

THE MARSHALL COURT AND CULTURAL CHANGE, 1815–1835

famous lawyers, Martin's whole being seemed to be reflected in his performances as a lawyer, whether inside or outside the courtroom. Three accounts by contemporaries who encountered Martin in his career give some flavor of the interaction of his personal traits with his professional activities. The first account is by Story in 1808; the second by Harman Blennerhassett a year earlier; the third by Roger Taney about the same time.¹⁵³ Story wrote that Martin was

a singular compound of strange qualities. With a professional income of \$10,000 a year, he is poor and needy; generous and humane, but negligent and profuse. . . . He is about middle size, a little bald, with a common forehead, pointed nose, inexpressive eye, large mouth, and well-formed chin. His dress is slovenly. . . . But every one assures me that he is profoundly learned, and that though he shines not now in the lustre of his former days, yet he is at times very great. He never seems satisfied with a single grasp of his subject; but urges himself to successive efforts, until he models and fashions it to his purpose. You should hear of Luther Martin's fame from those who have known him long and intimately, but you should not see him.¹⁵⁴

A similar impression of Martin's stamina, of his lack of discipline, of the power of his intellect, and of his tendency toward dissipation was gleaned by Blennerhassett at the time of the Burr trial. Blennerhassett recalled a meeting with Martin at a Richmond tavern:

I was too much interested in the little I had seen, and the great things I had heard, of [Martin's] powers and passions, not to improve the present opportunity to survey him in every light the length of his visit would permit. I accordingly recommended our brandy as superior, placing a pint tumbler before him. No ceremonies retarded the libation; no inquiries solicited him upon any subject. . . . Were I now to mention only the subjects of law, politics, news, et cetera, on which he descanted, I should not be believed when I said his visit did not exceed thirty-five minutes. Imagine a man capable, in that space of time, to deliver some account of an entire week's proceedings in the trial, with extracts from memory of several speeches on both sides; . . . to caricature Jefferson; to give a history of his acquaintance with Burr, expatiate on [Burr's] virtues and sufferings, maintain his credit, embellish his fame . . .—some estimate, with these preparations, may be found of this man's powers, which are yet shackled by a preternatural secretion or excretion of saliva, which embarrasses his delivery.¹⁵⁵

¹⁵³ Taney's account was actually written in 1854, when he first began his memoirs, but was based on his impressions of Martin from 1796 to 1822. See Tyler, *Memoir of Taney*, 56–69.

¹⁵⁴ J. Story to S. Fay, Feb. 16, 1808, in W. Story, *Life and Letters*, I, 163–64.

¹⁵⁵ Blennerhassett in Safford, *Blennerhassett Papers*, 377.

Chapter IV: *Prominent Lawyers Before the Marshall Court*

Taney, who came to know Martin well while Taney was a young lawyer in Maryland, added some complexity and detail to the portrait:

His dress was a compound of the fine and the coarse, and appeared never to have felt the brush. He wore ruffles at the wrists, richly edged with lace—although every other person had long before abandoned them—and these ruffles, conspicuously broad, were dabbed and soiled, and showed that they had not been changed for a day or more. His voice was not musical, and when much excited it cracked. . . . [I]n his speech . . . he seemed to delight in using vulgarisms. . . . I have heard him say he *catch* him, instead of *caught* him, and he *sot* down, instead of *sat* down, and many other words and phrases not much better. He seemed to take pleasure in showing his utter disregard of good taste and refinement in his dress and language and his mode of argument. He was as coarse and unseemly at a dinner-table, in his manner of eating, as he was in everything.

He introduced so much extraneous matter, or dwelt so long on unimportant points, that the attention was apt to be fatigued and withdrawn, and the logic and force of his argument lost But these very defects arise in some measure from the fulness of his legal knowledge. He had an iron memory, and forgot nothing that he read, and he read a great deal on every branch of the law; and took pleasure in showing it when his case did not require it.¹⁵⁶

The impression generated by these comments is that of a man who, consciously or unconsciously, imposed his will on his surroundings rather than adapting to them. His indifference to refined speech, notwithstanding his background and education; his passion for alcohol; his soiled, old-fashioned clothes; his rambling, digressive arguments; his outspoken criticism; his fierce loyalty to his clients, however unpopular their status; even his “coarse and unseemly” table manners suggest a person who did not take pains to temper his passions to the dictates of fashion or convention. Whether Martin's personal style was a deliberate defiance of the socially conscious public world in which he functioned, or whether it was the product of drives and appetites that could not be constrained, seems unimportant: Luther Martin was what he was, take it or leave it. He made his clients, his adversaries, even his legal arguments part of himself.

The manner in which Martin's personality interacted with his role as an advocate can be seen in his argument in *McCulloch*. Martin argued that case in his capacity as attorney general of Maryland. The same day he was reappointed to that office the Maryland legislature established a tax on notes issued by banks that had not been created by “authority from the state.”¹⁵⁷ The tax, unmistakably aimed at the Bank of the United

¹⁵⁶ Taney in Tyler, *Memoir of Taney*, 65–67.

¹⁵⁷ Act of Feb. 11, 1818; see 4 Wheat. at 320–22.