Michigan Law Review

Volume 84 | Issue 3

1985

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Jim Martin was a natural. From the day he first took his seat in August 1966 on the second row of the corner classroom in Hutchins Hall, he had an instinctive perception of his role as a lawyer, which, so far as I know, he never changed.

While he was quite capable of speculation about other ways of doing things, his mind readily accepted and even welcomed legal texts and traditions as the parameters within which serious work was to proceed. To him who had trained in mathematics, it was congenial to isolate a legal problem from much of its context in order to achieve a clearer focus on the import of the constraints of law. I am in danger here of describing Jim as one of T. R. Powell's famous lawyers: one who can think of something that is inextricably related to something else without thinking about the something else. Jim could, indeed, think that way as effectively as most, but he always, or so I believe, knew what he was doing in that regard. His was, I perceived, a moral position, that judges ought to strive to hear and obey the law's command even when it produces results that are personally distasteful to the persons applying the lash of power. He held that overcontextualization can obstruct performance of this moral obligation by rationalizing the self-indulgent instincts of judges, and thereby impair the moral integrity of law.

Our differences in respect to this matter emerged during the summer of 1967, when I was fortunate to have Jim's services as a research assistant. We worked on another project for most of the summer, but when I left for a family vacation in July, I gave him my conception of an article on which I hoped to commence work on my return. When I returned a month later, Jim had a first draft of *Substantive Interests and the Jurisdiction of State Courts.*[1] His was an extraordinary achievement in bringing my crude notion to life, and we published the article as co-authors.

I was aware, however, that Jim had from the first some misgivings about the article, and I was not surprised when he told me in 1980 that he thought our conclusion to be wrong. His view was to a degree validated in *Keeton v. Hustler Magazine*[2] and *Calder v. Jones.*[3] In the

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1. 66 MICH. L. REV. 227 (1967).

2. 465 U.S. 770 (1984).

3. 465 U.S. 783 (1984).

latter of these companion cases, our article was unsuccessfully cited by the defendant.

The thesis of our article, briefly stated, was that the fourteenth amendment may tolerate a longer jurisdictional reach in some classes of cases than others according to the nature of the substantive interests being asserted by the parties. Our primary example, perhaps, was a defamation case brought in Alabama state courts against a New York publisher of an account of events occurring in the civil rights struggle in Alabama. We urged that the courts are justified in recognizing the special threat to first amendment values posed by the extension of long-arm jurisdiction to sustain thinly disguised punitive proceedings based on "contacts" perhaps barely adequate to justify jurisdiction in a personal injury products liability case; we approved a holding that those sometime sufficient contacts may be insufficient in a political defamation case.

It is not my purpose here to concede or to argue our difference, and certainly not to criticize the outcome in the two 1984 cases, which are distinguishable. Rather I wish to explain and to salute Jim's view, which I associate with the concern for the moral integrity of the law manifested in almost all the conversations I ever had with Jim about Civil Procedure. His later view had been expressed at the time of our writing by a student editor of the *Columbia Law Review*, who described our position as a "tampering with due process." His was not merely a concern for the untidiness of mixing substance and procedure, but, far more important, a perception that the judge practicing our suggested method of weighing substantive policy as a factor measuring the length of the long arm would abandon, or at least weaken, his fidelity to the esteemed neutrality of legal principles. Jim Martin had no fear of subtlety or complexity so long as they helped the judge to comprehend and obey, with a minimum of manipulation to fit his own preferences of outcome. Our article was, he feared, an invitation to manipulation by courts who would tailor the length of long-arm jurisdiction to suit their own political preferences, whatever those might at the moment be. Thus it was, and perhaps others should know, that the mature Jim Martin dissented from the article signed by the youthful Jim Martin when overborne by his mentor, me.

While I remain unshaken in my own former view, I have come greatly to value the moral source of my numerous adversaries' reluctance to acknowledge what is to me a manifest truth. Of course, Jim was right that the moral duty of the judge to subordinate her preferences to the texts and the traditions of the law is a duty of paramount importance, and not too much can be said to reinforce the community of shared perceptions of lawyers and judges which make such moral conduct of judges rewarding to themselves. In former times, we have allowed or encouraged judges to hide behind that moral duty, to the

neglect of other duties to reconcile law with emerging moral standards. But surely in these times, the risk is otherwise. Our professional world is full of precepts and examples which not only observe and predict, but even encourage judges to neglect their duty to subordinate themselves to the texts and traditions, to the reasoned expectations of others, which are the law. In such a world, Jim Martin had a very special and very important role to play, a special burden to bear. His students needed his example of a man who nurtured a strong belief that legal texts and traditions should and do guide judicial conduct. And our professional world needed alumni who harbor belief in that possibility.

For this reason, among others, Jim's premature death was a substantial loss to the law. The loss is ineffable, but no less certain on that account. Because those who come later cannot hope to perceive this kind of loss, I am grateful for this opportunity to take its notice. I pray for Jim and for us that some of his students will pick up his burden where he left it and will continue on the path he took.