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James Chesley Rehberg: Writer and Teacher

by Charles R. Adams III*

One thing I remember from my first year Property Law course under Professor Rehberg is that the lowest form of property rights belongs to the squatter. Having acquired “squatter’s rights” to the position of Mercer Law Review historian,¹ I want to make a few observations about Rehberg’s unique contributions to the Review, followed by some of the more enduring Rehberg classroom legends (at least portions of which actually happened).

Think back to 1950. Harry Truman was President, George VI was King of England, Griffin Bell was a promising young Atlanta lawyer, and Bill Clinton and Joe Claxton were both little boys experiencing (from what we gather) very different upbringings. Mercer Law School was located in the Ryals Building on what was then the back side of Mercer’s main campus, and up under the building’s rafters in the offices of the fledgling Mercer Law Review, a fresh-faced young editor named Bob Hicks was putting together the first *Annual Survey of Georgia Law*. With his usual prescience, Hicks secured a formidable roster of talented writers, but perhaps even he did not foresee that one of them would stay on for the next half-century. That unique individual was James C. Rehberg, Mercer Law Librarian, not yet risen to the dignity of “Profes-

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1. See Charles R. Adams III, “Lest We Forget”: *The History of Mercer Law Review*, 50 MERCER L. REV. 7 (1998). Since they published it, perhaps I now have a tenancy at sufferance.

Note: Yonna Shaw told me not to put any footnotes in this Article, but that’s like asking a preacher to stay home from church.

sor," but already hard at work as a legal scholar. His article on "Bar Admission Requirements,"² followed later that school year by a contribution entitled "A Bibliography of Textbooks on Georgia Law,"³ were the first of *fifty-three* articles that Rehberg would contribute to Mercer Law Review over the next fifty years. I won't try to list them here; the fifty-year index that Mercer is producing will contain them all. Rehberg surveyed various areas of property law through 1964, and in 1965 he began his long-running commentary on "Trusts, Wills, and Administration of Estates" (later changed for some arcane reason to "Wills, Trusts, and Administration of Estates").

Even a cursory review of these articles reveals the magnitude both of the topic and of Rehberg's contribution to it. As an example of how the technology revolution has affected the law of wills, Rehberg wrote as recently as 1977 about a case involving the validity of a will typed on onionskin paper!⁴ He was one of the first to call for a comprehensive revision of Georgia's fiduciary laws. About 1981, his articles began systematically to note inadequacies in the then-current laws, and to set out the case for legislative revision. Thus, it is most appropriate that Rehberg's last survey article, published in 1998, noted in that year the implementation of the Georgia "Revised Probate Code of 1998."⁵

Nor was his influence limited to the legislature. For example, in deciding an abstruse point of probate law involving ownership of multiple party accounts, the Georgia Supreme Court relied on Rehberg's 1977 survey article in concluding that Georgia's statutes were "substantially identical" to similar provisions in the Uniform Probate Code.⁶

Into an arid subject matter characterized by mortmain acts, Totten Trusts, dower and curtesy, and vested and contingent remainders, Rehberg even managed to import an occasional note of equally dry wit. For example, he once observed that "the story of the development of the rule against perpetuities since *The Duke of Norfolk's Case*, 3 Ch. Cas. 53 (1685), has not been a rapidly unfolding one."⁷

2. James C. Rehberg, *Bar Admission Requirements*, 2 MERCER L. REV. 269 (1950).

3. James C. Rehberg, *A Bibliography of Textbooks on Georgia Law*, 2 MERCER L. REV. 376 (1951).

4. James C. Rehberg, *Wills, Trusts, and Administration of Estates*, 29 MERCER L. REV. 291, 295 (1977) (citing *Melton v. Shaw*, 237 Ga. 250, 227 S.E.2d 326 (1976)). Try asking anyone under thirty what onionskin paper is and you get this glassy stare that lets you know you're getting old ("Watergate? What's that?").

5. James C. Rehberg, *Wills, Trusts, and Administration of Estates*, 50 MERCER L. REV. 381, 399 (1998); see O.C.G.A. § 53-1-1(a) (Supp. 1999).

6. See *Caldwell v. Walraven*, 268 Ga. 444, 448 n.14, 490 S.E.2d 384, 388 n.14 (1997) (citing Rehberg, *supra* note 4, at 297).

