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The Path to Coleman Hill: Mercer Law School's 150-Year Journey

By Neil Skene*

I.

It was a time for entrepreneurs, and Walter B. Hill quickly proved to be one after he finished his studies at the University of Georgia Law School and joined his father's law practice in Macon, Georgia. Before his first year in Macon ended, he joined Superior Court Judge Carlton B. Cole and Macon's leading lawyer, Clifford Anderson, to launch a new law school at Mercer, the second in the state.¹ They were the professors. They started with sixteen students.²

It was 1873. The Civil War was eight years in the past, but Georgia had been restored to statehood for only three years. Just two years

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1. The University of Georgia Law School was created in 1859, Emory Law School in 1916. *About the School of Law*, THE UNIVERSITY OF GEORGIA, <https://www.law.uga.edu/about/> [<https://perma.cc/DH5W-U5UG>] (last visited Jan. 26, 2023); *History and Mission*, EMORY UNIVERSITY, <https://law.emory.edu/about/history/> [<https://perma.cc/8C8J-7UAX>] (last visited Jan. 26, 2023).

2. MERCER UNIVERSITY, CATALOGUE OF THE OFFICERS AND STUDENTS OF MERCER UNIVERSITY, 1873–1874, at 20 (1874) (listing names of students).

earlier, Mercer University had uprooted itself from Penfield, seventy-two miles away, in favor of a six-acre campus in Macon.

A law school never would have happened in tiny Penfield. It was a remote location with no railroad, no newspaper, really nothing much besides Mercer and the Georgia Baptist Association.³ The Baptists' original concept of Mercer as a "labor school," where students performed the non-faculty chores on the school's 460-acre plantation, lasted only five years. Mercer's move to Macon in 1871, thirty-eight years after its founding in 1833, was a result of two decades of continuous debate among Georgia Baptists about leaving Penfield.

Macon had been spared in 1864 when Union General William T. Sherman's army of 62,000 troops burned Atlanta and proceeded on its "March to the Sea" at Savannah. Macon held a Confederate arsenal and was a major transportation hub,⁴ but the more politically salient target for Sherman was the state capital at Milledgeville, thirty miles northeast of Macon. In fact, Georgia's governor and legislators in Milledgeville sought refuge in Macon and took state records along with them.⁵

In April 1868, the first election since the Civil War ended was conducted under a federally imposed Reconstruction governor. A large turnout of freed slaves, who now had the right to vote, helped elect Republican Rufus Bullock as governor. A report to Mercer's trustees later that month observed that the state's "political condition has been involved in chaotic gloom."⁶ It proved to be the start of a "southern civil war." On one side were Reconstruction-minded Republicans like Bullock, who wanted to implement the principles of the three new constitutional

3. For a detailed account of the creation of Mercer and the subsequent move to Macon, see James C. Bryant, *From Penfield to Macon: Mercer University's Problematic Move*, 89 THE GA. HIST. QUARTERLY 462, 472 (2005), <http://www.jstor.org/stable/40584861> [<https://perma.cc/99SK-PSWE>].

4. A recent book focuses on Civil War battles involving Macon—NIELS EICHHORN, THE CIVIL WAR BATTLES OF MACON (2021)—and describes them as "three separate cavalry assaults" that "were small in the grand scheme but salient for the combatants and townspeople." See also Eichhorn, *Civil War Macon*, THE JOURNAL OF THE CIVIL WAR ERA (Feb. 9, 2021), <https://www.journalofthecivilwarera.org/2021/02/civil-war-macon> [<https://perma.cc/8DKE-W7LX>]; and RICHARD W. IOBST, CIVIL WAR MACON: THE HISTORY OF A CONFEDERATE CITY (1999).

5. On April 20, 1865, after Confederate General Robert E. Lee's surrender at Appomattox, Virginia, the City of Macon surrendered at Tattnell Square Park and was occupied by federal troops under General James H. Wilson, known for "Wilson's Raids." *Wilson's Raid to Macon*, GA. HIST. SOC'Y (June 16, 2014), https://georgiahistory.com/ghmi_marker_updated/wilsons-raid-to-macon [<https://perma.cc/5R8M-LTD5>].

6. Bryant, *supra* note 3, at 470.

amendments—the Thirteenth abolishing slavery,⁷ the Fourteenth declaring that everyone born in the United States was a citizen and entitled to “due process and equal protection of the laws,”⁸ and the Fifteenth giving all adult males the right to vote.⁹ On the other side were the unreconstructed Democrats, who before the war had promoted states’ rights and secession, and after the war wanted to restore as much as possible of the Old South.

The “gloom” of unrepentant, white southerners did not last. Democrats “redeemed” the state, focused on restoring business prosperity for planters and merchants, and began instituting segregation in every aspect of public life.¹⁰ Bullock, after an exile from the state, became a business leader and president of the Atlanta Chamber of Commerce.¹¹ He kept quiet about the principles of Reconstruction. So did just about anyone else who wanted to succeed in business or politics.

By 1873, the entrepreneurial comeback seemed to be everywhere—in new machines, in railroads, in oil and mining, in higher wages, and in higher wealth. Atlanta, which became the capital in 1868, was regaining its role as a major transportation hub and even had horse-drawn streetcars, introduced in 1871. The Morrill Land Grants, created by congressional Republicans in 1862 while secessionist Democrats were out of the national government, bolstered university expansion.

It was the start of the Gilded Age, with its industry barons like Vanderbilt and Rockefeller. The gun manufacturer, E. Remington & Sons, signed a contract that year to produce a newly invented typewriter with a QWERTY keyboard.¹² The first Preakness horse race was run in 1873 in Baltimore.¹³ In 1870, Christopher Columbus Langdell, the dean

7. U.S. CONST. amend. XIII.

8. U.S. CONST. amend. XIV.

9. U.S. CONST. amend. XV.

10. The best-known example of these laws was Louisiana’s Separate Car Act in 1890, requiring a separate rail car for Black passengers. *Louisiana Law About Separate Rail Cars*, LA. ACTS OF 1890, Ch. 111. In 1896, the law’s so-called “separate but equal” standard was upheld by the Supreme Court of the United States in *Plessy v. Ferguson*, 163 U.S. 537 (1896). Georgia passed a similar law in 1891 and required segregation of parks in 1905. 1891 Ga. Laws 157–58; 1905 Ga. Laws 117.

11. Russell Duncan, *Rufus Bullock, 1834–1907*, NEW GEORGIA ENCYCLOPEDIA, <https://www.georgiaencyclopedia.org/articles/government-politics/rufus-bullock-1834-1907/> (last visited Jan. 10, 2023).

12. Richard N. Current, *The Original Typewriter Enterprise 1867–1873*, 32 WISCONSIN MAG. OF HISTORY 391, 403–04 (1949).

13. *The Preakness Story Began in 1873*, BALTIMORE SUN (April 29, 1999), <https://www.baltimoresun.com/bal-pimlicohistoryapr29-story.html> [<https://perma.cc/3X24-KVJR>].

of Harvard Law School, had introduced his “case method” of teaching law through Socratic dialogue rather than lectures, though his method was initially viewed as an abomination.

The very model of the post-war comeback in Georgia was a businessman named George Waldo Woodruff. His father had moved him and his brothers from Virginia to Macon in 1834 and then to Columbus in 1842. Woodruff and a partner had a thriving sawmill and grain operation called Empire Mills. When secession came, Woodruff loyally put all his liquid assets into Confederate money and lost almost everything. After the war, he borrowed money and bootstrapped his way to restoring and enlarging the mill.

His son Ernest Woodruff, born during the war, grew up even more earnest as an entrepreneur. He married into a prominent Atlanta family and began to invest in other businesses. He raised his own sons, Robert and George Woodruff, as investors and businessmen just like their father. In 1904, Ernest Woodruff became president of the Trust Company of Georgia (later SunTrust Banks and eventually Truist). In 1919, at the age of fifty-six, he and Trust Company of Georgia would create a business syndicate to buy the Coca-Cola Company for \$25 million. His son Robert would soon become CEO of Coca-Cola, while his other son George continued to run his growing Continental Gin Company and sit on the Coca-Cola board of directors. That younger George Waldo Woodruff, born August 27, 1895, and named for the grandfather who had once lost everything, would become Mercer School of Law’s largest benefactor of its first 150 years.¹⁴

Education was part of the post-war entrepreneurial spirit, and so was civic boosterism through financial enticement, known today as “economic development.” When Mercer decided to abandon Penfield, Macon aggressively sought to be its choice for relocation. So did other Georgia cities. Atlantans petitioned their council to offer \$50,000 to Mercer. Other cities raised money for similar offers. “Every Baptist wanted to take it to his town,” said a letter-writer in the Macon newspaper after a train trip through northern Georgia.¹⁵

Macon already had Wesleyan College, chartered in 1836 as the first college in America granting degrees to women. Wesleyan had a one-block

14. A major resource on the life of the younger George Woodruff is an authorized biography, copyrighted by Mercer University: DELLA WAGER WELLS, *GEORGE WALDO WOODRUFF: A LIFE OF QUIET ACHIEVEMENT* (1987). Much of the information in this section is derived from the first two chapters, “Origins in Industry” and “Growing Up With a City.”

15. *A Trip Into Northern Georgia*, GA. WKLY. TEL. & J. & MESSENGER, July 19, 1870, at 8. The newspaper later became the *Macon Telegraph*.

campus on College Street, where Macon's United States Post Office stands today. Macon's boosters wanted Mercer too, and they needed a winning inducement.

