

FIRST PERSON VALEDICTION . . .

By

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Dr. Gibbs: *Julia, do you know one of the things I was scared of when I married you? ... I was afraid we wouldn't have material for conversation more'n'd last a few weeks. I was afraid we'd run out and eat our meals in silence, that's a fact. Well, you and I been conversing for 20 years now without any noticeable barren spells.*

Mrs. Gibbs: *Well, - good weather, bad weather - ain't very choice, but I always find something to say.**

*Thornton Wilder, "Our Town," Act II.

So it also it seemed to a new *Bench & Bar* columnist in 1985: would there be something "choice" for the next 60 columns? Fortunately, ours is a profession with colorful events and characters; and we are not shy people when it comes to controversy and change.

When that first column was written, a bit of editorial advice was received and obeyed religiously: don't use the first person; it tends to call attention to you, rather than what you have to say." Having resigned as Lawyers Board director, this columnist now writes to say thank you and farewell.

A look back on the years since 1985 calls to mind challenges, accomplishments, some painful shortcomings, but above all people. One might think names like Sampson and Flanagan would come first to mind -- that working with the Lawyers Board is continuing diorama of seamy lawyers. There are rogues, but many more lawyers in trouble are hobbled, foolish, or obstinate -- in short, all too human. In the end, as Camus said, there is more to admire about people than to deplore. So the memories that last are of the people who cared about the profession enough to give of their time and themselves.

"You must have the toughest lawyer's job in the state" This is said, often, but it's not so. The legal aid attorney or the public defender, short on resources but long on clients; lawyers trying to deal with broken families and abused children; the solo practitioner, trying to build a practice, run a business, deal with difficult client situations, high judicial expectations, and an unruly adversary or two -- hats off to them.

The most difficult thing is sitting in judgment on your peers. Is the tearful lawyer across the table another Mark Sampson, playing me for a sap? Or should I think of him as a fellow human being who is defeated by life? It will be a relief, not having to judge whether a lawyer's reputation or livelihood should be taken away.

The professional responsibility system is partly a process of excluding those who don't belong, and partly a matter of admonishing, deterring, educating, or otherwise helping those who have some problems. The Court repeatedly states that discipline is to protect the public, and the bench and bar. Another purpose is to declare what it is (and is not) to be a lawyer, a member of an ancient and honorable profession.

In Minnesota, the Court leaves much of the work of restating the profession's identity to volunteers, both lawyers and nonlawyers. The ABA recently made a grave error in recommending that only paid professionals investigate ethic complaints. The vitality and credibility of our system depend on the involvement of those who practice law and those who know wider community standards. The ongoing work of restating who we are as a profession depends on hearing a chorus of voices who have something to say, learned from their experiences in the law and in the wider community.

Playing the role of director in this process has been a privilege. Mostly, it's been fun too, and satisfying. Perhaps one may recall accomplishments rather than failures; besides, the accomplishments all have the names of Board members, district committee volunteers, or Director's staff associated with them.

We have tried to find ways to be of service to lawyers. Helping lawyers is not the first endeavor of the professional responsibility system, but it can be done on the side. Advisory telephone systems, trusteeships for disabled lawyers, trust account brochures, volunteer probation supervisors -- these are regular good works. The Board usually deals with conflicts which are already ripe; but it has also helped reduce and avoid conflicts by issuing formal opinions on nagging practice issues, such as homestead liens, copying costs, and advance retainers.

The discipline litigation system has come to work the way litigation should: It is prompt and fair. Lawyers who steal, or commit other truly serious misconduct, are promptly suspended and disbarred, with no more or less process than is due them. Valediction is not the time for statistics, but they would show remarkable progress in dealing with large numbers of difficult matters promptly and consistently.

Lawyers have fretted too much over the public relations effect of doing this Augean work. The public's ambivalence toward us is natural: lawyers are paid, sometimes handsomely, to advocate *versions* of the truth, to seek advantage for clients, often at others' expense, and to resolve conflicted human dramas. Even at our best we will not always be likable. At our worst, we at least can be, and have been, open about identifying and dealing with our miscreants.

The happiest, and most constructive, work of professionalism is not normally the Board's. That would be telling the many stories of lawyers who have done good works, among and in us. The throng of faces and names that come quickly to mind, whose stories should be told, is the best basis for gratitude for the opportunity to serve as director.

The opportunities to seek excellence in one's work, to be of service, and to work with good people are all that one needs in a professional life. And so -- if editorial dispensation for first-person intrusion might be granted -- I am grateful to many people:

- The Minnesota Supreme Court, for encouraging an independent Board and director, for providing needed financial and personal support, and for welcoming proposals for improvement.
- The Lawyers Board and district committees for their generosity, their experience and high standards, and their congeniality. Especially, and warmly, I salute the Board chairs -- Bob Henson, John Levine, Charles Kennedy, and Greg Bistram.
- The Minnesota State Bar Association for its support and leadership, and the invitation to do these columns. If they haven't always been "choice" I hope at least they have not been pompous or vacuous.

- All those in the Office of Lawyers Professional Responsibility, past and present, my thanks for your loyalty, good work, and friendship.

- And to Minnesota lawyers, who with few exceptions, support the ideals and processes of professional responsibility; and who, with still fewer exceptions, have been civil and even fraternal, when we have disagreed. Nearly all have understood the need to put the public trust first, for the sake of the profession.