

May Day—Law Day

Faith, Force, and the Rule of Law



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May 1 has always been a special day in my life. Warming temperatures and the soft rains of April signaled the departure of the winter cold, snow, and ice that we as Michiganders had endured for the past 4–5 months. We were given hopeful reminders such as “April showers bring May flowers.”

As kids growing up on a couple of acres in Farmington on Ridgewood Drive just south of 11 Mile and Farmington roads, we had the opportunity to witness the entire subdivision coming to life in the spring. Crocuses, daffodils, tulips, irises, and my favorite, lilacs, burst into full bloom. And, yes, dandelions infiltrated lawns everywhere; this was well before commercial weed killers and the evolution of lawn care companies. The blossoms of the fruit trees in our yard sent fragrant smells through the air. We believed that we lived miles away from the odors of gas-emitting vehicles and congested traffic on the streets of the big city.

Most importantly, I remember May 1—May Day—as a time to honor the Blessed Mary at Our Lady of Sorrows grade school. Students would bring fresh flowers to school, handpicked from their home gardens, and

walk in a procession to place them at the foot of the statue of the Blessed Mary. It was the annual celebration of the new life produced at God's hand and the coming of spring.

May 1 also marked the end of school uniforms for parochial students: no more ties and white long-sleeved shirts for boys and no more uniforms and white blouses for girls. It was the only period during the school year when students could wear what might be called “business casual” today, although it never included T-shirts, halter tops, short shorts, or anything of a revealing nature.

I recall going home from school every May 1 and watching the national news on the Huntley-Brinkley Report after dinner. The main section of the day's broadcast always focused on what May Day meant to those in other countries. It was a spectacular display of military force—especially for the Communist countries, who took special pride in telling the world they were prepared to go to war. The Soviet hammer and sickle insignia was prominently displayed on every flag, uniform, tank, and military vehicle paraded through Moscow's Red Square. I remembered thinking the display of military power by a foreign government was quite a contrast to the procession of children placing flowers before the Blessed Mary I had participated in earlier that day. What was the point? Why did a foreign gov-

ernment feel the need to intimidate? What had anyone from Farmington done to anyone in Russia? I didn't even know any Russians. There were no Fedorovs, Konstantinovs, Larionovs, Fetisovs, or Koslovs. The Russian Five had not yet hit the ice at the Joe Louis Arena.

For those of us who grew up in the 1950s and early '60s, Russia was considered our enemy, not our friend. And so it was always thought communism through a socialist republic was the ongoing threat to the free world governed by a democratic government in the West.

In 1958, President Dwight D. Eisenhower declared May 1 as “Law Day”—a special day dedicated to the rule of law.

The original idea came from Charles S. Rhyne, one of Eisenhower's legal counsel who served as president of the American Bar Association in 1957–1958. The official observance was later codified by Public Law 87-20 on April 7, 1961. May 1 was thereafter enshrined as Law Day.

In 1958, New York Governor Averell Harriman chose the very first Law Day to publicly attack Arkansas Governor Orval Faubus, who blocked the integration of Arkansas schools in an attempt to prevent black children from obtaining an education from the state's public school system. Harriman declared that the Arkansas governor's stance “offends the concept of law which our society is based upon.”¹

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In 1959, Senator Prescott Bush of Connecticut—father of President George H. W. Bush and grandfather of President George W. Bush—proclaimed that international conflicts should be settled in a civilized manner through the rule of law by the World Court.

By 1961, more than 100,000 Law Day celebrations took place throughout the United States.

As lawyers, May 1 has an entirely different meaning to many of us. This year, we celebrate the 59th nationally recognized Law Day. The American Bar Association chose “The 14th Amendment: Transforming American Democracy” as this year’s theme.

The Fourteenth Amendment was ratified in 1868 following the Civil War. It has always been recognized as a cornerstone for advancing civil rights to all Americans, guaranteeing equal justice under the law.

At more than 400 words, the Fourteenth Amendment is the longest amendment in the United States Constitution and one of the sections most frequently debated in American courts, including the United States Supreme Court.

