Thank you so much, Dean Miles, for that generous introduction.

I want to recognize my current and soon-to-be fellow alumni, members of this esteemed faculty, and distinguished guests. Good morning all, it is a great honor and privilege to be with you today.

Let’s start with a HUGE congratulations to the Class of 2018!

I also want to recognize the family and friends in the audience today. Their lifetime of support has surely been as important to our graduates’ success as their intellect and hard work. You should all be proud of yourselves today.

What a huge accomplishment!

Now, one receives much advice when preparing for a speech like this. And when you work at Nike, a lot of it is about what shoes to wear . . . so I hope you all appreciate my kicks.

But putting aside wardrobe-related matters, I’ll be honest: most of the advice I got was more panic-inducing than helpful. Be serious. Be funny. Be both—but not too much of either.

Be substantive—but don’t lecture. And the best: when you’re writing, keep in mind that this generation of lawyers will have to save the republic, so make sure it’s a call to action. Oh great, no pressure with that one. My favorite advice comes from my own father, who is here today. He said, “Hilary, just stick to the 3 Bs: be prepared, be brief, and be seated.” So now you all know that there is at least one member of the audience who is disappointed I’m not already wrapping this up.

But, alas, before I take my seat, there are a few things I want to share from my experience that I hope may be of help to you along the way.
classmates are an unparalleled asset that will continue to give you pride, support, and inspiration throughout your careers. So, continue to invest in each other. You will find there is no greater return on investment out there—other, of course, than the ones made with family.

Speaking of which, this University is special to me not just because I once sat where you sit, as did my father before that and as my nephew does today, but also because my husband and two of my children were or are currently being educated here. One difference, however: all three chose instead to study philosophy. So, to avoid embarrassing them by my lack of erudition and, worse, being scorned for being too practical, which I assure you is a near-daily experience, I’m just going to go ahead and quote Aristotle to get it out of the way. He wrote in *Nicomachean Ethics*, “Excellence is an art won by habituation and training. We do not act rightly because we have virtue or excellence but rather we have these because we have acted rightly.” This thought has since been simplified as follows: “We are what we repeatedly do. Excellence, then, is not an act but a habit.” Each
of you have been given an education that, along with your natural ability, gives you the potential for greatness whatever path you choose to follow. Whether or not you achieve that greatness will be decided by what you do tomorrow and each day thereafter.

This phenomenon is perhaps most easily demonstrated in the world of sport. One thing all of the world’s great athletes have in common is work ethic and the knowledge that consistent, everyday attention to the work has as much to do with greatness as innate gifts. Now I’m not going to argue that natural gift is not important; surely it is. But while helpful, it alone is insufficient.

When Michael Jordan first went out for his high school basketball team, he got cut. Instead, imagine this, MJ was relegated to junior varsity. When I was lucky enough to ask him how he went from the JV squad to six NBA titles, he said without hesitation, “I made it my business to be great every single day.” And when I followed up with, “So that’s how you brought it when it mattered?” He scolded me, “You missed my point, Hilary, it was every day that mattered.” (See what I did there, casually mentioning that I’m on a first-name basis with MJ. Shameful, I know, but impossible to resist.) In the same vein, Serena Williams has said failure to treat every trip onto the court as totally vital is to sacrifice the ability to summon that power when you most need it.

As it turns out, like in sport, muscle memory really matters in professional life.

So keep that in mind when you are called on to do some of the difficult and less-than-thrilling work that defines the earliest stages of lawyering (and just about anything else). Failing to read that last case or chase that last minor fact or tolerating a typo or misquote in the course of a mind-numbing assignment may seem small . . . but it isn’t. Bringing your best to small things will make you better at the big things.

What’s more, sometimes you do not even know when a big thing is upon you. It’s only when you look in the rearview mirror that you recognize a moment as being totally defining. Sometimes it is super easy to tell when something is important—the neon lights are flashing, endorphins are firing, and you bring all your focus. It’s a Supreme Court argument, a huge presentation, the closing of a massive deal. But more often, in the course of the everyday hurly-burly, you are asked to make a judgment or answer a question that may seem mundane . . . only to learn later that that moment, unaccompanied by any fanfare, was the decisive moment. When you look back on it, you will be either grateful for your habit of excellence, or despairing of your failure to develop it. I strongly recommend the former.

Now, for those of you sitting out there thinking “No problem, I have this excellence thing nailed—I got a perfect score on the LSAT, I can cite every case we ever studied, I can do multivariable calculus in my head”—and I know you’re out there—I have some challenging news. The kind of excellence I am talking about requires more than the ability to get precise things right.

It requires judgment, courage, and even humility. And, it should go without saying, the highest standard of ethics. It turns out that most things in life defy “right” answers. The challenges of today’s world are exquisitely complex and, more often than not, the solutions must be judged as better or worse, not right or wrong. The accelerating
pace of change in society, technology, and global affairs only adds difficulty in solving the problems that you will likely confront. To address these challenges requires asking uncomfortable questions and delivering unwelcome messages. It requires nuanced thinking and the ability to see things not as they are now but as they will be in the future.

