

MY FRIEND CHARLES WHITEBREAD

RICH CHACON*

It is an honor to write about my friend Charles Whitebread. To me, Charlie was always larger than life. Living and working here in Los Angeles, I have had the opportunity to work with many people whose image has preceded them: professional athletes, musicians, actors . . . Charlie. However, once I got to know the person, invariably they could not live up to the image that preceded them—they were just people—with the exception of Charlie.

I base this on three things: Charlie was the most fun person I ever knew, Charlie was the most brilliant person I ever knew, and Charlie was the most generous person I ever knew.

First, in regards to fun, Charlie himself would tell you, “Honey, if you see my name scribbled on that wall, above it will say ‘For a good time call . . .’” And Charlie truly was committed to having fun.

One rule Charlie implemented to be sure we had fun was “no politics at dinner.” Over the years I must have had dinner with the guys (Charlie, his long-time partner John Golden, and their good friend Michael Kelly) over one hundred times, and if we were lucky we would eat dinner at their house because John is the greatest cook ever. But even at restaurants, the rule stayed the same: no politics at dinner. I think we broke the rule maybe one time, which was fairly frustrating, having one of the country’s greatest legal minds at the dinner table, but not being allowed to talk politics.

Another example of Charlie’s commitment to fun was that we would go to Disneyland every year for Michael’s birthday. Michael’s birthday is at the end of April and Charlie’s was at the beginning. And every year, we would take a day off during the week and play all day in Disneyland. We did this rain or shine. I remember one year we did it in the pouring down rain.

Charlie would also talk to anyone . . . or anything. One such occasion

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when Charlie began talking to anyone was in the Midwest, when he and Michael were on one of their countless lecture trips and they stopped to eat at McDonald's. Michael was seated, and Charlie had taken up a conversation with a woman while waiting for their food. After receiving their meals, Charlie turned and began looking for a straw for his drink. After searching for a moment, the woman reached out and handed Charlie a straw, as she had found them before him. Charlie said, "Thank you," and the woman replied, "Think nothing of it, it's what I do for a living." A bit puzzled, Charlie looked at the woman and inquired, "You work in a restaurant?" She replied, "No, I assist the elderly." My favorite part about that story is that *Charlie* told it to me.

In regards to talking to anything, I must tell the story of the secret Wally Bag. Early in my law career, I was telling Charlie about a road trip I was about to take while over at his home. He inquired whether I had a garment bag. Sadly, I did not even know what a garment bag was. Charlie immediately got all excited and said, "Well, you have to have a secret Wally Bag!" Of course, I asked, "What the heck is a secret Wally Bag?" Charlie went into the closet and grabbed a Wally Bag, which is a commercial garment bag. He was intending on giving it to me. But first, he needed to show me how it worked. So, he hung the bag on the clothes rail, unzipped it, and opened it up. He then began to place a shirt inside of the bag, the way you would if you were packing to go on a trip. The bag, however, was not quite cooperating, and Charlie couldn't get the shirt inside the bag. Charlie stopped everything he was doing, actually took a step back, and with the world's greatest sincerity, looked at the Wally Bag and said, "Not now, Wall." I knew then that he was my favorite person ever.

Another thing that made Charlie fun, and it may surprise some of you, was that he was a big sports fan. We went to countless USC football games with Trevor Ingold on Jim Curtis's tickets. (Thanks, Jim.) And he also loved baseball and would watch it all day on television.

A couple times we spoke about the subject of steroids and performance enhancing drugs. The subject turned to "roid rage," the concept of becoming easily angered due to the fact that a person was taking steroids. Charlie chimed in, "Roid rage? Roid rage? I've got 'roid rage,' you bet I do. Only mine is caused by hemorrhoids!" Which goes to show you how funny the man could be.

On the same subject of performance enhancing drugs, Charlie once said, "If they are using performance enhancing drugs and I'm there to

watch their performance, then let them use ‘em!’ This is just another example of Charlie’s brilliance.

And he certainly was brilliant. In the *Los Angeles Daily Journal*, I was quoted as saying, “If life were a game of *Who Wants To Be A Millionaire?*, Charlie was my ‘Lifeline.’” And he certainly was. I called Charlie countless times seeking factual information, and I don’t recall ever calling and not getting the answer I needed.

But to me, Charlie’s true brilliance was more evident in his conceptual thoughts about life. I’ll never forget this one time we went golfing at this little par-three golf course we loved. As a criminal defense attorney, I live by my cell phone. But on this particular day, I decided I was going to throw caution to the wind and leave my cell phone in the car and enjoy my time with my friends Michael and Charlie. Well, when we got back to the car, my worst fears had come true—I had three “urgent” messages. I said, “Oh crap, I have three urgent messages.” Charlie replied, “Butch,”—he used to call me that—“Butch, ‘urgent’ doesn’t mean urgent to you, urgent means urgent to *them*. You check those messages and tell me, how many are urgent to you?” I checked my messages and, needless to say, none of them were urgent to me.

However, perhaps the quote that meant the most and epitomized Charlie best to me was a comment he made a number of times. Charlie used to say, “Money can’t buy you happiness, but it sure can bring you misery.”

And Charlie did not try to pursue happiness with material wealth, although he could have. Instead, he was the most generous person I ever knew. First and foremost, I think Charlie was generous with himself—and considering my first two points about Charlie, that was a pretty good commodity. But, Charlie was also *extremely* generous with money. He was the most generous tipper ever; a \$35 meal with a \$20 tip was not at all uncommon. He overtipped every single service employee who crossed his path.

I could go on to recount countless stories about Charlie’s generosity, but instead, I will recount just one: the story about *our* Volkswagen. It may surprise some of you to know that Charlie drove a Volkswagen Passat. Well, I went to a dealership to get myself a Volkswagen Passat, and after sitting down with the salesman, the payments were coming out very high. So, I called Charlie and I asked him, “Do you really like your Volkswagen *that* much?” Charlie replied, “We’re actually thinking about selling the Volkswagen, and maybe we will sell it to you for cheap. That might help

you out.” Of course the salesman could hear Charlie’s booming voice, and he said to me, “Let me go talk to my manager.” After talking to his manager, the salesman returned to show that the payments would be moderately lower, and I was contemplating the decision when my phone rang again. I looked down and it was Charlie. I flipped the phone open and said, “What? Have you rescinded your offer?” Charlie replied, “Quite the contrary—John Golden has spoken—we’re going to *give* you the car.” The salesman looked at me and said, “I can’t beat that offer.” And he couldn’t, and he didn’t, and they gave me the car.

The important part of that story is where Charlie said, “John Golden has spoken.” Because that is how Charlie lived his life. Charlie would tell you, and Michael would tell you, and Jeff Griffith would tell you, too: They lived by the “Golden Rules,” and the Golden Rules were what? They were right. And that, my friends, is how you have a happy marriage—Charlie and John had one of the best marriages any of us has ever seen.

Finally, perhaps the greatest thing about Charlie is that he had *no* enemies. Charlie may be the only human being I have ever known who had nobody who disliked him. Even Ghandi had critics. Not Charlie. Furthermore, and perhaps the reason for the former statement, is that Charlie did not dislike anybody. I cannot think of a critical word that Charlie ever uttered about another human being. *That* is something to which we can all aspire.

