

CHIEF JUSTICE OF ONTARIO'S ADVISORY COMMITTEE ON PROFESSIONALISM

EIGHTH COLLOQUIUM ON THE LEGAL PROFESSION:

THE CHALLENGES OF LEADERSHIP

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The Honourable Sue Barnes, P.C., M.P.

Panel on "*The Challenge of Leadership in Government*"

Leadership and Governance

It is an honor and pleasure to be with you this afternoon at my alma mater. Since my legal training here, I have enjoyed 15 years of practicing law and nearly 14 years of the challenge of being a federal parliamentarian, both as a government member and now as a critic in the official opposition. Today, I intend to make my comments in a non-partisan manner, as I believe we are here to stimulate a different type of discussion.

Our panel spent time highlighting different aspects of a wide range of thought that could be encompassed by our general topic. I will concentrate more on the leadership aspect of being a parliamentarian, fully acknowledging that there are many tools of governance, both at the professional and parliamentary level. In Parliament, these would include the Conflict of Interest Code for the House of Commons, to the office of Ethics Commissioner, to the Standing Orders of the House, with all the attendant infrastructure and supports. We could include everything from the Speaker's role to the working standing committees of Parliament, their clerks, parliamentary counsel and procedural rulings, which assist us in our parliamentary work.

I want to focus today on what leadership means as a parliamentarian, and why I feel my legal training has very much aided and guided me, and hopefully encourage some amongst you to take on the role of leadership as an elected representative. Most politicians in Canada are not lawyers and most Canadians are surprised to hear this. Currently, 16% of the federal members in the House of Commons are lawyers. I believe

however that I have used my professional training and deportment everyday in my work. Each politician will bring their life experience and training to the task. Legal training is excellent training for the public service, whether elected or volunteer.

A legal training provides transferable skills which are necessary to bear on the decision-making process, whether it is research, advocacy, negotiation or implementation, often seen by the public as service delivery or policy development.

Leadership does not prevail when the loudest or last voice wins the battle of the day, but when thoughtful and quiet analysis can be heard. There is a real need for principled decision-making based on good evidence, not anecdotes or ideology, a vehicle for dissent to vocalize, and under rules which govern all. Canadians win when the arguments are on issues, not power.

There is a responsibility in leadership to research and consult – to acknowledge many sides and understand the impact in varied demographics and geographies within Canada. When you are representing, as I am, a relatively well-off and urban constituency, it is sometimes hard for your constituents to factor in, that what might be their top priority is often not the highest priority for a rural, coastal, northern or First Nations community. Sometimes it is even difficult to properly communicate the different levels of responsible government and the function of each level. We are a country with a vibrant Constitution and Charter, and we are part of a global world where the international treaties we sign also have an impact on individuals and decision-making.

Leadership is not about pleasing people and you rapidly learn that the answer is often no, or, at least, not at this time. For leadership is often about thinking to the future, ensuring that the priorities are correct, balanced, and also funded.

As a past chair of the House of Commons Finance Committee, I can tell you that there is no better place to see that Canadians bring forward great ideas for their country. These ideas are not only about economic change but social change. It is always about choices. Often it is about equity. So against this backdrop, how can you use your valuable legal training for public benefit? You will constantly be dealing with public perception on many issues, and often your message will be filtered through the media.

Today, we live and work in a rapid-paced environment. The reality is that with all our technological advances there are more, not less, demands upon each of us. People vote for you and expect you to act responsibly on their behalf. No one elected received 100% of their possible vote, and in fact, many take their seat having received less than half of the ballots cast.

Leadership is understanding that no matter what margin of victory is received, once elected, you represent **all** of your constituents. In my opinion, this brings a necessity to reach out for evidence-based policy development, whether in committee or by personal outreach. Wide-range consultation from diverse opinion is needed. As we know, law evolves and is not trapped in time. Eventually Canadians will push back against

outdated policies and expect you, as a Parliamentarian, to function as an agent of change.

It is much easier to do this by fighting issues, not people, to not personalize a position, and to be respectful and collegial. Increasingly, there appear to be more attacks on individuals than attacks on policy. This only muddies the water for those in the public focused on understanding issues and makes for a more difficult working environment. I think leadership occurs when you stay above the fray and try to work on solutions.

When leadership is taken on issues, often controversial, and I have witnessed many difficult decisions in the past 14 years, I have found that with understanding and communication with those you serve, people will accept change, but they won't accept what they view as "bad laws".

