

## DOWN IN THE COUNTRY, WITH A FEW DETOURS

John McCamey Caldwell, my grandfather, was born on July 19, 1861 (dates and other historical matters that precede my memory I know only because of the painstaking research by my first cousin, Mary Lynn Caldwell Morrill, the beautiful and brilliant oldest child of our grandfather's oldest child, my Uncle Frank). I don't know where his middle name came from but it's also the middle name of my father, Joe, the fourth of his twelve children (born February 27, 1908, the same month and day of his youngest siblings, twins Dot and Don's birthday in 1930 and mine in 1946). My brother Bill's middle name is McKamie, but that's another story.

Grandpa married Mary Ella Shannon, born January 7, 1885, in 1902. I don't know where Grandpa was born. An article which appeared in the Charlotte Observer on June 5, 1877 tells about my great grandfather, Dr. Thomas C. Caldwell's death by cutting his throat with his razor, and says he was living and died "on a little plantation owned by sheriff E.C. Grier" in Providence township. Dad was born in a house on the road from Matthews to Weddington in Providence Township in Mecklenburg Co, just before the Union County line, on one of several farms totaling almost 1,000 acres which Grandpa had accumulated by the time he died on April 12, 1942. Some Griers, not sure if kin to the sheriff, owned land "just below" (an old timey term I've heard Dad, Mom, and many older folks use directionally [as an older folk {the headline of the article on Great Grandpa reads "Suicide of and Old Physician" and contains this sentence: "Dr. Caldwell was far advanced in life-probably about 70 years old." I resemble that remark!}. I use that term myself and have started making a list of such terms; why, I'm not sure; maybe my grandchildren will find them interesting and even useful]) the Caldwell home place, but I don't know if the farm where Dad was born was the sheriff Grier "plantation" where Great Grandpa died, or when or from whom Grandpa acquired it. Grandma was born on a farm that joined the Caldwell home place. We were living on that farm, in what I assume was the house Grandma was born or at least was raised in, when I was born.

I don't know where Grandpa grew up or what he did during the 41 years before he married Grandma. But he had become an entrepreneur, even though his father, though a medical doctor, apparently, at least the article about his death so implies, died broke. I remember very little about living in the Shannon place on Matthews-Weddington Rd. We moved to Sharon Amity Rd in 1948 or 9 but we often went "down in the country", as we called it, to see Grandma and Uncle Irvin, or Irb (you would think his nickname would have been Irv but I think we always said Irb) and his family who, I think, lived in a one story addition to Grandma's house until they moved into the new house Irb built across the barnyard.

I don't know if the house or the other buildings at the home place were built by Grandpa or were on the farm when he bought it. Here's what I remember about Dad's birthplace: The house was two stories, with the addition I mentioned on the left side, and sat in a grove of oaks not far off the road. It was sided with white asbestos shingles and had an asphalt shingle roof. I don't remember if it was underpinned. My guess is that the original siding was unpainted clapboard, the original roof was tin and that it rested on a brick or rock column foundation, much like the spooky old house the Forbis family lived in on the big curve a quarter mile or so back toward Matthews and the ramshackled old Quince Matthews' house, just below. There was little, if any, grass in the yard; the dirt was white and sandy.

Behind the house was an outhouse and below it a few fruit trees and the pig pen. There was a pear tree to the left of the house which produced delicious, sweet pears, the first I ever ate. To the right was a barnyard enclosed by a wooden fence. In the front of the barnyard was a corn crib. I remember it being built of logs or covered with unpainted planks such that there were cracks, maybe for ventilation, and sitting off the ground on big rocks, providing easy access to rats and snakes. It seems like there was a resident black snake. On the far side of the barnyard was a horse and mule barn, open down the center with a hay loft above and stalls on each side. It had a tin roof and was sided with vertical, unpainted boards. In the back of the barnyard was a newer, smaller barn, covered, as I remember it, with clapboard siding, painted white. Grain, feed, fertilizer, straw and hay were stored in it and I think there was a loft we climbed up in. Closer to the house and joining but outside the fenced barnyard was a white clapboard sided hen, as Dad called it, not chicken, house and I think there was an upstairs area with an outside stairway up to it. Beside it, in the barnyard, was a watering trough.

Across the road from the house was the store, which supplied the sharecroppers and maybe others in the community with staples and a few extras, such as hard candy. Once Dad reached in the jar and helped himself to some, saving a piece or two for later consumption and when Grandpa asked him what was in his pocket, he pulled them out and showed him and Grandpa told him those were for paying customers and made him put them back in the candy jar. They didn't worry about lint and germs back in those days. The store was covered with unpainted clapboard siding, had a tin roof, and rocks under the corners. There was a huge rock, maybe two, that served as the steps up to the front door. I don't remember much about it, but I think I recall a wooden counter down one side, maybe both, and a cash register sitting on it. I think I remember some merchandise on the shelves behind the counter(s). The store was probably no more than 20' off the road, just room for a customer to park his wagon or buggy in front. To the left of the store and further off the road was the cow barn. To the right of the store was either an equipment shed or blacksmith shop and across the road from it and beside the house was one or the other. A while before Grandma died, a storm, maybe even a tornado, blew down the store and shed beside it, thus providing me less time to remember them than I had to remember the house and buildings across the road, which the storm didn't touch.