CHARLIE

ERWIN CHEMERINSKY*

If there is a heaven, today there is much more laughter and joy there. But there is immeasurable sadness in our world. For those who believe in heaven, it is a bit of a comfort to think of Charlie spending eternity educating and regaling large audiences. It is also some solace to remember that, as much as any human being that I have known, Charlie truly enjoyed his life, that he lived it with great passion and joy, and that he lived it on his terms.

We all aspire to be the best at what we do. Charlie was the best. He devoted his life to teaching, and there was no finer classroom teacher at any university in the United States. He was the best lecturer that BAR/BRI ever had or ever will have. Judges and lawyers groups never will have a better speaker. USC will find someone else to teach Criminal Procedure and Gifts, Wills, and Trusts. BAR/BRI will find someone else to fill its podiums. But no one will come close to Charlie, and the students will be so deprived for never having known him.

I have spent a good deal of time thinking about what made Charlie such an exceptional teacher. Most of all, he truly enjoyed it and deeply cared about it. He had a dazzling intellect. He had the ability to capture concepts in such powerful and memorable ways.

I first heard of Charlie in the mid-1970s, when a college friend of mine had Charlie as a professor at the University of Virginia Law School. In one phone conversation, my friend told me that he had this amazing professor named Whitebread. He said that Whitebread came into Criminal Procedure and began the class by saying, “I know that most you will never practice criminal law, so I want to accelerate things. There are two things you need to know about criminal procedure. There is a major difference

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between what the police are allowed to do under the Constitution and what they actually do. That is because they carry guns. And above all remember, when that big green door slams shut, remember which side you want to be on.” The former captures the essential reality of the difference between the law as articulated by the Supreme Court and the law as it exists in the streets.

The latter—the image of the big green door slamming shut—so captures the essence of being a professional. It is a vivid reminder that a lawyer must not make the client’s problems his or her own. I never have heard a more powerful way of reminding students that there are simply lines that they must not cross, no matter how much they want to help their clients.

I know of no teacher who managed to so well combine entertainment with substance. Charlie was riotously funny, but it always was in service of his communicating ideas. That, of course, is what made him the best bar review lecturer who ever lived. He could communicate an enormous amount of material with great clarity while keeping the students entertained and presenting it all in a manner that was easy to remember.

Charlie taught large numbers of students at USC. Every year, he’d teach Criminal Procedure and Gifts, Wills, and Trusts to rooms filled beyond capacity. He would also teach large undergraduate classes. But he also did a tremendous amount of teaching outside of the Law School. Every summer, he’d lecture to students across the country, usually in seventeen different cities, who were preparing for the bar exam. Every fall, he would go to dozens of law schools to deliver a lecture on how to take law school exams. In between, he would speak at dozens of conferences of lawyers and judges. The reality is that no one in the country spoke to more law students, lawyers, and judges over the last quarter century than Charlie Whitebread. Doing this, of course, required a person with phenomenal energy. But even more, it required a person who truly loves teaching.

He had a penetrating intellect. Early each July, he and I would have a long conversation about the recently completed Supreme Court term as we were each preparing to speak and write about it. His insights from those conversations were invaluable, and always the best I heard anywhere.

Charlie was not just the best in his professional life. In his personal life, too, he was a model for all of us. His love and devotion to John Golden and Michael Kelly, his kindness and love for Katie Waitman, his dedication to the Jeff Griffith Youth Center—all are an inspiration.

I can speak personally that he also was the best as a friend. So many

of us received his cards and notes. Any kindness was the cause for a sweet note. His phone calls were even better, because they brought the warmth and vibrancy of his voice. In the years when I was doing seventeen city BAR/BRI tours, like Charlie was, several times in the month of June I would receive a call from him to see how I was doing, and always to tell me some hilarious story of his life on the road. When I was going through a hard time, the calls would increase. He would call just to say hi, to see how I was doing, to let me know that he cared.

Charlie always made me feel better about myself. He was my biggest cheerleader. He always inspired me to be my best self.

Charlie was taken from us much too soon. It is so hard to believe that he is gone, and that if I go to the fourth floor of the Law School, I won't hear his booming voice. There won't be any more cards or any more phone messages filled with Charlie's warmth and wit. But he lives on through all of the students he taught and all of the lives he touched.

In the play *A Man for All Seasons*, there is a scene where Sir Thomas More encourages someone to be a teacher. The person responds, "If I were, who would know?" Sir Thomas More replies, "You, your students, God. Not a bad public that." No one taught a larger public than Charlie Whitebread. No one did a better job of teaching about law and about life.

All who knew Charlie mourn our loss. But we all celebrate the life of a person who lived with such passion and such joy. We celebrate a truly unique, extraordinary, and wonderful person. I loved Charlie Whitebread, and I will miss him as long as I live.

REMEMBERING CHARLIE

JAMES B. CURTIS*

I am pleased to contribute to this special edition of the *Southern California Law Review* in memory and honor of Professor Charles H. Whitebread.

I had the incredible good fortune to be among Charlie's best friends for twenty-eight years. Beyond being a dear, beloved friend, Charlie was my teacher at USC Law, my mentor, and my hero. I had the invaluable opportunity to serve as his research assistant for two of my three years at USC Law. Charlie was a brilliant, charismatic, loving man. It was a great honor to know him and to learn from his example.

I wish to share three of Charlie's quotes which speak volumes about the lasting impact he had on me and on all of those whose lives he touched.

The first quote represents the first words I ever heard Charlie speak. I recall that day in late August 1980 as clearly as though it occurred today. It was the first day of class in Gifts, Wills, and Trusts. Charlie was a visiting professor at USC Law. The capacity crowd of students assembled in Room 3 anxiously awaited his arrival, since we had heard of his stellar scholarly reputation and teaching acumen. Suddenly, the door to Room 3 flung open, and a lightning-bolt-of-a-man bounded down the aisle to the front of the classroom. The first words he spoke that day were, "Hi, kiddies, I'm Charles Whitebread, and everything you need to know is contained in my head." A genuine sense of excitement enveloped the room as laughter erupted. As all of us experienced that semester, Charlie truly did know all we needed to know. That's why so many of us at USC Law, and why so many students at the University of Virginia Law School and the Georgetown University Law Center, where he also taught during his distinguished career, enrolled in every course he taught, regardless of subject matter. Students regularly wrote to Charlie, expressing thanks and admiration. I recall one former student's letter stating that he had taken all

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of Charlie's courses so that he could "bask in [Charlie's] exuberance." Another student marveled that Charlie "could teach the phone book." Still another student wrote, "Charlie Whitebread rocks my world." Charlie was a master teacher, a master communicator.