This year marks the 25th birthday of our Charter. The Charter plays a fundamental role in a parliamentarian's work, as proposed legislation requires the close scrutiny of the Charter, and a parliamentarian should ensure that the laws of this country are not passed against the rights protected by the Charter. There is thus a leadership role here, especially for the lawyers within the Caucus, in support of the Legislative Branch's constitutional function, separate and distinct from the function of either the Executive or the Judiciary.

In Canada, we have numerous tools at our disposal as parliamentarians. Canadians also have great accessibility to their politicians. As parliamentarians, we utilize our constituency offices, mailings, office support staff, technology, our ability to travel within Canada, and occasionally internationally, open parliament and committee meetings, and a generally informed media. Compared to many of the parliaments I have visited, we are well-resourced.

Parliamentarians must constantly deal with the tension that exists between an executive and Parliament. There are also many checks and balances on governance at every level. Inside Parliament, the institution of Parliament can be a very effective check and balance on the executive of the Government. In my early days as a new member, I studied the Standing Rules of Procedures and learned how to use them effectively in both the House and in committees.

So how do you lead when your office is deluged by hundreds of E-mails a day, your attention is pulled in many directions and your constituents and other advocacy groups are vying for your time? In a rapid-paced world, there is an unrealistic expectation that you will be able to attend every function, make coherent answers to complex issues immediately, and have all information at your immediate disposal.

Reality demands that you focus on your primary responsibility, delegate when you can, and move forward. It is also easier when you acknowledge that you will not always be right and that your position will not always be the winning one in what is essentially a

team situation. Party politics and leadership within a Caucus is different than being an independent Member of Parliament. Inside Caucus is often the place to help others understand issues and where you can use your training to persuade others in what is usually robust debate. Passionate and well-informed arguments occur, and sometimes the unfortunate situation arises when incorrect reports leak from these private but necessary meetings.

Much has been written and argued about the relationship between Parliament and the Courts. I take the position that there is a complementary function, and I was fortunate to be one of two participants from Canada's Parliament at the Commonwealth Colloquium on Parliamentary Supremacy and Judicial Independence for the Commonwealth. This was a conference sponsored by the Commonwealth Parliamentary Association, the Commonwealth Legal Education Association, the Commonwealth Magistrates and Judges Association and the Commonwealth Lawyers Association, and was held in the United Kingdom at Latimer House in June 1998. This document was consulted, revised and eventually endorsed by the Commonwealth Heads of Government Meeting in Abuja, Nigeria in 2003. I coincidentally attended some of the meetings while being involved in other meetings sponsored by the Commonwealth Parliamentary Association in Nigeria at the same time. Work in many of the international parliamentary associations enables you to give input to scholarship on extremely timely issues that affect many Parliaments' work today. I will always be a champion for an independent judiciary.

Through my work on the Commonwealth Parliamentary Executive and Committees, I understand that you can lead by institutionalizing your concerns, usually by amending the constitution of the organization. At the international level, this work is done with the collaboration of other like-minded parliamentarians from other countries, representing many different political parties. The work often takes many years before its implementation. It is through many of these endeavors that you can take great pride in work that goes beyond a local impact. Through these Parliamentary Associations, I have been able to: help mentor women running for the first time after demilitarization in Sierra Leone; constitutionalize gender neutral language in the Inter-Parliamentary Union; constitutionalize the Women Parliamentarians' role within the Commonwealth Parliamentary Association, both internationally and here in Canada; and been involved in many emerging debates, for example, the one on landmines.

Whether at the constituency, parliamentary, or international levels, it is these personal contacts and relationships forged over time where the most constructive progress by a parliamentarian is made. Leadership in these fora takes time and is earned.

I think Canadians not only want leadership from their politicians but service from them. They do not ask for perfection but they certainly demand honest effort. We can be assisted by rules, protocols, codes and infrastructure, but it will be the personal integrity, professionalism, and the intellectually defensible decision-making that will assist us in our leadership. I believe a principled approach to one's work trumps innuendo and half-truths to which a public life can be subjected. Ultimately we govern ourselves.

I believe there is much opportunity for leadership activity within a parliamentary role. In our country, we have a richness of talent and energy, and people who want to participate and engage at every level presented to them. Leaders will emerge from all sectors and communities within Canada, and this undoubtedly will strengthen the fabric and governance of our country. Leadership is a human skill which may come naturally to some, but can be improved by most of us. I encourage you to find and use your leadership potential. We can all benefit from the perspectives offered today.