

**UNIVERSITY OF CINCINNATI
COMMENCEMENT ADDRESS**

**FIFTH THIRD ARENA @ SHOEMAKER CENTER
UNIVERSITY OF CINCINNATI CAMPUS**

JUNE 12, 2010

Remarks of
The Honorable Nathaniel R. Jones
Judge, U.S. Court of Appeals for the Sixth Circuit (Ret.)
Chief Diversity and Inclusion Officer, Blank Rome LLP

I must first acknowledge my deep gratitude to the Board of Trustees and the Faculty for their keen judgment in placing at the helm of this great institution Dr. Gregory Williams, a distinguished leader with whom I have shared a wonderful friendship for years. His selection signals your resolve to advance the educational fortunes of all who will study here. President Williams is already proving himself to be a true community asset. Personally, it is an honor for me to share with him in this most memorable commencement exercise.

The momentous changes I have observed in this country over the span of my life impose upon me an obligation to offer to you more than the platitudinous exhortation often associated with occasions such as this. I must do more. The challenges confronting you are too profound for me to do less.

The various crises that await you as you emerge from this citadel of higher learning are both numerous and complex. Perhaps none is more daunting than this nation's seeming inability to provide a foundation for the education of our children, and the inevitable wasted human capital that results. The consequences of this failure are present for all to see — on our streets, and in the shameful incarceration rates made up of many who dropped out of school systems only to drop into the bulging criminal justice system.

I leave a detailed discussion of those specific issues for another day. I choose, rather, to focus on something that is to me even more overriding and troubling. It is the growing national mood of selfishness that arises from a fundamental misunderstanding of the role of government. This misunderstanding undercuts our ability to effectively deal with the specific social and economic maladies that beset our country.

In misunderstanding the responsibility of government, our citizens are being led down a path that dishonors the covenant that binds all Americans. The covenant is found in the Preamble to the Constitution which says:

We the people of the United States, in order to form a more perfect union ... provide for the common defense, promote the general

welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

This is a covenant. Yet, I fear that in misunderstanding the responsibility of government to provide for the common defense and promote the general welfare, citizens are defaulting, and falling prey to those seeking to restore the discarded doctrine of States Rights.

Current social, economic and fiscal problems are all attributed by some to “Washington” or to “the government.” It was, after all, the doctrine of States Rights that kept the nation locked into a racial, educational and economic dungeon of despair. Only after States Rights began to be set aside, and federal power was asserted with strong presidential leadership, did the sunlight of equality of opportunity break through. Discrediting “Washington” and “government” is nothing more than an attempt to provide a justification for returning to States Rights. Until that attempt at historical revisionism is fully confronted and rebutted, there will be no rationality to our public discourse, nor will our civility be restored.

For over most of the last quarter century there has been an incessant drumbeat about the evils of government. Claims that the government is an enemy that overreaches have been continually made with no acknowledgment of what the Preamble to the United States Constitution and the Constitution itself requires of us.

I have seen during my 84 years of life, how the national government, in keeping with its obligation to promote the general welfare, has stepped forward to meet the economic and social anguish of all citizens. In moments of national calamities, the national government pulled together the resources of America to deal with various crises. It was President Franklin D. Roosevelt, who in the depths of the Depression, rallied the nation by declaring in his first inauguration speech on March 4, 1932, “Let me assert my firm belief, that the only thing we have to fear, is fear itself.” Proving that this was not pure rhetoric, he then went on to advance a number of programs called The New Deal, including Social Security, housing and health programs that we continue to rely on today. This could not have been accomplished if the current mood of selfish insularity had prevailed back then.

His successor, President Truman, when he learned of the violent treatment and denial of civil rights to which Black veterans returning from World War II were subjected, acted with an unprecedented degree of forthrightness. He took dramatic action by proposing to Congress the enactment of sweeping civil rights legislation, and by taking executive action to end segregation in the armed forces. He became the first President in history to squarely place the prestige of his office behind civil rights when, in June 1947, he addressed the convention of the NAACP. In his address, this man from Missouri, who hailed from a tradition of segregation, declared:

... we can no longer afford the luxury of a leisurely attack upon prejudice and discrimination. (There is much that state and local governments can do ...) But we cannot, any longer await the growth of a will to action in the slowest state or the most backward community. Our national government must show the way.

This was consistent with the covenant set forth in the Preamble to the Constitution and the document itself, and as did President Roosevelt, action was taken by President Truman.