I don't know how many contiguous acres made up the home place farm, probably 150 to 200. In addition, Grandpa owned several other pieces of land. The "Creek Place" consisted of at least 200 acres, probably more. It was landlocked, its only access over a farm road which came out to Kuykendall Rd near where cousin David Alexander now lives. What a great adventure it was for Dad to take us in there to ramble around. To my young mind, it was a vast wilderness which we loved to explore. Seems like I remember there being a stand of locust trees there, the first I'd ever seen, which I remember because of their bean like seed pods.

Please pardon a slight detour, but one memory seems to lead to another. Dad taught us a little woods lore, including how to identify different species of trees. He taught us that if we shinnied up a hickory sapling, it would slowly start to bend and if we went high enough, it would bend all the way to the ground without breaking and we could disembark, but carefully as it would spring back to upright. In the spring, he would cut a small branch about the size of my little finger with his razor sharp pocket knife off a hickory, or maybe it was a maple, sapling. He would then cut off a smooth section 2-3" long. A half

inch or so from one end, he would make a cut back to that end on such an angle so as to make that end a mouthpiece as for a woodwind instrument. Then he would cut a notch about half way along its length to a depth of approximately half its diameter. Because the sap was rising, with a little persuasion (Dad's term), he could slide the bark off the piece. With the wood thus exposed, he would cut off a sliver running from the midpoint of the plane of the mouthpiece, parallel with the pieces' length, to the bottom of the notch. When he slid the bark back on, we had a whistle. It was magic. Stradivarius couldn't have produced an instrument which would have brought his sons, if he had any, any more pleasure than Dad's whistle brought us. He made me think, a thought I still have, only a week from my 74<sup>th</sup> birthday, that he was the greatest dad a boy could have. What a feeling! And I thought the same thing about Mom when she took a piece of cloth and made us nets with handles by slipping a coat hanger through a small sleeve she'd sewn around its open end which we used to throw and catch a rubber ball to each other over the house on Sharon Amity. Pure genius!

The Creek Place took its name from Four Mile Creek which ran through or along its border. I remember the creek's name because after Grandma's death, Dad and his 11 siblings sold the Creek Place to the Four Mile Land Company for \$400/acre (Mary Lynn provided me the figure, and told me that the buyer offered \$300, apparently acceptable to all but Aunt Ann, who insisted it be \$400 or nothing) and it makes up the largest part of what is now Providence Plantation, where, ironically, my cousin, Cathy Alexander Walker, David's sister, and her husband Ron live. As a young adult I thought about what that land would have been worth if they had held onto it longer, but I came to realize, as Janet and I were struggling up the financial hillside, that selling it gave each of them a pretty good chunk of change when they needed it to build homes and educate their children.

Another detour: Four Mile Lane Company was represented by Miss Lela Alexander. When she checked the title to the land, she found a title defect in that a deed back in the chain of title lacked what was called a privy examination. Signatures on deeds must be acknowledged by an authorized official, usually a notary public, but years ago, a married woman's signature had to be acknowledged before the clerk of court, before whom she had to appear, without her husband being present (hence the term "privy") and swear to the clerk that she was under no coercion from her husband in signing the deed, and that examination, which the clerk was to note on the deed, was so not noted on this one. I assume the deed was so old that a title insurance company insured against the defect but Miss Alexander pointed it out before the closing to Dad and probably Uncle Frank, as they were representing the family as administrators of Grandma's estate. Dad was so impressed by her thoroughness that she did most, if not all, of the legal work he ever needed, including the preparation and witnessing of his will. The only time I met Miss Alexander was when I went to her office to get her signature on a document attesting to her as a witness to his will, necessary for its probate when he died. I told her this story and she got a kick out of it.

