

LUZERNE COUNTY LAW DAY SHABBAT

May 6, 2023

Good Morning. It is my privilege to be with you today in Beautiful Luzerne County, and in this majestic house of worship.

I bring you greetings from my colleagues on the Supreme Court of Pennsylvania.

Thank you to my friend, Attorney David Schwager for inviting me. Thank you, Rabbi Kaplan, Temple Israel, and the Wilkes-Barre Law and Library Association for holding this event. It is an honor to be invited here to participate in your Law Day Shabbat, especially because the history of Law Day has special significance in the context of our gathering here today.

It has been said that Law Day is “an occasion when our people will pause to recognize the tremendous contribution that law has made in our way of life as a promoter of progress and as an insurer of the human rights which make that progress possible.” Although these words ring true today, they are not of recent vintage. Indeed, these words were part of an address given by Charles S. Rhyne, then President of the American Bar Association on the Voice of America on the first Law Day in 1958. Rhyne is credited as the originator of the idea of a day to celebrate the unique and vital role of law in American history and society.

The original justification for Law Day was twofold. First, to celebrate the “use of law to achieve individual and social justice.” Second, to contrast our Democracy with the repression inflicted by what were then communist nations, during the cold-war era.

However, this great idea was nearly quashed before it started. When presented with the proclamation designating May 1st as Law Day, President Dwight D. Eisenhower hesitated to sign it, having been told by an aide that it was a proclamation praising lawyers. God knows, no one wants to be accused of doing that!

Upon reading the proclamation, however, President Eisenhower readily signed it, fully supporting the notion that “a day of national dedication to the principle of government under law would afford us an opportunity to better understand and appreciate the manifold virtues of such a government and to focus the attention of the world upon them.”

The first official “Law Day” was May 1st, 1958, but its origin story traces back to World War II, and it has special significance as we are gathered here today in your beautiful synagogue.

President Dwight D. Eisenhower, a former five-star Army general, had been the Supreme Commander of the Allied Forces during World War II, directing all military operations in Europe.

As the Allied forces liberated concentration camps in April 1945, General Eisenhower witnessed the camps himself. In his memoir, "Crusade in Europe," he described his first visit this way:

"That day, I saw my first horror camp. It was near the town of Gotha. I have never felt able to describe my emotional reactions when I first came face to face with indisputable evidence of Nazi brutality and ruthless disregard of every shred of decency. . . . I visited every nook and cranny of the camp, and as soon as I returned to Patton's headquarters that evening I sent communications to both Washington and London, urging the two governments to send instantly to Germany a . . . group of newspaper editors and representative groups from the national legislatures. I felt that the evidence should be immediately placed before the American and British publics in a fashion that would leave no room for cynical doubt."

The fact that journalists and others heeded Eisenhower's call helped to build the unassailable record of those atrocities that humankind can never forget.

Why do I emphasize this story in relation to Law Day? Because Eisenhower saw first-hand what happens when the rule of law breaks down, and what he saw informed his decision thirteen years later, when - as President - he declared May 1st to be "Law Day."

In his original proclamation, he stated,

"the principle of guaranteed fundamental rights of individuals under the law is the heart and sinew of our Nation, and distinguishes our governmental system from the type of government that rules by might alone[.]"

Law Day, he later explained,

"[I]s to remind us all that we as Americans live, every day of our lives, under a rule of law.

"Freedom under law is like the air we breathe. People take it for granted and are unaware of it--until they are deprived of it."

In 1961, three years after President Eisenhower's proclamation, Congress officially designated May 1st as Law Day. In establishing this day, both Eisenhower and Congress understood the heart of our national experiment - that America would be a nation of laws, not a nation of kings (or dictators).

And so every year at this time we remember and celebrate that critical insight, and recommit ourselves to protecting and preserving the rule of law.

The American Bar Association's 2023 Law Day theme is "Cornerstones of Democracy: Civics, Civility, and Collaboration." The ABA "invite[s] all the people of the United States to join us in rebuilding trust in our institutions, respect for one another, and our willingness to collaborate to address the challenges that face our nation."

A look around us demonstrates why it is critically important to emphasize those cornerstones of democracy at this moment in time.

First, the last several years have seen a significant increase in speech and conduct seeking to undercut the rule of law.