At the end of a meeting of civic leaders in the summer of 1870, lawyer Clifford Anderson summarized the consensus: the city would provide Mercer a six-acre site next to Tattnall Square Park, about a mile down College Street from Wesleyan. The city would also provide Mercer with \$125,000 in long-term municipal bonds, paying 7% interest, and a \$30,000 endowment for a professorship.¹⁶

Anderson was perhaps the most influential and well-connected lawyer in Macon at the time. Born in Virginia in 1833, he was orphaned at the age of twelve and moved to Macon to join his much older brother, William Henry Anderson, born in 1819. The brother was practicing law with Robert Sampson Lanier, who had been born into a hotel family in Athens and met Anderson in college in Virginia. Lanier married William and Clifford's sister in 1840, and in 1842, their son Sidney Lanier was born (Sidney would make a stab at practicing law but found greater happiness and fame as a poet). After William Anderson died suddenly in 1847, Clifford "read law" with Robert Lanier and was admitted to the bar at age nineteen. He became a judge in Macon in 1856, then a member of the Confederate Congress. Later, in 1880, he would become attorney general of Georgia.¹⁷

The civic leaders' recommendation went to the city council, which included Anderson. The council approved the offer on July 19, 1870.

16. Bryant, *supra* note 3, at 477. *The Georgia Weekly Telegraph and Journal and Messenger* describes the city's offer as \$125,000 plus the six-acre tract, valued at \$25,000 (without reference to an endowment). The newspaper called the offer "a most liberal not to say lavish proposition, and we do not think the Trustees of the University will reject it." GA. WKLY. TEL. & J. & MESSENGER, Aug. 2, 1870, at 4.

17. The Anderson-Lanier firm remains Macon's oldest law firm—now Anderson, Walker & Reichert. The Lanier and Anderson family names were intertwined in future generations. Sidney Lanier's younger brother, for example, was Clifford Lanier. Clifford Anderson's great-grandson, R. Lanier Anderson III, named for his father and grandfather, is a senior judge on the federal Eleventh Circuit Court of Appeals and served on the Mercer Law School's Board of Visitors. *Anderson, Walker & Reichert, LLP, Firm History*, ANDERSON, WALKER & REICHERT, LLP, <https://www.awrlaw.com/firm-history> [<https://perma.cc/MG58-EPB4>] (last visited Jan. 10, 2023); see *Judge Anderson Dies in Macon*, ATLANTA CONSTITUTION, Dec. 20, 1899, at 1 (front page obituary); see also 3 THE NATIONAL CYCLOPEDIA OF AMERICAN BIOGRAPHY 191 (1893), <https://books.google.com/books?id=4eA-AAAAYAAJ&pg=PA191#v=onepage&q&f=false> [<https://perma.cc/D678-2PG8>]; *Judge Clifford Anderson House, 1859, Macon*, VANISHING GEORGIA, <https://vanishinggeorgia.com/2017/08/16/judge-clifford-anderson-house-1859-macon/> [<https://perma.cc/HA5D-Z6P2>] (last visited Jan. 10, 2023).

Mercer wired back its acceptance on August 15, 1870.¹⁸ By the end of 1870, most students and faculty had left Penfield. Mercer suspended classes for the first half of 1871, but faculty members offered classes on their own in Macon.¹⁹ Mercer relinquished all its land in Penfield except the four-acre cemetery, where Jesse Mercer and other university icons are buried.

Then, in 1873, Walter Hill arrived in Macon. A native of Talbotton, sixty miles west of Macon, Hill undertook an annotation of the Georgia Code of 1873 that is considered the first annotated code in America. Ten years later, in 1883, Hill and Macon lawyer Lewis N. Whittle would be among a group of eleven Georgia lawyers who founded the Georgia Bar Association, with Whittle as president and Hill as secretary-treasurer. Clifford Anderson became the second president, and Hill the third.²⁰ Macon was the Georgia Bar's headquarters for ninety years.²¹

In 1899, Hill would become chancellor of the University of Georgia in a time of leadership and political crisis, as Emory and Mercer persistently objected that the university with its state funding was unfairly competing with them. Hill, with connections to both private schools by then, was seen as someone who could mend fences. His expansion at UGA included a college of agriculture, a college of education, a school of pharmacy, and a school of forestry, and he expanded the law curriculum to two years. Hill Hall at Savannah State University, completed in 1901, would be named for him.

But all of that was later. Hill's first educational initiative, in his first year in Macon in 1873, was to create a law school at Mercer. "It may truly be said," remarked the *Georgia Weekly Telegraph*, "that few men of his years have earned so enviable a reputation for forensic ability and legal scholarship."²² He would bring to the law school "superior abilities . . . and the ambition and fire of youth."²³

Details are not clear about the role of each of the three lawyers who were present at the creation. Writing a century later, then-Dean Edgar

18. *Mercer University*, GA. WKLY. TEL. & J. & MESSENGER, Aug. 16, 1870, at 1.

19. *Mercer University*, GA. WKLY. TEL. & J. & MESSENGER, Feb. 14, 1871, at 5.

20. *Past Presidents, Georgia Bar Association 1884-1965*, STATE BAR OF GEORGIA, <https://www.gabar.org/aboutthebar/statebarleadership/pastpresidents.cfm> [https://perma.cc/3YUT-GX7V] (last visited Feb. 24, 2023).

21. Cliff Brashier, *The State Bar's Journey from Macon to Atlanta*, 17 GEORGIA BAR JOURNAL 8, 8-9 (2011), <https://www.gabar.org/newsandpublications/georgiabarjournal/loader.cfm?csModule=security/getfile&pageID=2651> [https://perma.cc/S895-9D3Z].

22. *The Law School of Mercer University—Unprecedented Success of the Institution*, Ga. Wkly. Tel. & J. & Messenger, Feb. 17, 1874, at 4.

23. *Id.*

H. Wilson credited Hill as the “moving spirit” even as he declared the school “founded by” Judge Cole, who was chairman of the faculty.²⁴ Clifford Anderson, because of his influence in bringing Mercer to Macon and his place on the original law faculty, surely helped the Mercer trustees look favorably on the idea. Judge Cole, who had been appointed to the Superior Court of the Macon Circuit on August 18, 1868,²⁵ was “[c]ool, calm, modest, retiring, yet learned, wise and sagacious,” in the words of Professor Orville Park in 1930.²⁶ The *Weekly Telegraph*, in what appears to have been its first mention of the law school on February 17, 1874, described the judge as “a gentleman of ripe experience and superior legal erudition.”²⁷ Of Anderson, who would teach constitutional law and international law, the newspaper said, “[p]erhaps a more successful and accomplished barrister cannot be found in any of the courts of the state.”²⁸

Judge Cole died the following year, and Anderson became chairman of the faculty.

Newspaper accounts indicate the first classes were in the fall of 1874,²⁹ although Dean Wilson’s history says there were classes as early as February.³⁰

The Mercer trustees authorized the law school and elected the faculty but took no fiscal responsibility for the school. “The professors shared the tuition, which they had the responsibility to collect,” Wilson wrote.³¹ Tuition was \$80 for the year. Classes were held at the courthouse with Judge Cole and in the other professors’ law offices. A Mercer report to the

24. Edgar H. Wilson, *The Walter F. George School of Law: A Brief History*, THE MERCERIAN, Mar. 1965, at 6 [hereinafter Wilson History].

25. *Appointments by the Governor*, GA. WKLY. TEL. & J. & MESSENGER, Aug. 21, 1868, at 3.

26. Orville A. Park, *History of the Mercer Law School*, in DEDICATION CEREMONIES: SCHOOL OF LAW BUILDING, MERCER UNIVERSITY, JUNE 2, 1930 (1930) at 11.

27. *The Law School of Mercer University—Unprecedented Success of the Institution*, *supra* note 22, at 4.

28. *Id.*

29. GA. WKLY. TEL. & J. & MESSENGER, July 7, 1874, at 1 (quoting announcement at Mercer’s commencement that the law school “will be fully equipped by fall and ready to advance its pupils in the science of law”). The exact date on which the Mercer trustees voted to authorize the law school has not been unearthed. The Archives division at Mercer’s Tarver Library has no minutes of trustee meetings before 1877. The author’s best estimate is that the authorization happened approximately October 1873, which would be 3–4 months after Walter Hill arrived in Macon and would be shortly after the opening of Mercer’s academic year.

30. Wilson History, *supra* note 24, at 6.

31. *Id.*

Georgia Baptist Convention in 1874 noted the establishment of the law school and said it has three “divisions,” obviously the three professors, “in which lectures are delivered in connection with textbooks” (Langdell’s case method was still decades away).³²

In 1875, the Georgia General Assembly authorized the Mercer Law School to grant law degrees, which allowed admission to the bar without an exam.³³ Among the first graduates in 1875³⁴ was William S. West, who later served a few months in the United States Senate in 1914 after the death of Senator Augustus O. Bacon.³⁵ The class of 1877 included Harry Stillwell Edwards, who became famous not as a lawyer but as editor of the *Macon Telegraph* and a novelist writing nostalgia about slaves.

From there the school went from small to tiny. It had one graduate in 1879 and again in 1880. There were no graduates in 1881 and 1882, then five in 1883—among them Clifford Lanier Anderson, son of the founding law professor.³⁶

After three more years with no students, Clem P. Steed, the newest of three members of the faculty, led a reorganization attempt in 1886.

32. CATALOGUE OF THE OFFICERS AND STUDENTS OF MERCER UNIVERSITY, 1873–1874, *supra* note 2, at 20, 26. Located in the Mercer Law Library Archives, the catalogue lists names of students, but not all of the first seven graduates were among them. A faculty list and courses each faculty member taught is on page 26.

33. *Mercer University, Macon, Georgia*, THE MACON TELEGRAPH, Oct. 10, 1877, at 4.

34. Some sources list 1876 as the first graduating class, but the first graduates are included in an extensive newspaper account of Mercer University’s commencement in July 1875. See *Mercer University: Annual Commencement Exercises*, GA. WKLY. TEL. & J. & MESSENGER, July 13, 1875, at 1. Many of the sixteen students listed in the 1874 CATALOGUE OF THE OFFICERS AND STUDENTS OF MERCER UNIVERSITY, *supra* note 2, apparently did not graduate.