During our nearly three decades of friendship, Charlie often shared with me another quote: "Enjoy the full, rich tapestry of life." Charlie practiced what he preached. From sports events to classical music, from fine French Burgundy wines to Dodger Dogs, from the local beach scene in Santa Monica to worldwide travel, Charlie was always on the go seeking fun and adventure. During Charlie's frequent travels, he often knew more about the places he visited than the local residents. I vividly recall visiting the Duomo in Florence with Charlie and John Golden, his wonderful long-time partner. Charlie was regaling John and me with every imaginable detail about the history of the cathedral. He knew how long it took to build, the construction materials used, the types of tradesmen who built it, the government in place at the time—even the fashions in vogue during the era. As we listened, we sensed someone was behind us, so we turned around and realized that an entire tour group had stopped and was listening intently to Charlie's colorful descriptions.

It is Charlie's third memorable quote, however, which captures him best. Charlie regularly commented that "things don't interest me, people do." In Charlie's case, his actions truly spoke louder than his words. Charlie was a sensational conversationalist. He was in demand as a dinner companion in every city he visited. He was also the most generous person I have ever met. His philanthropy was not limited to his regular contributions to USC, Princeton University, Yale Law School, and other educational institutions. It was Charlie's vision and kindness that enabled the Los Angeles Gay and Lesbian Center to open the Jeff Griffith Youth Center. The Youth Center has helped thousands of at-risk teens, whether they be straight, lesbian, gay, bisexual, or transgender, by providing meals, educational programs, and medical care. Even though Charlie was a highly successful man, he never lost the common touch.

I loved Charlie with all my heart. I miss him every day. On September 16, 2008, America lost one of her favorite sons. One of America's great families lost its first born. The University of Southern California lost one of its best ambassadors. The legal profession lost one of its premier scholars and teachers. Although our loss is far-reaching, Charlie would not have wanted us to focus on our sorrow. Instead, he would have encouraged us to celebrate life and living, and to recall him with joy. Although Charlie was taken from us far too early, he leaves a rich legacy for future law students

through his many insightful publications. That is why I choose to take comfort in the age-old saying, “Those we have held in our arms for only a little while, we hold in our hearts forever.”

THE VERY BEST

SUSAN ESTRICH*

My last conversation with Charlie wasn't about him. I wanted it to be. I wanted to talk about how he was doing and how I could help him—about what I could do for Charlie.

He wanted to talk about what he could do for *me*. He was concerned about me. He wanted to make sure I was alright. He was fighting Stage 4 lung cancer, coughing like crazy, uncertain whether he would ever be able to teach again, and he wanted to make sure I was okay, wanted me to know how grateful he was to me for offering to back him up on his fall teaching, wanted to make sure I knew just how terrific I was. He wanted me to be happy, because according to him, I deserved it.

I was terrific because Charlie thought I was. That was his final, and perhaps most precious, gift to me and to the many thousands he loved: John Golden, his family, his colleagues, and most of all, his students.

All of you know that Charlie was a brilliant guy, an extraordinary student and teacher of the law, a guy with a gift, full of passion and humor and spirit, a guy who filled the room when he entered it, lit it up with his exuberance and energy, loved the law and wanted everyone else to love it and embrace it and celebrate it the way he did. But as I think back, perhaps Charlie's greatest gift was not really so much about himself, but about how he changed everyone he touched—changed them not only in how they thought, what they knew, and how they saw the law and the world, but most fundamentally, in how we saw ourselves.

I sat next to Charlie at graduation last May, his last. That was, really, why I was there. I wanted to applaud my own students, of course, but I really wanted to be there to be with Charlie, to cheer for him. We didn't say it out loud, but we knew, all of us, that it might be his last. I got there early, positioned myself strategically to walk in with the old-timers, which is

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what I have somehow become. Charlie sat between George Lefcoe and me. He was surrounded by love.

He was coughing a lot. It was scary to hear. He was worried that he would somehow disturb the ceremonies. I was worried that it must hurt.

But no one had more fun that day than Charlie. He was pleased to be honored. He loved Erwin Chemerinsky's speech—the very best graduation speech he had ever heard, he told me. Because Erwin was the very best. He was very proud of Erwin. But even better was the reading of the names of each student. Charlie jumped up and down, hugging one after another. “He’s the best,” Charlie would say to me. “She’s the best,” he would say. “She’s really amazing,” he would say. He almost seemed disappointed when one of them didn’t notice him three rows back, cheering and whistling, eager for the student to notice, come back, accept a bear hug.

It wasn’t that Charlie needed one more bear hug. I looked over nervously each time, thinking of all the germs and bacteria that each of those huggers, of course unintentionally, was dripping on my sick friend. Most people would avoid such encounters like the plague they could be for a person fighting such cancer. Charlie reached out for them.

But—and this is my point—it was not for him. He wasn’t looking for the students to praise him. He wanted to praise *them*. He wanted them to know how much he thought of them.

Some people, many people, look at others and cannot help but start calculating how and why they are better than the other; they look at them as a mirror for themselves, to make them feel smarter, more successful, more accomplished. Charlie was just the opposite. It wasn’t about him. His joy came from holding up a mirror that made *you* better, smarter, and more successful than you thought *yourself*; that showed you as he saw you, full of special talent and unlimited potential. Charlie loved teaching because he loved his students; he loved his colleagues. We were all better in Charlie’s mirror than we could ever be in our own.

It takes a very big man, and a kind one, to see people that way, and to find pleasure—the greatest pleasure—in offering them the gift of seeing themselves in the bright light of his mirror.

I have discovered, as I have grown older, that the worst thing about aging is not the lines around my eyes, the sometimes aches in my joints, the sadness that comes from knowing that everything does not always work out for the best, that decisions once made cannot be undone, that some opportunities are lost forever. All of that is hard.

But the worst thing, without question, is losing people you love. The worst thing is moments like this one, of saying goodbye. Over the years, I have tried to figure out a way to make my peace with such moments. I lost my father at a young age, and it nearly destroyed me. And the greatest comfort I ever found, and the comfort I offer to those who are hurting, is only this: people you love may die, but they are never gone so long as those of us who they touched and shaped and loved carry them inside us, so long as we are different because of them.

The next time you look in the mirror, the next time you are tempted to think of yourself as anything less than the greatest or the best, to question whether you are enough—in any of those familiar ways we question ourselves—think about what Charlie would say about you if he had the chance. “He’s the greatest,” he would say. “The very best.” And if we can carry in ourselves the faith that Charlie had in us, if we can remember the mirror, distorted by love, that he held up to each of us, the man we loved so will never really be gone.

CHARLES H. WHITEBREAD

MICHAEL J. GRAETZ*

Late in April when Charlie Whitebread learned that he had Stage 4 lung cancer, it occurred to me that I might someday be asked to say a few words about him. But these are comments I hoped never to make. I do not have words to describe to you the emptiness in my life that Charlie had filled for so many years. But our purpose here is not to mourn our loss; rather it is to celebrate Charlie's life.