The Blackjacks was another of Grandpa's farms, named for the scrub blackjack oaks, but little cotton, its poor soil produced. I think it was over 100 acres. After Grandma's death and after the Creek Place was sold, all of the remaining land was divided among the 12 children. The Blackjacks went jointly to Aunts Vernon, Mary, Ann and Pat. During the 70s, they sold the Blackjacks to THE Billy Graham's brother, Melvin, a Monroe attorney named Koy Dawkins and another guy. I don't know who, if anybody,

represented them legally; I just know it wasn't me. In order to get the benefit of a tax provision then, but no longer, in effect, they sold it as an installment sale, which means they received at closing a down payment of 29% of the sales price and were to be paid the balance over some years, with interest, and took a mortgage for security. The tax benefit was that their capital gain on the sale could be spread out over the years in which they received the payments rather than all in the year of the sale, thus theoretically reducing their total taxes by keeping them in a lower tax bracket each year than they would have been in had they received all the money in one year. The sales agreement provided, however, that the buyers were entitled to have a portion of the property, in exchange for and supposedly valued substantially less than the down payment, excluded from the mortgage, so they had surveyed out and excluded from the mortgage, which was to secure the balance of the purchase price, a tract of 20 acres, right in the middle of the whole tract, the equivalent of taking a bite out of the heart of the watermelon. Because of something called the purchase money mortgage anti-deficiency statute (I've written a previous story about suing a lawyer for malpractice and collecting over \$600K for not properly advising his clients about the risks of the statute), the buyers were not legally obligated to pay the balance of the purchase price, that is, they could not be sued for it, and when in fact they didn't pay it, my aunts' only legal recourse was to foreclose the mortgage, which they did, resulting in their getting back the watermelon with the heart missing. They held onto the remainder of the Blackjacks until selling it some years later to the developers of Providence Country Club for much less than it would have been worth had it included the 20 acres. I represented my aunts that time.

Grandpa also owned a tract of over 100 acres at the end of Walker Rd, a dead end road that turned off Matthews-Weddington Rd just below his house. Uncles Jack and Don got this farm in the division. There was an old shack at the end of the road where either Tom or Rob Hudson, former sharecroppers, and his family lived. Uncle Jack gave the acreage that fronted on Walker Rd to his three children, with each getting a few acres. Jackie and Johnny built houses on theirs, Johnny's on the spot where the Hudson shack stood, and Jack and Don drove from Charlotte to garden Kay's, which lay between. Jack and Don sold the balance of their land, under threat of condemnation, to Mecklenburg County to build Colonel Francis Beatty (no kin to Mom, who was a Beatty and whose family, coincidentally, lived on a farm less than a mile away from the time she was 13 or 14 until after she and Dad were married) Park, named for some guy who had never lived anywhere near Providence Township but had owned a piece of landlocked property that joined Jack and Don's land and land owned by JP Simpson below Quince Matthews. I think the county parks dept requested suggestions for naming the park. Caldwell-Simpson or Simpson-Caldwell Park would have more appropriately reflected the history of the area but I don't suppose it crossed Caldwell or Simpson minds. I represented Uncles Jack and Don and JP Simpson in their negotiations with the county. A few years ago, Jackie and Johnny sold their houses and Kay her garden spot and Uncle Don's family the small tract Don had remaining from the original farm at the time of his death and condos have sprouted up where cotton once grew.

The home place farm was divided among the remaining siblings. Dot got the land where the house was and built her house right over where the old house had stood not long after Grandma died. For some years, she and husband Bill Black continued to graciously host Caldwell family gatherings there. They

sold to a developer some years ago and houses now grace the old home site, pig pen and barnyard. Dot, the last surviving of the 12, died just a few months ago, the end of their generation.

Uncle Irb had built his house and a chicken house or two on the Matthews side of the barnyard before Grandma died, so she must have deeded that to him. In the division, he got the remainder of the farm on that side of the road which included the shack the other Hudson sharecropper lived on.

Another detour, but I think a good place to take one. Uncle Frank graduated from UNC with a business degree and went to work for Firestone. Twin Aunts Verla and Vernon went for a year or two to Mitchell College in Statesville. Dad was next. He had been valedictorian of his class, probably only 20-25, at Matthews and wanted to go to college. He would have been excellent college material. I can remember him conjugating verbs in Latin (sum, estis, sunt) and teaching us the French national anthem in French (Allons enfants de la patrie). He was much better in math than I ever was (though after looking through the calculus textbook for the freshman class I was flunking, he just said "Do the best you can") and kept an extremely accurate and neat set of books in his business. His penmanship was flawless. I don't remember his ever telling us, but Mom did, about his being disappointed when Grandpa asked, or, more likely, just told him that he needed him to stay and help on the farm rather than going to college. She also told me that he was proud when I was accepted at Davidson because he had always wanted to go there. I don't know how or what he knew about Davidson but maybe one of the preachers at Providence Presbyterian, which the family, though I'm not sure about Grandpa, attended, had gone to Davidson. Great Grandpa, the doctor, may have gone there. Aunt Verla's husband Wilkes Kiser had been premed there before dropping out and getting married and I think he and Dad were pretty close. Mom also said Grandpa promised to buy a new(er) car or truck if he stayed, a quid pro quo.

