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Linda Joy Sullivan: Emergency measures and democratic processes

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By Linda Joy Sullivan

We have in the past weeks and months shown each other that we can in times of public crisis like these dramatically modify individual behaviors for the benefit of our common good, out of respect for our neighbors and the well being of our communities. It has been really inspiring to see.

Of course, after this health emergency abates, many of us will go back to "business as usual." But hopefully we will have learned useful practices and habits from this experience. That's the nature of things — we face adversity, we adapt and in the process we learn better ways.

I am concerned, that as to our democratic processes, the temporary measures we are adopting to enable us to continue our work during this emergency are not, in fact, "best practices," but will — if continued beyond this crisis — be injurious to democratic processes.

Let's take remote voting by legislators, for example.

I understand well the need for the General Assembly to be able to advance emergency legislation without subjecting individual representatives to health risks. I supported the recent House measure to permit remote voting. But I was troubled to have heard the sentiment expressed by some of my colleagues in the Senate that we ought in future years adopt virtual voting as a permanent fixture. I was also concerned as well from leadership in the House the sentiment that, beyond emergency legislation, we ought in this current session to continue — through our laptops, iPads and even cell phones — to work on and debate very complex pieces of legislation unrelated to the COVID-19 exigency. "What's the problem?" some are saying. "We have, after all, the technology to hear each other during debates, we can email, telephone and text each other and, ultimately, we will have the ability accurately to record our votes on floor amendments and upon final passage."

My concern over legislating virtually is that debate — and disagreement — will be curtailed, if for no reason other than that it is tedious and difficult to do this work alone, only in the company of your laptop. And, you just know that many, in the comfort of their homes, will resort to multi-tasking. The Statehouse, on the other hand, is a remarkable place dedicated to a singular purpose and conducive to the sausage making we do. It's a crowded, mostly noisy place, but one where individual legislators have immediate access to each other. Many times when considering the merits of a particular bill or an unexpected floor amendment I will check in with my network of colleagues whose judgment and insight I have come over these last years to respect and value to get their take.

The reality is that a lot of our work as legislators is behind the scenes. I don't mean that in a bad way. Views are exchanged, ideas formed and compromises forged through personal discussions in between sessions, in the cafeteria, while waiting in committee rooms for meetings to start, even over dinner.

Even the process by which we meet and watch each other work helps us, in my opinion, shape better laws. When in the Statehouse we commit to be with each other and endure together lengthy debate and extended Committee processes.

ARTICLE CONTINUES AFTER THESE ADS



We agree together to rules of decorum and personal appearance. We encourage debate, respectful of our agreed-upon rules of debate and engagement. I often reserve final judgment as to a vote on a measure until I have heard and watched colleagues take to their feet and expressed views in the well of the House. Even voting, and the accountability inherent in roll calls, where in full public view we must announce individual votes, is bound by a solemnity lost when done behind the screen of a laptop or the pushing of one's "return" key.

One of the things I will personally miss the most, if virtual legislating becomes a fixture, is the physical presence and assistance of the lawyers who serve as one of the only legislative support "staff" we have -- they help us in drafting law and in interpreting the language and intended operation of provisions of the bills we enact. I use Legislative Council a lot before voting on bills and amendments. If you believe that passing good law, laws that work well without having to be interpreted and recrafted by our courts, then the assistance of Legislative Council is absolutely indispensable.

These hard-working lawyers sit in the well of the House, behind the Speaker, a ready resource for me and my colleagues when needed to understand the laws they have helped draft. It's simply not the same to, in the middle of floor debate, send off an email or text message.

And, while many think poorly of the ability of lobbyists and advocates to have access to legislators in the Statehouse, they too serve an important function in sharing information and divergent views, particularly in a legislature such as ours where we aren't supported by staff having "subject matter" expertise.

Bottom line, I fear that, particularly as to complex legislation — our most important laws — we will lose some if not most of that quiet "behind the scenes" process that for more than 240 years we have used well to govern ourselves.

I worry that important amendments will not be advanced, that floor debates will be substantially shortened, and that votes will be quickly taken. The Senate last week likewise suspended its rules to pass legislation in a "lightning round" fashion, passing in one day measures that under ordinary processes would take days to work through towards passage. Short cutting, when it comes to passing law, is not good for Vermont.

So, I hope we resist the argument — which I know will come — that when this is over, we continue to use technology to short-cut our normal processes. We should in my view limit these extraordinary new methods of operation to those necessary to address this once-in-a-century health and welfare crisis.

State Rep. Linda Joy Sullivan (D-Dorset) represents Danby, Dorset, Landgrove, Mount Tabor and Peru in the Vermont House of Representatives.

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