Charles Whitebread walked into my life on a beautiful October evening, into an old farmhouse on 350 acres of land overlooking the Blue Ridge Mountains in Charlottesville, Virginia, where I was living with four other law students in 1968. It was Charlie's first year of teaching, my last year of law school. From then until September 16, 2008, the day he died—nearly forty years—Charlie and I were the closest of friends. We always referred to one another in speeches as my “great good friend,” and often described ourselves as oil and oil. Charlie was twenty-five years old then, and soon to become the University of Virginia Law School's teaching superstar, as well as a scholar of the first rank. In the conservative climate of the Law School in those days, Charlie was unique: full of energy, charismatic, larger than life. He always insisted that laughing is one of life's greatest callings; he had that unmistakable Breadman twinkle in his eye.

Thirty-five years later, giving the commencement address at the University of Illinois Law School, Charlie told the graduating class:

It is not enough in my view to stop and smell the roses. It will be essential to go and look for some roses. Take in museums, art galleries, theater, rock clubs, and live a life of joy in the law.¹

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1. Charles H. Whitebread, George T. and Harriet E. Pflieger Professor of Law, Univ. of S. Cal. Law Sch., Commencement Address at the University of Illinois College of Law (2003).

Charlie Whitebread and I often looked for roses—and not just roses, if one were to be completely candid. He, in particular, had something of a taste for thorns. And we lived a life filled with joy. We listened to a lot of music in a wide array of places. At University Hall in Charlottesville we saw what had to be the worst concert Janis Joplin ever performed. Elsewhere we also saw one of Warren Zevon's best, Pink Floyd, David Bowie and Iggy Pop, Bobby Short doing Cole Porter, the great Paul Simon, and we saw Little Feat—America's best 1970s rock and roll band—more times than I can count, to name just a few. We had season tickets to the Los Angeles Chamber Music series at the Ambassador Auditorium in Pasadena, where the signs in the bathroom warned us not to “step on the ONYX,” and we spent untold evenings in unnamable dives where we would have hesitated to use the bathroom, if only we could have found it.

We traveled together in Europe, more than once, and Charlie—who confessed to a pampered and preppy upbringing, and often aptly referred to himself as “Mr. Know-It-All”—used much of our time there to fill in some of the gaping gaps in my liberal arts education.

Charlie and I also spent a lot of time together on beaches: Virginia Beach, Biarritz, Jamaica, and Agious Nicolaous—a small town on the Southern coast of Crete—to name a few. After a time, our favorite beach became the Santa Monica beach, in particular, Lifestation Number 9, where much of the USC faculty spent the late 1970s and early 1980s together riding the waves, enjoying the sunshine, ogling the local fauna (without any discrimination on the basis of sex, color, creed, or national origin), and, I am sure, thinking and discussing profound thoughts.

Charles Whitebread played a crucial role in helping secure my appointment to the UVA law faculty in 1972, and that he was so enthusiastic about his life there no doubt erased any small doubts I might have harbored about entering the teaching profession myself. During our time together there, we were inseparable. Our offices in Clark Hall were only three doors apart. We ate lunch together nearly every day, and before the law school moved, we usually crossed Mr. Jefferson's magnificent lawn to eat at the corner. At faculty events, we always formed the core of the infamous table Number 3, which over time became so boisterous that when he became dean, Emerson Spies stopped having sit-down dinners. We started throwing Halloween parties for the Virginia law school community, a tradition we picked up again when we reunited at USC. In Charlottesville, we partied at the VFW lodge and the Bren Wanna Club, in Los Angeles, in students' family homes in Beverly Hills. Charlie often viewed these costume parties as occasions to don a toga.

As a law student at Yale and during his early years of teaching at UVA, Charlie served as a resident advisor in various dorms. He liked living rent free. But there came a time for him to give up dormitory life. Reluctantly—and only after I insisted—Charlie purchased his beloved Charlottesville home, where he and John Golden continued to spend Christmases and summers even after he had moved to Los Angeles. It was the first time in Charlie's life that he had borrowed any money, and for months after taking out his home mortgage, Charlie said that he felt like a criminal every time he entered the bank. I tried, time and time again, to explain to him that lending money was how banks make money, but Charlie would hear none of that. He paid off that mortgage as fast as he could.

You see, Charlie Whitebread, for all of his outrageous style, had a very conservative streak. For a long time, he was a committed Republican; in fact, he had headed the Goldwater for President club at Princeton. Charlie came by his conservatism naturally, having come of age in the late 1950s in Bethesda, Maryland, the grandson of a curator of the Smithsonian Institution.

And Charlie always had a keen regard for the civic virtues. We all know of his impressive hands-on philanthropic endeavors, raising more than \$1 million for the Jeff Griffith Youth Center in Los Angeles. Charlie was also unfailingly polite; he never dined at my home without dropping me a note of thanks. Nor did he ever fail to acknowledge a birthday or holiday gift, and never by email or typed by his secretary—always by a handwritten note.

Charlie also liked to return frequently to familiar surroundings—the same hotels, the same restaurants. Often he ordered the same dishes. In New York for example, he stayed at the UN Plaza Hotel and dined at The Palm. Even in Paris, he favored a small bistro on the Left Bank, a place he returned to regularly, paying no attention to any other culinary delights he might be foregoing elsewhere in the City of Lights.

Charlie loved the holidays, especially Halloween and Christmas. His Christmas cards were legendary. They were selected with great care, always stuffed with a photograph (also carefully selected), and finished off with a handwritten note—a bit about him, something about you. Charlie Whitebread cared deeply about his relationships, and his Christmas cards were only one example of his efforts to maintain them. More than five hundred cards, painstakingly handwritten year after year.

I was also on Charlie's birthday list. And—until this year—he never

missed. With me, he liked to be early.

Charlie and I often exchanged gifts, often at Christmas, usually on birthdays. We spent many years simply exchanging polo shirts; the same brand, the same size, in different colors. Every once in a while, I would receive a shirt from Charlie that I knew he must have been given by someone else. So if you, for example, are the person who gave Charlie that blue-checked shirt from Joseph A. Bank and have felt bad because you never saw him wear it, do not despair: I have been wearing it for years. Charlie, you see, believed in “regifting.” Once we abandoned our tradition of exchanging polo shirts, I often had trouble knowing what to buy for Charlie. One year when I was living in Florence, Italy, I came upon the perfect present—a number of handmade Italian silk bow ties. I bought several for Charlie and some for myself. Three years after I had given these to Charlie for Christmas, I was surprised to open my Christmas gift from him and see that I had gotten them back. To this day, I do not know whether he had forgotten from whence they came or was sending me a not-so-subtle message about my taste in ties.

The first fifteen years of my friendship with Charlie Whitebread was a time of American life often referred to as an era of sex, drugs, and rock and roll. This means that much of my time together with Charlie necessarily fits into what John Golden calls the “do-not-recall box”—a box designed to fortify that core presumption of innocence, which meant so much to Charlie. But one of the things I miss most about Charlie is that he took so many of my memories with him. I have a terrible memory; I forget far more than I remember. Not Charlie, he remembered everything. He loved quoting back to me what he called “sayings of the Chairman,” little aphorisms I had uttered long ago and long since forgotten.