The increase in antisemitic propaganda is not news to our country or to Pennsylvania. My husband Steve and I live in Pittsburgh, and as you know, the Tree of Life Synagogue massacre trial is underway in and in the news. Tree of Life is a beautiful synagogue, a beautiful center of love and hope in the City of Pittsburgh. It is where my colleague Justice David Wecht and his wife Valerie were married.

Justice Wecht was one of the panelists at a recent presentation hosted by the Pennsylvania Bar Association on the history and tolerance of antisemitism. Among the statistics discussed were those tracked in 2022 by the Anti-defamation League's Center on Extremism. Incidents of white supremacist propaganda increased 38% in 2022 as compared to 2021, with incidents reported in every U.S. state except Hawaii. Pennsylvania was the fifth-highest state in number of incidents.

Incidents of anti-semitic propaganda in particular more than doubled in that same time frame. Anti-semitic hate crimes have likewise been increasing.

According to a report issued by the FBI in March 2023, anti-semitic hate crimes increased by 20% in 2021, and occurred in all 50 states.

The National Center for State Courts reports that during the same time period, public confidence in the judicial system has decreased.

In 2021, 63% of respondents had confidence in the Supreme Court of the United States; in 2022 that number dropped to 53%. Public confidence in state courts has likewise diminished.

These trends demonstrate the importance of Law Day. The concern is not whether citizens "like" particular court decisions. The courts are not Facebook, and the rule of law is, and must be, more than the will of the public majority.

Rather, understanding the importance of the rule of law, recognizing the importance of an independent judiciary as a fundamental aspect of our society, and recognizing misinformation, requires an informed citizenry.

And that brings us to what Law Day helps us to accomplish. Thousands of Law Day programs are conducted across the country each year, directed to all ages and topics. Events like the one you are hosting here today provide an opportunity for meaningful discourse and greater understanding of how the law, and the legal process, strive to achieve justice.

Law Day highlights the importance of civics education, something that is important to my colleagues on the Supreme Court, and to me personally.

The Commission on Judicial Independence, created by the Supreme Court in 2005, is charged with fostering a greater public understanding about the role of the judiciary and explaining the essential need of an independent judiciary in America.

Our Court staff worked with the Commission to create resources for teachers, students and the public to learn more about our state's courts. The Court's website contains a wealth of information about the court system and state government.

I invite you to explore those resources and recommend them to others. You can also contact our Court communications staff, who have supported many educational presentations.

But I also ask you as informed citizens to do something that courts are usually are not able to do ourselves: respond to misinformation. Judges cannot respond when their decisions are attacked.

The independence of the judiciary should be a concern for all of us. President Biden's 2023 Law Day proclamation emphasizes that all citizens must join in this endeavor.

The President explained that each of us has "a role to play in defending democracy and the guardrails that make it possible," and a "recogni[tion] that the rule of law depends on us seeing one another not as enemies but as fellow Americans."

So, while I do not recommend that you fight with that one family member at Thanksgiving dinner, I do want you to appreciate that when you combat misinformation with informed civil discourse, you are defending our democracy.

The closing words of President Eisenhower's statement on the eve of that first Law Day seem even more compelling now than they were in 1958:

In a very real sense, the world no longer has a choice between force and law. If civilization is to survive, it must choose the rule of law. On this Law Day, then, we honor not only the principle of the rule of law, but also those judges, legislators, lawyers and law-abiding citizens who actively work to preserve our liberties under law.

Law Day reminds us of the importance of law, and respect for the rule of law, in our American democracy.

It also reminds us that all of us -- "We, the People" -- have a crucial role as concerned, informed citizens in protecting the rule of law.

As lawyers and Judges, we realize that we are guardians of our democracy, and we understand the importance of the rule of law and the sanctity of our Constitution.

It is this reverence for the rule of law that renders our public officials accountable and the outcome of court decisions predictable. It assures that our citizens are treated equally under the law. The rule of law offers protection against the cruelty of arbitrary will. It is the keystone, the cornerstone, and a fundamental element of our democracy.

In the words of the late Senator Robert F. Kennedy: "Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope."

It is our duty and obligation, as standard bearers of our profession, to send out as many ripples as we can, or even make some tidal waves in the name of hope and justice.

Thank you and may God bless you all.