. He always flew in. He had been an AG for about ten years, and then worked helping AGs, Republicans and Democrats. When I gave him a call and said, Jim, I think I might need your help. He said, Bob, we're close enough. I know. You know when anything happens to an AG in this country—I think he said I already have my flight. Do you want me to go to Tallahassee or to Hollywood? I said I think it will be Tallahassee. So we get a knock on the door. This is—the first interview might have been about 4:30, 5 o'clock in the morning.

And then at about 6, there was something like nine or twelve of these TV satellite trucks in front of the house. I never knew there were so many dogs in the neighborhood because everybody's walking their dog right then. What is happening here? So I thought we'd get one TV station, but they kept coming in. And what they do is that they actually—one actual crew member is stringing together three or four different stations. So what they do is they'll put you in a chair here and then for your next shot, you go here, and then somewhere else. Let's go to the front yard. Let's go to the back yard. Let's go wherever it might be. I never knew who Katie Couric was. And this lady, it's still nighttime and I'm in front of my house and this lady says to me, I understand you're the one that spoke to Vice President Gore and told him not to concede.

It's amazing how things whispered, you know, and they'll go from here to here to there. I said, well, not really. I said I just spoke to my friend Charles Burson and said I don't know why you're conceding when you might win this thing. It gets down to, at that time, 1,500 votes by the morning. I mean, it was very, very close. And someone asked me to comment about Palm Beach County, and I said, well, you mean that butterfly ballot? I'm not sure that anybody had ever termed butterfly ballot, and that's what it was called ever since. I don't know what many of you called it before that, I don't know. I know my kids were pretty scared because they were pretty little back then, all these reporters were – Bree Ann was hugging my leg the whole time watching these interviews.

I know my first call on the election morning was in reference to Palm Beach County. At that time, the former—present Congressman Ron Klein was the vice chair of the campaign statewide, and he and Lois Frankel, the former state rep, and the mayor of West Palm Beach called and said we have this thing—people in a condominium, predominantly a Jewish condominium think they voted for Pat Buchanan.

And within about maybe a half an hour—I mean, they worked very quickly—they were able to get everything out to all these precincts to make sure that—let the voters know, you may not want to vote for this guy. In the way it was done, really a second box was Buchanan and the third box ended up being Gore's, but when you saw that thing before the day of the election in newspapers, it was very easy to determine who was voting for who. The most telling one was this elderly Jewish gentleman was on one of the shows just as a—just for a little while and they were interviewing in Palm Beach. And he says, all my adult life I have waited to vote for a Jew for president or vice president, and I voted for the Nazi.

Now this type of stuff you can't make up. You really can't. I got a call from my friend Jeb Bush fairly early in the morning. And he said, Bob, can you get to Tallahassee by 2 or 3 o'clock? And I said I probably can, but I'll need a state plane. He said, well, one's on its way to pick you up. So we spoke a little bit. He was in Austin with his brother and his mother. And I, now you have to remember, according to *Vanity Fair* and Charles supports this, that on his way over to concede—now Charles only hears one side of this thing.

On the way over to concede, the Vice President said congratulations to the governor. I am now on my way over to concede the presidential election and I wish you well. Now it's about a half-hour later. So I said, I don't know what happened on the other side of that phone call, but Jeb was there on the other side of the phone call listening to his brother. So after that, I got the call and we were to meet in Tallahassee. We would meet for about a half hour and then go for a press conference. And this is where you wonder sometimes—and stuff gets in the way. Here we are the governor or an attorney general of the State of Florida, who have a role in elections, and you choose to become a campaign manager for a candidate.

We were not alone. Katherine Harris, the then Secretary of State, was the co-chair for President Bush. So we get there and Jeb and I are speaking, and it must have been, about 100 TVs from all over the world that were there in this large conference room. And what both of us knew, no matter what the outcome, that really the image of our state that both of us love so dearly was on the line. We knew whatever we did – and we said whatever we do in this state on this automatic recount, everything is going to be in the open. You're going to be able to see everything. That's the way the state is. Courtrooms are open. Everything is open. And we're hoping it would all go very, very smoothly. I know I made a couple phone calls to the state campaign chair, one to Ben Kuehne, and Kendall Coffey.

So the next morning—so we actually had a press conference that both of us understand that the reputation of the state is on the line. Whoever prevails in this recount will be the next president of the United States. And you feel like this—I never thought I'd be here. I'm glad I got to finish eighth grade.