35. Senator Bacon’s will became the centerpiece of two significant decisions of the Supreme Court of the United States over Bacon’s bequest of a tract of land to the City of Macon for use as “a park and pleasure ground” for white people, to be managed by a board of seven white persons, using language in Georgia statutes authorizing the segregated purpose. The will stated Bacon’s belief that “in their social relations the two races should be forever separate.” Baconsfield Park, just across the Spring Street bridge from the Mercer Law School and downtown Macon, was used for decades, until the two cases were resolved in favor of a reversion of the property to Bacon’s heirs. See *Evans v. Newton*, 382 U.S. 296, 311–12 (1966) (white restriction not enforceable even if managers deed the property to a private trust), and *Evans v. Abney*, 396 U.S. 435, 440 (1970) (applying the *cy pres* doctrine in favor of Bacon’s heirs in asserting that the failure of the whites-only provision meant that Bacon’s trust failed and the property reverted to Bacon’s heirs).

36. *Law Alumni News*, THE ORANGE AND BLACK, July 12, 1919, at 3. The younger Anderson moved to Atlanta and founded Anderson and Roundtree, “known for most of the twentieth century as Hansell and Post.” *Anderson, Walker & Reichert, LLP, Firm History*, ANDERSON, WALKER & REICHERT, LLP, <https://www.awrlaw.com/firm-history> [https://perma.cc/UE3J-ZD65] (last visited Jan. 10, 2023).

Joining him was United States District Judge Emory Speer, appointed to the federal bench in 1885. Walter Hill, still practicing law in Macon in 1886, was on the faculty as well. Anderson had become Georgia's Attorney General. Speer, elected dean by the other two, was the first to hold the title of dean rather than chairman of the faculty.

Their reorganization of the law school got nowhere with the Mercer trustees, who commented: "Under the existing state of the law, admission to the bar is guarded with so few restrictions that it is practicable for any young man to be admitted with very slight or imperfect preparation."³⁷ In other words, why would a young man wanting to be a lawyer bother with law school? The trustees noted that the newly created Georgia Bar had asked the General Assembly to require more preparation for the bar, "and when such law goes into effect the law school can be reorganized with good prospect of success and usefulness."³⁸

Six more years passed before Speer and Steed succeeded in their reorganization. Eleven students enrolled. There were four faculty members, including Speer and Steed, plus Hill as a "special lecturer."

The university was still giving the law school only its name, not its financial support. The faculty collected tuition and fees, paid the expenses, and kept anything left over as compensation.

Classes met in the evenings. Clem Steed met with his students in a cramped room on the bottom floor of what is now the R. Kirby Godsey Administration Building on the Mercer University main campus.³⁹ Professor Olin J. Wimberly held classes in the "splendid library" of his "beautiful old Southern home," as Professor Orville A. Park later described it.⁴⁰ Superior Court Judge William H. Felton, who joined the faculty in 1899, met with his students in a ground-floor room of his home,

37. W.A. Bootle, *Georgia's Historic Law Schools Part 1: Some Happenings in the History of the Walter F. George School of Law*, 26 GA. STATE BAR J. 127, 128 (1990) [hereinafter Bootle History].

38. *Id.*

39. Among Clem Steed's lasting contributions to the profession outside his teaching and leadership at the law school was his "Report of Committee on Legal Ethics of the Georgia Bar Association," delivered at the organization's 1902 meeting. The report was the subject of a commentary eighty-eight years later, in the 1990 Mercer Law Review, by Chicago lawyer Justin A. Stanley, who had been president of the American Bar Association in 1976-77 and headed an ABA commission that in 1988 urged lawyers to dedicate themselves to "principle" over "profit" and to "professionalism" over "commercialism." His article called Steed's principles "as relevant in 1990 as they were in 1902." Justin A. Stanley, *Comments on Clem P. Steed's Report of Committee on Legal Ethics*, 41 MERCER L. REV. 557, 557 (1990).

40. Park, *supra* note 26, at 4. Judge Bootle's history indicates the house was across Tattnell Square Park from the university.

now known as the Hay House, the red Italian Renaissance Revival mansion visible just down Coleman Hill from the veranda of today's law school (law students used the back door). Judge Speer used his federal courtroom for serious studies and for moot court, but he also opened his antebellum Vineville Avenue home, known as the Cedars, for the law school's "annual entertainments."⁴¹ Speer remained the dean for twenty-two years, until his death in 1918.⁴²

Walter F. George, whose name eventually would grace the law school, was in the Class of 1901. Carl Vinson was in the Class of 1902.⁴³ He would become a U.S. congressman so influential that the law school celebrated its 100th anniversary jointly with Vinson's 90th birthday.

Clem Steed died in 1906. His widow, Eugenia Small Steed, offered the university \$10,000 to equip a new law school, but the trustees refused to meet her one condition: that the university create a \$30,000 endowment for the law school. Mrs. Steed instead spent \$1,500 to furnish a circular room at the rear of Willingham Chapel. Steed's brother, Carl, donated the collection of law books he had inherited from Clem.

41. Bootle History, *supra* note 37, at 128. Speer's home was where the Wesleyan Gardens Apartments are now, across the street from the Vineville Methodist Church.

42. Born in Monroe County, just north of Macon, in 1848, Speer served two terms in Congress, 1879–1883. After he lost re-election, President Chester A. Arthur appointed him United States Attorney for the Northern District of Georgia. In 1913, Speer prosecuted nine white men for conspiring to "injure, oppress, threaten, or intimidate" Black voters in Banks County. He won a conviction of all nine, and the convictions were upheld by the Supreme Court of the United States in *Ex Parte Yarbrough*, 110 U.S. 651 (1884). The next year, President Arthur appointed Speer to the judgeship in the Southern District, which required Speer to move to Macon. After he supported Theodore Roosevelt in the 1912 presidential election against President William Howard Taft, the Justice Department began an inquiry into Speer, which led to impeachment hearings. The impeachment went nowhere, but Speer's opponents pushed through legislation the next year to create a second judgeship in the Southern District in 1915 (38 Stat. 959). Speer was not replaced after his death in 1918. The new Middle District was created in 1926 (44 Stat. 670). Timothy S. Huebner, *Emory Speer*, NEW GEORGIA ENCYCLOPEDIA, <https://www.georgiaencyclopedia.org/articles/government-politics/emory-speer-1848-1918/> (last visited Jan. 10, 2023). A two-volume transcript of the impeachment hearings is in the Mercer Law Library archives with the title CONDUCT OF EMORY SPEER: HEARINGS BEFORE A SUBCOMMITTEE OF THE [HOUSE] COMMITTEE ON THE JUDICIARY, AUG. 26, 1913–JAN. 13, 1914. See Library of Congress, Testimony of Judge Emory Speer before the Subcommittee of the Judiciary (1914) (abstract from "Hearings"), <https://www.loc.gov/item/14021667>.

43. A 1919 alumni newsletter called the class "remarkable." It gave top billing not to Vinson, a mere five years into his fifty-one years as a congressman, but to "solicitor-general R.C. Bell," a prosecutor in Cordele, who would later serve on the Georgia Court of Appeals and Supreme Court of Georgia. *Law Alumni News*, *supra* note 36, at 3.

Orville A. Park, who would produce the first authoritative history of the law school's early years, joined the faculty part-time in 1905. He had graduated from Vanderbilt University in 1892 and from the University of Georgia Law School in 1893, then practiced law in Macon. He was secretary of the Georgia Bar Association for twenty years and then its president in 1918.⁴⁴ He produced *Park's Annotated Code of the State of Georgia, 1914*.⁴⁵

Park bestowed a more personal legacy on Mercer and on the law as well. In 1935, Park's daughter, Elmyr, born in Macon, was courted by a third-year law student named Brainerd Currie, and they married a month before he graduated *summa cum laude*. Currie promptly joined the faculty and stayed two years before going on to teach at Duke University and the University of Chicago, among other institutions. He was a pioneering scholar in conflict of laws, the determination of which jurisdiction's law applies when parties are from multiple states.⁴⁶

Currie was also famous for nonsense and irreverent poetry, although he had wooed Elmyr with the more romantic poetry of Elizabeth Barrett Browning.⁴⁷ A Brainerd Currie Memorial Edition of the Mercer Law Review in 1977 took note of perhaps Currie's most-cited poem, "Rose of Aberlone," about "a cow who had sacrificed her reputation of chastity for the advancement of the common law," as the Mercer editor described it.⁴⁸ Among the Curries' three children was nationally-known University of

44. *Past Presidents, Georgia Bar Association 1884-1965*, *supra* note 20.

45. See PARK'S ANN. CODE (1914).

46. Robert T. Brousseau, *Pages from the Life of a Gentle Scholar*, 28 MERCER L. REV. 425, 433 (1977). The article contains a partial transcript of the debate regarding admission of Mercer to membership in the American Association of Law Schools. *Id.* at 426, n.5.

47. Jack L. Sammons, *Introduction to Quidsome Balm: The Collected Nonsense of Brainerd Currie*, THE GREEN BAG (Mar. 30, 2001), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2614137 [<https://perma.cc/8KXZ-FFL8>]. Dallin Oaks, referred to in the article, served on the Mercer Law School Board of Visitors for a term beginning in 1985. Sammons has a more scholarly but equally readable account of Brainerd Currie's life, based on a speech at a Georgia Legal History Foundation seminar at Mercer Law School on April 7, 2011. Jack L. Sammons, *Brainerd Currie at Mercer: Two Versions*, 24 J. OF S. LEGAL HIST. 199 (2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2942404 [<https://perma.cc/X46M-GSV5>].

48. Michael A. McKenzie, *Editor's Note*, 28 MERCER L. REV. 421 (1977) (Brainerd Currie Memorial Edition); see also Becky Beaupre Gillespie, *For the Shame of Rose of Aberlone: Remembering the Rhymes of Brainerd Currie*, U. OF CHI. (Sept. 15, 2016), <https://www.law.uchicago.edu/news/rhymes-brainerd-currie> [<https://perma.cc/NJ39-SLK5>]. The poem is based on the doctrine of mutual mistake, over the belief that Rose the cow was barren, with legal consequences announced in *Sherwood v. Walker*, 33 N.W. 919 (Mich. 1887). The full poem may be found at <https://allpoetry.com/Rose-of-Aberlone> [<https://perma.cc/LDN5-QL3C>] (last visited Jan. 10, 2023).

