

PRESENTATION OF THE PORTRAIT

OF

WILLIAM HAYWOOD BOBBITT

Chief Justice
SUPREME COURT OF NORTH CAROLINA
1969-1974

Associate Justice
SUPREME COURT OF NORTH CAROLINA
1954-1969

March 10, 1993

RECOGNITION OF JUSTICE WILLIS WHICHARD

BY

CHIEF JUSTICE JAMES G. EXUM, JR.

Chief Justice James G. Exum, Jr., welcomed official and personal guests of the Court. The invocation was pronounced by Rev. William C. Simpson, Jr., Senior Minister of Edenton Street United Methodist Church, Raleigh, N.C. The Chief Justice then recognized the Honorable Willis P. Whichard, Associate Justice, who would address the court:

I am pleased now to call to the podium Associate Justice Willis Whichard, a man who began his legal career as a law clerk to then Associate Justice William Bobbitt. Justice Whichard, after his clerkship, practiced law in Durham, served as a representative in the North Carolina House of Representatives, and later as a Senator in the State Senate. He thereafter served as a Judge of the North Carolina Court of Appeals until he was elected to a seat on this Court in 1986. Justice Whichard holds undergraduate and law degrees from the University of North Carolina at Chapel Hill, the Master of Laws degree from the University of Virginia where he is now completing work on the SJD degree. Justice Whichard.

PRESENTATION ADDRESS

BY

THE HONORABLE WILLIS P. WHICHARD,
ASSOCIATE JUSTICE,

SUPREME COURT OF NORTH CAROLINA

MAY IT PLEASE THE COURT:

The late William Haywood Bobbitt served this Court with diligence, distinction, a keen sense of duty, and a thoroughly pleasant demeanor for almost twenty-one years—almost sixteen as an Associate Justice and over five as Chief Justice. He died September 27, 1992 in Raleigh, North Carolina, and was buried in Elmwood Cemetery in Charlotte.

On behalf of the family of our distinguished predecessor, mentor, and friend, I have the honor to present to the Court this portrait, to be unveiled momentarily, and a memorial to his exemplary life and career.

The portrait was painted from life by the late North Carolina artist Irene Price, who also painted the portraits of Chief Justices Walter Stacy and Emery Denny which now grace this courtroom. Judge Bobbitt sat for the painting of this portrait in December 1969 and January 1970, shortly after his assumption of the office of chief justice. The artist, who was a little over a month younger than the judge, died shortly after completing the painting.

William Bobbitt was born in Raleigh, North Carolina, October 18, 1900, the son of James Henry (Hal) Bobbitt and Eliza May Burkhead Bobbitt. Both of his grandfathers were Methodist ministers. His Burkhead grandfather once served as minister of Edenton Street Methodist Church in Raleigh, where Judge Bobbitt's parents were married in 1889 and which he regularly attended and supported during the last thirty-nine years of his life.

In Judge Bobbitt's childhood, his family moved to Baltimore for a time while his pharmacist father marketed a patent medicine he had developed. While there, at the age of five or six, Bobbitt endured a critical illness. The family was told he would not recover, but he did. He did, however, have to learn anew how to walk.

When Bobbitt was seven, his mother died from complications of childbirth. When he was around twelve, his father sold the patent

medicine rights to a large company, and the family returned to Raleigh. It later moved to Charlotte, where young William started the first boy scout troop in the city and became the city's first scout to achieve the rank of first class. In addition, he always had a job, because, as he expressed it, "my father was always in rather straitened circumstances."

Because the Baltimore schools of the time were somewhat advanced, Judge Bobbitt was able to enter high school when the family moved to Charlotte. He completed his secondary education in the public schools of Charlotte and spent three years in the general college and one year in the law school at the University of North Carolina. At the time that was all the formal education required for admission to the Bar.

