

Charles Black: Gentle Genius

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Charles Black came to the Yale Law School faculty in 1956 as part of the most extraordinary group of scholars to burst on one school in the history of American law teaching. Fourteen came, essentially together: Alex Bickel, Joe Bishop, Ward Bowman, Frank Coker, Abe Goldstein, Joe Goldstein, Quint Johnstone, Leon Lipson, Bay Manning, Ellen Peters, Lou Pollak, Clyde Summers, Harry Wellington . . . and Charles Black. Of these, Charles was the recognized superstar. It was not just what he had already done, but also the firm intuition that the past was but a glimmer of what was to come that led Gene Rostow—like any great dean as capable of remembering the future as he was of inventing the past—to hail Charles's coming as the crowning event of his new deanship and to name Charles to a specially created university chair, the Luce Professorship. Rostow could do this with confidence for he had understood what we would all soon learn, that Charles was that rarest of creatures—virtually unknown among legal academics—a true genius.

I have known very few geniuses in my life. The word is often used fatuously to describe people of unusual intelligence. But a genuine genius is a quite different animal, almost a separate species. Moreover, a real genius is almost always insufferable. In my life, I have known only *one* truly gentle, lovable genius, and that was Charles Black.

Genius is not *just* a matter of the speed with which one works, though Charles certainly was blindingly fast. The impeachment book—it is said—was written in a weekend. And Grant Gilmore told the story that when he and Charles had signed up to do their monumental admiralty treatise, both characteristically delayed getting started. The editor began bugging Gilmore and, to calm him, Grant, who knew that Charles had yet to write a word of the first half of the work, told the editor that he (Gilmore) would have his part done a month after Charles had finished his. Not unaware of his own abilities, Gilmore thought that a month's handicap on Charles would more or less suffice. If he began when Charles did, he would be O.K. But Charles went on "vacation" for two weeks and returned with his half—

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of what was then and has ever since been viewed as the model for treatises—fully done, leaving Gilmore to bark furiously as he sought to keep the editor at bay.

Genius is not *only* the capacity always to see things in a different and unexpected light, a lamp that once lit inexorably determines the way the problem must be viewed. But that capacity is an important part of genius, and Charles was singular in his ability to create new paradigms. Who can seriously think of error and the death penalty after reading Charles and not understand why wrongful executions are not just possible, but are inevitable? Inevitable! Who can approach constitutional law without, again and again, being startled into Charles's view of both small and large parts of the field—of its general structure, of course, but also of any number of details. I have in my possession Alex Bickel's copy of Charles's *The People and the Court*. It is copiously annotated by Bickel, who from time to time interjected a furious expletive. But these Bickellian rejectionisms are outnumbered ten to one by simple, almost dazed notations of "Wow!," each one of which signals yet another place where Charles had reshaped the subject. Other scholars—you name your favorite—would reason, often with great skill, to a conclusion, but Charles would already be there, because he had seen the answer from the very first.

Genius requires not only these capacities, but also entails spectacular breadth of interests. Charles could teach himself Icelandic by reading the sagas and keep up with conversational and literary Italian by devouring "*Libri Gialli*" (mystery stories) from which he would quote purple passages with the same relish with which he would offer me an obscure, and usually obscene, poem by D'Annunzio or a sublime *canto* by Dante. The Texas accent with which he relayed these served to emphasize their universality, as it did when, despite his every effort and compulsive rehearsing, the accent broke out as Charles magnificently portrayed Cicero in the Yale Rep's *Julius Caesar*. He was an excellent poet, a fine musician, and not to my taste as a painter. But whether reciting, painting, or waxing lyrical, Charles was always original, always himself, and always true to his own spirit and to the turbulence of all humanity that seeks to be and do good!

Genius is often unsuffering and hence frequently insufferable. Charles, blessedly, was too human, too vulnerable, and most especially too loving and too loyal ever to fall into those traps. The worst he could be was obsessive, especially when he thought that someone close to him might be in danger. I saw this once in the summer of 1958 when some friends and I were taking the Connecticut bar. We met at lunch after the morning test and, following the oath we had taken, refused to discuss the exam. At the table next to us was Barbara Black, who was also sitting for the Connecticut bar and whose reputation for brilliance—together with the fact that she had

been a top student at Columbia and, hence, unlike us from Yale, was presumed to know some law—scared us. Soon enough, Charles appeared and from a distance thundered, “Barbara, what were the questions, what did you answer?” We vainly tried to shield our ears as Barbara, with a calm that still boggles my mind, told him what she had written. It was, of course, totally different from the answers we had given, and we were shattered. We were momentarily brought back to life by Charles’s anguished shout, “Oh, no—that’s all wrong!” And then utterly devastated as he proceeded to announce what the correct answers in fact were—each more dazzling than the other and all utterly unimagined by us. Nonetheless, we passed the bar, and so, of course, did Barbara.

Whether the examiners would have understood and accepted Charles’s approaches, twelve times more innovative than those we had taken, will never be known. But I understood, then and there, how hard it is to contain genius and make it not only bearable, but a joy. Yet Charles succeeded in this, too. In part because he was truly vulnerable. (I will never forget Charles, walking the halls of the Yale Law School, almost in tears, after a trivial scholar had written a negative review of a masterful piece of Charles’s, a piece the critic had totally failed to comprehend.) And in part because he was truly loving.

He adored Barbara and his children, appreciated every nuance of their personalities and rejoiced in their love. Luckily for us, he did not limit his love and loyalty to his family, but allowed it to spill over to his students and colleagues as well. I was blessed to bask in his glow, and not only to learn and be shaped by his amazing insights and by his passion for justice, but also, simply, to feel the warmth of his friendship. I loved Charles; he was—with my parents and Justice Black—my special teacher and my guide (above and beyond any of those whose courses I took). I still sit at his feet; he shapes my teaching, my thinking, and my judicial opinions every day. I feel his loss immensely, and yet, in a peculiar way, he made such a mark on me that I have not lost him at all. And never shall. For that I will be grateful to my dying day!