Charlie also remembered everyone: students, acquaintances, friends, business associates, and judges. And Charlie made every effort to stay in touch with his friends. When he was on the road giving his lectures to first-year law students, to bar review courses, or to judges, he would often call and tell me whom he had just seen in one of the cities or towns he was visiting, usually someone from USC, UVA, Yale, Princeton, or even the Landon School. Charlie treasured his friends and he refused to allow his friendships to atrophy from inattention. Over the past two decades, when we lived thousands of miles apart, Charlie and I frequently got together, often on one coast or the other, and we talked at least once a week on the phone. I hate the thought of not seeing him and will miss what—until this May—he usually called our “cheery phone calls.” Charles Whitebread and I shared many great times together—and a few difficult ones.

Others have applauded Charlie's legendary stature and prowess as a teacher. Each of us who teaches harbors the hope that at some alumni event or another, one of our former students, or maybe two, will offer up our name during debates about who was their most important teacher. But none of us can fail to marvel at the outpouring of student affection that followed Charlie's death. Nearly two thousand posts on the web, remembering him, indeed revering him. Who among us expects even a small fraction of that? Charlie was a unique figure in American legal education.

I do want to add a few words about Charlie's professional life, for there too he and I were closely connected. First, Charlie's book with our friend and colleague, Richard Bonnie, *The Marijuana Conviction: A History of Marijuana Prohibition in the United States*,² went through six printings at the University of Virginia Press before being sold out, and then was republished thirty years later, since it remained important, wise, and unfortunately still relevant. Few among us can claim such scholarly success.

Shortly before his death, Charlie was in the process of revisiting what he regarded as the common theme of all such prohibitions: the confluence of a difficult social, economic, or medical problem that divides "us" from "them"—divides, as Charlie often said, "the movers and kickers" from "the moved and kicked." Charlie was certain that the next prohibition, and the next failure of prohibition policy, would be against tobacco. He felt it was ten or fifteen years away, but that it was inevitable. Unfortunately, he did not live long enough to make his case or to see if his prediction proved right.

Charlie's interest in drug prohibitions was just one reflection of his commitment to what, in a graduation speech at the University of Virginia Law School in May 2000, he described as "the ultimate issue of any great law school: the promotion of social justice."³ It was the discriminatory history—and present—of the drug prohibitions that he was battling against. In that graduation speech—and throughout his life—Charlie often quoted Calvin Woodard's words that "law schools must assume, as their basic premise, that the man who first understands his obligations to Justice will be better able to fulfill his legal 'function' whatever it might be. Justice, in a word must take precedence over law."⁴ Charlie told the graduating

2. RICHARD J. BONNIE & CHARLES H. WHITEBREAD, *THE MARIJUANA CONVICTION: A HISTORY OF MARIJUANA PROHIBITION IN THE UNITED STATES* (1974).

3. Charles H. Whitebread, George T. and Harriet E. Pflieger Professor of Law, Univ. of S. Cal. Law Sch., Commencement Address at the University of Virginia School of Law (May 21, 2000).

4. Calvin Woodard, *The Limits of Legal Realism: An Historical Perspective*, 54 VA. L. REV.

students, “You will decide if justice rather than parochial or economic benefit is to prevail.”⁵ He also told the students that keeping the promotion of justice in the forefront of their thoughts would ennoble their daily work and enrich our nation and our lives.

When Charlie entered teaching, there was turmoil in the legal academy, conflict between what our Virginia colleague Tom Bergin called law school schizophrenia between the “true academics”—those “who have the potential for serious scholarship”—and those he labeled the “Hessian-trainers”—people who were excellent at training practicing lawyers.⁶ Bergin fretted that the Hessian trainers were being forced to produce “vast tonnages of trivia . . . in the name of scholarship.”⁷ For evidence of this, he referred his readers to what he called “that vast Forest Lawn of catalogues, the Index to Legal Periodicals.”⁸ Bergin titled his article: “The Law Teacher: A Man Divided Against Himself.”

In this battle, the academics, the scholars, have long since won out. But Charlie Whitebread’s overwhelming commitment to teaching—indeed to teaching over scholarship—did not produce any schizophrenia. Charlie Whitebread was a man with an adamant sense of self. He knew that his calling was to teach. He had proved early in his career with his and Richard Bonnie’s book on the marijuana prohibition that he could do scholarship at the highest level. But that is not what he wanted to do. He wanted to teach.

And so the vast bulk of Charlie’s scholarship as his career matured was in the service of his teaching: our piece together on Monrad Paulsen and the role of a university law school;⁹ his annual review of Supreme Court cases,¹⁰ written mostly for state court judges; his coursebooks on juvenile justice and criminal procedure;¹¹ his book on how to take law

689, 737 (1968).

5. Whitebread, *supra* note 3.

6. Thomas F. Bergin, *The Law Teacher: A Man Divided Against Himself*, 54 VA. L. REV. 637, 645–46 (1968).

7. *Id.* at 646.

8. *Id.*

9. Michael J. Graetz & Charles H. Whitebread, *Monrad Paulsen and the Idea of a University Law School*, 67 VA. L. REV. 445 (1981).

10. E.g., Charles Whitebread, *The Conservative Kennedy Court – What a Difference a Single Justice Can Make: The 2006–2007 Term of the United States Supreme Court*, 29 WHITTIER L. REV. 1 (2007); Charles H. Whitebread, *Going Out with a Whimper: A Term of Tinkering and Fine Tuning, The Supreme Court’s 2004–2005 Term*, 27 WHITTIER L. REV. 77 (2005); Charles H. Whitebread, *The Rule of Law, Judicial Self-Restraint, and Unanswered Questions: Decisions of the United States Supreme Court’s 2003–2004 Term*, 26 WHITTIER L. REV. 101 (2004); Charles H. Whitebread, *The 2005–2006 Term of the United States Supreme Court: A Court in Transition*, 28 WHITTIER L. REV. 3 (2006).

11. CHARLES H. WHITEBREAD & CHRISTOPHER SLOBOGIN, CRIMINAL PROCEDURE, AN

school exams;¹² even his Green Bag article on how to make the bar review fun.¹³ These were all writings in the service of teaching, materials mostly for a student audience, reflections on the process of teaching itself. In my view, it was Charlie's self-awareness, his thoughtfulness about teaching that set him apart. That, along with his unbending quest for greater justice, his marvelous sense of humor, his limitless energy, his humanity, his novelist's eye for detail, and his love for the classroom. Those things, coupled with his uncanny ability to make learning both fun and memorable, made him the great law teacher of our generation. Winning USC Law School's teaching award this year meant more to him than you can imagine.