Judge Bobbitt received many honors at Chapel Hill, including Phi Beta Kappa, Order of the Golden Fleece, the Bingham Debating Medal and the Wiley P. Mangum Medal in Oratory. He was elected permanent President of his class. He remained a loyal son of the University throughout his life, attending many of its functions and serving as President of its General Alumni Association in 1954-55. The University awarded him an honorary Doctor of Laws degree in 1957, its Distinguished Alumnus Award in 1976, and the Law School's Distinguished Alumnus Award in 1981.

The judge could easily have missed both his career in law and his years in Chapel Hill. As to careers, his commitment to the Methodist church, and the example of his oldest brother who was a Methodist minister, left him torn between a career in the ministry and a career in law. A perceived calling to the law ultimately prevailed. As to schools, he won a scholarship to Washington and Lee University, and an uncle who chaired the board of trustees of Trinity College assured him he could have a scholarship to Trinity. Because of the influence of C.W. Tillett, a prominent Charlotte lawyer, and the offer of a scholarship to Chapel Hill by President Edward Kidder Graham, he opted for the Chapel Hill campus.

Even then, however, the question was not settled with finality. It was wartime, and Congressman Bob Doughton secured for the youthful Bobbitt an appointment to the United States Naval Academy. Bobbitt decided to accept, and wrote the U.N.C. Dialectic Society, in which he had been active as a freshman, expressing his regret over having to sever that connection.

When World War I ended, though, he relinquished the appointment and returned to Chapel Hill. He remained active in the Dialectic

tic Society, serving as its president in his senior year. His associates at Chapel Hill included Jonathan Daniels—later a distinguished newspaper publisher and presidential confidante, Luther Hodges—later governor of North Carolina and United States Secretary of Commerce, and Thomas Wolfe—later a renowned novelist. Bobbitt would say of his activities with Wolfe that he did not think too much of them at the time. He knew him well, however, and the Dialectic Society files contain his recollections of Wolfe.

When Bobbitt graduated from Chapel Hill in 1921, he had satisfied the educational requirements, but not the age requirements, for taking the North Carolina bar examination. He thus returned to Charlotte and “read law” in the offices of Stewart & McRae until old enough to take the examination. He was, as he later expressed it, “entirely out of money,” and thus had arranged to teach English at Charlotte High School. John McRae told him, however, that he should commence the practice of law then or he never would, and McRae agreed to endorse his note so he could return to Chapel Hill to take the two courses he yet needed to prepare for the bar exam. The legal career of the future jurist thus was preserved, and he successfully stood for the bar examination the following year.

At that time the exam was given by a member of the North Carolina Supreme Court. Justice W.J. Adams, the junior member, gave the exam when Bobbitt took it. There was a rumor that Bobbitt had made the highest score among the applicants, and Bobbitt, in his words, “didn’t take any pains to deny it.”

Following his successful completion of the bar exam, Bobbitt was administered the oath as an attorney by Superior Court Judge Thomas Finley. He appeared with John McRae in the first case tried thereafter in Mecklenburg Superior Court. He made his first appearance in the North Carolina Supreme Court in the case of *State v. Arthur Grier*, reported at 184 N.C. 723, at the Fall Term, 1922. He lost, as the Court upheld his client’s conviction of aiding and abetting in the manufacture of spirituous liquors.

Bobbitt had first met John J. Parker when Parker attended a meeting of the U.N.C. Dialectic Society over which Bobbitt was presiding. He saw him again when Parker, the Republican candidate for Governor in 1920, appeared at Gerrard Hall and, in Bobbitt’s view, made the best speech of those given by the gubernatorial candidates. Bobbitt’s view is interesting in that Bobbitt was present on this occasion for the purpose of distributing buttons for Cameron Morrison, who was the Democratic candidate.

Parker, who lost the election to Morrison, later moved from Monroe to Charlotte and joined the Stewart & McRae firm. The firm then practiced for several years under the name Parker, Stewart, McRae & Bobbitt. Bobbitt was guaranteed a salary of \$250 a month, which he later said was "pretty good then."