A sub-detour regarding vehicles; the road in front of the house was unpaved and some early hot rodders in the community apparently couldn't resist the straight-a-way through the farm, so Grandpa plowed a deep ditch across the road, maybe the first ever speed bump, rather, dip! Grandpa bought a car, I guess his first, when Dad was 12 or 13, or maybe younger. I have no idea what kind of car, where he bought it or how it got to the house, but Grandpa said, "Let's drive to Matthews" and since Grandpa had never driven, Dad asked him who was going to drive and he said "You". Dad had never driven a horseless carriage and he could barely reach the pedals but off they went.

And Dad did stay on the farm until he was 25, when he went to Atlanta, but that will also have to be the subject of another story. When we would go down to visit Grandma, Dad would often stop by Tom or Rob Hudson's, usually just to speak. I don't know whether by then they were sharecropping the farm or just still living on the place. Their abodes were shacks, unpainted clapboard siding, tin roofs, no underpinning, chickens scratching in the grassless yard. We'd get out of the car and their kids would come out of the house or off the porch or be playing in the yard, and we would just kind of stare at each other. They were the only black kids we would see except when driving by or through the black ghettos in Charlotte. I don't remember ever playing or even talking with them. Tom or Rob called Dad "Cap'n Joe", which is what I assume they called him when he was working with them on the farm as a young man, I guess as a straw boss of sorts. I've heard Dad use the N word before, but not often, and not in reference to the blacks he knew on the farm. His usual word for blacks was nigra, which I think was his

and many southerners' pronunciation of negro. He was always congenial with them, talking to them as he would his brothers or our neighbors, and I could tell he respected them and their opinions, asking about how much manure to put on the tomatoes, how the crops were doing, the weather or about their families and friends and relatives.

Uncle Irb also got acreage at the end of Sim(as a kid, I thought they were saying Sin)field Church Rd, named for the black (congregants, that is; it was built of brick) church at its dead end. His oldest, Warren, and next, Brenda got that land when he died. Warren built his house on his part, which he later sold to a developer, and moved onto a golf course just off I-485 in Union Co. I gave him a little advice on his contract of sale. Irb's youngest, Chuck, inherited his home place. I represented him when he sold it to a developer just before the crash in '08. The developer tried to rezone the property for affordable housing but was thwarted by a public outcry of NIMBY!

In the land division, Aunt Verla got acreage on Simfield Church Rd. Her youngest, Frankie, built his home on the corner of Matthews-Weddington and Simfield and she lived with him till she died. Next youngest, Mary Lou, got a tract beside where the oldest, Gene, built his house. Mickey, the middle of the five Kiser children, built below Frankie and across from Gene. I don't think Sidney, next to Gene in age, who moved to Chattanooga years before Aunt Verla died, got any of the Caldwell land. Maybe his four siblings bought his share; I don't know (I do know it's none of my business) and probably never will as all the Kisers are dead except Mary Lou, and she has dementia, and I don't know any of their children except Frankie's son, Mark, who I got to know pretty well over the last 10-12 years, when he and Tom Fincher started cutting and bailing the hay off Janet's and my 60 acres on Stack Rd in Union Co. He and I have had some interesting discussions over the years and though we don't always agree, in fact, we disagree fairly often and strongly on political, religious and other matters, and though we're both pretty opinionated, we've always had congenial, civil and thoughtful conversations and have always parted in laughter. He has a wonderful wife and two fine children and at least one grandchild. He gave Frankie a place to live and a job after he lost his wife, Mary and sold his house, and Frankie lived and worked with him till he died. Aunt Verla and Uncle Wilkes would have been proud of him. I'm glad he's my kin. I'm singling Mark out because he's the first cousin once removed (I had to look this up. I'd always thought a first cousin's child was my second cousin, but as I didn't want to publicize my ignorance, I googled it, and am glad I did. Ain't the internet amazing? The whole world at our fingertips! Thank you, Al Gore!) whom I know best. I'm sure I would enjoy all, or at least most, or many, or, OK, some, of the others if I had the chance to get to know them.

Uncle Frank got 40 or so acres directly across the road from the house, which would have included the store, but I think it had blown down before he took ownership. I don't think the cow barn was hit by the storm and may still have been there at that time. There was a pond below the barn and a farm road that went down that way. It's where I caught what I suppose was the first of the few fish I've hooked in my unremarkable fishing life. I also remember peeing on an electric fence down below the pond, possibly egged on by brother Bill, though my performance of stupid stunts didn't require much egging. When a youngster, Dad was knocked down and almost gored by a bull in the pasture behind the cow barn, and if memory serves me, one of the black hands saved him. The land under and around the barn must have been very fertile from all the manure dropped thereon over the years. I remember Uncle Jack and, I

think, Uncle Bill Black having a sweet potato patch there, the only time I've ever seen sweet potatoes grown. I helped harvest some which was made easy when a plow was run down beside the row, just close enough to loosen them but without cutting them. Dad never grew them or Irish potatoes, either, probably because yams were cheap to buy at the store or because they both required deep, loamy soil, which our garden on Rama Rd didn't have. After Uncle Frank's death, Aunt Margaret and her three children were the first to sell their inherited land, which they sold to a church.