Charlie almost always told his students the truth. His mother, for example, really did express sadness at Mr. Miranda's passing, because of "all that he had done for us," as she put it. And I was the witness who suffered the cross-examination that set up Charlie's oft-told story about seeing jurors rocking. That trial involved an armed robbery on the fourth floor of the USC Law School. But sometimes Charlie exaggerated a bit. When he did so, he always did it in an effort to put his students at ease, to make a point of law more memorable, or to make his students more confident about their own prospects. For example, Charlie claimed he was a nonsmoker when the bar examiners made him take his exam in a room for smokers. But when I met Charlie, he was smoking at least two packs of cigarettes a day. The *New York Times*, on November 3, 1973, published an article entitled, "Despite the Warnings, Millions Can't, or Won't, Give Up Smoking."¹⁴ The article has no byline, but it was written by a very young Maureen Dowd when she was a stringer for the *Times*. She was captivated by Charlie. The article begins: "Charles H. Whitebread, Professor of Law at the University of Virginia, sat in his cramped, book-lined office, lit a cigarette and talked about smoking."¹⁵ Later in the article, after recounting the well-known health hazards of cigarettes, Ms. Dowd asks, "Why do people keep on smoking?" She says:

With some, like Professor Whitebread, it has become part of the personality structure, part of the public role. Pacing up and down before

ANALYSIS OF CASES AND CONCEPTS (5th ed. 2007); SAMUEL M. DAVIS ET AL., CHILDREN IN THE LEGAL SYSTEM: CASES AND MATERIALS (2d ed. 1997).

12. CHARLES H. WHITEBREAD, THE EIGHT SECRETS OF TOP EXAM PERFORMANCE IN LAW SCHOOL (2d ed. 2007).

13. Charles H. Whitebread, *Making the Bar Review Fun*, 9 GREEN BAG 2D 263 (2006).

14. *Despite the Warnings, Millions Can't, or Won't, Give up Smoking*, N.Y. TIMES, Nov. 5, 1973, at 45.

15. *Id.*

a class of 100 students, Mr. Whitebread waves an unlighted cigarette to emphasize a point or pauses dramatically, snaps his fingers and accepts a quickly offered light from his audience.¹⁶

“He also illustrates another common reason: Compulsion, deep-rooted and fanatical, perhaps a little mad. ‘I would rather smoke than eat,’” she quotes Charlie to say.¹⁷ Charlie was always an outsized personality: Anything worth doing a little was worth doing to excess. Moderation was never a virtue to Charles Whitebread.

Nearly three years later, on the same July 1976 day that John Golden and I set out in an underpowered, half-filled U-Haul for a bicentennial trip across America, Charlie quit smoking. His mother, like his father before her, had just been diagnosed with lung cancer. It never occurred to any of us that it might already be too late for Charlie himself.

I was moving to California. None of us knew it at the time, but Charlie and John would soon follow. As John and I got into the U-Haul, which was filled with some of my prized possessions, Charlie said, “When you get old, you need to have some of your things around you.” I was thirty-one; Charlie was thirty-three.

Whenever Charlie and I faced any adversity, the time between our phone calls and our visits shortened. We checked in with each other regularly, often daily. Last spring, when Charlie’s doctors thought that his lingering bronchitis had turned to pneumonia and that he might not be able to travel to Charlottesville, we talked regularly. When he called at the end of April to say that his illness was actually lung cancer, I came to see him. He had asked me to wait until the day after USC Law School’s graduation; he wanted nothing to interfere with that very special day.

I arrived just after Charlie had received his first chemotherapy. He was realistic; he knew his chances for survival were not good, but he was determined to fight. Charlie and I had always described “good advice” as advice that you know you should take, but just cannot. The last good advice I ever gave Charlie was to live at least until January, when his estate tax would be \$600,000 to \$700,000 less. He promised to try.

During the years when Charlie and I lived next door to each other on Ocean Avenue in Santa Monica, we would often take walks along the bluffs overlooking the Pacific Ocean. Frequently, we talked of growing old there together, moving into the EL Tovar retirement home near the San

16. *Id.*

17. *Id.*

Vicente intersection, and we argued about who would be in the wheelchair and who would be pushing it. The EL Tovar is no longer in our future.

Despite his illness, Charlie was determined to try to remain upbeat. That—of course—was an essential element of his personality. One day in June, he called my house wanting to chat. When he learned that I was in London and that my nineteen-year-old son Jake was at home alone taking care of the house, Charlie asked Jake if he had been throwing any wild parties. When Jake insisted that he had not, Charlie replied, “Well then, you are not half the man your father was.”

I saw Charlie for the last time in August. He had returned to Los Angeles from Charlottesville both exhausted and exhilarated from all the friends who had visited him there. By then, the combination of his deadly illness and the poisons they had put into his body had beaten him down. By twilight each evening, he was exhausted, his head drooped down on his chest. His enthusiasms had largely left him. Manny Ramirez had just come to the Dodgers, and after dinners we watched parts of a few games together. The last day we spent together, Charlie summoned the strength to go shopping with John and me at the Santa Monica Farmers Market. A spark or two of the old Charlie remained. A young man selling cheese there was as magnificent a specimen of California youth anyone could imagine. Even I noticed. So, of course, did Charlie. He showed a little of the old energy, the old humor, the old Charlie. That night, we spent our last moments together watching the Dodgers.

Appropriately, the last real conversation I had with Charlie was from an airport. We had often talked when he was waiting for a plane to take him to some law school, some conference of judges, or a bar review lecture. This time I was in the airport waiting for a plane to take me to watch my son play soccer—a pastime Charlie could hardly comprehend. He told me that if his days now were what it meant to be living after a cure, he had no use for it. He saw no point in carrying on. I couldn’t convince him otherwise; I hardly tried. The next week Charlie went to the hospital for the last time. Two weeks later, he was gone. Charlie died peacefully in his apartment on Ocean Avenue in Santa Monica with two of his best friends at his bedside.

Shortly after my mother died, one of my daughters, then age six, caught me in a moment of profound sadness. “Dad, why are you so sad?” she asked.

“I was just thinking about your grandmother,” I said.

“Oh,” she said, “I’ve been thinking of her too.”

“What are you thinking?” I inquired.

“I am thinking of her in heaven, having tea with Louie Armstrong,” she said.

This, I realized, is the best way to think about people who have passed. So I now try to think of Charlie Whitebread in heaven telling stories to anyone who will listen, maybe talking to Jackie Robinson about baseball or Lowell George about rock and roll, perhaps exchanging quips with Oscar Wilde, chatting with Agatha Christie about her novels, and no doubt pacing in front of some large classroom entertaining and educating the large crowd that has gathered around to listen and learn from him.

CHARLIE—A CONVERSATION INTERRUPTED

LOUISE LAMOTHE*

It is a challenge to write about a friend of thirty years and to capture the essence of the space he filled in your life. A true friend connects to a place in you that is unique. Charlie was like that for me.

Charlie was in his early thirties when I met him, and already displayed the attributes that others will no doubt mention: a commentator on the Supreme Court, an entertaining professor of trusts and estates and criminal law, a teacher at the FBI Academy and elsewhere, and a BAR/BRI lecturer of great renown. I leave it to others to describe his contributions in those areas. Others will write about him as a professional colleague or as a professor, but for me he was mostly my friend.

We met as lawyers, I practicing in a West Side Los Angeles law firm, and he visiting from the University of Virginia and then joining the University of Southern California Law School faculty. But though we met as lawyers, our relationship quickly outgrew that context. This is a strictly personal reflection with snippets of memories from our times together.

