

**REMARKS BY ATTORNEY GENERAL JOSH SHAPIRO
TEMPLE LAW COMMENCEMENT
MAY 18, 2017**

It is truly an honor to be here with you and to share some thoughts about the law and the role you are charged to play in our community going forward.

I thank Dean Greg Mandel for the kind invitation. I want to thank the staff and trustees of this fine institution. And, I want to congratulate you, your families and friends.

I admire you for your hard work, dedication and perseverance which has enabled you to reach this day.

I know firsthand how dedicated a Temple Law student is.

Three of the members of your graduating class have worked with me over the years. Your class speaker, Ben Jaye, Sam Lapin and Chris Smith. I especially admire Chris, who went at night as I did – what dedication!

Today, you are a critical step closer to joining the legal profession as stewards of our justice system.

You will put your knowledge to use, serving your clients, the legal system, and the higher ideal of justice.

TO BE A LAWYER

For the last several years, you've looked inward—to the text and your classrooms—as you've studied the law.

Today, I ask that you think for a few moments about how to take those skills and focus outward on the world around us and recognize the unique role you're now situated to play in it.

The Preamble to the American Bar Association's Model Rules of Professional Conduct reads in part—

“As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice...”

Law is a unique profession in that it defines its practitioners as public citizens, charged with ensuring justice and upholding the rule of law.

Our profession makes up just four-tenths of one percent of our population but is charged with tremendous responsibilities.

Regardless of the type of law you practice or whether it is in the public or private sector, the underlying truth remains the same—we are public citizens with a responsibility to the greater good.

FEDERALISM

Allow me to share a few thoughts with you on that responsibility to the greater good.

The steel in America's spine is that we are a nation of laws.

It's been tested time and time again. Even when we might disagree ideologically, we still moved confidently forward with constitutional principles as our guide.

Fundamental to who we are is that we are not ruled by a king but rather the power of our government emanates from the people whose rights act as specific checks on the powers of our leaders.

That principle is being tested again today.

We've all learned in school how our system of checks and balances works – Congress as a check on the president then the court as a check on their collective power.

But to limit our view of checks and balances as merely horizontal and federal misses a key element of our democracy, which is that states also serve as a check on the federal structure.

In 1932, during the height of the worst economic depression this country had seen, the Supreme Court of the United States issued a decision in a case called *New State Ice Co.* That case would have been consigned to the dust bin of history were it not for the dissent of Justice Louis Brandeis.

Justice Brandeis wrote in part—

It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

85 years later, it's interesting to me as a state Attorney General to think about how we apply the words of Justice Brandeis and the role of Federalism in the era of the Trump Presidency.

To be clear – raising the way state power can be used as a check on the executive is not about promoting a partisan political agenda.

Rather, it is about re-examining how the structure of our democracy promotes ideological balance in our politics.

Here in Pennsylvania, voters elected Donald Trump as President and me – a progressive Democrat – as the Commonwealth’s Attorney General.

Perhaps these voters intuitively understood the duality of Brandeis’ dissent. He was saying that State’s rights can not only be a shield against federal overreach, but a sword for protecting and advancing individual rights.

Try to imagine Brandeis’ America in 1937. Now consider America in 2017. The power of the federal government and federal law relative to state governments and state law has expanded through Republican and Democratic administrations alike.

It turns out that power is a double-edged sword and I believe assumptions about federalism will stand on their head.

As law students, you've undoubtedly studied the ways that the concept of states' rights has been used for conservative ends in recent history to push back against the expansion of power at the federal level.

Next year's graduates of Temple Law will undoubtedly have studied real time examples of states using their power to check federal authority and preserve rights.

We saw this play out just a few months ago when people were turned away at the airports, chaos overcame our immigration system and I led an effort with 17 of my fellow state AGs when we sued the Administration over the initial Travel Ban and won.

Ironically, the Supreme Court decisions using federalism to limit national power are not bound to their factual context. A principle that stopped an expansion of rights yesterday can stop a law that rescinds rights tomorrow.

For example, Justice Scalia in *United States v. Printz* authored the opinion in which the Court held that the federal government could not commandeer state law enforcement resources to perform background checks of firearm purchasers under the Brady Act.

More recently, Chief Justice Roberts authored a decision in the Affordable Care Act litigation that the federal government could not coerce a state into expanding Medicaid eligibility by threatening to withdraw of Medicaid funding.

Taken together, ironically the decisions authored by these jurists could end up protecting “Sanctuary Cities” like Philadelphia from similar mandates from the federal government today.

At the same time, states and their Attorneys General are now central to expanding rights.

In an age where the federal government is lowering standards for things like financial oversight, environmental protection, civil rights and workers’ rights, the moment is ripe for individual states to fill the federal void through the energetic exercise of their own sovereign authority.

Federalism is now a key tool as an important limitation on the infringement of individual liberties.

For my part, here in Pennsylvania, I will stand up for all of our citizens no matter what they look like, where they come from, who they pray to or who they love.

Brandeis clearly recognized state sovereignty.

Madison endorsed that viewpoint when he wrote in Federalist #45:

“The powers delegated by the proposed Constitution to the federal government are few and defined, while those which are to remain in the state governments are numerous and indefinite.”

This is echoed in the 10th Amendment, which reserves all authority not vested in the federal government to the states.

State attorneys general will be the bulwark against unwanted, unnecessary and unconscionable federal encroachment into what has traditionally been left to the states and can lead the way in expanding rights and protections for their citizens.

And so, as we look at our politics and the legal landscape today, the genius of the Founders was not simply *horizontal* checks and balances between the three branches of the federal government, but an equally vital set of *vertical* checks and balances between the state and federal governments.

YOUR ROLE AS CITIZEN LAWYERS

Given that such authority emanates from the people—that's where you come in.

Your role as citizen lawyers, is to commit yourself to the greater good and be a part of the broader dialogue during this pivotal moment in our democracy.

Your perspective is unique and needed.

Make no mistake, the future of our republic will be defined by how we rise to the challenges we face today and how our system of checks and balances absorbs the temporary political chaos and endures.

Scripture teaches us that *no one is required to complete the task but neither are we free to refrain from it.*

That means no one has the ultimate responsibility to solve all of life's pressing problems but no one should be free to sit on the sidelines as others labor in the vineyards.

One of my favorite stories is this—

A woman is alone on a beach where a million starfish have washed ashore. She is throwing them back one at a time. Someone else happens upon her and says: "What are you

wasting your time for. You can't save them all. What does it matter?" The woman responds, "It matters to the ones I throw back."

Change, and the strengthening of our democratic institutions requires the participation of each and every one of you—regardless of the path you choose after receiving your diploma today.

You see whether in the public or private sector you have the chance to not just work on the defining cases of tomorrow but also change the culture across artificial boundaries that will heal some of the gaping wounds of our society today.

Your work will matter to the ones whose lives you impact. And collectively, you will usher in real change.

You have an awesome opportunity and immense power to impact the trajectory of our democracy. Seize this moment and take the mantle of leadership. We all depend on each other. We all depend on you.

I will end where I began by expressing my profound gratitude to Temple University's Beasley School of Law—a fine academic institution here in the heart of the City of Philadelphia—for

giving me this opportunity to share some thoughts with you today and to commend you on your hard earned achievement.

And, now, I will leave you with the words of one of America's most famous philosophers... Dr. Seuss.

Congratulations! Today is your day! You're off to Great Places! You're off and away!

You have brains in your head. You have feet in your shoes. You can steer yourself any direction you choose. You're on your own. And you know what you know. And YOU are the [person] who'll decide where to go.