In this challenging environment, there is nothing more dispiriting, and in the end less effective, than people who see where the collective thought is moving and hasten to agree. There may be short-term gratification in agreeing with groupthink, but I warn against it. Ask the question no one else will ask! Speak truth to authority even when it’s scary! Having the courage to bring your unique perspective—especially when it challenges static assumptions about the future—will serve you, your clients, and society well.

Equally as challenging as the people lacking personal conviction are those too intellectually stubborn to even acknowledge a possible chink in their own intellectual armor.

So, in addition to excellence and courage, I encourage you to practice diplomacy as you practice the law. Cultivate your own style of disagreeing without being disagreeable. And, what’s perhaps hardest of all, at least for me, is learn to lose gracefully. (Well, everywhere but in court. There, zealous advocacy will require you to leave it all on the field.) No matter how sure you are, how much you’ve studied the issue, there are times when you will not win the day, no matter the depth of your conviction. In fact, there are times you might not even be right!

I had the pleasure to clerk for an esteemed alum of this school, the Honorable Milton I. Shadur, class of 1949. I learned an impossible number of important things from him. But my favorite was when he told me this: If I was at a party and one person told me I was drunk, I could stay. But if I was ever at a party and three people told me I was drunk, I should go home and lie down. Now given the time of my life when he knew me, it might be fair to assume he was actually talking about my social life, but he wasn’t. He was talking about my own intellectual stubbornness, my inability to step out of myself and look
at an issue in a way other than how I first perceived it. He was rightly pointing out that I was more interested in winning the argument than in making sure I had thought through all the angles. He was encouraging me to see people disagreeing with me as an opportunity to learn, rather than as a challenge to my rectitude. It may well be the most valuable advice I ever received.

And so, it may not surprise you that one of my favorite books is one called Being Wrong: Adventures in the Margin of Error by Kathryn Schulz, which is all about the human capacity to be wrong about things large and small and be totally un-self-aware about it. I enjoy giving the book to lawyers who work for me. And as you might imagine, when I give them a book called Being Wrong, they often respond in an understandably discomforted way. My favorite was a woman who thanked me by saying, with tongue-in-cheek indignation: “Subtle, Hilary.” These reactions only remind me of our collective need to open our minds to our limitations as a way of unleashing our potential to be our best selves.

The bottom line? None of us has all the answers. We must cultivate the necessary skills to benefit from diversity of thought and experience... from deeply considering perspectives other than our own. We must not only challenge others, but surround ourselves with people who will challenge us, even when it’s unwelcome.

In our increasingly fractured society, recognizing that the same question looks different to people with different life experiences is probably the most profound challenge and opportunity we have. In the end, graduates, my advice to you is this: Run straight at that challenge. Seek out those who think differently from you and learn from them. You’ve done this here, both in class and I suspect at Jimmy’s. Keep it up! Doing so will give you huge opportunities for personal and professional growth.

It was Woodrow Wilson who once said, “I like to use all the brains I have and all that I can borrow.” In order to make that come alive, other people need to be willing to share their brains with you. Do what you can to make that easy and desirable for them. You and whatever mission you are working on will be better for it.

So unlike what you may have heard at other graduations, I believe that life is not as much about finding yourself as it is about creating yourself. That is especially true in professional life.

I encourage you all to go out and create your greatness—valuing each other, with a habit of excellence, a courageous spirit, and an air of humility.

I know you will do amazing things. Congratulations and Godspeed.
Remarks of Tom Ginsburg
Leo Spitz Professor of International Law

Class of 2018, families, and friends, it is a tremendous honor for me and for all of the faculty to be here to join you on this momentous day. We call it commencement for a reason, for today after many years of schooling, you commence your professional careers and enter the learned profession of law. The phrase learned profession is a bit old-fashioned, but I’d like to spend a few minutes talking about it, because I think it is of tremendous importance in our current moment and for our democracy.

Let us start with the learned. All professions by definition involve the application of specialized knowledge to particular problems, and so they must be learned. Learning the law, in particular, is very much like learning a foreign language, in part because we lawyers we apply novel meanings to ordinary words. Venue is not just where you go to see a concert, a tort is not just an excellent Austrian cake, and a party is not just where you are going after graduation. Franz Kafka captured this when he noted that a lawyer is the only kind of person who can write 10,000-word document and call it a “brief.” Besides learning new meanings for old words, you’ve also learned new words, like curtilage, demurrer, joinder, and estoppel; if nothing else your Scrabble skills have advanced in these three years. And of course you now can impress your friends and family with Latin phrases ad infinitum, including res ipsa loquitur, mens rea, de novo, de jure, and de minimis. And if some of you are getting nervous right now because you don’t recognize all of these terms, don’t worry, because you’ll spend the next six weeks in bar review class learning them all over again. That brings me to another term you need to assign a new meaning to: bar review. Unbeknownst to many of you until now, this refers to an intensive period of study before the bar exam. Those of you who have actually studied a foreign language know that there is a steep learning curve. At first you are excited by all the new terms. Slowly, haltingly, you begin to put words and phrases together, you struggle with the new grammar and vocabulary, you have plateaus and breakthroughs, but you advance and then, one day,
eventually, you are ready to go out and walk the streets of a foreign city, to communicate with taxi drivers and street vendors, and it is here that the real learning happens.

