

## Willis Padgett Whichard (1940-2025)

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My first encounter with Willis Whichard took place in a classroom at the UNC Law School, on a Friday afternoon in January 1991. This is now a point so remote in time that the UNC law students of 2026 would describe it, with that look of wonder mingled with flippant derision peculiar to the almost-but-not-quite-adult, as “back in the day.” The classroom where we met was then known as the Haywood Room. (Nowadays all our classrooms are just faceless numbers.) Having both learned and taught there, I can attest that it is small, narrow, tight, and generally uncomfortable.

Nevertheless, it was in the Haywood Room, that Friday afternoon in January, when one of the great friendships of my life was born. About 15 of us were there to meet our professor for the first day of a seminar on the Judicial Process. Willis Whichard was then in his fifth year as an Associate Justice of the Supreme Court of North Carolina. It felt as though we were about to be presented as foreign ambassadors at the Court of St. James’s.

The moment I knew Justice Whichard and I were destined for friendship occurred when he wrote the name of a 17<sup>th</sup> century English judge on the blackboard. Now it came to pass, as I followed the piece of chalk in his hand, that this judge’s last name was spelled C-O-K-E. Turning around to face the class, Justice Whichard asked which of us knew how to pronounce it. I raised my hand and said I thought it rhymed with “book.”

Why I was in possession of this more or less useless factoid at the age of 24 must remain one of the eternal mysteries. Surely my classmates in the Haywood Room considered it evidence of a misspent youth. My knowing it does explain a few things, though. For example, my faculty colleagues at the law school figured out to their relief, a long time ago, that there was no meaningful risk of my displacing Lissa Broome as Carolina’s Faculty Athletics Representative. Yet the fact remains that from that day, and because of Sir Edward Coke – Bless His Heart – a bond of friendship sprang up between me and Willis Whichard. I first called him “Justice,” later “Bill” – although I heard him assure many people that “Willis” was just fine, too; and because some of us knew him as Bill, and others as Willis, I will use those names interchangeably in what follows.

That Judicial Process course was far and away one of the most enriching academic experiences of my time in law school. Years later, my wife Carol told Bill that if he had announced that that seminar would meet at 7:00 a.m. on Sunday mornings, I would have shown up fifteen minutes early.

My friendship with Bill was strong and intimate for 34 years. Its flame burned as brightly as ever the last time I saw him, at the beginning of this past fall semester. That day we had dedicated ourselves to a serious, if not sacramental, task: We were doing rough justice to a couple of high season BLTs from Merritt's while sitting at his dining room table at The Cedars. When we two good and consistent trenchermen got down to the short rows, he asked me to speak at his memorial service. I told him I would happily do so, but that he needed to understand that whatever I said would be personal, not biographical. He nodded assent to that. So I will now endeavor to share something of the Willis Whichard I knew. Not the CV, but the core, the essential impetus of the man.

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Who of us, in the end, can fathom the endless array of factors, most of them only dimly understood, that propel us to live the lives we have been given by grace? We can only grab onto the mountains, the promontories, that thrust up highest in our souls; pull ourselves upon them; and survey our hearts' rugged landscape. When it came to the soul of Willis Whichard, one mountain's looming height and bulk threw every legislative seat, every high court judgeship, every deanship, presidency and board chairmanship into deep shadow.

That mountain, that Everest, was the University of North Carolina at Chapel Hill. It is simply impossible to gauge or fathom the University's importance in his life. Bill's dedication to Carolina transcended the parts of the University he himself had attended and earned degrees from – the College of Arts and Sciences and the Law School. His love for the place slopped over the lip of his bucket and washed over the School of Education, the School of Social Work, the University Library (particularly its North Carolina and Southern Historical Collections), and the General Alumni Association.

A young Willis Whichard arrived in Chapel Hill in the high noon of a golden age that began under Presidents Edward Kidder Graham and Harry Woodburn Chase; flowered through years of economic depression and war under Frank Porter Graham; and reached a kind of apotheosis under President William Friday, Chancellor William Brantley Aycock and their immediate successors. UNC was, during this period, the most prestigious and progressive academic institution in the New South, a beacon of light exercising a lifting power over state, region and country.