Chicago law professor David Park Currie. Brainerd Currie died in Durham, North Carolina in 1965. Elmyr Park Currie died at home outside Raleigh in 2006 at the age of 98. Orville Park died in 1943.

II.

In 1920, the law school was approaching its 50th anniversary, but there still was no law school building. Classes had resumed in 1918 after a hiatus during World War I, but they were still in professors' homes, or in the basement of the administration building, or in the circular room that Mrs. Steed had furnished in Willingham Chapel.

Soon, however, the law school moved into Sherwood Hall on the Mercer campus—or at least, into its dining room, remodeled for the law school “with only a partition separating the law library from the University laundry,” in the words of 1925 Mercer Law grad William Augustus Bootle, who entered Mercer as an undergraduate in 1920.⁴⁹ The course of study, which had lasted just one year during the nineteenth century and two years starting in 1911, was expanded to three years.

This was also the era when George Washington Wood, Jr. attended Mercer. He never achieved fame. Son of a circuit-riding Baptist preacher, he graduated from Mercer college in 1918 and the law school in 1920, then practiced law in Macon on the upper floor of what became a flower shop across Mulberry Street from the courthouse. His name was frequently in the *Macon Telegraph*, though only in the legal ads he bought. His precocious oldest daughter, Jane Wood, born in 1913 in Macon, was an honor roll student in high school in 1925, when her dad packed up his family and moved to Miami. Jane finished high school and college there, got a job at the *Miami Herald*, and in 1937 married the star police reporter, Henry Olaf Reno. On July 21, 1938, Jane Wood Reno became the mother of future United States Attorney General Janet Reno.⁵⁰

Retired Supreme Court of Georgia Justice William Hansell Fish became dean of the law school in 1922. The next year, Rufus C. Harris, Mercer's future president, joined the law faculty. Dean Wilson's history credits Harris with the leadership behind the acceptance of Mercer as a member of the American Association of Law Schools that year and

49. Bootle History, *supra* note 37, at 127.

50. PAUL ANDERSON, JANET RENO: DOING THE RIGHT THING (1994) (a book by the Washington Bureau Chief of the *Herald* in the early 1990s). Janet Reno's first and only documented visit to Macon was in 1995 for a Mercer Law Day speech. Joe Kovac Jr., *Reno comes 'home' for Law Day speech*, MACON TELEGRAPH, Apr. 9, 1995, at 10A. *See also* Emily Cook, *Reno meets family*, MACON TELEGRAPH, Apr. 16, 1995, at 3E.

accreditation in 1925 by the American Bar Association. Accreditation was “particularly noteworthy,” Wilson says, because law school facilities were “far less than adequate.”⁵¹ It was also Harris who, in Judge Bootle’s words, “deemphasized the texts of Story, Chitty, Blackstone and Greenleaf in favor of the casebook system,” created more than fifty years earlier by Harvard’s Dean Langdell.⁵²

The school also began requiring two years of college education for admission to law school and abandoned night classes. Fish added a library of 7,000 volumes. He retired from the deanship in 1926 and died later that year. Rufus Harris became dean but resigned the next year to become dean at Tulane Law School. He later became Tulane’s president.

In those boom times of the twenties, the future seemed unlimited. Mercer not only moved its law school onto the campus, but also expanded its theology department into a separate school and created small schools of commerce and journalism. There was also talk of a new law school building, since Mercer had promised both national associations that it would build one.

As the weather turned chilly in 1927, however, the Mercer trustees were engaged in a deeper debate. On their agenda was not only a new law building but also a new university president to succeed Rufus W. Weaver. The trustees sought the advice of three outside educators, whose “Survey of Mercer University” said Mercer had to face this issue: “Shall it expand into a larger institution with greatly increased functions,

51. Wilson History, *supra* note 24, at 7. Mercer has sometimes said its law school was the first ABA-accredited law school in Georgia, but this is inaccurate. The erroneous source appears to be Professor Orville Park’s history, *supra* note 26; it says Mercer was accredited by the ABA and also admitted to AALS in 1923. ABA’s authoritative List of Accredited Law Schools, organized by year, shows Emory accredited in 1923 and Mercer in 1925. The University of Georgia Law School was accredited in 1930. *ABA-Approved Law Schools by Year*, AMERICAN BAR ASSOCIATION, https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/by_year_approved/ [https://perma.cc/4333-Z55Q] (last visited Jan. 10, 2023). Emory claims to be the first Georgia law school admitted to AALS. *History and Mission*, EMORY LAW, <https://law.emory.edu/about/history-mission.html> [https://perma.cc/446D-HNBZ] (last visited Jan. 10, 2023). However, both Mercer and Emory were admitted in 1923. An excerpted transcript of the membership proceedings at AALS in 1923 reveals that the AALS Executive Committee considered four (unnamed) applicants at a 1923 meeting but sent only one to its full body for a vote: Mercer, which was approved. Brousseau, *supra* note 46, at 425 n.4 (quoting PROCEEDINGS OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS 48–49 (1923)).

52. Bootle History, *supra* note 37, at 129.

responsibilities and fields of service; or shall it restrict its work to a smaller range and become a College?"⁵³

A *Macon Telegraph* editorial on December 5, 1927, hinted at an answer by rephrasing the question: "Whether Mercer shall go forward to a place as a university or whether it shall slip back into the position of simply another denominational college."⁵⁴ The law school is "ranked with the best," even though the faculty is "laboring under almost incredible handicaps."⁵⁵ The quarters in Sherwood Hall "are so preposterously inadequate as to defy calm description," and the law library "is, because of inadequate facilities, in a chronic condition approximating that of a second-hand book shop after a brisk fire sale."⁵⁶ The *Telegraph* worried about competition from Tulane, Emory, and "even the University of Georgia, plaything of politicians that it has been."⁵⁷

The outside consultants, however, found it "hard to see why training lawyers is a basic function of Mercer."⁵⁸ The Georgia Baptist Convention should not support the law school, they said. "If a law building is to be provided, and one must be by the ruling of the American Bar Association, it should be provided independently of the regular sources from which the college will draw support."⁵⁹

The trustees, fortuitously, held title at the time to a piece of land they didn't want. The construction of a president's residence forced highway engineers to reroute Montpelier Avenue, which ran between the campus and Tattnell Square Park, to eliminate dangerous curves, although Mercer students who cross the street there may doubt the engineers' success. The rerouting formed a triangle of land, which the university decided to sell to fund the construction of a new law building.

Then Mercer trustee Thomas E. Ryals intervened. His grandfather, Absalom Janes, had been among the founders of Mercer at Penfield, and founder Jesse Mercer is buried in his grandfather's cemetery lot there.⁶⁰ Ryals's father had graduated from Mercer in 1851, while it was still at Penfield. After getting his law degree at the University of Virginia,

53. PHELPS, ET AL., A SURVEY OF MERCER UNIVERSITY 21 (1928). The educators were Shelton Phelps of Peabody College, Floyd W. Reeves of the University of Kentucky, and Joseph Roemer of the University of Florida.

54. *Mercer's Future at Stake*, THE MACON TELEGRAPH December 5, 1927, at 4.

55. *Id.*

56. *Id.*

57. *Id.*

58. PHELPS, ET AL., *supra* note 53.

59. *Id.*

60. Bootle History, *supra* note 37, at 129 (citing Judge Bootle's conversation with Mrs. T.E. Ryals in 1954 when her late husband's portrait was unveiled).

Thomas Ryals came back to Macon and joined Clem Steed in law practice in 1898. In 1908, he joined the law firm that dated back to the Lanier-Anderson partnership in the 1840s, which became known as Ryals, Anderson & Anderson and included Clifford Anderson's son and grandson, both named Robert Lanier Anderson.⁶¹

Ryals offered Mercer \$12,500—one-fourth of the anticipated cost—if others would contribute the rest for a new building. Others did—423 of them, by the school's count. Ryals also helped negotiate the sale of the little triangle of land to the state highway department as a further boost to the building budget.⁶² Shortly afterwards, his health failed. He retired from law practice. Then, making matters worse, the stock market crashed in 1929, and a world-wide depression began. Ryals stuck by his gift for the building but asked that the naming of the building be postponed. It did not become "Ryals Hall" until 1946, after Ryals's death in 1943.

On June 2, 1930, as the Great Depression was bearing down on the country, the new law building was dedicated. It stood a few paces away from Sherwood Hall and a short walk from Willingham Chapel. "With what joy does the tenant family move into the first domicile of their own possessing!" said Judge R. C. Bell, from the Class of 1902, in his speech.⁶³ "How do the friends and neighbors interest themselves in the construction of the new home across the way; with what devotion and love will the family enter, and how will their hearts glow at the first house-warming!"⁶⁴

Dean J. A. McClain Jr., who had succeeded Dean Harris, also spoke at the dedication, and tactfully referred to the "economic stress." He was not tactful, though, in bemoaning an excess of lawyers. "While Georgia ranks near the bottom in many respects," he said, "it can successfully defend its claim for a place near the top with the states having the greatest over-supply of lawyers."⁶⁵

Echoing the Mercer trustees from forty years earlier as they declined to invest university money in the law school, McClain went on:

61. Biographic material is drawn from multiple sources, including a typewritten history by Judge Bootle prepared for Law Day 1954 (from Bootle Archive).

62. Wilson History, *supra* note 24, at 7.

63. R.C. Bell, *Dedicatory Address*, DEDICATION CEREMONIES (included within Orville Park's history, *supra* note 26, at 35).

64. *Id.*

65. J.A. McClain Jr., *Legal Education in Georgia*, DEDICATION CEREMONIES (included within Orville Park's history, *supra* note 26, at 19).

