

MARY HARTER MITCHELL

FLORENCE WAGMAN ROISMAN*

Like every other human being, Mary Harter Mitchell had many different facets, interests, and relationships with a wide variety of people. I knew her as a law school colleague for twelve years—from 1997, when I came to Indiana, to 2009, when she died. Although I considered her a cherished and revered friend as well as colleague, we rarely saw each other socially; almost all that I knew of her was through her presence and work at the law school.

Although we are taught that no person is indispensable, my experience with Professor Mitchell makes me question that proposition. She occupied a unique position at the law school. She was recognized as a person of total integrity, broad and deep compassion, and thorough kindness as well as keen intellectual prowess, breadth of knowledge and interest, and loyalty to the school. These all are stellar qualities, but they are not qualities peculiar to Professor Mitchell. What especially distinguished her, I think, was that she possessed all these characteristics along with a wide, deep, passionate abhorrence of any form of inequity, injustice, unfairness, unkindness, or oppression and a determination to eliminate all instances of such evils. She cared about and acted on behalf of individuals, and she challenged systemic institutional oppression as well.

Professor Mitchell was a Quaker, and she demonstrated in her life the Quaker admonition to find the spark of divinity in every human being.¹ No one was excluded from her concern or denied her respect. But those who oppressed others, while benefitting from her compassion and understanding, also had to face her steely insistence that they speak and act justly.

Teaching was a central part of Professor Mitchell's life, and social justice concerns were at the heart of her teaching. For many years, she taught her own beloved daughters, Clara and Sally, at home. She taught at the Indianapolis Peace Institute (courses on "Practical Peace-Making" and "Peace and the Arts"). She taught contracts in the Indiana Conference for Legal Education Opportunities Summer Institute in 1999, 2003, and 2005. She quietly and effectively devoted a huge amount of time to giving special attention and nurturing to students who showed great promise but bore the marks of inadequate academic preparation.

At the law school, in addition to teaching contracts, church and state, and family law, she created and taught courses that immersed students in significant social justice issues: law and the elderly; law and education; law and literature (focusing on prison literature); law and rape; and the law of corrections and prisoners' rights (initially with a co-teacher). When the law school had no one to teach a course in women and the law, Professor Mitchell organized a group of faculty to offer it, taking upon herself the substantial work of coordination and administration. In 2009, Professor Mitchell was planning two new seminars:

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1. PAUL D. BUCHANAN, *THE AMERICAN WOMEN'S RIGHTS MOVEMENT: A CHRONOLOGY OF EVENTS AND OPPORTUNITIES FROM 1600 TO 2008*, at 16 (2009) (describing the Society of Friends).

“Rationales for Criminal Punishment” (considering the jurisprudence of retribution, deterrence, rehabilitation, and restorative justice) and a course on pardon and forgiveness.² Of the elective courses she taught, Professor Mitchell wrote: “I am proud to serve at these outposts in the academy, where socially and morally crucial issues are examined.”³ These were issues on which Mary Harter Mitchell worked in many different aspects of her life: opposing war and violence in every form, notably including the death penalty; and protecting the rights of such oppressed groups as women, prisoners, elderly people, and religious and other minorities. It is thus especially appropriate that this issue of the *Indiana Law Review*, organized to honor her memory, focuses on the issues that most engaged her attention and concern.

Professor Mitchell was a dedicated student as well as teacher. She graduated summa cum laude, first in her class, from Butler University, and then was an editor of the *Cornell Law Review* and a member of the Order of the Coif at Cornell Law School. She took non-degree graduate courses at the Christian Theological Seminary in Indianapolis for decades. And she actively practiced what she identified as her “avocation” as a poet, including publishing in the *Journal of Legal Education* a quite lovely poem about the first-year contracts course.⁴

The law school’s respect for Professor Mitchell was evidenced in a variety of ways. The faculty has one elected committee, the Executive Committee (EC), and Professor Mitchell often would be the first person chosen for it. Selecting all five members might take many ballots, but the faculty usually was virtually unanimous about her. One of the EC’s responsibilities is to select recipients of the Indiana University Trustees Teaching Awards. Ordinarily, members of the EC are not considered for these awards because the EC chooses the recipients, but in 2003, her colleagues on the committee decided to disregard that usual rule of ineligibility to select her for a Trustees Teaching Award. Her colleagues’ reasoning was that because Professor Mitchell was so often a member of the EC, she might never be given this teaching honor which she unquestionably deserved.