Wikipedia tells us:

The Fourteenth Amendment (Amendment XIV) to the United States Constitution was adopted on July 9, 1868, as one of the Reconstruction Amendments. The amendment addresses citizenship rights and equal protection of the laws, and was proposed in response to issues related to former slaves following the American Civil War. The amendment was bitterly contested, particularly by the states of the defeated Confederacy, which were forced to ratify it in order to regain representation in Congress.

The Fourteenth Amendment, particularly its first section, is one of the most litigated parts of the Constitution, forming the basis for landmark decisions such as *Brown v. Board of Education* (1954) regarding racial segregation, *Roe v. Wade* (1973) regarding abortion, *Bush v. Gore* (2000) regarding the 2000 presidential election, and *Obergefell v. Hodges* (2015) regarding same-sex marriage. The amendment limits the actions of all state and local officials, including those acting on behalf of such an official.

The amendment’s first section includes several clauses: the Citizenship Clause, Privileges or Immunities Clause, Due Process Clause, and Equal Protection Clause. The Citizenship Clause provides a broad definition of citizenship, overruling the Supreme Court’s decision in *Dred Scott v. Sandford* (1857), which had held that Americans descended from African slaves could not be citizens of the United States. The Privileges or Immunities Clause has been interpreted in such a way that it does very little.

The Due Process Clause prohibits state and local government officials from depriving persons of life, liberty, or property without legislative authorization. This clause has also been used by the federal judiciary to make most of the Bill of Rights applicable to the states, as well as to recognize substantive and procedural requirements that state laws must satisfy.

The Equal Protection Clause requires each state to provide equal protection under the law to all people within its jurisdiction. This clause has been the basis for many decisions rejecting irrational or unnecessary discrimination against people belonging to various groups.²

Sections 1 through 5 of the Fourteenth Amendment all lend themselves to demonstrating the importance of the rule of law in our society.

Below is a sampling of some of our civil rights legislation and acts flowing from the Fourteenth Amendment:

- **Civil Rights Act of 1866**—guaranteed that all person born in the United States were citizens and that all citizens of “every race and color” would have the same rights in every state to make contracts, sue in court, and buy and sell property.
- **Civil Rights Act of 1957**—prohibited the denial of any citizen’s right to vote on the basis of color, race, religion, or national origin and prohibited the coercion or intimidation of any voter.
- **Civil Rights Act of 1964**—outlawed discrimination based on race, color, religion, sex, or national origin, especially in voting, schools, workplaces, and places that

served members of the public (known as “public accommodations”).

- **Voting Rights Act (1965)**—provided for many areas of federal election administration, prohibited the use of literacy tests, and prohibited states and local authorities from imposing voting laws or procedures that discriminated against language or racial minorities.
- **Age Discrimination in Employment Act (1967)**—prohibited employment discrimination against anyone 40 years of age and older.
- **Education Amendments (1972)**—Title IX prohibited discrimination on the basis of gender in educational activities.
- **Americans with Disabilities Act of 1990**—prohibited discrimination against people with disabilities in employment, transportation, public accommodations, communications, and governmental activities.

As lawyers, not only do we have the opportunity to educate but, in my opinion, we have the absolute duty to visit schools, churches, and civic organizations to talk about Law Day and what it means to each of us.

I encourage you to contact the Board of Commissioners, your Representative Assembly member, or the State Bar to find out about the programs that were held in your community on Law Day so you can initiate programs in future years. The American Bar Association is another great source for program material to present to elementary and high school students.

So choose a program or call your local county bar association and do something positive to promote our profession—something that will have a lasting effect on the public’s understanding of the Constitution and particularly the rule of law. ■

ENDNOTES

1. Editorial, *Law Day*, New York Times (May 1, 2007) <<https://mobile.nytimes.com/2007/05/01/opinion/01tue4.html>> (accessed April 20, 2017).
2. Wikipedia, Fourteenth Amendment to the United States Constitution <https://en.wikipedia.org/wiki/Fourteenth_Amendment_to_the_United_States_Constitution> (accessed April 20, 2017).