To me, Charlie was above all, a conversationalist, freely offering his opinions on a wide range of topics. Of course, we enjoyed talking about the law and its figures, both the towering personages and those who were scoundrels or scalawags. But our exchange of ideas extended to so many other things. He was a reservoir of riches as a friend—always opening doors into new experiences and sharing his observations, challenging my views. What a wonderful wit! Sometimes relentless, but always so quick and funny to the point of tears.

Charlie had enjoyed a classical education. He spoke French and knew

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to use (and give) Crane's stationery. His thank you note arrived like clockwork after each event, and he used to laugh that he was the "most-invited-to-dinner man in America" because he never failed to help in cleaning up afterwards. He was certainly a gentleman in the best sense of the word.

He was also a lover of Thomas Jefferson, and very knowledgeable about our third president's life. When my husband, David, and I visited him once in Charlottesville, he insisted that we tour both Monticello and the University of Virginia, and he enriched our experience of these historical treasures with both insightful and witty comments. I am happy that the last gift I gave him was a newly published biography, *Thomas Jefferson, Lawyer*, which he read with enthusiasm. In turn, he shared with me most recently Jim Newton's biography of Earl Warren.

Charlie took life very matter-of-factly. He resolutely avoided discussing the sad or unpleasant, preferring to keep the focus on fun. He was determined to be upbeat, to keep it light. But he was never superficial, always thoughtful and kind, a fundamentally good soul.

He rarely asked much of me in return. In one respect though, he was grateful to me for helping him out in a way that I could, since I was among his most ordinary and reliable friends. I was on hand to spend time with his mother whenever she came to Los Angeles. He always made certain that David and I would be available to entertain her for an evening during her visits, and we did it gladly.

Time with Charlie was always stimulating. I loved his repartee and it was a challenge to keep up with him. We loved discussing our shared passions, including reading, both the exalted and the potboilers.

Charlie, who regularly suffered the commute from his Santa Monica home on the far West Side to USC's downtown Los Angeles campus, got into the habit of listening to books on tape. He, in turn, got me hopelessly hooked, and we often traded our favorites, though he was much more often my source than I his. Whether it was Ken Follett, Agatha Christie, or Nero Wolf, whenever I saw him he pressed the latest set into my hands, and I was then transported to another time and place by a murder mystery or adventure story while sitting in traffic.

Our many good times frequently revolved around shared observations of life and its quirks. In the time since his death, I have realized that when the person with whom you shared these thoughts is gone, it is as if the part of you that connected to that person also dies. There is no way to replicate the connection created by the subjects you talked about and how you talked

about them. Will I ever enjoy a Nero Wolf mystery on my CD player while driving the freeway without thinking of him?

Charlie's voracious appetite extended to his very large circle of friends. He was a real friend to many, many people, and he was always looking for a way to advance his friends. He pushed opportunities in my direction, boosting my stock with potential lecture opportunities. How else would I have been invited to Minnesota to lecture to lawyers there about alternative dispute resolution if it had not been for Charlie?

Not all of our ventures enjoyed commercial success—once, in the early 1980s and under the spell of the desert, we each decided to buy a second home there, in the town of Desert Hot Springs. It was a fateful choice, for the town that we chose for what seemed to be a promising future developed instead into a haven for gangs and bikers, some of whom became our tenants. The predictable cycle of rent delinquencies and evictions ensued, and we eventually sold out, lucky to escape without foreclosure and with our credit ratings intact.

Our real estate escapades behind us, in the late 1990s and into the next century, we chose more tame pursuits—orchid shows became a pastime we enjoyed together. This was especially so after my family and I moved to Santa Barbara, where orchid shows and growers dominate the floral landscape. Once I made that move, we still managed to see each other, though less frequently. I was flattered that he continued to enjoy our time together.

With Michael Kelly and John Golden, Charlie drove to Santa Barbara and we combed the aisles of the local growers, oohing and aahing over the blooms and choosing a few to buy for our home gardens. He was clear about his favorite—not the cymbidiums or phalenopsis or even the vandas, but the cattelyas—those were his special loves. We always made a day of it, enjoying a lunch on Stearns Wharf or at a downtown Santa Barbara art gallery cafe.

When Charlie and John first moved to Los Angeles, they lived in an apartment on Ocean Avenue in Santa Monica. In those years, when I lived close by in Santa Monica Canyon, we used to joke that we would end our days chatting, while stretched out in comfortable lawn chairs at Santa Monica's El Tovar Hotel. The hotel, of course, was later transformed into luxury condominiums, but that did not impede our "plans" to retire there, with an ocean view, under the palms. Though that won't happen now, I will continue to enjoy in memory those wonderful conversations, sadly interrupted.

HE WAS A TEACHER

MICHAEL SIMS*

“I am Charles Whitebread from the University of Southern California.”

Well over one hundred thousand first-year law students, BAR/BRI students, practicing attorneys, FBI agents, and sitting judges heard Professor Charles Whitebread utter that simple opening phrase each time he began a lecture. While the opening phrase may have been simple, the lectures that followed that opening were anything but simple. For Charlie Whitebread was not just a law professor, he was a truly gifted teacher of the law. He was a lifelong student filled with an insatiable curiosity. And he was a dear friend not only to me, but to thousands of students with whom he shared his gifts.

I first met Charlie when he came to the University of Texas to speak about the “first year of law school in general and exam taking in particular.” Charlie had come to Austin as part of his annual seventy-two-school fall tour—a tour he did while maintaining a full-time teaching load at USC. He arrived in October of my first year. Like so many 1L’s, I had been told that the key to success on the fast approaching first set of final exams was to IRAC. The problem was that none of my professors were teaching us how to IRAC beyond explaining that the acronym stood for “Issue, Rule, Application and Conclusion.” In fact, as far as my classmates and I could tell, none of our professors were teaching us anything at all. They were just asking us questions.

It was a quite a shock, therefore, when Charlie started his lecture and began to teach. Even more shocking was that he employed humor in his teaching. In an effort to help us grapple with the intimidation we were feeling as first year students, Charlie recalled his first day of law school at Yale when his Civil Procedure professor introduced a case and asked the class, “Who should decide this issue?” According to Charlie, an

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overachieving student in the front row began frantically waving his hand. When the professor called on the student, the student answered, “Twelve good persons tried and true drawn at random from the laity.” Charlie’s response to that answer was to worriedly think to himself, “Do you think he means a jury?” and then consider dropping out of law school. The punch line, of course, was that the frantically waving student finished near the bottom of his first-year class.

Having helped us get over some of our 1L anxiety, Charlie spent the rest of the hour humorously, but effectively, teaching us a step-by-step approach for spotting issues, stating rules, applying facts, and reaching conclusions on our final exams. The roar of applause from two hundred University of Texas first-year law students was testament to the good Charlie did for each of us that day.

After graduation from law school in 1992, I went to work for BAR/BRI, and had the opportunity to travel with Charlie each fall on his first-year tour and each summer for his BAR/BRI bar review lectures. Seeing him lecture again and again, I came to appreciate his teaching even more.

While Charlie felt strongly about reducing the intimidation factor of the first year of law school, he was even more passionate about helping bar review students cope with the abject terror of the bar examination. Charlie would always arrive early for each lecture to meet the students and share a kind word. At each break during the lecture, he would walk into the audience to make sure the students understood the material, and see how they were handling the stress of studying for the bar exam.