7. James C. Rehberg, *Wills, Trusts, and Administration of Estates*, 40 MERCER L. REV. 471, 471 n.1 (1988).

On the other hand, I probably speak for five decades of Mercer law students in stating that when one thinks of Professor Rehberg in the classroom, humor and levity are not the first things that spring to mind. His was the wisdom of the judiciary, the power of the executive, and the authority of the legislature, plus, when needed, the ability to engender that feeling you get when the blue lights go on in your rear view mirror. Having worked both sides of the classroom podium myself,⁸ however, I see in retrospect that the demeanor adopted by Professor Rehberg, especially with first-year students,⁹ is perfect for impressing on neophyte lawyers the seriousness of their professional endeavors and the dignity of their calling. Thus, most of the humor is in hindsight, and is connected with the terror Rehberg could inspire and the students' responses to it. Back in the *Star Trek* era, it is told, Rehberg called on one student to "recite"¹⁰ a case. The student stood up (we all had to stand to recite cases in the old days), flipped open a black pocket note pad he was carrying, and spoke into it the phrase, "Beam me up, Scotty." Rehberg's reaction is not recorded.

In another instance, a student was so terrified by the prospect of reciting for Rehberg that he struggled to his feet, but when he opened his mouth, the only thing that came out was his lunch.¹¹ It is reported that the recycled lunch landed on the head of the student directly in front, and that Rehberg excused the vomitee, but required the vomitor to stay and recite the case.

8. After I became an adjunct professor at Mercer Law School some years ago, Professor Rehberg suggested that it would be in order for me to call him "Jim." To my mind, that was like the Pope saying, "call me 'Johnny,'" and, to paraphrase Charles Dickens, the word choked itself in my mouth rather than be party to so monstrous an impertinence. I reached the compromise with myself of addressing him merely as "Professor."

9. Rehberg lightens up a bit with the upperclass. I took the Decedents' Estates and Trusts course ("D. E. & T.") from him in my second year, and Rehberg, a staunch Baptist deacon, dissolved the class into paroxysms of mirth by coming in one day and reading the following "will" in his most deadpan voice:

"In the name of God, Amen.

My feather bed to my wife, Jen.

Also to her my saw and hammer,

Until she marry, and then God damn her."

Unfortunately, my grade in D. E. & T. precluded my taking any more of his courses.

10. "Recite" is professorspeak for intentionally and mercilessly exposing, via a relentless process of questioning known as the "Socratic Method," the total extent of the recitor's ignorance about the case in question, and the law in general, in full view of his peers. Until I went to law school, I never understood why the Greeks finally made Socrates drink hemlock.

11. That much of the story is true, for I have it on the authority of three independent eyewitnesses. The denouement, however, has somewhat of an apocryphal ring to it.

I have my own Rehberg story to add from law school days, and it illustrates the danger of listening to student folklore concerning a professor's classroom habits. Rehberg called on me to recite a case during the first week of class. "Great," the upperclass students said in the snack bar, "you're off the hook for a while. Rehberg never calls on anyone twice until he has gone through the entire roll." I can't remember what property casebook we were using, but the assignment for the second week included a Georgia case, *Bleckley v. Langston*,¹² which examined in great depth the issue of when the risk of loss passes under an executory real estate contract. The version of the opinion in the casebook didn't reveal that the case came out of Peach County, where I also am from, but of course, Rehberg knew all that. Into the classroom he walked, and cast a baleful glance around the room. "Today, we go to Peach County for our law, and who better to take us there than" As his gimlet eye settled on me, I suddenly had total empathy with the nauseated student of legend! But I got through it somehow without causing either mine or anyone else's clothes to have to be changed, and the memory of that day has put a little steel up my spine in more than one tense courtroom setting.

That vignette illustrates the essence of Jim Rehberg, the teacher. More than a mere impartor of information, he was (and still is, after fifty years) supremely a preparer of students for life in the law. Nowadays, when the goal of so many law professors seems to be to "relate" to the students (or, alternatively, to avoid them altogether), James Chesley Rehberg continues as a refreshing reminder of what was perhaps a more practical era in academic life. I am privileged to have worked with him as a teacher and as a writer, and to continue learning from him today as a colleague. I doubt that anyone else will ever play so active and prominent a role at Mercer Law School for so long a time. As Hamlet said in tribute to his father, "[h]e was a man, take him for all in all, [we] shall not look upon his like again."¹³ I am indeed proud to join in this well-deserved tribute¹⁴ to one of Georgia's great legal scholars.

12. 112 Ga. App. 63, 143 S.E.2d 671 (1965).

13. WILLIAM SHAKESPEARE, *HAMLET, PRINCE OF DENMARK*, act 1, sc. 2.

14. For his years of uninterrupted service, Mercer Law Review has previously recognized Rehberg with an Editor's Note in his 1982 survey article (put there by me) remarking the fact that he was the only writer to have contributed to every edition of the *Georgia Survey*, and with the dedication of the entire 1987 *Georgia Survey* to him. See *Dedication*, 39 MERCER L. REV. x-xi (1987).