



2002

Some Memories of Charles L. Black, Jr.

Jack B. Weinstein

Follow this and additional works at: <https://digitalcommons.law.yale.edu/ylj>

Recommended Citation

Jack B. Weinstein, *Some Memories of Charles L. Black, Jr.*, 111 *YALE L.J.* (2002).
Available at: <https://digitalcommons.law.yale.edu/ylj/vol111/iss8/3>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in *Yale Law Journal* by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact julian.aiken@yale.edu.

Some Memories of Charles L. Black, Jr.

Jack B. Weinstein[†]

Let the lens of your recollection
Travel over me¹

Charles Lund Black, Jr. was one of the smartest men I knew. He was also one of the most decent, warm, and intellectually well-rounded.

Charlie was the first of the new professors appointed to the Columbia Law faculty after World War II. He drew upon his training in sociology to teach a new course in jurisprudence.² As a student, I held him in some awe. Fifty years ago, when I joined the faculty, he became a friend and mentor.

Charlie, Julius Goebel, Jr., the historian, and I shared a suite. It was a beautiful old-fashioned, high-ceilinged, spacious set of offices with an anteroom, on the top floor of Kent Hall. Charlie's office overlooked the lively Columbia campus; Julius's viewed Alma Mater; and through my window on the inner courtyard I saw Rodin's "The Thinker," whose example insinuated that we should cogitate every moment.

We three were a metaphor for a small train. Julius was in the caboose with a spyglass explaining the places we had been. Charlie was up front blowing the whistle and telling us where we were going and why. (I doubt that he thought that as a law professor he could change the direction of the track in the slightest.) I was in the car in between tending our student passengers as best I could, while polishing the brass and sweeping as needed—and getting advice from both ends of the rattler.

We taught each other how many things could be done in a day. One day Charlie came in and observed my desk piled high with advance sheets. "Jack," he said, "you don't have to read all those advance sheets. If you fall behind throw them away and start over." What a relief. Off they went into the wastebasket. Suddenly life as a professor seemed possible.

One of our joint activities was swimming. There was a pool at the bottom of the old power house. You undressed at the campus level and then

[†] Senior Judge, United States District Court for the Eastern District of New York.

1. Charles Black, *Look at Me*, in *THE WAKING PASSENGER* 37, 37 (1983).

2. Charles L. Black, Jr., *Materials on Law in Society* (2d ed. 1954) (on file with the Columbia Law Library).

walked naked with your towel over your shoulder down a long curving flight of stone steps to the water. One day as we descended side-by-side, a young woman came up around the bend. "Is this the way to Butler Hall?," she asked.

"No," Charlie responded. He politely explained how to go back down and around.

"Thank you," she said as she turned away. She did not seem to notice our lack of attire. Charlie and I continued our conversation. For me it was probably a sociological turning point. For Charlie it seemed, well, "humdrum."

The practice at Columbia was for three senior faculty members to observe a new professor's teaching before he received tenure. At the beginning of class the committee would march up the wooden steps of the large amphitheater in Kent, past the students' desks, to the top, and silently watch. I was terrified during that hour, fearful that they would cast me down from this academic heaven. Not Charlie. "We will begin this class," he intoned, "in honor of our distinguished guests, by omitting the class song."

Every night Charlie went home to Greenwich Village where he practiced his trumpet and listened to jazz. He was unhappy in his first marriage. I suppose he drank.

He was a man full of love who needed a warm and loving woman. He found that companion in Barbara.

He was assigned the course in admiralty on the ground that it should be taught by a Columbia professor in this great maritime city. It was a course no one else wanted. But Charlie became fascinated by the ancient law of the sea. He worked in the library late into the night mastering it. His one-volume treatise on admiralty was to be a masterpiece.³

The new dean made life uncomfortable for Charlie. None of the elders listened when a few of us youngsters pointed out that he was a great teacher, on the edge of extraordinary academic work.

Well, they drove Charlie and Barbara up to Yale. There they had three wonderful children in a highly successful marriage. There Charlie flourished as a teacher and author.

I had been working with him as one of Thurgood Marshall's vassals on *Brown* and other cases. Charlie's analysis and writing were superb.

There were some tensions among the Legal Defense lawyers. None of it touched Charlie. He had fully absorbed the truth that it was nonsense to call inferior this group that developed such wonderful music as well as great

3. GRANT GILMORE & CHARLES L. BLACK, JR., *THE LAW OF ADMIRALTY* (1957) (bearing a dedication to Helen and Barbara).

lawyers.⁴ For him, full equality was essential: separation be damned. He was so decent, and competent and congruent with everyone's cultural background that all the scores of lawyers, historians, and sociologists working on *Brown* and other cases embraced him literally and figuratively. They sensed that he had been drained of all prejudice.

He wrote the clearest, most lucid books on constitutional law, on impeachment, on capital punishment; published volumes of poetry; painted the dust covers for some of his volumes; used his love of jazz to induce law students to appreciate that there is more to life than the law; and demonstrated what everyone at Columbia should have known—he was a superb teacher touched with genius.

When I visited the Black home in New Haven, Barbara's mother was confined to bed. She was not in a home for the aged or in some upstairs bedroom. Her bed was downstairs in the parlor so the lively household and its guests were an intimate part of her life and she of theirs.

I think Charlie lived the Golden Rule reflexively. He was, as a result, able to understand people and society, and to describe the law and life with limpid clarity.

His cool logic was combined with a warm sense of comradeship with those treated unjustly. When Herb Wechsler criticized the *Brown* decision on the ground of "neutral principles," Charlie's response was devastating. It was based on the reality of American life: Separate but equal was the device for keeping African Americans out of the mainstream of society, for denying them equal opportunities, for pushing them into an inferior semi-enslaved position as a substitute for real slavery.⁵

Charlie continued to write for the Legal Defense Fund for many years, signing some twenty briefs and working on many more cases. He published two dozen books⁶ and scores of law review and other articles.⁷ He elevated the lives and aspirations of thousands who knew him as teacher and author.

And then came proof that there really may be a God who watches over us. Barbara had obtained her Ph.D. in Legal History at Yale and was teaching at Yale Law School. Columbia needed her. She needed Charlie. Both came back, she as Dean, he to teach constitutional law. Heaven was back on Morningside Heights.

4. Some autobiographical information is collected in CHARLES L. BLACK, JR., *THE HUMANE IMAGINATION* (1986) (bearing a dedication "to Barbara Aronstein Black with love").

5. See Charles L. Black, Jr., *The Lawfulness of the Segregation Decisions*, 69 *YALE L.J.* 421 (1960); cf. CHARLES L. BLACK, JR., *DECISION ACCORDING TO LAW* 15 (1981) ("*Brown* did more good than any other judicial decision ever uttered.")

6. *Published Works of Charles L. Black, Jr.*, 95 *YALE L.J.* 1573, 1573 (1986).

7. *Id.* at 1574-78. The *New York Times* indicated that Professor Black had published "hundreds of articles," including law review articles. Robert D. McFadden, *Charles L. Black, Jr., Constitutional Law Expert Who Wrote on Impeachment, Dies at 85*, *N.Y. TIMES*, May 8, 2001, at B10.

He was, in addition to a man of intellect and empathy, a physical person, who jogged almost to the end. In later years Charlie suffered from a serious illness. How terrible it must have been for him and those who loved him to cage this tiger in a deteriorating body.

It is the good, vigorous, and delightful Charlie that so many of us remember. His noble life inspired us to use our skills to make this a better, a more equal, world for all peoples.

Charlie, we'll miss you.