The plain bald fact is that any person who can read and write may obtain permission to practice law in Georgia. There was a time in the early history of Georgia when it was against the law to be a lawyer, but the pendulum has swung far in the other direction, and today any person possessing minimum powers of retention can, by a ninety-day period of coaching and cramming, stand the bar and emerge as a full-grown barrister.⁶⁶

Requiring a legal education was seen as a remedy for an excess of lawyers, not a cause of it. It would be many years more before the Georgia Bar took that step.

With the Depression persisting, law school enrollment dropped to forty-five for the fall of 1932, and McClain resigned in 1933. At this point Mercer chronicler Gus Bootle became part of his own historical record of the school. “Before leaving, [McClain] and President Dowell persuaded this writer to serve as part-time acting dean ‘for a short while’ until times got better and the school could afford a full-time dean.”⁶⁷

Bootle, born in 1902, had a relationship with Mercer that began with his freshman enrollment in 1920 and ended with his death at age 102 in 2005, after more than fifty years as a university trustee and counselor to university presidents as far back as Rufus Weaver (1918–1927). In 1933, Bootle had just completed four years as United States Attorney for the Middle District of Georgia during President Herbert Hoover’s administration and was returning to his own law practice. Two decades later, in May 1954, President Dwight D. Eisenhower would appoint him as judge of the United States District Court for the Middle District of Georgia, based in Macon.⁶⁸

As acting dean, Bootle would not have to teach and (speaking of himself in the third-person) “he could discharge all administrative duties in about one hour each morning and return to his fledgling law practice.”⁶⁹ But three professors resigned soon after McClain did, and Bootle ended up teaching courses in Criminal Law and Equity. The first was no problem for a former United States Attorney, and McClain had left behind a wealth of notes and references on Equity. Bootle held the “acting dean” job for four years.

66. *Id.* at 20.

67. Bootle History, *supra* note 37, at 130.

68. Bootle’s most consequential decision as a federal judge was the desegregation of the University of Georgia in 1961. See Patrick Emery Longan, “You Can’t Afford to Flinch in the Face of Duty”: Judge William Augustus Bootle and the Desegregation of the University of Georgia, 48 STETSON L. REV. 379, 379 (2019).

69. Bootle History, *supra* note 37, at 130.

His primary challenge was recruiting faculty. Among them were Elvin E. Overton from Arkansas, who would take over the deanship from Bootle in 1937; D. Meade Feild from Furman University, who would take the deanship in 1942; Brainerd Currie, the new graduate in 1935, who would go on to national stature in legal academia; and Charles E. Nadler, just retired from a bankruptcy practice and, in 1948, writer of a well-regarded treatise on bankruptcy.

World War II closed the school from 1942–1945. “Good law students make good soldiers,” Bootle lamented in his history.⁷⁰ When it reopened in 1945, James C. Rehberg was one of only eight students. He was just back from Navy service as a radio telegraph operator and had been part of the invasion of Italy. On his return, he immediately entered law school, emulating an older brother and an uncle. In his first year, Rehberg was inspired by a property law professor who had been Dean Bootle’s first faculty hire in 1933: Henry Searcy Barnes from the Class of 1929.

Another member of the entering class in 1945 was Griffin B. Bell, who came from Americus, served in the Army’s Quartermaster Corp and Transportation Corps at Fort Lee, Virginia, and left the Army as a major. Mercer law students would hear a lot more from both Rehberg and Bell in future years.

In 1947, F. Hodge O’Neal arrived at Mercer as dean. He had been a Navy lieutenant in the war, then taught at the University of Mississippi and had advanced law degrees from both Yale and Harvard. The post-war period was a time of growth as soldiers returned from World War II. In the spring of 1948, Dean O’Neal noted that, for the first time, the law school found itself unable to admit all students who desired to enter. The school, he said, would cap enrollment at 150 students. Seventy-five years after its first few students took classes in faculty homes, Mercer Law School had reached a point of significant accomplishment.

That same spring of 1948, Griffin Bell, Jim Rehberg, and their classmates received their law degrees. Among their fellow graduates were future Macon Mayor Buckner Melton and future U.S. Supreme Court nominee G. Harrold Carswell.⁷¹

70. Bootle History, *supra* note 37, at 130.

71. Judge Carswell of the United States Court of Appeals for the Fifth Circuit was nominated by President Richard Nixon after a previous nominee, Clement Haynsworth, was rejected by the U.S. Senate. The Senate rejected the Carswell nomination by a 45-51 vote on April 8, 1970. See *Supreme Court Nominations, 1789–2020*, CONGRESSIONAL RESEARCH SERVICE, <https://crsreports.congress.gov/product/pdf/RL/RL33225/35> (last visited Feb. 26, 2023). Carswell immediately became a Republican candidate for the U.S. Senate from Florida but lost to Democrat Lawton Chiles. Harry Blackmun was later

Bell went to Savannah to practice law, then in 1952 moved to northwest Georgia to practice law in Rome. In 1953 he joined King & Spalding, and during his tenure there also served as chief-of-staff for Governor Ernest Vandiver from 1959 through 1961. At that point, President John F. Kennedy appointed him to a new seat on the United States Court of Appeals for the Fifth Circuit. In 1967, he became a Mercer trustee, served six 5-year terms, was board chair from 1991–1995, and in 2007 became a life trustee. In 1977, President Jimmy Carter appointed him United States Attorney General, and he served until 1979, when he returned to King & Spalding. In 1983, Bell was named Distinguished University Professor and was a frequent lecturer and panelist at the law school. The Griffin Boyette Bell Chair of Law was created in 1986 with a gift of \$1 million from friends and colleagues.⁷²

Rehberg, after graduation, taught in public school for a year, returned to Mercer as its law librarian, received a Master of Laws degree from Duke in 1951, and began teaching full-time at Mercer in 1954. Rehberg had an intimidating air of authority in the classroom, which 1983 law graduate Charles R. Adams III said could “engender that feeling you get when the blue lights go on in your rear-view mirror.”⁷³ But it was possible to discern the twinkle in his eye in class and a big smile in the hallways. Rehberg took emeritus status with part-time teaching in 1988.

After Rehberg’s death in 2006, classmate Griffin Bell was among those writing tributes in the Mercer Law Review. “We had a small class by today’s standards, but almost every person in the class has become distinguished in one or more ways in the profession,” Bell wrote. “No member of the class has done more for the profession than Jim Rehberg.”⁷⁴

Dean O’Neal’s “inspired and determined leadership,” wrote Judge Bootle, led to another step in the academic advancement of the law school. In 1949, the school’s Editorial Board—a select group of students who did legal research for private attorneys and wrote articles for submission to the *Georgia Bar Journal*—was transformed into the

nominated and confirmed for the Supreme Court seat, which had been vacated by the resignation of Justice Abe Fortas. Carswell’s son George was later a Mercer Law graduate.

72. *Remembering General Griffin B. Bell*, MERCER UNIVERSITY, <https://bell.mercer.edu/> [https://perma.cc/6BLA-ECXJ] (last visited Jan. 10, 2023).

73. Charles R. Adams III, *James Chesley Rehberg: Writer and Teacher*, 51 MERCER L. REV. 7, 9 (1999).

74. Griffin B. Bell, *A Tribute to Professor James C. Rehberg*, 51 MERCER L. REV. 1, 1 (1999). The memorial edition, which also included a tribute from longtime professor Joseph Claxton, appropriately was the law review’s annual Survey of Georgia Law, which had included Rehberg’s survey of Estates & Trusts law.

Mercer Law Review, Georgia's first law review. The first editor was William P. Tyson Jr., who had come to the law school from Ashburn; in the 1970s he joined Attorney General Bell's Justice Department in Washington.

The second editor was Frank C. Jones, who is credited with the idea of the Annual Survey of Georgia Law, which Charles Adams, in a 50-year history of the law review, called "the single most significant enterprise ever mounted" by the law review.⁷⁵ Jones became a leading Macon attorney at a firm founded by his great-grandfather, now known as Jones Cork LLP, the second-oldest continuing firm in Macon behind the Anderson firm.

After serving as president of the Georgia Bar and overseeing the move of its headquarters to Atlanta from Macon, Jones himself moved to Atlanta to join King & Spalding. He built a national reputation and served as president of the United States Supreme Court Historical Society, which annually holds the Frank C. Jones Reenactment of a significant Supreme Court case with leading appellate advocates and justices of the court portraying the advocates and justices. A courtroom on the first floor of the Mercer Law School is named for Jones and Griffin Bell.⁷⁶

III.

As the stature of the law school grew, so did the stature of a Mercer Law graduate from Vienna, forty miles south of Macon. Walter F. George had been honored for his oratory skills as far back as his undergraduate days at Mercer at the turn of the century. As the law school moved into its first real home in 1930, Senator George was moving toward national prominence in the United States Senate.

It was quite an accomplishment for the only son of a South Georgia sharecropper. Walter Franklin George was born on January 29, 1878, on a farm in Webster, seventeen miles west of Americus. Walter's father was Robert Theodoric George, the middle name presumably derived from a heroic Visigoth ruler around the year 500. The father subscribed to the *Congressional Record*, and the son read and memorized speeches from the floor of the House and Senate. At sixteen, young Walter went to Cordele for a celebration of Confederate Memorial Day, and when the

75. Charles R. Adams III, "Lest We Forget": *The History of Mercer Law Review*, 50 *MERCER L. REV.* 7, 13 (1998).

76. Billy Frys, *Mercer Law School to Name Courtroom After Noted Alumni Griffin Bell and Frank Jones*, *THE DEN* (Feb. 26, 2019), <https://den.mercer.edu/courtroom-named-after-griffinbell-frankjones/> [<https://perma.cc/9SVR-U5JA>].

scheduled speaker failed to appear, Walter charmed the crowd with a memorized speech about Robert E. Lee.

After leaving Mercer Law School in 1901, he borrowed \$300 and bought a law practice in Vienna from a lawyer who had decided that success lay not in a small town in South Georgia but in the booming oil fields of Oklahoma. George inherited six cases, and his day-and-night preparation led to victory in all six. Competing lawyers, so the story goes, encouraged him to give up law practice and enter politics.