This firm is noteworthy for the achievements of its members. John J. Parker became a U.S. Circuit Court Judge in 1925, narrowly missed confirmation for a seat on the U.S. Supreme Court, received the American Bar Association Award for Distinguished Service, and represented the United States as a judge at the Nuremberg trials. Plummer Stewart was a highly successful trial lawyer and was considered the czar of the trial calendar in Mecklenburg County. John A. McRae was a Democratic candidate for Governor in 1936. And Bobbitt served as a superior court judge and as associate justice and chief justice of the North Carolina Supreme Court.

In his seventeen years of law practice, Bobbitt dealt with a variety of matters. In the early years, he handled minor criminal cases and appeared in a number of civil trials, either with Stewart or McRae or alone. He also did title work and jokingly said later that he ran for the superior court to get out of the deed room.

According to Bobbitt, he had not thought at all about being a superior court judge. When Judge W.F. Harding announced his impending retirement, however, the lawyers were dissatisfied with the three candidates who announced for the position, and they ultimately persuaded Bobbitt to run. His partner, Plummer Stewart, in Bobbitt's words, "didn't think a thing about my going into the race." He nevertheless said: "Now, William, we'll have to get up a brag sheet." The "brag sheet" was not difficult to compose, and it worked. With strong bipartisan support, and the aid of lawyers who generally did not involve themselves in politics, Bobbitt was elected over his opponents in the first Democratic primary, thus commencing a judicial career that would continue for thirty-six years.

The new judge held his first term of court in Cabarrus County. In over fifteen years on the superior court bench, he became known for his fairness, consideration, and learning. Lawyers sought to have their cases heard in his court. He would study the documents in a case in his hotel room at night, and it was said that by the time the case was tried he was more familiar with it than the lawyers were. When he returned to Charlotte on the weekends, he was in the courthouse regularly on Saturday mornings, and the lawyers brought numerous matters to him for decisions.

In 1952, upon the death of Walter Stacy, Judge Bobbitt was prevailed upon to run for the Supreme Court. The other candidates were three other superior court judges, an Asheville attorney, and the incumbent appointed by the Governor. Restraint characterized the Bobbitt campaign. While holding court in Asheville, he announced, with characteristic devotion to duty, that the campaign could not interfere with his court schedule. "My fitness for the place, whatever it may be," he wrote, "has been determined by my record up till now, and nothing I say now can add anything to my qualifications." His standard solicitation for votes was typically modest and to the point. It read:

This is to call your attention to my candidacy for the office of Associate Justice of the Supreme Court of North Carolina in the second primary on Saturday, June 28th. It will not be possible for me to see you in person between now and then. Naturally, I am interested to have the approval and support of a citizen of your standing and influence.

If you come to the conclusion that I am the man for the place, I shall be greatly pleased to have your approval and active support.

Perhaps the judge was too modest, for this would not be his time to assume the state's highest bench. In the first primary, Judge R. Hunt Parker received 28 percent of the vote, Judge Bobbitt received 24 percent, and the other four candidates shared the remaining 48 percent. In the second primary, the vote in the Piedmont was unusually light, and Judge Parker, the eastern candidate, prevailed by the slender margin of 2,288 votes. It was the closest statewide race in over thirty years, and the light vote in the Piedmont was probably decisive. Had Bobbitt received the same vote in his home county of Mecklenburg in the second primary that he did in the first, he would have won the election.

This was not the first time Judge Bobbitt had been considered for the Supreme Court, nor would it be the last. Fifteen months after the 1952 defeat, Governor William B. Umstead appointed him to the Court upon the retirement of Chief Justice W.A. Devin and the elevation of Justice M.V. Barnhill to the chief justiceship. Bobbitt served as an associate justice from February 1, 1954 until he assumed the chief justiceship on November 17, 1969, following the death of Chief Justice R. Hunt Parker. The other justices had gone as a body to Governor Robert W. Scott to request that he appoint Justice Bobbitt to the seat. Bobbitt served as chief

justice through December 31, 1974, when he was mandatorily disqualified from further service because of age.

