Dedication to Robert "Mike" Driscoll

Jonathan K Van Patten
ings of a capable legal educator—"a natural born teacher." I was gratified to receive such a compliment from a colleague who was so widely regarded as among our finest teachers. His generous encouragement fortified me, especially in the early years of my teaching career.

Mike's unsurpassed contributions as a storied professor were augmented by the contributions he made as Dean of the School of Law. Like his predecessor (Dean Walter Reed) and his successor (Dean [and now Professor] Barry Vickrey), when Dean Driscoll retired, he left the program of legal instruction in better shape than it was in when he assumed the position. He was an able administrator. His familiarity with so many of our graduates strengthened the close relationship between the law school and the State Bar. He was instrumental in steering the law school through a successful accreditation inspection. Despite the daunting challenges presented to him as a Dean, Mike continued to indulge his passion, which was to teach.

Mike was a scholar. The South Dakota Law Review has profited from the articles he wrote for it. Particularly in my remedies class, I have gained valuable insight by consulting his scholarly writings over the course of my career.

Mike was my friend. When personal or professional demands strained my composure, Mike gave me valuable advice and healing cheer. He loved to hear jokes as much as I loved to tell them. I often visited him at his home, and I was amazed by his talent as a musician. He played a wicked piano, which I am happy to report I purchased from him. It occupies a place of honor in my home, and when I play it, I remember Mike.

Robert E. Driscoll, III richly deserves the honor of a dedication in this volume of the South Dakota Law Review. Lawyer, teacher, administrator, scholar, public servant, colleague, and friend—Mike was all of these things and more to me. He is one of the finest people I have ever known. A part of him lives on in me and in the many people he so deeply affected. We owe him a debt of gratitude which we can only repay by doing our best in our profession and in our private lives. Thank you, RED, III; you're the best.

Jonathan K. Van Patten†

Mike Driscoll was my friend. It was a friendship grounded in good conversation. For many years, we had breakfast together at the USD Student Union. Our conversation at times would resemble a Quaker meeting, with long silences between spoken thoughts. Mike was not a man of few

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words; he simply refrained from the habit of talking as a way of filling the spaces. Mike loved a good story. I learned quite a bit of the history of the Law School through his (and John Hagemann’s) stories about Clark Gunderson, Claude Schutter, Marion Smyser, Jim Adams, Dick Burke, and many others. I also heard enough stories about Mike to know that he had a gruff exterior, particularly in class. I rarely saw that side of him, experiencing instead his kindness and fellowship. He always enjoyed a good joke, especially from our friend, Charlie Thatcher. His own sense of humor was wry and ironic.

Mike’s viewpoint on most matters was shaped by a desire to see the world clearly, tempered by an understanding of his limitations—a self-deprecating realism. He was not ideological. This was why he gave such good advice. Mike became my most important mentor. There was much to be learned from him about law and lawyering, especially how good judgment was the essential characteristic of a successful lawyer. His mentorship provided a much-needed steadying influence on me, as a younger professional, when I railed against petty irrationalities connected with a state institution. His encouragement of my writing projects, especially the proposal for the recognition of a new tort, was indispensable. He was a great listener. He taught me, through example, the importance of listening. Conversation is not about waiting for your turn to speak; it is about listening and responding, with honesty, to what someone else has said.

Mike was a great teacher. Many members of the Bar have acknowledged his singular influence on their development as lawyers. He always challenged students to become more rigorous in their thinking. His forceful classroom demeanor made better advocates. One of his greatest achievements as a teacher was in his role as the advisor to the Moot Court. The USD teams experienced great success during the 1970s. When I became the adviser for the Moot Court, I asked Mike for his secrets. He stated, succinctly, “Write the best brief, win the tournament.” When pressed for a little more detail, he added: “Use simple, declarative sentences.” I have found that advice to be one of the key propositions for brief writing and persuasion. His understanding of the dynamics of working with very talented students was also very helpful.

Mike was an interesting mix of contrasts. Gruff exterior, yet very warm and generous to those who gained his trust and loyalty. He had a strong personality, yet was humble and not ambitious. As Mike put it, he wrote well, but produced little, although his article on punitive damages


remains as the indispensible guide in South Dakota.\footnote{See Robert E. Driscoll, \textit{Statutory Restrictions on the Discovery and Trial of Punitive and Exemplary Damage Claims in South Dakota}, 33 S.D. L. REV. 247 (1988).} He neither sought nor even wanted the deanship at the Law School, but answered the call from the faculty when the time came. His sense of duty to the public institution, however, came with a heavy price for a very private man.

After Mike left the Law School, he became, by his own admission, reclusive. The toll of his public duties led him during retirement to embrace the interior life without regret. As he later wrote to me:

I am as content as I have been in life and enjoy rather simple pleasures, reading, music, trains, walking, a bit of travel, but nothing in law, which I miss not at all. Growing old quietly and peacefully. I love Apple computers and spend significant time having fun with them including iTunes, Garage Band, and digital photography. Steve Jobs is a genius! What a great technology for exploring the world in retirement.

The interior life for Mike took him also in a spiritual direction, which had always been part of our conversation, but it became more so in retirement. He wrote in another e-mail:

John Hageman and I have become close again and share recollections and our spiritual thoughts and experiences. He recently converted, as you probably know. I kid him that he is an example of a conversion that went too far—as he has taken Benedictine novice vows recently and is quite active.

The kidding was part of his natural pushback to answers, both in the professional realm as well as the spiritual. As he put it, his spiritual journey left him with far more questions than answers.

In our own journeys, we come into contact with people who become heroes to us. Mike was one of my heroes. I have been very fortunate in the company I have kept. The Law School and the legal community have been very fortunate as well.