The last Caldwell land to be sold was by Aunt Faire's children, the three Franklin siblings, who inherited her 40 or so acres, which joined Uncle Frank's, which they sold to a developer after she passed away. They did what my law partner, Frank Griffin, told landowners across whom Duke Power was going to run a high tension line and sought his advice on what to sell for: settle last for the most. Though developers pursued Bobby, Ben and Eleanor for some time, they held out and I think got more for their land than any of us did. But timing is everything. They rode the price wave to its peak and sold just before it broke in '08. The last time I drove by, the developer who bought it, or his successor after bankruptcy, hadn't broken ground.

Dad's allotment was also around 40 acres and joined Aunt Faire's. The Mecklenburg-Union Co line ran through it, with more being in Union Co but taxed lower than the part in Mecklenburg. More than 10 acres was open farm land and Irb and/or Shank Forbis farmed it, which would have qualified the land for agricultural tax deferment, but Dad thought that was sort of gaming the system for some reason and wouldn't apply to put it in the program.

I said his land, but actually it was his and Mom's. To divide Grandpa's land between his and Grandma's 12 children, each tract had to be surveyed and deeded by the 11 siblings and their spouses to the 12<sup>th</sup> sibling for the tracts each was to receive, or in the case of the Blackjacks, to the 4 sisters, jointly. The deeds were made just to the Caldwell children, not their spouses. Under an archaic law then existing, the only way to have put the property in joint names with the spouse was for the child, after receiving the deed from his siblings, to deed it to a third party straw man who would then deed it back in the joint names of the child and spouse. I think Ben Horack and/or his partner, Frank Snapp, later an irascible Superior Court judge whose son, Frank, Jr. worked for the CIA and became a whistleblower for some of its illegal conduct in Vietnam, writing a best seller about his experiences which was made into a documentary, prepared all the deeds and I assume told them what would have been required to title the property jointly with their spouses, to wit, two extra deeds for each tract and thus extra expense. Consequently, Dad's land and each of the others was in their names alone. By the time I started lawyering, the requirement for a straw man deed had been eliminated by legislation and a spouse could deed land in his name directly to himself and his spouse, creating what's called a tenancy by the entirety (joint, with right of survivorship, but only between husband and wife; isn't the law quaint and quirky), so I prepared a deed putting Dad's land in both his and Mom's name, which had the effect of 1)preventing it from being subject to the claims of either's individual creditors, such as claims for damages by someone injured in a wreck caused by either one whose injuries might exceed the limits of their automobile liability policy, and 2)keeping the property out of probate. Another legal consequence of a tenancy by the entirety is that in the event of divorce, each spouse is entitled to a one half interest

in the property. Irb also put his inherited land in joint names with his wife Daisy and she got half when they split up.

Dad had the notion that he and Mom might some day build a house on their land. After Bill came back from Viet Nam and moved to Charlotte, he and Dad planted some apple and other fruit trees in the field in front of the woods, which would have made a beautiful house site. They pruned and sprayed their small orchard for several years, but as the folks got older, they began to realize the drawbacks of moving to the country, miles away from Dad's business and from shopping, and most problematic, given Dad's chronic heart disease, emergency medical care, though in December, 1989, having it immediately available at Plantation Estates couldn't prevent the inevitable, just as neglect couldn't prevent the eventual demise of his orchard.

Uncle Jack and Dad both installed wood burning fireplace inserts in the 70s and were in continual need of firewood, so the two thrifty though still relatively active late sexa- or early to mid-septuagenarians cut and split some trees at the farm. Their method of splitting was with axes, mauls and wedges, dangerous work for even young men. They were down there one day by themselves and Uncle Jack swung the ax mightily into the heart of a green piece of wood and it bounced back up and the handle hit him square in the forehead, knocking him out cold. I don't know how long he was out or how badly he was hurt. He was lucky that it didn't crack his skull and he and Dad were both lucky Dad didn't have a heart attack. There's an old saying that God looks after fools, drunks and the young, but that day, thankfully, He looked after the usually wise, always sober and, more rapidly than they would admit, aging.

