Challenges of a Public Calling

Maryland Senator Thomas P. O’Reilly, D-Prince Georges County, and Delegate Mary Louise Preis, D-Harford County, serve in different houses of the Maryland General Assembly, but they share a common domain. Both are lawyers who have taken up the challenges of a public calling. Each was moved to serve in the Maryland legislature while acutely aware of public cynicism about the role of lawyers in our society. Yet both Tom O’Reilly and Mary Preis came to the legislature convinced that they could do a better job in Annapolis in part because they had learned and practiced law. I interviewed each of them before the 1994 legislative session began.

WHAT MADE YOU DECIDE TO CHOOSE PUBLIC SERVICE IN THE STATE LEGISLATURE?

O’REILLY To put it simply, I thought some of them were running it wrong and I wanted to run it right. My family was very important to my decision to run and spurred me to do it.

PREIS I wanted to make a difference, to exercise judgment on problems that are faced by all kinds of people. In 1990, when I entered the race, I brought a particular interest in women’s issues, judicial process and in the possibilities for improving ways to settle disputes outside of courtrooms and legislatures. Alternative dispute resolution, which is often conducted with lawyers, can give the average person a better chance to understand and participate in the process of resolving his or her problems. And it can save a lot of resources and time for all involved, including the larger society. But mostly, I felt that I could help make things better and wanted a chance to try.

HOW DID YOUR LAW SCHOOL EXPERIENCE SHAPE YOUR INTEREST IN BEING AN ELECTED REPRESENTATIVE? DID IT HELP PREPARE YOU FOR THE CHALLENGES YOU’VE ENCOUNTERED?

O’REILLY It helped immeasurably. I think I’m a far better legislator for it. I can’t say it had a lot to do directly with wanting to get involved. That motivation developed earlier when, as an undergraduate, I worked on Capitol Hill in Washington. That experience really sparked my interest both in legislative work and in being trained as a lawyer.

PREIS For me, law school was a period of great intellectual growth. I returned to law school after raising a family and trying to be a good citizen in other ways. To be able to spend the time to learn about the law and how it is important to the life of...
CHALLENGES OF A PUBLIC CALLING

MARY LOUISE PREIS

the community was a great privilege. I used to drive my younger law school mates a little crazy by telling them how much fun I was having in law school. We all like to learn new things. Sometimes you are able to appreciate the process of learning more because of your own life experiences.

The only courses I took in law school that bear directly on what I do now were a course on legislative drafting, which I enjoyed very much, and Constitutional Law. I loved Constitutional Law and wish that the law school spent more time on it. It deserves at least a full year in the curriculum.

HAS YOUR EXPERIENCE IN THE LEGISLATURE AFFECTED YOUR UNDERSTANDING OF THE LAW AND THE LAWMAKING PROCESS?

O'REILLY Though it deals with laws, the legislature is more a policymaking body than a law writing body. We ultimately vote on whether a bill will become law, but 99 percent of our time is spent understanding the policy considerations behind it. Legislative draftspersons do most of the actual drafting of laws. We listen, argue, formulate policy and try to be sure our laws properly reflect those policies.

The training one gets in law school gives a sense of what law is and how it should be applied. This understanding is invaluable in helping me understand when a law is properly crafted. Remember, we're always working from what the law is to what it should be. We're always listening—like a judge. There are always at least two sides to an issue, whether or not both or all sides actually come forward. To be a good legislator, you have to be able to consider all sides, especially when some of those sides are not well represented. A well-trained lawyer does that instinctively.

PREIS I practiced law for eight years before I decided to run for the legislature, so it's hard to separate school learning from on-the-job learning. But I definitely felt the combination of experiences would be very helpful in making my way as a delegate. The work of a legislator is full of lessons in the law and in a whole spectrum of issues in living and working in communities.

One of those lessons is that people can get polarized around almost any issue, so it's important for me to try to be a reconciler rather than an adversary. More good work gets done that way. I don't like to fight, but I can and sometimes must. It gets tiring and sometimes it seems that people just choose sides as a way to win and winning becomes more important than what is won.

WHAT ADVICE DO YOU HAVE FOR LAW STUDENTS CONTEMPLATING A CAREER AS AN ELECTED REPRESENTATIVE?

O'REILLY Sometimes I think the hardest thing is getting elected in the first place. For lawyers it can be even harder. The legal profession is the butt of a lot of jokes, many of them quite funny, but in the election process lawyers often are painted with an evil brush. Once someone actually campaigned on a platform that "I'm not a lawyer."

Many are quick to characterize lawyers as "ambulance chasers," and see them as taking advan-
and almost any issue, so it's a reconciler rather than an adversary. More good work gets done that way.

tage of others’ problems and misfortunes. There is really very little of that in the profession. Lawyers in private practice are businessmen—and women; their business is to solve people’s problems. The greatest harm is done when it begins to look to the general public like the business part is overshadowing the problem-solving part.

I feel pleased that the profession has made great efforts to bring ethics to the forefront. You can’t overdo that effort.

