

Introduction of Senate President Thomas "Mike" Miller, Library Company of the Baltimore Bar,  
~~September 7, 2016~~ November 9, 2016

We have in the course of our lecture series never before honored a practising legislator, a species usually held in as much esteem as the proprietors of sausage factories.

I do not know Senator Miller well, but he like I remembers an era when there were regular Monday morning meetings in the Governor's office of the legislative leaders of both parties. At least in Maryland there is respect for both majority rule and the right of minorities to live to fight another day. The filibuster culture has not taken root here; Senator Taft once observed that he always eventually voted for cloture since failure to legislate would bring Congress into disrepute.

In this state social changes relating to civil rights, abortion, gun control, and 'gay rights' came about through legislation, sometimes confirmed in referenda, not through the edicts of our courts, which have been preserved from politics. Legislative responsibility and judicial restraint have been a good thing for this State.

Legislators know, as too many judges do not, that the law is about the peaceful adjustment of conflicting views, not axioms of moral philosophy. What happened yesterday is in considerable measure the fruit of the same judicial activism that influenced the elections of 1980 and 2004. We have been reminded in the streets of Baltimore that people resent policies imposed from afar, whether the federal drug war, undeclared foreign wars, or court decisions which contest traditional morals. Legislators know what judges forget: that as said by Justice Holmes on the first page of his book on The Common Law "The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics."

A writer on the roots of Naziism once observed that "liberalism and the relativity of all truth have been raised to a kind of new religion. Popularized, they created an awful disorder and alarm in the hearts and minds of the simple human beings given man's yearning for an ordered universe ruled by absolute standards where sin was sin and must be expiated, where you must sacrifice to get your reward, where paradise waited for the innocent and the guilty burnt in hell. . . For a man to look up to a superior, to respect his authority and to believe in him was as rational as sexual love." As the sociologist and lawyer David Riesman wrote in 1942 "the violence and daring of verbal onslaughts exercise a great appeal over the imagination of folks who lead insipid and anxious lives."

What happened at the polls yesterday can issue either in authoritarianism or a return to government by consent of the governed. Self-righteous litigators have caused many of the problems. Legislators like our distinguished and effective guest will, we must hope, provide the solutions.

George W. Liebmann