George did just that. But first, in 1903, he married Lucy Heard, who was one of eight children of J.P. Heard of Vienna. While George's father was a tenant farmer and reader of the *Congressional Record*, his wife's father was a state senator and president of a local bank who "accumulated quite a fortune," according to his obituaries.⁷⁷ Walter and Lucy George had two children, and he began his career in politics. He became a prosecutor and later a superior court judge. In 1917, he became a court of appeals judge and, six months later, a state supreme court justice.

When flamboyant United States Senator Tom Watson died on September 26, 1922, George resigned from the Supreme Court of Georgia and ran in the special election to fill the seat. It was only five years after the Seventeenth Amendment created popular election of U.S. senators instead of selection by state legislatures.⁷⁸ It was only two years after ratification of the Nineteenth Amendment giving women the right to vote.⁷⁹

Watson had been a liberal-leaning populist early in his career, but in the early 1900s, he stopped including Black voters in his agrarian populism and instead supported their disenfranchisement. He also attacked Catholics and Jews.

Governor Thomas Hardwick, who also wanted the Senate seat, temporarily appointed 87-year-old feminist Rebecca Ann Felton to the vacancy on October 3, a move that was clearly designed to win the favor of the new women voters. The widow of a former congressman, Felton was an advocate of prison reform, women's suffrage, and equal pay for equal work. She was a former slave-owner who endorsed the Women's

77. MACON TELEGRAPH, Oct. 28, 1912, at 12. Quoted at "Find a Grave" website, <https://www.findagrave.com/memorial/100803811/joseph-polhill-heard> [<https://perma.cc/Q55V-2YAN>](last visited Jan. 10, 2023). The website also notes the obituary from the *Columbus Ledger* on Oct. 27, 1912, which refers to Heard as "one of the most prominent men of South Georgia" and president of the Fourth National Bank.

78. U.S. CONST. amend. XVII.

79. U.S. CONST. amend. XIX.

Temperance Union's support for Prohibition. She also supported white supremacy and lynching until her later years, when she vigorously opposed the Ku Klux Klan.⁸⁰ Felton's appointment was short lived, however, given that the Senate would not be back in session until November 21, after the special election.

George won the special election but made his own bow to women voters. He agreed to wait an extra day to take office so that Felton could have her day as a senator. Felton was sworn in on November 21, 1922 and made a short speech promoting women for the Senate. She became the first woman to serve as a U.S. senator and the last former slaveowner to serve in Congress.⁸¹

The next day, Walter George formally presented his credentials as the winner of the special election and took the oath to serve the four years remaining in Watson's term.

George was a conservative—nothing like the man he replaced, but his national and international perspective distinguished him from other Southern conservatives in the Senate. George was a loyal Democrat in a Republican era.⁸² In 1928, he was a favorite-son candidate for President at the Democratic National Convention; he wound up supporting Al Smith for President, even though Smith was a Catholic and an opponent of Prohibition while George's constituents were predominantly Protestant and assertively abstemious. After Franklin D. Roosevelt's election in 1932, George supported most of Roosevelt's New Deal during Roosevelt's first two years.

Despite the flair for oratory that had characterized his days as a student and a practicing lawyer, George restrained himself in the Senate. "It has not been my habit to fill the *Congressional Record* with speeches or even speak unless I had a real conviction one way or the other," he once told a reporter.⁸³ "If I have any influence in the Senate today, it is

80. *Mrs. Felton Dies; Former Senator*, N.Y. TIMES (Jan. 25, 1930), <https://www.nytimes.com/1930/01/25/archives/mrs-felton-dies-former-senator-appointed-for-oneday-term-from.html> [<https://perma.cc/U8E9-ELPG>].

81. *Id.*

82. General background on George's Senate career was derived in part from JAMES T. PATTERSON, *CONGRESSIONAL CONSERVATISM AND THE NEW DEAL* (1967). George destroyed most of his Senate files after his retirement, so information regarding his work must be drawn from a relatively small number of secondary sources.

83. Rowland Evans Jr., Associated Press, *Sen George Is Big Help To Ike's Foreign Policy*, CASPER STAR-TRIBUNE, Feb. 13, 1955, p. 3. A search of Newspapers.com reveals that Evans' wire-service article appeared in a number of newspapers around the country during the week beginning Feb. 4.

because the Senate has generally credited me with being sincere.”⁸⁴ He told few stories and showed little sense of humor, and he was so formal that even his wife, whom he called Miss Lucy, called him Mr. George.

George was closer to business, particularly officers of the Coca-Cola Company and Georgia Power Company, than to rural Georgia. By the summer of 1935, as Roosevelt started his “Second New Deal,” Senator George’s conservative side and support for business began to prevail over party loyalty. The President was proposing a “wealth tax,” anathema to the wealthy businessmen like the Woodruffs. Roosevelt also proposed breaking up utility holding companies, a proposition that utilities like Georgia Power referred to as a “death sentence.” George opposed both bills, and like the other conservative Democrats in Congress who were beginning to assert their independence from Roosevelt, George found that those early splits made it easier to disagree with Roosevelt on later votes.

No congressional vote was more important to Roosevelt in the mid-1930s than the one on his “court-packing” plan. The Supreme Court of the United States had been overturning Roosevelt’s legislation ever since Black Monday, May 27, 1935, when the Court struck down the National Recovery Act and other New Deal measures passed since the beginning of his presidency. Roosevelt wanted to expand the Court so he could appoint justices more likely to approve his new social policies. Southern Democrats suspected that Roosevelt was trying not only to eliminate the biggest obstacle to the New Deal but also to create a Court that would attack segregation in the South.

George opposed court-packing. Then Justice Owen J. Roberts, who had voted to overturn New Deal legislation, suddenly switched sides. He joined the four “liberals” in new decisions upholding Roosevelt’s social legislation. There was no longer a need to pack the Court. But the President did not forget or forgive the Democrats who had opposed his legislation. After his landslide re-election in 1936, Roosevelt set about to purge his conservative opponents from the Senate in the mid-term elections of 1938.

One of his targets was Walter F. George.

On August 11, 1938, in front of 50,000 Georgians and leading politicians gathered in Barnesville, Roosevelt called George “a gentleman and a scholar” and “my personal friend” but went on to endorse the more liberal candidate in the Democratic primary.⁸⁵ “I would most assuredly

84. *Id.*

85. James P. Fleissner, *August 11, 1938: A Day in the Life of Senator Walter F. George*, 9 J. OF S. LEGAL HIST. 55, 87 (2001). Fleissner, a former Assistant United States Attorney

cast my vote for Lawrence Camp,” Roosevelt said.⁸⁶ As Mercer Law Professor James P. Fleissner later described that day, George sat quietly and expressionless through Roosevelt’s extended speech in the hot sun, and as the speech ended and Roosevelt slowly turned away from the lectern, George walked up to him, shook the President’s hand, and said, “I want you to know that I accept the challenge.”⁸⁷

After that gentlemanly handshake, George stepped up the rhetoric. Equating Roosevelt’s “carpetbaggery” with Sherman’s burning of Atlanta and his March to the Sea, George went on to win the Democratic primary—which assured election in the one-party South of that era. Camp finished last, behind race-baiter Eugene Talmadge. Re-elected, Senator George served the next six years and twelve more beyond that without serious opposition.

George led the fight for Roosevelt’s Lend-Lease plan of 1941, which provided billions of dollars to help the British fight Germany. “That was probably the most important single matter I ever had the burden of carrying,” he said years later.⁸⁸ “I think it shortened the war by perhaps two years or more.”⁸⁹ Soon after winning that fight, he moved from the chairmanship of the Foreign Relations Committee to that of the Finance Committee, and from that base he fought President Harry S. Truman’s proposals to raise taxes. “A government can confiscate only once,” he would say.⁹⁰ “It can tax forever, provided it preserves free enterprise and the American way of life.”⁹¹

Republican President Dwight D. Eisenhower, elected in 1952, relied on George as an expert on foreign affairs after his return to chairmanship of Foreign Relations. In 1953, George voted to approve the treaty creating NATO, while Georgia’s other senator, Richard B. Russell, opposed it.⁹² George was a critic of Republican Senator Joseph R. McCarthy and his

in Chicago, was chosen seventeen times, including five straight years as of 2022, for Mercer Law School’s Reynold J. Kosek Jr. Excellence in Teaching Award, selected by vote of the graduating class. He also won the Board of Visitors Excellence in Teaching Award in 2021. He has twice been a finalist for the university-wide Joe and Jean Hendricks Excellence in Teaching Award.

86. *Id.*

87. *Id.*

88. Evans Jr., *supra* note 83.

89. *Id.*

90. Charles L. Bartlett, *George Is Fighter for Economic Idea*, THE CHATTANOOGA TIMES, Apr. 4, 1949, p. 5.

91. *Id.*

92. Henrietta Poynter & Nelson Poynter, *Senators from Same State Often in Different Key At Same Time*, CONGRESSIONAL QUARTERLY, ST. PETERSBURG TIMES, Aug. 30, 1953, at 14.

demagoguery against suspected communists. In 1955, George encouraged Eisenhower to organize a summit conference of western powers and the Soviet Union—the first summit of the four Allied countries since the Potsdam Conference in 1945 to plan the postwar peace. Some newspapers opined that the summit in Geneva in July 1955 was a sign that Senator George had changed from a position concerned primarily with conservatism and isolation to the realization that the United States was now firmly rooted in world affairs. George had the longest tenure of any member of the Senate at that time.