Today is that day. You’ve spent three years learning a new language and are ready to go out into the world to try it out. In doing so, you will find that you know a lot of things, but there is also much more that you don’t. And you will need to continue to learn. As the Chinese sage Confucius observed 2500 years ago, “The essence of knowledge is, if you have it, to apply it; and if you do not have it, to confess your ignorance.”

Part of being a professional is to admit what you don’t know and to be responsible for your own continuing education. By this I don’t mean the bar-mandated Continuing Legal Education classes, though I do recommend that you attend these in accordance with the rules of your jurisdiction. I mean that you are now the designer of your own curriculum. You can choose what to read, who to listen to, who to ignore, and what skills to acquire. Discernment and judgment about these things are particularly important in our era, in which we are drowning in information and data. There is a kind of ethics of sorting through information in our era, an ethics not taught in the MPRE class. We did not teach you much about it, because no one does. But the ethics of sorting and acquiring information is essential for your continued education and may be relevant for the quality of our shared democratic future.

The legal profession, it has long been observed, has a special relationship with democracy. Tocqueville saw the profession as an American aristocracy, a keeper of civic virtue, and an important safeguard against the tyranny of the majority. His observation that scarcely any issue arises in the United States that does not end up in the courts is even truer now than it was in his day. This means that you all have just acquired not only a degree, but an extraordinary amount of social power. And you are graduating at an extraordinary time in which to use it.

The words used to describe our moment are all very familiar: we are swimming in outrage, polarization, and
mutual distrust. There is widespread concern for our civic discourse and even for the health of our democracy. But the moment is also one of great opportunity, for mobilization, articulation, and recommitment to our highest ideals of a learned profession in service of democracy.

Democracy should not be taken for granted, and to highlight the point I want to note that today, June 9, is the anniversary of two events, both relatively obscure to us now, that are separated by more than 2400 years. On this very day, in 411 BC, one of the world’s earliest democratic experiments in Athens was overthrown when a group of wealthy citizens established an oligarchy, the Council of 400. Like many oligarchies, the leaders fought among themselves and the regime did not last, but it did disrupt Athenian governance for the better part of a decade until democracy was fully restored.

Today is also the anniversary of the date in 1954 when at a televised hearing in the Senate, Army lawyer Joseph N. Welch asked Senator Joseph McCarthy a famous rhetorical question, “Senator, you’ve done enough. Have you no sense of decency, sir? At long last, have you left no sense of decency?” This exchange marked a major turning point in the downfall of Senator McCarthy and his chief counsel Roy Cohn, a man ultimately disbarred years later for ethical violations.

Welch’s story shows us the power of a lawyer, not in filing a motion or winning a case, but in speaking a simple truth at a time of great peril. It reminds us that professional ethics entails much more than simply following the relevant bar rules of the jurisdiction. It is not merely about avoiding comingling client funds or keeping communications confidential. It extends beyond acting in a traditional legal capacity. It involves acting with integrity, taking on an unpopular client or cause, saying no when a client asks you to do something you cannot, and treating adversaries with respect. It involves demanding decency, in public and in private. Each time you do one of these things, you act as an ethical professional. Each of these individual acts may be small, but in sum, repeated
over the course of your career, they not only preserve the integrity of the profession, they protect the rule of law and democracy itself.

As you go forth as learned professionals in this extraordinary time of challenge and opportunity, I’d like to suggest that some of the values of the University may be valuable touchstones in this regard. Now I know that we talk a lot about our values at the University of Chicago.

We have to admit that, like the country as a whole, we do not always realize those values perfectly, but this does not render them any less important or valid.

The first value is that of rigorous and vigorous questioning of ideas. We talk a lot about how vigorous debate helps to get to the truth, and this is valuable and good. But debate has another quality that is particularly important in our era. When you debate to learn, your
you will be Chicago law school graduates, with the values of working hard for what you believe in and as professionals. The third value is the importance of integrating ideas and practice. The law is called a learned profession because it is both a practical skill, but also grounded in ideas. You need both to be effective. Justice, the rule of law, equality, and even decency are all abstract concepts that only come to life through the everyday engagement of lawyers, who put the ideals into practice in their actions. I think the task of a lawyer in this regard is similar to that of a citizen in a democracy and was best summed up by a nonlawyer, Shirley Chisholm, the first African-American woman ever elected to the US Congress and the first woman ever to run for the Democratic Party’s presidential nomination. She said, “You don’t make progress by standing on the sidelines, whimpering and complaining. You make progress by implementing ideas.” I love that.

Today, you leave the University with the tools to go out and implement ideas. Your education as a learned professional does not end today, but you will set your own path in your education from this point forward. You have the work ethic and the values to do so. And you speak the local language. And, finally, if there is ever a time you get lost along the way, just remember to follow the Maroonbook road. Thank you, and congratulations to the Class of 2018!