So the next morning both Jim Tierney and I go over to see Warren Christopher and Bill Daly. They had flown in late, the night before. And I went there and I stated that—I said I want to let you know that—I'll give one piece of advice and then I'm out of here as a campaign manager. And that is, don't just pick three or four counties for your recounts. Pick every single county in the state for a couple of reasons. One, your small counties

and your medium-sized counties have already recounted. They're used to this. It's easy. They don't have that many voters. It's your large counties, it's your urban counties that will not be recounting unless you ask for them. So they weren't sure. They weren't sure at that point in time.

Then I said to them, as you understand now, I am the Attorney General of the State of Florida. That's the role I'm in right now. I am no longer involved in the campaign, and I'll no longer have any more correspondence with you except in a professional capacity reference the laws of the state, not in the capacity of a campaign manager. They're both two wonderful gentlemen. The count that started throughout the state—I think it started throughout the state were all things that you all I'm sure are very, very aware of. It was interesting.

Like I said, we had the butterfly ballot. We had Duval County – they were all potential suits. They had presidential candidates, a whole lot of them involved that year. I don't know if the names are real or not. And Duval County said on two pages, vote on each page. A large number of people voted on each page, votes for Bush, votes for Gore. Now—and obviously, it disqualified them. What happens? We've had many counties with over votes. You basically maybe bubbled in a couple names, it's invalid. You bubbled in, let's say, Bush or Gore, and you also write in on the bottom Bush or Gore.

Now there was something going on in a couple of the counties where some people stated that, you know, if you really want your candidate to get elected, you really should fill in that bubble next to their name and also write their name on the bubble. That means automatic disqualification. A lot of voters don't know that. They thought they were just reassuring the Supervisor of Elections that, hey, you know, this is who I really wanted to be my candidate. Then what happens if the ballot says Al Gore and you only write in Al, or George, or Bush? What's the law? Murray Greenberg could tell us.

We checked the law in the state of Florida immediately before I went on all those TV shows. The law is to determine the intent of the voter if it can be determined. You must go with the rules that were in place before the election. Some people tried to change the rules during this one. Not a good idea. It's kind of frowned on. So there are a lot of issues out there. I know there were lawsuits throughout the state and Palm Beach, where people were asking for an attorney general's opinion. Some were asking for a secretary of state's opinion, and it so happened that we both gave opinions. They were both a little bit different. I think that Justice Lewis will state tomorrow, at least I think that our opinion was right and the rest

was their opinion.

So I again met with Jeb. I said, Governor, shouldn't we have Katherine Harris here? He gets agitated. No. I found out then the Republican party didn't trust her and that Jeb had contacted Katherine early that morning after he spoke to me and saw me on TV. He said what is Butterworth doing out there talking about the election law in the State of Florida? That's under Katherine Harris.

Well, Katherine was at her home and I think she was doing the same thing I was doing. She was going through statute books and adds a picture of her doing that and she came to the same conclusion. A lot of Republicans were a little bit concerned as to this Democrat Attorney General going a little too far. The Attorney General's office was not to be compromised whatsoever. We were the Attorney General. We were no longer a candidate campaign chair.

You will hear a little bit tomorrow about the military vote. That was one of the most interesting things in this particular ballot issue. And Paul Hancock who did that at the poll, besides playing a role in the Attorney General's office, had served time—I call it serving time when you're in federal government—as a chief of election law, and he was very instrumental in Florida's election law when it came to military ballots. So I'm not going to say what happened because I want to keep you interested for tomorrow.

The whole event was interesting. In the end—I had no idea who won this election. I really don't know. There were some newspapers said one person, some say the other person. Some say we're not sure. As Michael stated we are a nation of laws, and it is what it is. But I will say this, after the Supreme Court stated to count—this was not a recount. That's where I think people get this a little bit wrong. And Jim Baker Secretary Baker was fantastic on this. He kept saying, recount. Recount again. Recount, recount, recount. How many times can you count? That wasn't the issue. The issue was voting—was looking at those ballots that had not been counted, those ballots that were turned away.

I believe it was somebody buried in the supervisor's office in Dade County that designed a program to spit out those that were not counted. So you don't have to count 600,000. We only have to count, I don't know, 10,000–20,000. He went and testified throughout the state and that's the way they did it. So all we were counting at that point in time—it only would take maybe 24 hours at the most—only those ballots that were not counted. It was on its way.

All sixty-seven counties had attorneys on both sides. Everyone was

enthused about this. The United States Supreme Court decided that's not a good idea, and by vote of 5-4, closed it down. Barry Richards, and the lawyers on both sides did very professional jobs on this case. My hat's off to all of them and you have the opportunity to be with them—today and tomorrow. I was there maybe a couple of days after and I got back to my office and said Barry what did you think about the Supreme Court ruling to stop the count? Totally un-American, totally un-American. Anyway, thank you very much for this. Thank you for doing all this. You're doing a great job.

(Applause)