Charlie frequently used humor during his BAR/BRI lectures to relieve stress and help clarify difficult concepts. To help students grapple with the extraordinary amount of rules that must be memorized for the bar exam, Charlie would always remind students that many are quite simple. For example, when teaching the elements of the law of kidnapping, Charlie told the students there are two requirements, “(1) a kid, and (2) a napping.” What could be easier or more memorable than that?

When teaching the rules surrounding police interrogation and confessions, Charlie had a unique perspective on the *Miranda* warnings. Here’s how he described it:

“I am reluctant to insult your intelligence by telling you what the *Miranda* warnings are. If you really don’t know the *Miranda* warnings, you separate yourself from every person who watches television in America. If you don’t know the *Miranda* warnings, you should study a

little less tonight and watch a cop show on T.V. and you will learn them.”

After reciting the warnings, I admonish students to look for two triggers for the need to give the warnings: custody and interrogation. The police must be engaging in interrogation to require them to give the *Miranda* warnings. As to interrogation, no warnings are required to admit what courts call spontaneous statements or threshold confessions. To exemplify this point, I once again resort to a case I had in my very limited criminal practice. One of my clients, on seeing two police officers coming up the walkway of his home, ran out the front door and blurted out, “You must be here about that Buick I stole.” The police did not need any warnings to admit that spontaneous statement. I then pause to explain to the students what the two police officers were doing approaching my client’s home—they were raising money for the Fraternal Order of Police. Who were many of my clients? Life’s losers, that’s who.¹

Charlie understood, however, that even making the material humorous or memorable did not necessarily make it manageable. To help the students deal with the volume of material, he always told the story of his own bar exam study.

“You can’t learn all the stuff in these books and it is even dangerous to try. If you are taking our course, you have no reason to fear lack of knowledge on the bar. My golly, these books are so chock-full of knowledge they would choke a horse! Your only fear if you are taking our course is that, in the face of all this material, you will panic. To show you what you shouldn’t do, let me tell you what I did do. I graduated from Yale Law School in 1968. In those days, we went to school right up until the first of June. I sat for the D.C. bar exam which, in those days, was given the last week in June. I had three weeks to prepare for the exam. I rushed to D.C., where I took a review course in which a single guy drearily lectured on every topic eight hours a day. As I like to say, I wish you (pointing at the students) could have been with me for that. But I was just like bar review students everywhere. I didn’t care what he said, I just took notes as fast as I could. We must have been two weeks into this course before I even looked up from my note-taking. As I recall, he was lecturing on Commercial Paper: Negotiable Instruments. I looked up and a little light bulb came on over my head and I thought to myself—do you think he means a check? I later found out that I answered all ten commercial paper questions on the D.C. bar correctly but, to this day, I have just one little problem about commercial paper: I don’t know what it is.

1. Charles H. Whitebread, *Making the Bar Review Fun*, 9 GREEN BAG 2D 263, 267 (2006).

“Well, I attended eight hours of lecture and then went home at night and studied some more. My mother threw food in at me like I was some kind of animal.

“Came the day of the D.C. bar exam. The exam was given at the old Georgetown University Law Center, which was then an unair-conditioned, five-story, walk-up fire trap. Where do you think I was assigned? The fifth floor. I climbed up there to a room that was hot and airless. You can believe this or not—it really happened. I found I had been assigned to the smoking room, but I didn’t smoke and, worse yet, it was a typing room and I didn’t type. I am in this hot, nasty, smoking and typing room when I try to remember my outlines and mnemonics. I am starting to panic. I can’t remember any of my material. The sweat beads are pouring off my head. I am having what I have always thought of as the Toilet Flush—I am in total panic. I can’t recall any of my notes and it looks like I am doomed. Just as I was in that totally panicked state and they were getting ready to hand out the exam, the fellow sitting in front of me did one of the most charitable things anyone has ever done for me in my life. Just as they were about to hand us the exam and I am in total panic, this guy turned around to me for no reason I ever figured out and said, ‘You know, I hear some people take a course before they take this test.’ What did I think? I thought, ‘O.K., that’s one.’ That’s what I thought. And what is the moral of the story? The moral of the story is: Don’t panic no matter how little you know! You can take it from me, there will be boatloads of folks sitting for the bar exam who know less than you.”²

In reality, there were few people who knew more than Charlie Whitebread. Part of what made him a great teacher was his insatiable curiosity—about everything. At home, he was never far from one of many reference volumes. When we traveled together, he was a voracious reader of newspapers, and he kept his suitcase full of nonfiction books, historical novels, and mysteries. Wherever we went, we found something new to see. For example, in Atlanta, we went to the Cyclorama, a nineteenth-century painting-in-the round and sculpture depicting the Civil War. In Houston, we toured the Museum of Science and Nature, spending hours in what Charlie referred to as “the butterfly aquarium,” an indoor rain forest filled with thousands of butterflies. No matter what city we were in, no matter how many lectures he had to give, Charlie required us to learn something new every single day.

Even though he jokingly referred to himself as “Mr. Know-it-All,” he never took himself too seriously. Nor did he take the entire process of

2. *Id.* at 268–69.

education too seriously. He always reminded his BAR/BRI students,

In 35 years of law teaching it is my observation that the acquisition of knowledge—all knowledge—falls into three levels or stages. Level one: You come to the course each day. You more or less listen to the lectures. You sort of do the homework. You kind of understand the stuff. Level one is glib understanding.

At the other end of the spectrum is level three. At level three you realize there are grave problems with your glib understanding. At level three you have worked through all of those problems. Level three is true insight and knowledge. Level three is where all the “A” answers are on law school exams.

However, between level one—glib understanding—and level three—true insight and knowledge—there is a vast level two.

At level two you realize there are grave problems with your glib understanding. But at level two you can’t figure out those problems. At level two you lose the glib understanding, but at level two you do not gain true insight and knowledge. At level two you lose sight of the forest for the trees. At level two you get all balled up. You even forget your own name.

Let’s remember what we are talking about here: the bar exam. It’s a pass-fail exam. You don’t want to finish first on a pass-fail exam. Where do you want to finish? You want to finish in the money. You want my advice: Don’t even think of leaving level one. Glib understanding is more than enough to pass any bar exam in the United States of America.³

Over the years, I have had many of Charlie’s former bar review students tell me that glib understanding is not only enough to pass any bar exam in the United States, but it is in many cases enough to pass many of the tests that life or the practice of law throws at you.

As I think of one story that sums up my experience with Professor Charles Whitebread, it is this one: Late one evening after an eleven-hour day in which we had traveled to three separate cities and Charlie had spoken at five different law schools, I asked Charlie how he could deliver the same speech over and over again with the same freshness and vitality. He looked at me, paused, grinned, and offered this reply. “I’m not giving speeches. I’m teaching. That’s what I do. I am a teacher.”

He was indeed. For those of us who were fortunate enough to have been his students, we are richer for it.

3. Transcribed from Charles Whitebread’s Criminal Procedure bar review lectures.