Throughout his career in the Senate, George resisted the demagoguery of Talmadge and Watson and other Georgia politicians. He was, after all, aligned with the Atlanta business community, which largely lived by Mayor William B. Hartsfield's slogan, "The City Too Busy to Hate."⁹³ In 1948, George was frequently identified as a challenger to President Harry Truman as southerners objected to Truman's support for civil rights, but George remained aloof.⁹⁴ Even facing a tough campaign in 1956, George focused on foreign affairs, not the 1954 decision in *Brown v. Board of Education*.⁹⁵

George's public comments on segregation, although rare, left no doubt of his viewpoint. On June 5, 1950, the Supreme Court of the United States ruled against segregation in two professional schools and in rail cars.⁹⁶ The *Atlanta Constitution's* Washington correspondent, noting that George had served on the Supreme Court of Georgia, quoted George's reaction:

Logically the decisions are just one step short of holding that any segregation of the races by the states is invalid. I am disturbed by the implications of the court's edict. Undoubtedly efforts will now be made

93. See Georgia Public Broadcasting, *How Atlanta Became the City Too Busy to Hate*, YOUTUBE (Nov. 29, 2017), https://www.youtube.com/watch?v=UljH_3fehE&t=327s [<https://perma.cc/9THT-DSA9>]. Mayor Hartsfield, who served broken terms as mayor over a 25-year span, wanted to focus on building interstate highways and public parks, peacefully integrating public schools, and building Atlanta's airport, which became Hartsfield International after his death in 1971—and then, after its huge expansion pushed by Atlanta's first black mayor, Maynard Jackson, became Hartsfield-Jackson. See also Louis Williams, *William B. Hartsfield*, NEW GEORGIA ENCYCLOPEDIA, <https://www.georgiaencyclopedia.org/articles/government-politics/william-b-hartsfield-1890-1971/> (last visited Jan. 10, 2023).

94. Thomas L. Stokes, *The South and the Revolt*, ATLANTA CONSTITUTION, July 21, 1948, at 7.

95. 347 U.S. 483 (1954).

96. See *Sweatt v. Painter*, 339 U.S. 629, 636 (1950); *McLaurin v. Oklahoma*, 339 U.S. 637, 642 (1950); *Henderson v. United States*, 339 U.S. 816, 826 (1950).

to bring other cases before the Supreme Court having as their aim the invalidation of all segregation practices in the southern states.⁹⁷

In 1955, on a visit to Bradenton, Florida to visit Miss Lucy's sister, George told a *St. Petersburg Times* reporter that he was "out of harmony with the basic philosophy of the Supreme Court decision" in *Brown v. Board of Education*. He added, "I have said before and repeat, the whole thing must be settled at the state level by reasonable representatives of both races."⁹⁸ By then he was the senior member of the Senate, the president pro tempore, which made him third-in-line of succession to the presidency, behind the vice president and the speaker of the House.

As his re-election in 1956 approached, another Georgian was proposing to topple him from power. Herman E. Talmadge, fresh out of the governorship and powered by his late father's political machine, was mounting a campaign for George's seat with a focus on attracting rural farmers. Even George's closest friends were worried about the effect of the state's county-unit voting system, which awarded a unitary vote to the prevailing candidate in each county, somewhat like the electoral college in presidential elections. The system was designed to favor rural counties and likely would give Talmadge a victory.

George, who was seventy-seven years old, first said he would accept this challenge, just as he had accepted Roosevelt's challenge in 1938. Perhaps with that in mind, George was among 101 members of Congress who signed on to the infamous "Southern Manifesto" accusing the Supreme Court of the United States of "clear abuse of judicial power" in its *Brown* decision and vowing to use "all lawful means" to reverse it. More radical language, including a revival of old southern ideas of states' right to nullify federal law, had been drafted by Senators Harry F. Byrd of Virginia and Strom Thurmond of South Carolina, but it did not attract many signatures. After their threat to release the statement anyway, Senator George called a meeting with southern senators, in his office as president pro tem, to seek agreement on more moderate language, which was prepared by George's colleague from Georgia, Sen. Russell.⁹⁹

97. Gladstone Williams, *Georgia Solons Critical of Court*, ATLANTA CONSTITUTION, June 10, 1950, at 10. Williams had an undergraduate degree from Mercer, though his law degree was from Harvard.

98. Tom Dunkin, *George Doesn't Believe Ike Will Seek Reelection; Campaign Too Strenuous*, ST. PETERSBURG TIMES, Oct. 13, 1955, at 1.

99. See Brent J. Aucoin, *The Southern Manifesto and Southern Opposition to Desegregation*, THE ARKANSAS HISTORICAL QUARTERLY, vol. LV, No. 2 at 173, 174 (Summer 1996). Three of the twenty-two senators from former Confederate states did not sign: Lyndon B. Johnson of Texas (the majority leader and future Vice President and President) and Tennessee's Estes Kefauver and Albert Gore (father of the future Vice President). Sen.

The manifesto, which George himself announced on the Senate floor on March 12, 1956, was George's final and clearest public statement on segregation. On April 30, 1956, Senator Alben Barkley, who had been Truman's Vice President and was only two months older than George, dropped dead during a speech in Virginia. Ten days later, George announced he would retire rather than endure a tough campaign in the summer heat.

Talmadge went on to carry all of Georgia's 159 counties. In January 1957, as Talmadge took office as Georgia's new senator, Eisenhower appointed George special ambassador to NATO. But after six months on the job, George entered Emory Hospital with chest pains and shortness of breath. He was sent home to Vienna to rest. The next month, he suffered a coronary occlusion, and on August 4, 1957, with Miss Lucy at his side, Walter F. George died.

IV.

An alumnus with Walter George's prestige was cause for pride back at the alma mater. But it was more than pride and a yearning for prestige that led Mercer to name its law school for Walter F. George. It was money, too.

The law school in the mid-1940s was not the school its leaders had dreamed of when they dedicated the new law school building in 1930. The building, designed for 125 students, had only forty-five between 1932–1933 during the Depression years and never held more than fifty-five. The whole school had shut down during World War II, and the Navy had taken control of the building.

Professor Ed Wilson reminisced, looking back from his vantage point in 1965, that the law school had steadily increased its standards and had become known as one of the outstanding law schools in the South during that period, but the school still was accepting nearly everyone who applied.

Spright Dowell, Mercer's president from 1928 to 1952, recalled in his 1958 history of Mercer that the law school's leaders had long recognized a need for an endowment—a chunk of capital to provide a reliable income

George announced the manifesto on the floor of the Senate, saying: "[T]he increasing gravity of the situation following . . . the so-called segregation cases, and the peculiar stress in sections of the country where this decision has created many difficulties, unknown and unappreciated, perhaps, by many people residing in other parts of the country, have led some Senators and some Members of the House of Representatives to prepare a statement of the position which they have felt and now feel to be imperative." CONGRESSIONAL RECORD, 84th Cong., 2nd Sess. (March 12, 1956), 4459–4464.

year after year. He also had a solution. After George won re-election in 1944 and the war ended in 1945, there was a growing sentiment that friends of Senator Walter F. George would provide a million-dollar endowment fund for the school of law bearing his name. Among those friends were Robert Woodruff, who had become CEO of Coca-Cola soon after his father bought it and created its legendary international marketing strategy, and John A. Sibley, a prominent lawyer and banker who was a partner at King & Spalding and a board member of SunTrust Banks as well as Emory University in Atlanta.

Bootle recounts the story, which he said “persists and is too good not to be true,” that the friends approached Senator George “in anticipation of his retirement from the Senate” to ask what they might do as a token of appreciation for his service.¹⁰⁰ George responded that the “little law school” at Mercer would be something worthy. It is indeed a good story, but there are problems with it, or at least with the admirers’ motivation. It was quite a long time before George’s retirement—three years before his current term ended and nine years before he actually retired.

In any event, in 1947, four Mercer trustees were dispatched to talk to Senator George about putting his name on Mercer’s law school. Dowell recalled that the trustees reported that although the Senator was hesitant, after some persuasion, he gave his consent. The deed was done by resolution of the trustees on April 8, 1947. It was redone nine days later in a public ceremony that included Fred M. Vinson, Chief Justice of the Supreme Court of the United States, who had served in the Senate with George. Afterwards, Dowell reported considerable sentiment for beginning a quiet campaign for endowment while enthusiasm was still running high.

The friends raised an initial \$587,000, and the Walter F. George Foundation was created with a self-perpetuating board, including the president of Mercer and the local federal judge (who was Judge Bootle at the time) as ex officio trustees. In 1990, when Bootle published a history of Mercer Law School, the trustees were King & Spalding partners Griffin Bell and Robert L. Steed, Joseph L. Lanier Jr. (CEO of West Point Pepperell and great-grandson of its founder), and Lamartine G. Hardman III (Jackson County businessman), along with Judge Bootle and Mercer President R. Kirby Godsey.

“It would be difficult to exaggerate the importance of that little foundation,” Judge Bootle wrote in 1990.¹⁰¹ “It perhaps saved the life of

100. Bootle History, *supra* note 37, at 131.

101. *Id.*

the [law] school.”¹⁰² He noted past skepticism that Mercer, as a small denominational college, should not be burdened by a law school. The foundation provided a sense of “stability and permanence” that put an end to such talk.¹⁰³ The corpus of the foundation had reached \$5 million by the time of Judge Bootle’s article in 1990 while also paying out to the law school a total of about \$4.5 million over the years.

In 1965, John Sibley invited George Woodruff to fill a vacancy on the foundation’s board of trustees. “Mr. Woodruff’s service as a Trustee [and his admiration of Senator George] sparked and fueled his interest in the law school,” Judge Bootle wrote years later in his history.¹⁰⁴ There immediately began a flow of sizable Woodruff gifts to the law school.

V.

