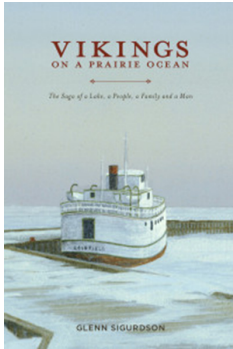


Turning Rights Into Results

P217 in *Vikings On A Prairie Ocean* by Glenn Sigurdson



The mercury pollution settlement agreement was approved in the Supreme Court of Ontario by Mr. Justice David Griffiths in June 1986, and took concurrent legislative effect in both the Legislature of Ontario and the Parliament of Canada. The preface said this:

“The complexities, uncertainties, and inevitable costs of litigation as a means to resolve the issues, and concern that the existing legal framework could not as comprehensively and satisfactorily resolve the issues in a manner consistent with the public interest and the interests of the parties has caused the parties to conclude that the issues must be resolved by agreement between them.”

Each word was packed with meaning. The Honourable Emmett Hall; Robert Blair, now Justice Blair; his then associate John Olthius; and Reno Stradiotta, QC; all shared in its authorship. In subsequent years I came to realise that this one paragraph crystallized much of my growing disenchantment that the law, and its frameworks, was not structured in ways that could provide enduring solutions to the most difficult problems. No doubt, to have a serious conversation, you need to be taken seriously. And the power that punches out of rights established in a courtroom gets you into the negotiating room. But this power is not sufficient to get anything done once inside, and in fact liberating the participants from the fight became one of the fundamental challenges in making progress. Courts are in the rights and power business.

People fight for rights, to advance and protect them, and to defend themselves in the face of accusations that they have abridged someone else's. You need talk to achieve results. Moving from fighting to talking is the essence of the space where I work. Turning rights into results is the real challenge if you want to be part of making a real difference for real people in real places. What I was coming to understand is that the conventional wisdom with which I was working was trying to force problems into processes, rather than building processes to suit the problems. My professional lens shifted to “building processes for problems, not forcing problems into processes.” Moving through that archway has taken me to many different people and places in my continuing swim against the current.

Over the years I have drawn many lessons from the mercury case. Perhaps the most critical is that the greatest challenge in solving big problems is big organizations, whether companies or governments, communities or civil society, First Nations or labour unions. Most large organizations do not think “transactionally.” They think in lines and work in boxes called departments and ministries, with policies and programs. Others who interact with them soon adopt the same image. Working with these complex structural components and the dynamics that come with them is the most difficult of challenges. The extraordinary significance of Emmet Hall's engagement in this case was his ability to override much of this challenge using the incredible access that he deployed as an ambassador for the cause, once he was persuaded of the integrity and wisdom of the settlement taking shape. He became its champion, and our champion got us through doors that otherwise would have taken much longer to open...

I would start combining lessons from Leon Mitchell with my own evolving experience. Leon understood that there are reasons behind everyone's hopes and worries. Through understanding these reasons, he sought ways to build bridges. "People act in accordance with how they perceive their self-interest," he said, and how we see our interests evolves. It is in the course of this evolution that reconciliation amongst competing views can be built. Leon's quest was to create the space for conversations allowing people to explore their interests with others whose world impacted their own but who saw the world differently. Searching for ways to live together in spite of differences was the business of building relationships. Respect, relationships and reconciliation were the building blocks of the Leon Mitchell magic. By the time Leon died, he had opened many doors for me.