Professor Mitchell also served on and chaired committees that required particular sensitivity. She chaired the curriculum committee, the honor code special committee, the student affairs committee from 2002 to 2004, and the teaching committee from 2004-07. From 2008 until her death, she chaired the promotion and tenure committee, and she memorably presided over a difficult discussion that raised divisive substantive issues. I believe that everyone on the committee must have been profoundly impressed by the patient, respectful, insightful way in which Professor Mitchell led us through tension and arguments to a position of genuine consensus. She was faculty advisor to several student

2. PROF. MARY HARTER MITCHELL, IND. UNIV. SCH. OF LAW—INDIANAPOLIS, FACULTY ANNUAL SURVEY: PT. IV (2009) (on file with the Office of the Dean, Ind. Univ. Sch. of Law—Indianapolis).

3. *Id.*

4. Mary Harter Mitchell, *April, Contracts Class, First Year of Law School*, 52 J. LEGAL EDUC. 312 (2002).

groups: Law Students Against Capital Punishment; the Women's Caucus; Lambda Law Society; the Association for Public Interest Law; and the Society on Law and Conscience. She organized and spoke at events related to the death penalty, women's rights, spirituality, and prisoners' rights. She was a regular—and regularly unforgettable—speaker at the orientation for first-year students, when she urged students to maintain their integrity and keep their lives balanced between their studies and their human relationships. She created a “Law and Justice” film series, the Sister Heart Project for assisting women in prison, and the law school's annual reception honoring members of the building services staff. Posthumously, Professor Mitchell was given the 2010 IUPUI Inspirational Woman Award and IUPUI's Bynum Mentor Award.

During the years that we shared on the faculty, the law school faced several painful, challenging, divisive issues. I recall in particular two: one involved a gift to the school that some of us thought should not have been accepted; the other involved concern about the conduct of a junior member of the faculty that led to claims by him that she and I had, for inappropriate reasons, prevented him from securing tenure. In each situation, Professor Mitchell and I were on the same “side,” but in each case she wrote her own statements and expressed her views separately. With respect to the gift, for example, several of us collaborated on letters urging rejection of the gift; Professor Mitchell agreed that the gift should be rejected, but she wrote her own letter. While I never discussed with her the reasons for her separate statements, I believe that she sought a softer, more compassionate tone than others of us achieved. Of course, part of the explanation also may have been her keen sensitivity to language and her poet's search for precisely the right words and phrases—an eloquence the rest of us did not achieve.

There probably never is a “right” time for anyone to die, but it seems particularly unfair that Professor Mitchell died when she did. Much of her life had been spent taking care of other people—her children, and then her ailing mother, who died in 2007. These responsibilities over, she was entering into a period of great joy and fulfillment in her life. Personally, she was gloriously happy. Professionally, she had done a great deal of research for an article about the concept of human dignity—“its sources, content, coherence”—and its implications for prisoners: “do or should criminals forfeit that dignity so as to lose a dignity argument for better treatment in prison?”⁵ We all are the losers for not having the benefit of her writing on this and other topics.

It is difficult to write about Professor Mitchell without sinking into clichés. She was luminous, gentle, and strong. Rarely does a day pass without my wanting to tell her about something I've read or heard—sometimes an outrage against human dignity, sometimes an act of great courage that she would appreciate. I keep her in my mind at all times and try to live up to the high standard she set. I hope that all whom she influenced will do the same.

5. MITCHELL, *supra* note 2, at Pt. I.A.4.