Duke Power widened its right of way across the back of the farm twice, each time running another high tension line parallel to the existing one(s). I had put a Buck Stove insert in our fireplace and had bought an old pickup truck and chainsaw and each time Duke acquired more of Dad's land, we spent many Saturdays cutting and hauling all the wood we could before they brought in their bulldozers. One Saturday, Tim was helping me split some of the wood in our backyard. I sunk one maul as deep as I could into a piece without it splitting, and bare chested and without any goggles on, I held onto the handle of the maul to keep the piece upright while Tim, standing opposite, swung the blunt side of a second maul to strike the blunt side of the maul I was holding, to drive it deeper and split the wood. Tim hit a glancing blow and a piece of shrapnel chipped off and hit an artery located at the intersection of my left arm and shoulder. Blood spurted 3' and wouldn't stop, so with a handkerchief pressed hard on the wound and a shirt draped on, I drove the ½ mile to the ER where I had to be stitched up. Thankfully, God also looks after the not so wise and not so young, but usually, and always when splitting wood, sober.

Shortly after Dad passed away, I told Mom that the taxes on the land would be much less in farm deferment (the only caveat being that upon sale, the deferred taxes back three years, plus interest, would be due), and she instructed me to proceed with all deliberate speed to that end, and being the dutiful, and thrifty, son that I was, I did. By then, Tom Fincher was farming the 10+ acres of open land, the amount necessary to qualify a tract of land as eligible to be valued as a farm for property tax purposes. Irb and/or Shank had quit farming it when Shank moved to Jefferson, SC after selling the Shannon farm at the corner of Matthews-Weddington and Simfield Church Rds on which Grandma, he,



and I had been born, in a tax free exchange in which he bought a farm near Jefferson from one George Gregory, a story which I think is worth another detour. George was a big landowner in Chesterfield Co. He lived in a two story brick house, one of the nicest on Main St, SC Hiway 151, in Jefferson, which everyone west of there drove past on their way to Myrtle Beach, (proper, that is, as those going to North Myrtle turned left on SC 9 in Pageland, driving by the farm in Mt. Croghan which Shank, actually, his wife Lamarr, had previously acquired with her brother John when they sold the Garland land on NC 51 in Matthews to PCA in a tax free exchange in which I represented them) before the SC 151 by-pass was built. Shank negotiated to buy a several hundred acre farm located several miles out of town from George, who granted Shank a written option to purchase the land for some period of time, six months or so. When Shank had completed the negotiations for sale of the Shannon farm, he gave Gregory notice, as required by its terms, that he was going to exercise his option. Gregory, who had served time in his younger years for killing a black man, the details of which I had heard but don't remember, refused to go through with the sale, giving, as his only justification, that since Shank had waited until almost the end of the option period to exercise it, that he figured Shank wasn't going to, so he had sold another piece of property, and selling to Shank would cost him too much income tax.

I associated the James firm, started by the father of and joined by his sons, Albert, a senior when younger brother Jay and I were freshman at Davidson, in Darlington, SC and we sued Gregory to make him comply with the terms of the option, an action called "specific performance", in federal court there, which had jurisdiction because Shank and George were residents of different states, thus creating what's called federal diversity of citizenship jurisdiction, the practical reason for suing there being to hopefully avoid home cooking in Chesterfield Co. Even though there was federal jurisdiction, since Gregory lived in SC, we couldn't have sued him in federal court in Charlotte. (I made an A in a summer school class in federal jurisdiction taught by a visiting professor from Texas, receiving the "Book Award", the volume of American Jurisprudence [AmJur, for legal citation purposes] or, maybe it was the volume of Corpus Juris Secundum, meaning "Second Body of the Law" {I had to google that} [CJS, in citation] on Federal Jurisdiction, given for the highest grade in a course. It's the only one I ever received. I kept it on my bookshelves for years; it was a nice shade of dark green, providing color to shelf, and its binding stayed completely unwrinkled by remaining unopened during its lifetime. I speak of it in the past tense since it didn't survive one of our moves. Fed Jur is the only class I took in summer school, which was between my 2<sup>nd</sup> and 3<sup>rd</sup> years, or as I think they say now, 2L and 3L, and the reason is that I had signed up to take it 2<sup>nd</sup> semester of 2L, when it was taught by two professors, one being the Professor Kingsfield played by John Houseman on Paper Chase type, Dean Strong (I don't think Dean was his name; I think he had been a dean at some law school in Ohio). Everyone hoped to get the other, whose name I don't remember. I got Dean Strong. He posted a 50 page reading assignment for the first class, which I skimmed. It was a large class with mostly 3L's. Right out of the gate he called on a 3L he knew from some previous class and grilled him for 55 minutes. When the bell dismissed class, I sprinted to and was first in line at Assistant Dean Bob Melott's office. He was a Naval Academy and I think a UNC law grad and the official score keeper for the UNC basketball team. I first met him around 8/1/68 when I drove up to Chapel Hill, at Janet's insistence, to get back in law school after the Dallas Cowboys sent me packing after I flunked the physical because of my bum left knee, titanium since 2/2011. When I walked in the law school office that August morning and explained my situation to Dean Melott, he readmitted