That Willis Whichard would go to college was never in doubt. But it was the offer of a \$150 per semester scholarship to UNC that determined the direction of his life. He combined that scholarship with his savings from eight years' delivering his hometown's afternoon paper, the *Durham Sun*, on foot and by bicycle, to more than 130 homes, earning a dime a week from each customer. He added to that sum what he made during summer breaks from high school, working for the book and maintenance departments of the Durham City Schools. It seems fitting that we say goodbye to him in his hometown, on that campus where a darker shade of blue prevails; for it was the nickels and quarters of which he unburdened wealthy Duke alumni in exchange for the soft drinks and peanuts he hawked at Duke home football games that

shored up his teenage solvency. Thank Heavens he had the sense to turn them into a decent education down the road.

Many years ago now, a high-ranking officer of one of North Carolina's great private universities, himself a graduate of that university and of its law school, said this to me: "I have no personal connection to the University of North Carolina. But anybody who loves this state knows that of the 100 good things that ever happened in North Carolina, 95 have come through Chapel Hill some way, somehow." That statement is as true today as it was on a sultry August day in 1958, when Bill Whichard drove the eight miles from Durham to Chapel Hill with his father to enroll as a freshman. He found a university of 8,000 students, overwhelmingly Tar Heel in breeding and origin: the sons and daughters of the small cities, the county seats, the mill towns and the farming communities scattered across all 100 counties. (In that day students at Carolina were identified by their counties of origin.) Bill's father, also named Willis, had been a graduate of the UNC Class of 1930, when there were just 2,000 students on campus. After the unpacking, just before getting in the car to drive the eight miles back up Tobacco Road, the elder Whichard said it was a shame the place had gotten so big that 18 year-old Willis wouldn't be able to get to know anybody.

One of Willis's lasting memories of his first week in Chapel Hill was of a Sunday afternoon walk when he passed William and Ida Friday moving at a "fairly rapid clip" towards Franklin Street from Cameron Avenue and the South Building. Friday had just celebrated his 38<sup>th</sup> birthday. He had been President of the University for two years. Later that same week, the new freshman encountered the chancellor of one year's standing, William B. Aycock, who told the awed freshman class that they were there "to draw interest on the intellectual, moral, and spiritual capital provided by the work, effort and sacrifice of many generations" of North Carolinians.<sup>1</sup>

Willis plunged into the life of the campus, becoming active in student government and being elected to half a dozen leadership organizations, among them the Order of the Golden Fleece, the University's oldest and highest honorary society. Undergraduate student leaders were personally known to President Friday. He sought out opportunities to interact with them. Willis once recounted to me how, on one Sunday night every spring, the air heavy laden with the fragrance of azaleas and dogwoods blooming, the Fridays would host the members of the Golden Fleece at the President's house on Franklin Street to consider the problems and possibilities of the University and the state as a whole. As he remembered it:

*These occasions had a steady refrain. A small but influential corps of people really ran the state, [Friday] would say. They were a mix from the business, professional and academic communities. They might not always determine who would be the Governor, but they did determine who could be the Governor. They solicited responsible candidates for lesser positions as well, and saw to it*

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<sup>1</sup> Willis P. Whichard, *How Chancellor Aycock and President Friday Shaped the Course for Today's University*, Remarks for Reunion Weekend, May 9, 2014, Chapel Hill, N.C.