I would like to see more lawyers in the legislature. They can sometimes identify issues more quickly. Others have a great grasp of the issues, but lawyers are trained to think in a certain way and share a common language. I happen to like lawyers, and think that having lawyers in the legislature and as witnesses increases the chances that constituents will be well-represented.

I believe there once were far more lawyers in the legislature than there are today. Whether or not this has made a difference in the quality of the laws passed or with the process, I don’t know. Probably today, the question is whether nonlawyers have trouble working with lawyers.

But getting back to advice for students, I would say “get involved.” Go to Annapolis, get to know your legislators and get involved in the process. Let your representatives know that lawyers and future lawyers are real, caring people who want to help improve our state and our people’s lives, not just representatives of “special interests.”

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Supreme Court Arguments Firsthand

BY ROBERT PERCIVAL

On January 19, nine environmental law students and I took a field trip to the U.S. Supreme Court to hear the oral argument in City of Chicago v. Environmental Defense Fund. The case involves the question of whether or not incinerator ash should be regulated as a hazardous waste. It was the last case I started before leaving the Environmental Defense Fund to come to the School of Law.

The Environmental Defense Fund brought two cases, which ultimately produced a split between the 2nd and 7th Circuits. The 7th Circuit reaffirmed the split despite the Supreme Court’s earlier action vacating and remanding the case for reconsideration in light of a new EPA policy statement.

Fortunately, I know all the counsel in the case—Richard Lazarus for EDF, Larry Rosenthal for the city of Chicago and Jeff Minear for the solicitor general—and was able to make arrangements for them to participate in an unusual postmortem following the argument. The government let us meet in the solicitor general’s office at the court.

All three attorneys who argued the case talked with the students about the strategy they attempted to use and how they altered their arguments in response to the flow of questions from the justices. The argument actually was one of the most interesting I have witnessed, with seven of the nine justices asking questions. But what was particularly interesting was to hear from the counsel immediately after the argument.

Five of the students are currently working on environmental externships—with EPA, the National Wildlife Federation, the U.S. Attorney’s Office and the Maryland Department of Natural Resources. After we left the court, they joined me for lunch to discuss how the externships are working out. I am really pleased with the externship program and want to keep trying to seize opportunities like this for field trips that can get the externs together.

Professor Percival directs the Environmental Law Program for the School of Law.
CHALLENGES OF A PUBLIC CALLING

What happens here affects what students will do with their lives and careers. They should know firsthand how the process works.

PREIS It's important for persons of various age groups to aspire to office. But experience is very important. Before I ran for the legislature I had not only been a homemaker, with all the responsibilities that entails, but I had served for 10 years on the board of our local community college, which gave me experience in negotiation, in working through problems and questions with others in a decision-making fiduciary role. My law school experience plus practice as an attorney added more valuable experience.

Such experiences shape your perspective and your ability to work and succeed in certain environments. So I would advise students to look for ways to gain experience in decision-making roles and in fiduciary roles, both inside and outside their law school experience.

That said, I really think there should be more lawyers in the legislature. Understanding constitutional issues, developing "lawyerly" skills, getting to understand the reasons for laws, all these are very important in this job.

I'd advise law students not to get bogged down in how hard it is. Enjoy and appreciate the privilege you have to learn what you're learning and meet the interesting people you are meeting. Students should think about weaving public service into their law school experience and for the rest of their lives. My feeling is that public service is mandatory. There are many public institutions that need your input and help. Serve on boards, volunteer with agencies. Be a full citizen and you will be a good lawyer, or whatever else it is you want to be.

IF YOU WERE TO SUM UP WHAT YOU DO AS A LEGISLATOR...

O'REILLY I'm the chair of the Senate Finance Committee. In that and other roles, I try to develop fair policies for the citizens of Maryland.

PREIS I'd say balance and decide.

WHAT ADVICE WOULD YOU HAVE FOR THE DEAN OF THE LAW SCHOOL?

O'REILLY Do what's right, not necessarily what's "politically correct."

PREIS Promote quality and public service.

THE STATED GOAL OF THE SCHOOL OF LAW IS TO PRODUCE "OUTSTANDING LAWYERS WITH A PUBLIC CALLING." FROM YOUR PERSPECTIVE, HOW IS THE SCHOOL DOING?

O'REILLY The law school is doing great. I have to salute everyone I see coming out of there. Tell them to keep up the good work.

PREIS I think it's doing fine. I know several people from law school who serve the state at various levels. The law school should promote public service. It should ask students and lawyers to be involved as part of their professional duty.

The public sees lawyers as making everything worse, picking everything apart. The law school needs to be part of the effort to show society that lawyers are part of the civilizing and balancing processes. That's why I like alternative dispute resolution. It's nonadversarial. Learning it teaches ways to get beyond winning and losing to making rules, agreements and decisions that meet all parties' needs. I hope many students will incorporate this approach into their law school experience.

The first of a regular series of interviews and profiles of graduates who work in the public interest.