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## Father Charles Whelan: A Career in the Service of Others

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## TRIBUTE

### FATHER CHARLES WHELAN: A CAREER IN THE SERVICE OF OTHERS

*William Michael Treanor\**

Fordham Law School's motto, "In the service of others," perfectly captures our law school's great aspirations and commitments. In a most distinguished and multifaceted career, Father Charles Whelan has been the personal embodiment of that ideal, through his dedication to education, to advocacy, and to service to a broader community. His has been a career shaped by his Ignatian ideals, and the legacy he leaves as he retires is extraordinary.

As a professor of law at Fordham since 1962, Father Whelan demonstrated a rigorous dedication to the ideal of academic excellence. When I meet with alumni, I often ask them to name their favorite professors. A name I here again and again is Father Whelan's. He began teaching forty-five years ago, and generations of students remember him for his mastery of his subject matter. That mastery reflects his stature as a scholar. Father Whelan enjoys a national reputation as a constitutional scholar, and his expertise in First Amendment issues, particularly matters of church-state relations, is as deep as it is broad. That knowledge was displayed in four books, including the landmark *Legal and Constitutional Problems of Public Support for Nonpublic Schools*, written with Paul A. Freund, in conjunction with the President's Commission on School Finance and published in 1971, and numerous journal articles.

Students remember him, not simply for his knowledge of his subjects, but for his superb gifts as an instructor. As one said, he built complex structures one brick at a time. His methodology was so objective and thorough that his lectures left students wondering only one thing: which side of the issue is he on personally. His courses were always both careful in exposition and illuminating. With fierce attention to detail and analytic rigor, he challenged students to meet the most exacting standards.

Students remember him, as well, for his personal commitment to them and the strong support he provided. They always knew that he was available in his office for all the one-on-one sessions they might need to master a subject. His dedication was reflected, as well, in the fact that he taught legal writing for twenty-seven years, a record for a full-time faculty

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member. Legal writing is the most time intensive course for the faculty member, requiring countless hours of careful review and editing. His approach continues to inform the structure of the program, in large part because he taught Ted Neustadt when he was a 1L. Today, Neustadt is the Assistant Director of our highly regarded legal writing program, and his leadership reflects Father Whelan's great imprint.

Father Whelan's contributions to Fordham Law did not end with his forty-four years in the classroom. He participated on many committees at the school, including ten years of service as the Chair of the Faculty Committee on Reappointments, Tenure, and Promotions. He was a one-term member of the Fordham University Senate and was named to the University Planning Committee for the 2000s. He was moderator of the *Fordham Urban Law Journal* and served as the interim moderator of the *Fordham Law Review* for one year. In each role, his service reflected the highest standards.

Despite his teaching load and prolific scholarship, Fordham Law represented only one facet of Father Whelan's career. He made remarkable contributions to the law through his work as an attorney in the area of church-state relations. He served as a consultant to the Office of General Counsel of the United States Catholic Conference for thirty-one years. In that role he monitored the docket of the United States Supreme Court, served as an author and editor of the amicus curiae briefs filed by the Conference, and helped develop and execute workshops sponsored by the Office of General Counsel and the Diocesan Attorneys Association, an organization he cofounded. As a consultant on First Amendment issues, Father Whelan served a number of religious organizations. In 1972, he argued before the Supreme Court on behalf of the Central Baptist Church of Miami in the *Diffenderfer* case and won on the issue of mootness.<sup>1</sup>

Through the 1970s he represented the Trappist and Trappistine monasteries in the United States before the national office of the Internal Revenue Service, securing rulings on the federal unrelated business income tax. His article "*Church*" in the *Internal Revenue Code: The Definitional Problems*,<sup>2</sup> became required reading for new members of the exempt organizations division, and the U.S. Court of Appeals for the 7th Circuit relied on it for a decision.

Father Whelan's service to religious principles has been wide ranging. It includes a 1970 trip to the Soviet Union and Soviet Bloc countries with noted American Jewish and Protestant leaders sponsored by the Appeal of Conscience Foundation. In a series of meetings with Ministers of Religion, the group investigated claims of Anti-Zionism by the Soviet government while it petitioned for policies that would make life easier for those who practice their religion under Communist regimes. In those days of tense

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1. *Diffenderfer v. Central Baptist Church*, 404 U.S. 412 (1972).

2. Charles M. Whelan, "*Church*" in the *Internal Revenue Code: The Definitional Problems*, 45 *Fordham L. Rev.* 885 (1977).

international relations, Father Whelan noted that he was grateful to go on the mission and equally grateful to return from it.

It was his interest in religious issues that lead Father Whelan into yet another facet of his great career, that of Associate Editor of *America* magazine, the National Catholic Weekly. Since 1962, he has reviewed and edited articles for the publication and wrote more than 200 editorials for this influential publication. So important is this work to him that he will continue his association with the magazine into his "retirement."

When asked about his academic journey, Father Whelan's meticulous attention to detail brings him to include time at St. George's parochial school in Louisville, Kentucky, Our Lady Queen of Martyrs parochial school in Forest Hills (Queens), New York, and Regis High School, New York, New York. He earned his A.B., Ph.L. and S.T.L. from Maryland's Woodstock College. His LL.B. and LL.M. degrees were awarded by the Georgetown University Law Center where he was Editor-in-Chief of the *Georgetown Law Journal*. He pursued postgraduate legal studies at Harvard Law School before joining the faculty of the Graduate School of Georgetown University Law Center in 1961 for one year before joining the Fordham faculty.

A man with Father Whelan's remarkable accomplishments might ask to be remembered for many things at this point in his career: legal acumen, social advocacy, teaching, and scholarship. But humility is one of Father Whelan's greatest attributes. Asked if arguing before the Supreme Court was a proud achievement, he dismisses it as "An extremely interesting moment to be asked by the Chief Justice: 'Are you ready?'" Far more satisfying to Father Whelan than his own successes is the daily work of the law school and the interaction with faculty and students.

At eighty, Father Whelan is far too young and productive to consider an epitaph. It is a mark of his faith and values, however, that he raised the issue himself recently when talking about Thomas Jefferson. Jefferson's epitaph reads "Author of the Declaration of American Independence, of the Statute of Virginia for Religious Freedom and Founder of the University of Virginia." Father Whelan simply asks that he be remembered for his dates of birth and departure and his entry into the Society of Jesus.

He will, however, be remembered for so much more than this simple recitation. His scholarship and legal arguments will continue to influence how the courts consider the relationship between church and state in the United States for many years to come. As a law professor who has touched thousands of students across decades of teaching, his legacy includes all those Fordham alumni who have embraced his intellectual rigor and commitment to excellence in the legal profession. His lessons will be passed on daily and forever as his students and their students teach the law in class or mentor less experienced lawyers in practice. And all of us who have had the pleasure to work with him will treasure the kindness and the dedication to others that have enriched our lives and inspired us. Modest

and concerned only with others, he is truly a giant in the history of the Law School.