

**Ontario Bar Association
Presentation of the Tom Marshall Award
for Excellence in Public Sector Law
to André Marin**

**Remarks by André Marin
Ombudsman of Ontario**

**Ontario Bar Association Conference Centre
Toronto**

April 27, 2009

- 1** Thank you to the OBA, to the selection committee and of course to Tom Marshall for this honour. I also want to thank my wonderful family for putting up with all the “back-and-forth” in my career between Toronto and Ottawa.
- 2** Thank you also to the Minister of Community and Social Services as well as for Francophone Affairs, Mme. Madeleine Meilleur, not only for your presence here this evening, but for your constant personal support.
- 3** I recently had the occasion to speak to law students of the University of Western Ontario and to the University of Windsor. I was invited to speak to them on the topic of public sector lawyering.
- 4** It made me reflect on how this area of law fits into the current economic climate. On the one hand, there is a clear vulnerability to our sector coming from both the government and the public, but on the other, it has never been more important for us to make sure our presence is felt and our wisdom imparted.
- 5** When a financial crisis hits, and the current one is spoken of as the biggest one since the Great Depression, there is a great movement to “get back to basics.” Getting back to basics means pruning the fat, getting rid of deadwood bureaucracies and refocusing our resources in areas where there are tangible and real results, such as pumping money into infrastructure projects which generate the immediate gratification of creating jobs.
- 6** Of course, no one can take issue with such measures. Tough times deserve tough decisions to be made. Unfortunately, though, in this broad sweep to clean house, public sector lawyers are at risk of being seen as the product of bloated bureaucracy and thus have a particular vulnerability to cuts and slashes.
- 7** How, then, are we to weather the storm?
- 8** We need to put our best foot forward and demonstrate our value to the public and the government. The first and most obvious point is that we must make sound financial decisions. These decisions have to be in the public interest and they do have to put a price on justice. Sacred cows need to be challenged. This may cause some areas of public law to revisit their way of doing business.
- 9** When I took over as the Ombudsman of Ontario just over four years ago, I learned that there was a process afoot in the bureaucracy to recommend to government that

my office be eliminated. Never was the case to demonstrate the value of the office clearer. The hour of the execution focuses the mind!

- 10** We undertook a series of dramatic structural and operational changes, while charting a new direction for the office that was focused on demonstrating our value. One of those changes dealt with how to judiciously select our caseload. Field investigations are now carefully picked, for example, based on the principle that the issue raised must be small enough to win, but big enough to matter. Our office receives about 16,000 complaints a year. As long as I have a finite budget, tough decisions on how to resolve these complaints continually have to be made. To borrow the vernacular, not every case that falls on our desk is a “federal case.”
- 11** In many ways, however, how we do our job now at the Ontario Ombudsman’s office is doing it the hard way. It would be a lot easier for us to mechanically do our jobs in a way that is entirely invisible, cherry-picking the easy individual cases and steering clear of the difficult systemic ones. But no – we go for the big and difficult cases.
- 12** It has meant, among other cases we’ve tackled, investigations that resulted in improving newborn screening, holding our lottery system to account and making property assessment fairer and more transparent.
- 13** When we start these cases, they look so difficult to resolve that they sometimes appear insurmountable. But through investigation and advocacy we’ve been very successful in leveraging moral suasion to convince the government to make necessary reforms. So successful that sometimes when we look back those cases all look like they were no-brainers. But in each one of those areas where our work has sparked reform, we have worked very hard. There has been no easy victory – ever.
- 14** Why do I do my job the hard way? Whether I’ve been overseeing the police, the military or the provincial government, the belief that’s closest to my heart is that these bodies don’t exist for their own ends. They exist to serve the public. The public also has great expectations of the checks and balances that exist to keep the system functioning as it should. If we don’t confront the problems we encounter as overseers of the system, we become part of the problem. Facing the problem is not enough. We must articulate viable solutions.
- 15** I have been particularly blessed during my big oversight adventure to have enjoyed the support of an amazing team, starting with Gareth Jones, Barbara Finlay and the



ONTARIO'S WATCHDOG · CHIEN DE GARDE DE L'ONTARIO

late Barbara Theobalds. Without this original trio, none of this would have been possible. Since April 2005, Wendy Ray, Laura Pettigrew, Sue Haslam and too many others to mention in the Ontario Ombudsman's office have lent me further strength. I am in their debt for their constant support and counsel.

16 Thank you again for this honour.

©2009, Office of the Ombudsman of Ontario