me and gave me a couple hundred dollar scholarship to boot. Good old Bob. So, on this morning two years later, on seeing me first in line for drop/add, without my saying a word, he says, "Well, I see you got Dean Strong" and then, after letting me twist in the wind a bit, let me drop Fed Jur and take something else. Whew! I got Jimmy McMillan, a Garinger grad, son of the late federal judge, James B McMillan, fraternity brother, boyfriend and then husband of Janet's good friend and suitemate at UNCG and with her, our blind date introducer, to help me add a screen porch onto Melott's house. No, it wasn't quid pro quo for letting me out of Dean Strong's class. He paid us cash.

Well, back to the original detour. Both of Gregory's sons were lawyers, one in Cheraw and the other in Winnsboro, SC and they defended the case. There really was no defense and Gregory eventually agreed to settle the case by selling the land to Shank according to the terms of the option. The closing was in a large conference room in our office in Monroe. I think we decided it would be better if the defendants, Gregory and wife, were not present, but both his lawyer sons came with the executed deed. Of course Shank and his wife Lamarr were there, along with a representative of the Federal Land Bank which was loaning Shank some money on the property, and me and one of our secretaries, who was a notary public. Shank signed the mortgage to the bank and I slid it over to Lamarr and showed her where to sign, and as she took pen in hand, both Gregory lawyers jumped up and shouted, literally shouted, "NO, he's got to go out in the hall". I looked at them like they were madmen and asked what the heck they were yelling about. Under SC law at that time, the notary acknowledgment for a wife's signature on any document affecting real estate, including a mortgage, stated that she signed while her husband was "across the threshold of the door", SC for not in the room, a law, like that of the privy exam in NC, ostensibly to ensure against coercion, though there was no requirement that the door had to be closed, or that hubby couldn't talk to her through it, or even if closed, to keep him from banging on the door. I had supervised the signature of many wives to SC real estate documents with her husband sitting right beside her. I didn't know anyone took that archaic ritual seriously, but the Gregory boys sure did. They told Shank he would have to go out in the hall while Lamarr signed. Those of you who knew Shank his reaction to being ordered out of the room by two Mitch McConnell look and talk alike. I don't remember exactly what he said but he let the Gregory boys know in no uncertain terms that he didn't think any more of them than he did of their crooked, murdering old man. He wasn't going to acquiesce to such a tom-fool demand; he didn't care what the stupid SC law said. Lamarr and the banker and I finally calmed him down and he fumed out into the hall, turning to come back in after Lamarr had signed, only to have the Gregorys run him back out until I had signed as a witness to her signature and my secretary had completed the notarial acknowledgment and affixed her seal. I never told the Gregorys that I had been a party to transgressions against their chauvinistic customs before, for fear they might go to the Clerk of Court's office in Chesterfield and search for documents I had witnessed and try to create a legal rukus. I hope the applicable statutes of limitations have run as my malpractice insurance has.

Dad's inherited land went to Mom, as the surviving tenant by the entireties, upon his death. To reduce possible estate taxes at her death, Mom gave Bill, Harry and me the land via a family limited partnership, a gift tax avoidance gimmick. We sold it to a developer named Chris Mathison in 2005, I

think it was, for almost \$1.5M and he built a subdivision on it. We got him to name one of the streets Caldwell-Beaty Dr and another, McCamey St.

Harry used his share in a tax free exchange, to buy a magnificent place on Penobscot Bay in Deer Isle, Me, which had been in his wife Kate's family for several generations. The two story white clapboard house, built in 1810, sits on a knoll in the middle of 20 acres which front right on the Bay, and the view from the house is across a wild blueberry field to the water and the small, rocky, evergreen covered island(s) that sit just hundreds of yards offshore. The barn is attached to the house and under its massive timber floors is an area Harry called the sheeps' mauw (at least Bill and I think that's what he called it on our visit there several years ago, or something similarly sounding, though I can't find such a word on google [I spelled it the way it sounded, though I tried every combination of letters that would make a similar sound with no results] and I couldn't get Harry, but could Bill, on the phone when typing this), where animals were kept in the winter. Before Harry retired, he and Kate rented the house for the summers to former Connecticut senator Joe Lieberman's former wife, but now they summer there. Harry thinks he's entered heaven's portals when he arrives there, and I concur; if it's not heaven, it's pretty close. It is postcard beautiful. Harry is quite the craftsman and has replaced and/or reglazed the windows and painted the house himself. But his real craftsmanship is exhibited in the 8 or 10, hand, not kit, built from scratch wooden watercraft (canoes, kayaks, dinghies, sailboats) he's built in his basement in Severna Park, Md, most of which are now in or hanging from the barn loft. He and Kate are personally heavily invested in the Deer Isle community, just as they are in Md, both serving on numerous boards and in other ways, many involving their excellent musicianship. If winters permitted, I expect they would live in their historical paradise year-round.