After President Eisenhower took office in 1952, he, having led the Allies to victory in Europe in World War II, saw the lack of a national network of highways as impeding our economic growth, national economy and our national security. He prevailed upon Congress to enact legislation to connect all parts of this country through the construction of an interstate highway system. There was no mood of regional selfishness to impede this goal of President Eisenhower.

Moreover, when the Governor of Arkansas, in 1958, standing behind the principle of States Rights, defied a federal court order to admit nine black children to Central High School in Little Rock, Arkansas, President Eisenhower dispatched the 101st Airborne Division to force their admission, reaffirming the principle of federal supremacy on constitutional matters. This exercise of federal power was crucial to strengthening the rule of law, which is the glue that holds this nation together.

It was also during the Eisenhower Administration in 1957 that the Soviet Union alarmed the United States and the rest of the Free World with its launching of the satellite, Sputnik, into outer space. The federal government responded by launching its own Space Program. When President John F. Kennedy came into office, he followed, by boldly pledging that this country would send a man to the moon. It was a challenge we met. Again, this was a challenge that only the resources and power of the federal government could make happen.

Similarly, during the presidencies of John F. Kennedy and Lyndon B. Johnson in the Sixties, the nation was rocked with severe challenges that extended back to the period of slavery and Reconstruction. They were met by the firm and courageous governmental action of the quality called for by President Truman in his 1947 speech.

At the very moment of your commencement we are faced with a national environmental calamity of unprecedented dimensions. The calamity has given rise to calls for the national government to come forward with answers. At the center of efforts to deal with this crisis stand the federal government and the President of the United States. We know that the ecological harm that could result to planet earth if the wrath spewing forth into the waters of the Gulf of Mexico is not arrested is beyond estimation.

While your graduation is occurring at the time of this calamity, with the national government struggling to pull together the resources of the nation to remedy the environmental harm, we also hear from those others who, for the past quarter of a century, and indeed, increasing during the past year, have been demanding a withdrawal of federal power, and a restoration of governmental power to the States. They are blind to the reality that solutions to these challenges come at a cost — which must be paid for, one way or another. Answers to this environmental and ecological tragedy will not be found in a mood of selfishness, parochialism and States Rights. Rather, the answer lies with you. In a commencement address delivered in 1928 by a future United States Supreme Court Justice, Benjamin Cardozo, to graduates at a

college in the city in which Dr. Williams last served, New York, a charge was laid down that applies equally to you on this day. A college-educated person has a special burden, he said:

[It] lies with you to uplift what is low, to erase what is false, to redeem what has been lost ...

If you agree, then you will understand your duty, as a truly educated person, is to know and respect history. That knowledge will lead you to ask questions when misrepresentations take place. These days we hear calls to “take America back.” The educated mind will ask, “Take America back to what? To when? To a time when there were no child labor laws, or minimum wages? When it was legal to segregate schools? Or to discriminate in the hiring and firing of racial minorities and women? Return the physically-handicapped persons to the chairs and porch swings? Re-empower voting registrars to administer literacy tests? Impose poll taxes as a condition? Return white primaries? Repeal Medicare and Medicaid?” If that sounds a bit ridiculous, it is just that. What would this country be like if the current selfish mood kept our bridges and roadways in a crumbled state of repair and in other ways reversed the social transformation that unleashed the great potential of America?

That brings me back to the reason why I chose to forego discussing specific problems in favor of making an argument for abandoning the mood of selfishness that has gripped this nation. It is only by freeing ourselves, or as President Lincoln said, “disenthraling ourselves,” that we as a nation will be able to engage in the kind of civil discourse that will lead to rational solutions to problems, including those of education, incarcerations, urban decay, health and housing.

As I noted the words from the Preamble to the Constitution that charged “We the people” to “provide for the general welfare,” it also reminds us that this nation is not merely made up of fifty states, but that we are part of America — and as we declare in our Pledge of Allegiance, we are “one nation, that is indivisible” which guarantees “liberty and justice for all.”

You are transitioning from the life of a student to being a serious citizen who must apply what you have learned to the solution of the great problems of the day. The college diploma being handed to you today is not a passport to a cruise on an ocean of obliviousness, but rather onto the choppy waters of reality — a reality that requires you to, in Justice Cardozo’s words, “uplift what is low, erase what is false, redeem what has been lost.” To that he added, “That is the burden of your calling.”

As you go forth from this institution to meet that burden, it is my pleasure to join with the Trustees, Faculty, Administration, your fellow students and your loved ones in wishing you Godspeed.