In an interview late in his life, Judge Bobbitt indicated that he found himself unable to say which of the opinions he authored as a member of the Court were important. It would be equally unwise for us to attempt to make that determination this morning. Instead, it will suffice to say that he authored many opinions which, at the time, were of great importance to the public and to the jurisprudence of the state, and that some of them will influence the jurisprudence of the state and the country for many years to come. These opinions appear in volumes 239 through 286 of the North Carolina Reports. They reflect the author's extensive knowledge of the law, his capacity for clarity, and his soundness of judgment. The opinions of the other justices with whom he served also bear the stamp of his influence, for he concerned himself with the Court's products, not just his own.

Upon Justice Bobbitt's elevation to the position of chief justice, a *Morganton News Herald* editorial stated: "Chief Justice Bobbitt has firmly established a reputation as one of North Carolina's outstanding jurists." His five years as chief justice enhanced that already excellent reputation. In fifty-two years as a lawyer and jurist, he established a record of service which few have equalled in duration or quality.

One of his former law clerks, Pender McElroy, said of Judge Bobbitt when the Dialectic Society at U.N.C.-Chapel Hill received a bronze bust of the judge:

If one were to list all the desirable qualities of a judge, Judge Bobbitt would have each of them in great measure. I am thinking of intelligence, perceptiveness of legal issues, common sense, even temperament, hard working, impeccable character, honesty (as a person and intellectually), a love of the law, a desire to excel as a judge and a desire to see a just and sensible result reached in every case.

We can add to Pender's observation that if one were to list all the desirable qualities of a human being, Judge Bobbitt possessed them in great measure as well. The title of *The News and Observer* editorial following his death perhaps best captured his essence: "A great mind, a merry twinkle." What his contemporaries and several generations thereafter most loved about him, the paper stated, "was his twinkling sense of humor." "He was a merry fellow," it said, "who treated all who crossed his path with even-tempered

fairness, whether they lived modestly or in mansions." The U.N.C. Alumni Report said of him, with equal accuracy: "He was known for his exacting standards, his wit and his kindness." And columnist A.C. Snow said: "Judge Bobbitt enriched the lives of so many of us with his wit, almost infinite wisdom and unfailing good manners that we feel something of great value has been taken from us. He came awfully close to being the complete man."

In his private life Judge Bobbitt was deeply devoted to his family. His wife, Sarah Buford Dunlap, and his son, William Haywood Bobbitt, Jr., preceded him in death—Mrs. Bobbitt in October 1965, and Haywood in April 1968. His three daughters—Sarah Bobbitt Carter of Morganton, Buford Bobbitt Sachtler of Midland Park, New Jersey, and Harriet Bobbitt Moss of Enfield—survive, as do ten grandchildren and nine great-grandchildren.

In the last quarter of a century of his life, a "special friendship" (his words) with Chief Justice Susie Sharp enhanced Judge Bobbitt's life. A.C. Snow described them as "two inseparable friends." They dined together, considered and appraised the work of their successors on the Court together, and shared a social life that included many of the significant events of the church, legal, and University of North Carolina communities.

Judge Bobbitt was a deeply dedicated churchman. He was an active member of Dilworth Methodist Church in Charlotte and regularly attended and supported Edenton Street Methodist Church while in Raleigh. He also regularly attended and participated in meetings of the Watauga Club during his years in Raleigh.

His relationship with his law clerks was also a special part of Judge Bobbitt's life. Eighteen young men served him in this capacity. All would join me in saying we gained far more from our experience with him than he did from our assistance to him. The benefits continued long after the formal relationship ended, for he kept up with us and continued to educate and inspire us. Our annual gatherings for his birthday were significant occasions for him and for us and our families. "Aside from my own family," he would say late in life, "I felt closer to these men than any other group of men."

I hope you will tolerate a personal recollection in this respect. When Governor Hunt announced my appointment to the Court of Appeals, Judge Bobbitt was on an extended trip to England. One of his neighbors sent him the news clipping, and I received a letter from England in his hand expressing his delight over my

impending entry upon a judicial career. On the day I took my oath, Judge Sharp told me: "Judge is so proud he's about to bust his buttons." In 1990, when I was a candidate to retain my subsequently acquired seat on this Court, Judge Bobbitt told a friend that he supported all the incumbent justices, but he was "most interested in Whichard." When I visited him on his ninety-first birthday, as I closed the door to his apartment on my way out I heard him say to two of his grandchildren who were there, "He's on the Supreme Court now." The animation in his voice told me that it meant a great deal to him that one of "the boys," as he called his clerks, was sitting where he had sat.