Most of you know that I'm pretty liberal, politically, and in most other ways, but even so, I avoid paying any more taxes than necessary. Consequently, I used my share to acquire, in a tax free exchange (by now, you're probably wondering if any Caldwells have ever paid taxes on real estate gains) a 37.5% interest in 8 acres in Sylva, NC, which I own jointly with the widow of a now deceased close friend of mine and his brother-in-law. Ronnie Forbis, one of Shank's four sons, who farmed with his dad for his whole career, and his wife Judy, moved to Jackson Co, of which Sylva is the county seat, several years ago after selling their farm in Mt. Croghan, SC, yes the one Lamarr had acquired and Ronnie inherited, to be near their only child, Michael, who came there to go to Western Carolina, and his wife and three boys. There is what used to be a nice stone house on our property and Michael and family lived in it till they bought their own place a few years ago. We bought this property, which is on NC Hiway 107 between Sylva and Cullowhee, the road every Catamount west of Western travels back and forth to the college, when things along it were hopping, i.e., fast foods, CVS, a hotel, etc, springing up. Then the 2008 bust, and, the last couple of years, NCDOT's proposed road changes which will hamper access to the property for commercial uses, have translated into our sitting and paying taxes on it for 14 years now. Boy, can I spot a good investment when I see one, or what? I should have paid the taxes and ridden the stock market up like Bill.

Dad said Grandpa once advised him to buy all the land he could afford between the Caldwell home place and Charlotte. He advised Mom to hold on to his tract for as long as she could, and fortunately he was thrifty and invested well enough in his business and a little in the stock market so that she could, and

could afford to give it to us. Mom said that she had asked Dad to explain to her about their assets so she wouldn't be helpless if he left first, and he told her not to worry about it, that "the boys" would take care of things. She told him that she didn't want to have to rely on us and wanted to be able to handle things herself. When he died and I began helping her administer his estate, I learned that she knew exactly what he/they had, including what their cd's were paying and when they were due and what their stock dividends were and when they paid. They had BB&T stock worth \$100,000, which originally were a few shares of Bank of Matthews stock which Grandpa and then Grandma owned at the time of her death, when they weren't worth much. Apparently none of his siblings wanted them so Dad took them and deducted their value from his share of the cash in the estate. He told Mom not to tell his siblings what they became worth because he didn't want any hard feelings, and she didn't, but she didn't tell me not to tell. I too hope there are no hard feelings. There shouldn't be. Bank of Matthews was just a sleepy small town bank. Who could have guessed what happened. Dad and we were just lucky. Mom died in August 6, 2006, 2 months before her 97<sup>th</sup> birthday. Nobody ever balanced her checkbook but her.

I don't know if Grandpa had a will leaving his estate to Grandma nor whether his various farms were titled with her as tenancies by the entireties, either of which would have given her 100% ownership at his death. If he didn't have a will and the property was just in his name, Grandma would have received a dower interest, which was basically a life estate, which is the right to possession of and income from the property but with the responsibility to pay the taxes on it, and the remainder interest, that is the ownership after her death, would have been to all 12 children as tenants in common. Tenants in common can divide land voluntarily in such manner as they agree by cross deeds to the tracts into which it's divided, which is what Dad and his 11 siblings did, which is known as a voluntary partition. If tenants in common can't agree on how to divide land, any one of them can file an involuntary partition proceeding in court and the law provides that the clerk of court appoint three disinterested commissioners to make the division.

After I began practicing law and saw first hand how hard it was for many families to agree on anything, dividing land being one of the most divisive of issues, I talked with Dad about their voluntary partition of Grandpa's land. I don't remember how he said they went about it, but he thought everyone was happy with what they received and he took great satisfaction with their being no controversy or dissention over the resulting division. After Dad and most of his siblings had died, I mentioned this to several cousins and learned that some, and I guess their parent(s), didn't hold quite as Pollyannaish a view of the great Caldwell land divide as Dad had.

A few years ago, a writer to the Charlotte Observer harangued at length about affirmative action and such, concluding that there is no such thing as white privilege. I responded with a letter, which was printed, something to this effect:

My Grandfather, by the time of his death in 1942, had acquired almost 1,000 acres of land in Mecklenburg and Union Counties by farming cotton on it with the help of black sharecroppers. Several years ago my brothers and I sold about 40 acres of that land which my dad had inherited for a tidy sum. The sharecroppers who helped make that possible didn't receive a nickel. Don't tell me there's no such thing as white privilege. Tom Caldwell, Monroe, NC

