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Dedication: Dean John O. Mudd

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DEDICATION

DEAN JOHN O. MUDD

Thomas L. Shaffer*

It is a privilege to be among those asked to honor Dean Mudd—partly because it just is—and partly because a few notes need to be made by one who has been around for a while, for the permanently bound periodicals on law library shelves, that show how his work looks when observed from across the country, from one small-town law school to another, from Virginia to Montana. I do have to confess that the Virginian in this case was born in Montana, but my little school in the Blue Ridge Mountains is a long way from your little school in the Rockies, and there is a large world out there that doesn't usually pay much attention to either of us. That world has begun to notice Jack Mudd, though.

It is evident that lawyers and judges in Montana know what Dean Mudd has done for the legal profession and for the public interest there. It may not be as evident in Montana that he is an important contributor to the national profession, and to what he and Dr. LaTrielle refer to as “research and development . . . to keep products and services current” in legal education. Few have done as much in the larger world in which Dean Mudd and I have worked in the last quarter century, and no one has done it as well as he has. He is a leader, an innovator, a creator. If all works out well, our colleagues will say of him what Francis Bacon said of his own work in the 17th century: Jack Mudd was first up to call the others to church.

The Mudd program (he is too modest to call it that) began, as every honest effort at improvement does, by asking, “What is going

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on?" The Mudd-LaTrielle paper shows how this question was not only essential and fundamental, but that it also is the largest and most evaded question in any reform that has integrity. This is a matter of what Iris Murdoch calls "a patient and just discernment and exploration of what confronts one . . . the result not simply of opening one's eyes but of a certain perfectly familiar kind of moral discipline." Dean Mudd practices the discipline of discernment, of both seeing and saying what is going on. He is a remarkably honest, clear-sighted man, a worthy inheritor of that pioneer integrity that his forebears (and mine) either brought to the West or learned there.

His integrity required him to tend to the situation at his own school. Almost all of the rest of us who write on legal education, and who give stirring lectures at conferences and meetings, talk about other schools, because we are unable to do anything worthwhile about our own: Jack Mudd looked at what was going on around him and made that his task. And because he looked well, he described well what was going on among the lawyers of Montana, and he has become a national leader. Things ought to work that way, and rarely do.

When Dean Mudd described honestly what was going on out there he described reality in terms not of what law teachers do to their students but in terms of what law teachers do to the *clients* of their students. Any institution of more than ten people can be run without reference to the world, and law schools almost always are. Studies of *curriculum* are studies of what is convenient and profitable for law teachers; he and Dr. LaTrielle demonstrate this, although they are too kind to say so, by demonstrating that you get different information when you ask what lawyers do than you get when you ask what they think they did in law school. You get different information when you wonder what young lawyers do for and to the people who hire them than when you ask what institutions of lawyers—law firms—will pay for when they come seeking new employees.

You can ask about competence, as the American Bar Association does, but you get different information when you distinguish in your inquiry between knowledge and skill, and—more significantly—between knowledge and skill on the one hand and character on the other.

Jack Mudd did not go into the ranks of Montana lawyers seeking compliments. He went seeking to make life better—not for lawyers and law teachers—but for the people lawyers serve, for the people who sustain a state university law school in Montana. Such

people realize the harm they can do to one another in the name of the law; they may just hope that they can, with the law, make one another better.

Those are mighty achievements; Montana's law school is, as a result, one of the very few that can claim and claim honestly—because it has been led by a relentlessly honest man—that it provides moral leadership.

Dean Mudd got so far because he accomplished something that few law deans accomplish (I know of none, other than him): He got the law faculty to take responsibility for what it does. Among his dazzling accomplishments, that one dazzles this seasoned teacher (and battered ex-dean) most of all.

It would be conventional to regret the loss of Jack Mudd to law teaching, but I don't think that would be honest. I suspect he is not being lost to teaching, either in Montana or in his profession across the nation. He is going to continue to say what he sees, and that disturbing habit is rare, rare enough that those who practice it never stop teaching the rest of us. We need them too much.