*that they had the funding to make their candidacies viable. It was implicit, if not explicit, that your turn might come to serve the state in some way, and if it did, the ancient concept of civic virtue demanded that you do it. You were getting a world-class education in Chapel Hill, at considerable expense to the taxpayers, and for that you owed something back.*

Some of my conversations with Bill over the years were about politics. Whenever we hit upon that subject, it was hard not to notice the change that came over him. The calm, rational, even-tempered, fair-minded, emollient jurist gave way, in a lightning flash, to the keen strategist, the fierce fighter bent on nothing less than total victory for his party and his people and total annihilation for the enemy. Perhaps he was not exactly a ward heeler, but there was no doubt where his loyalties lay and where he thought everyone else's should, too. It had been like that since his childhood, when the radio in the family dining room was always tuned to the 6 o'clock state news on WPTF, followed at 6:15 by Carl Goerch's "Doings of the Legislature" program and, every Sunday evening, Goerch's "Carolina Chats" – a midcentury precursor to *North Carolina People with William Friday*.

Once again, it was Chapel Hill that sowed the seeds of Willis's career in electoral politics. During his sophomore year he worked actively for Terry Sanford in the gubernatorial campaign of 1960, drawn into that effort in part by the importunings of a 1959 N.C. State University graduate from Wilson County who introduced himself as Jimmy Hunt. Bill took a leave of absence from the law school during his second year in order to devote his full time to Judge L. Richardson Preyer's gubernatorial campaign.

The culmination of Willis Whichard's political career came in 1986, when he was elected to the Supreme Court of North Carolina. The tribunal he joined was as good a high court as North Carolina has ever had. Chief Justice James G. Exum, Jr. was joined on the bench by Associate Justices Louis Meyer, Burley Mitchell, Henry Frye, Harry Martin, John Webb and Bill as the junior justice. Chief Justice Exum once told me of those days: "All of us enjoyed what we were doing. We got along as people and professionals, and we cared deeply about reaching a principled resolution to every case." There was a palpable sense that here, in this courtroom and on these halls, the sacred duty of appellate judging was being honored to the fullest, with pleasure and joy. Justice Louis Meyer personified this joy when he went down the halls humming and singing, often stopping by other chambers to ask justices, secretaries and law clerks alike: "Are you happy in your work?"

But life at the Supreme Court was not all work – or at least, not all of the work was law work. Beth Tillman was a member of the UNC Law School Class of 1993, the class after mine. She had interviewed for a clerkship with Justice Whichard during the spring of my third year, her second. Knowing that Beth and I were friends, Bill asked what I thought of her. I told him he should rise up like the Israelites, sound the shofar, let fall the walls of Jericho, and hire her with the greatest possible expedition. Bill then said: "Do you give me an uncapped, no-

deductible representation and warranty as to her qualifications to serve as my clerk?" I responded with all the alacrity of which I was capable.

I only learned later that there had in fact occurred a breach of my warranty – a breach of major proportions – but one on which Justice Whichard graciously allowed the statute of limitations to run. The story of this breach needs to be told in Beth's own words. With her permission I do so now:

*When I first started clerking for the judge, I became aware that my understanding of UNC basketball was going to be as important as my ability to draft an opinion.*

*During my first year of clerking, the ACC tournament conflicted with the Supreme Court oral arguments schedule - usually the clerks would sit in the courtroom and listen to the arguments, but the judge said I had a special, important assignment. I was to go in the break room where a TV had been set up for the tournament and watch the Tar Heels who were playing Florida State.*

*My job was to replicate the judge's score sheet which he kept for every game he watched. [MHB insert: (And by every game, I mean every game, over decades and decades, in Carmichael, in the Smith Center, and at home.)] He would list the top six players with a column for baskets and one for fouls.*

*Pretty easy - I thought - so I dutifully watched the game, which I was kind of thrilled to have as my job - and the Court got finished and the judge came straight to the break room to see what was going on with the game. I told him the score - the Tar Heels were easily ahead of the Seminoles by a 6 point lead, so I wasn't doublechecking my stats. I handed him my chart and he immediately calculated that I was missing a basket when he compared it to the stats he saw on the TV. I had shorted Eric Montross a goal.*

*"Well," he said, "clearly you can't be trusted with important work," and winked at me. For the next thirty years whenever we watched a game together, he'd give me a hard time – "I know who is not to be consulted about the score," or "I can't leave for a bathroom break because I know you can't handle the stats."*