When John Quincy Adams was eighty years old, he met an old friend who shook his trembling hand and said, "Good morning, How is John Quincy Adams today?" The former President looked at the friend for a moment and then replied:

John Quincy Adams himself is quite well, sir, quite well, but the house in which he lives at present is becoming dilapidated. It is tottering upon its foundations. Time and the seasons have almost destroyed it. Its roof is pretty worn out. Its walls are much shattered, and it crumbles with every wind. The old tenement is becoming almost uninhabitable, and I think John Quincy Adams will have to move out of it soon. But he himself is well, sir, quite well!"

William Haywood Bobbitt could have said much the same. Progressive congestive heart failure over the last three plus years of his life greatly diminished his physical vitality. The man himself, however, remained quite well. The great mind and merry twinkle endured. The tenacious memory for people and events persisted. As A.C. Snow wrote for *The News and Observer* following Judge Bobbitt's demise: "His keen mind was clear, his wit intact, until the day he died."

One of the judge's favorite recollections from his years on the trial bench was of his first experience holding a term of superior court in Cherokee County. He had made reservations at the only inn in Murphy, but when he arrived the innkeeper told him it was the height of the summer season and there simply were no rooms. Judge Bobbitt's protestations that he had made reservations weeks before were to no avail. Ultimately, the exasperated innkeeper said, "I'm as sorry as I can be, but I only have one room left, and I'm holding it for the judge." When informed that the supplicant was the judge, the rather stunned innkeeper paused

a moment, and then responded in his mountain drawl, "Well howdy, judge."

On September 27, 1992, it was not a Murphy innkeeper, but St. Peter, who said, "Howdy, judge." This time, there was no question about it. There definitely was a room for him there. And from that day to this, the hosts of heaven have been enjoying that great mind and merry twinkle.

Meanwhile, his legacy here on earth is secure. He was a great jurist, whose contributions to our jurisprudence over almost twenty-one years as a member of this Court will benefit our people so long as the State of North Carolina and the rule of law endure. As stated editorially by *The Fayetteville Observer-Times*: "The majesty of the law in North Carolina was enhanced and polished by the . . . service of William H. Bobbitt. His legacy is shared by all the people of the state who live under laws imbued with his spirit."

Those of us who sit on this bench in Judge Bobbitt's shadow, too, will continue to benefit from his work and to draw inspiration from his spirit. The portrait which the judge's great-granddaughter, Elizabeth Haywood Carter, will now unveil, will serve as a tangible reminder of that work and of the great spirit behind it, which abides and pervades this occasion.

ACCEPTANCE OF CHIEF JUSTICE BOBBITT'S PORTRAIT BY CHIEF JUSTICE EXUM

On behalf of the Court, I thank Justice Whichard for his insightful remarks on the life and work of Chief Justice William Bobbitt. I thank all of Chief Justice Bobbitt's family for the gift of the portrait to the Court, a gift which the Court now gratefully accepts. Justice Whichard's remarks will be spread upon the minutes of the Court and the portrait will be hung in this chamber together with the other portraits of former Chief Justices which you see hanging here.

The structure of the law has many masons. Those of us who now labor at building it know how much we are indebted to those who labored before us. It is the challenge of each generation of judges and lawyers and teachers to keep this structure strong—to keep it well grounded in right and reason—and so to pass it to those who come after us.

Chief Justice Bobbitt, as Justice Whichard so ably recounted, met the challenge well and contributed in many ways to the soundness of structure. He did his part and more to keep it grounded in right and reason. We continue to enjoy, to use and to build upon his excellent work. His portrait hanging here will serve to remind us of these things. It will remind us of our debt to the past. It will be a source of inspiration to all who enter this chamber for the purpose of adding their labors to his.