

Remembering Mr. Fairman

DANIEL MARKOVITS*

I first met Christopher Fairman by a happy accident. I had spent my junior year of high school abroad and so returned, in my senior year, without having taken an American History course that the State of Texas required all students to complete in order to graduate high school. Mr. Fairman permitted me to join his group of juniors, as an interloper.

The class was a marvel of playful seriousness. Most days included at least one segment that high school students might genuinely look forward to. At the same time, every meeting made a substantial, and quite often difficult, intellectual point. Sometimes, the two productions—amusement and instruction—grew from a single taproot. I cannot, to this day, think about the War of 1812—its causes and the sensibilities of the Americans who fought it—without at once hearing, in my mind, the singsong doggerel of “The Patriotic Diggers.” Mr. Fairman achieved a second remarkable double also, in parallel with the first. He taught a deeply progressive, almost subversive, course in American history in a manner and style that nevertheless welcomed the mainstream of Reagan-era American culture.

Mr. Fairman eventually left high school teaching to attend law school at the University of Texas, and although he became a law professor a year before I did, I never sat in his class again. I didn’t stop learning from him, however, in many, many ways.

Most narrowly, I benefitted, while I was clerking, from an article that he wrote (in his student days, no less) on the federal supplemental jurisdiction statute, 28 U.S.C. § 1367.1. It remains for me a model of thoughtful and intellectually serious, yet still practically useful, legal scholarship.

More broadly, and probably more importantly, I have in my own teaching tried to take in, as best as I can, the lessons of his. In the most obvious ways, our styles could hardly be more different, I believe. His PowerPoints are legendary; I never show slides. He jokes often; I only rarely. But at a deeper level, I have been trying to live up to Mr. Fairman for years. He was in all his teaching intensely demanding but never harsh. He was caring but never saccharine or oppressive. He listened—closely and sympathetically—to everything his students said, and then he tried to understand it and never to deflect but rather to answer. And he taught each student individually but nevertheless forged a cohesive class. Even as I try to emulate these virtues, I continue to benefit from them personally, especially the last: although I joined Mr. Fairman’s class as an interloper from another grade, many of my deepest friendships, to this day, were orchestrated by Mr. Fairman in American History.

* Guido Calabresi Professor of Law, Yale Law School.

¹ Christopher M. Fairman, *Abdication to Academia: The Case of the Supplemental Jurisdiction Statute*, 28 U.S.C. § 1367, 19 SETON HALL LEG. J. 157 (1994).

One thing Mr. Fairman used history to teach is that we are all distinctive and irreplaceable. This is true; but some of us are more so than most. Christopher Fairman stood out in this way—as a rise in my imaginative landscape, a real swell in the sea of humanity. The world is flatter without him.