*As many of you know, Bill joined Beth Tillman in her law practice in the later years of his life. Beth says that it was the high point of her career when Zeus came down from the mountain and wanted to practice law with her. She adds:*

*We had a very fine time. Bill's memory for names, dates, and events was singular. I would come out of a consult and tell him about the new client, and invariably he would respond with some form of, "Oh, I knew Bob's parents. They were on my paper route. They lived at 163 Elm Street. His father went to DePaul University and was a dentist."*

When Carol and I went to Beth's office a couple of years ago to have our estate documents redrawn, Bill came into the conference room where the three of us were sitting. "Pointing at Beth, he said: You know you've got the very best." We knew it already.

Another law school classmate of mine, Constance Anastopoulo, is now the President of the Charleston School of Law in South Carolina and a professor on its faculty. Constance was like a third daughter to Bill, and she has consented to share a letter she wrote to him recently with you. **[Constance takes over lectern and reads, then steps back. MHB returns to lectern.]**

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I doubt any North Carolinian of the last century was a more diligent dues-paying member of humanity than Willis Whichard. Certainly I know of none who lent his talents and inexhaustible work ethic to a wider and more numerous array of foundational causes and institutions in his beloved home state. Whether it was state government (two branches of which he graced); or charitable organizations (some prominent, others deliberately self-effacing); or public libraries; or citizen commissions; or scholarly work on neglected public figures of our past: To these and so many other decent, honorable things, for more than half a century, there he was, saying yes again and again, with a kind of desperate profligacy. The list of his benefactions of time and care is so long that to cover even a fraction would risk turning our time together into a veritable Homeric Catalogue of Ships.

As I reflect on the life of our friend, I cannot help but ponder, in the harrowing times that are now passing before our eyes, what life would have been like these last eight and a half decades without him. Thucydides puts the question in the mouth of the statesman Pericles, who tells his fellow Athenians about the source of decay at the heart of a nation:

*The great wish of some people is to avenge themselves on a particular enemy; the great wish of others is to save their own pockets. They devote only a small fraction of their time to consideration of public objects, most of it to the prosecution of their own objects. Meanwhile each fancies no harm will come of his neglect, that it is the business of somebody else to look after the life of the community for him; and so, with everybody entertaining the same notion separately, the common cause imperceptibly decays.*

When the selfish people of our own era, the "me first" people Thucydides was describing, encountered Willis Whichard, they didn't stand a chance.

He remained, for more than thirty years, a polar star in the firmament of my life. I was blessed – truly blessed – to know him, and to have him know me. And I pray that for decades to come, as the shadows lengthen and the evening comes, as the fevers of life burn and

subside, until the work of my earthly course is run, I will hold close the memory of his wisdom and counsel, and glimpse there the kind and patient twinkle of an everlasting friend.

Will you join me in a prayer of thanksgiving?

Our Heavenly Father: We give Thee thanks for all those near to us and dear, who walk in Thy light, in whose lives we see that light, and at whose hands we receive the mysteries of Thy goodness and Thy grace. Make us glad in all those whom Thou hast given us out of the world, who live as examples of faith among us. We celebrate at this time Thy many mercies to Thy servant Willis. For ever present confidence in Thy guiding hand along the way of his pilgrimage, we give Thee thanks. For his gift to us of sweet sensations, felt in the blood and felt along the heart, that have lightened the heavy and the weary weight of this unintelligible world, we give Thee thanks. We bless Thee for his affections in the home, for his charities to the neighbor, for his joy in the work of everyday, for his passionate devotion to the splendors of Thy earthly creation, and for his inward glow, which made those of us who knew him living souls, with eyes made quiet by the power of harmony, and the deep power of joy.<sup>2</sup>

Amen.

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<sup>2</sup> For the last two sentences of this prayer, see William Wordsworth, *Lines Written A Few Miles Above Tintern Abbey*, lines 28-30, 48-50.