In 1950, Leah Farb Chanin walked through the doors of Ryals Hall as a first-year student. There had been at least two previous women enrolled at Mercer Law School. The first was Kathyne Pierce three decades earlier in the Class of 1919. She was married with three daughters and was referred to as Mrs. W.E. Jackson.¹⁰⁵ Directories from years after that list other women in the law school from time to time over the next thirty years, Chanin recalled years later.¹⁰⁶ Then, in the fall of

102. *Id.*

103. *Id.*

104. *Id.*

105. Viola Ross Napier, the subject of a portrait on a back wall at the Furman Smith Library, never attended Mercer, although the presence of the portrait may imply otherwise to some who view the portrait. Napier was the first woman to argue a case at the Georgia Court of Appeals and at the Supreme Court of Georgia. In 1922, the first election after ratification of the Nineteenth Amendment allowing women to vote, she ran for the Georgia House of Representatives and became the first woman to serve in the House. She graduated from Wesleyan College in 1901, became a teacher, and married a lawyer, Hendley V. Napier Jr., who opposed her interest in the law. In 1919, both her husband and his father died in the historic “Spanish flu” epidemic of 1918–19, and her teacher’s pay would not support her four young children (the baby born in 1919 was Hendley Napier III, who became a prominent Macon lawyer). She studied law with Judge E. W. “Lije” Maynard and passed the bar in 1920. No firms would hire her, so she practiced law on her own, and in the House was an advocate for children. She lost re-election after two terms, and Mayor Luther Williams offered her the post of City Clerk, which offered a steady salary. She remained in that role for twenty-seven years. *Viola Ross Napier Class of 1901*, WESLEYAN COLLEGE (Mar. 4, 2016), <https://web.archive.org/web/20160304060347/http://www.wesleyancollege.edu/profiles/violarossnapier.cfm> [https://perma.cc/Z85S-SCT2]; *Viola Ross Napier*, GEORGIA WOMEN OF ACHIEVEMENT, <https://www.georgiawomen.org/viola-ross-napier> (last visited Jan. 10, 2023).

106. Email from Leah F. Chanin, Oct. 11, 2022.

1948, two years before Leah Chanin arrived, Patricia Beauchamp enrolled and became book review editor of the law review at its beginning. In 1951, just before graduation, she married a 1950 graduate who had also been on the law review, H.T. “Hank” O’Neal—thus inaugurating on the first editorial board a long and flourishing tradition of law review marriages,” as Charles R. Adams III put it in his 50-year history of the law review.¹⁰⁷ Pat O’Neal was interim library director between 1952–1953 while Jim Rehberg was getting an advanced degree at Duke. In 1978, Chanin hired her back as a librarian, and she served until retirement in 1996.

The first woman to be editor of the law review was Joline Bateman Williams from 1959–1960, followed by two other notables: Ruth West in 1973–1974, later of King & Spalding, and, in 1985–1986, Lera Catharine Cox, known to most people as Cathy Cox, the future elected Georgia Secretary of State and future dean of the Mercer Law School.¹⁰⁸

Although Chanin was not first, she was a pioneer. She left school for a year for family reasons during military call-ups in the Korean War, then graduated in 1954. She was at the top of her class, but it took her four years to be hired by a local law firm. In 1964, Dean James C. Quarles hired Chanin as an assistant professor. Quarles had succeeded Hodge O’Neal in 1954, when O’Neal became a professor at Vanderbilt. Chanin became director of the law library, taught legal ethics, became a model of authority, confidence, and professionalism for other female students, and opened doors for more women on the faculty. She became a model for female law students over her long career at the law school and was the first woman to serve as interim dean, from 1986–1987.¹⁰⁹

After the death of her husband, Macon businessman Louis Chanin, she moved to Washington, where her children lived, and became a distinguished professor and director of the library at the University of the District of Columbia, 1992–1996, and then moved to Howard University as head of public services from 1997 until her retirement in 2001. She served on the Mercer Law School’s Board of Visitors from 1992–1998.

The number of female students did not grow quickly after the student years of Pat O’Neal and Leah Chanin. As late as the Class of 1977, the last class to finish their studies at Ryals, there were only eight women

107. Adams III, *supra* note 75, at 11.

108. *Id.* at 17.

109. See Steve Murray, *Mercer Law celebrates 100 years of women*, THE DEN (Aug. 21, 2020), <https://den.mercer.edu/mercer-law-celebrates-100-years-of-women/> [<https://perma.cc/25SB-QM5H>].

out of eighty-four students in the class.¹¹⁰ By then there was a second woman on the full-time faculty: Professor Mildred Bell, whose credentials included an LL.M. in tax.

Mercer had some internal struggles over integration in the 1960s, but President Harris was ahead of the city and the state on that issue. In 1962, the law group within the Mercer Alumni Association passed by a 27–17 vote, a resolution opposing integration. Among those proposing the resolution was recent law graduate and future trustee Robert L. Steed.¹¹¹ President Harris, however, declared publicly that “I personally favor admitting qualified Negroes to Mercer,” not only because “the law requires it of us” but also because “there is a matter of conscience involved, I think, in the seemingly unchristian act of drawing a color line in education.”¹¹² In 1964, the law school’s Student Bar Association pressed for segregationist United States Senator Strom Thurmond as the Law Day speaker. President Harris seemed to stall the effort and separated an “Alumni Day” from the Law Day event, but Thurmond eventually was the Law Day speaker.¹¹³

The following year, after a report from a trustee committee headed by Vineville Baptist Church pastor Walter J. Moore, Mercer’s trustees voted to eliminate racial barriers to admission and admit all students based on qualifications alone.¹¹⁴ The report submitted by President Harris to the trustees before the meeting said the race barrier was “a real barrier to Mercer’s progress.”¹¹⁵

110. One of the eight was the author’s sister, Mary Skene. The two were said to be the first brother and sister to graduate together from the law school. Unlike law student marriages, siblings in the same class do not appear to have been commonplace.

111. *Mercer Law Group Opposes Integration*, MACON NEWS, Nov. 2, 1962, at 1. Steed later told Mercer colleagues he regretted his involvement.

112. George Doss, *Issues of U.S. Loans, Integration Face Georgia Baptist Convention*, MACON NEWS, Nov. 9, 1961, at 3.

113. *Harris Denies Snub to Senator*, MACON TELEGRAPH, Mar. 28, 1964, at 1; *Law Students Say Mercer Won’t Invite Sen. Thurmond*, MACON NEWS, Mar. 27, 1964, at 1; *Thurmond Calls for Rule of Law*, MACON NEWS, May 1, 1964, at 1.

114. Bill Maynard, *Mercer Trustees Decide to Drop Racial Barriers*, MACON NEWS, Apr. 19, 1963, at 1. The decision was hastened by the college application of Sam Jerry Oni of Ghana, “who officials say is the first member of the Negro race who is qualified that has applied at Mercer,” the newspaper reported. *Id.* After enrolling at Mercer, Oni attempted to join nearby Tattnall Square Baptist Church but was barred from attending. He instead was welcomed at Reverend Moore’s Vineville Baptist.

115. *Here is Dr. Harris’ Report to Trustees*, MACON NEWS, Apr. 19, 1963, at 10. The report said the race barrier was “a real barrier to Mercer’s progress.” Unless that was overcome, “we will be unable to attract the needed young people entering the teaching profession; we will be unable to hold the more vital younger members of the faculty we

It was 1969 before a Black student entered the law school. That was Jerry Boykin of the Class of 1972, who later practiced law in Powder Springs, an Atlanta suburb. Carl Brown, a future Superior Court judge in Augusta, was in the Class of 1973, and was joined by Mary Alice Buckner, who transferred in after a year at Emory Law School. She was the first Black woman graduate and joined future Congressman Sanford Bishop's law firm after graduation and later became Recorder's Court judge in Columbus.¹¹⁶ There was a fourth Black student in the next class: W. Louis Sands, who became a Superior Court judge in Macon and was appointed to the United States District Court by President Bill Clinton. He has served three terms on the Mercer Board of Trustees and received both the annual Meritorious Service and Outstanding Alumnus awards from the law school.

Judge Sands remembered going to the law school's Centennial Celebration in 1973 with President Richard M. Nixon as the keynote speaker. "Four Black students in a hundred years," he remarked.¹¹⁷ In the Class of 1977, when there were eight women in the class, there still was only one Black student, Charles Mathis. The law school at the time had about 240 students enrolled, about 80 students per class.

Chanin and Buckner were part of a different centennial—a 2019 celebration of women at the law school—along with Ann Baird Bishop from the Class of 1976, Fulton County Superior Court Judge Wendy Shoob from the Class of 1977, and Judge Yvette Miller of the Class of 1980, who became the first Black woman on the Georgia Court of Appeals and its first Black chief judge. Bishop joked about the gender imbalance in her years at Mercer: "I had always wanted to go to a boys' school, so that was fine."¹¹⁸

It will be another half a century before a centennial of black students at the law school. In 1978, a chapter of the Black Law Students Association was formed. The Mercer chapter in recent years has won regional and national recognition, in part because of its active mentoring and other activities within the school, but also because of its considerable money-raising and other services well beyond the law school's

presently have; those we manage to hold will suffer a loss in zest, enthusiasm, spirit and morale." The university will be "kept out of the family of good educational institutions by our inability to remove the discriminatory barrier." *Id.*

116. Steve Murray, *First Black woman to graduate from Mercer Law didn't know she was a history maker*, MERCER UNIVERSITY (Oct. 20, 2020), <https://den.mercer.edu/first-black-woman-to-graduate-from-mercero-law-didnt-know-she-was-a-history-maker/> [<https://perma.cc/3RFT-D7XS>].

117. Interview with W. Louis Sands, United States District Judge (Sept. 28, 2022).

118. Murray, *supra* note 109.

boundaries. Recent examples include food drives, school supplies for the John R. Lewis Elementary School, and gifts for children at the Methodist Home for Children and Youth.

As of 2022, minority students make up 22% of the enrollment, now including Asian and Hispanic students. In the 1990s, the figure ranged from 10% to 15%. Female law students made up more than half the student body by 2012.

The law school encountered a different diversity challenge in 1994 when an alumnus complained that Baptist religious traditions were violated by the law school's compliance with an AALS standard prohibiting discrimination based on sexual orientation. In 1988, Mercer trustees had committed to "a conscious effort to sustain a cadre of personnel who understand and value the Baptist identity of the university."¹¹⁹ Godsey nonetheless said he would oppose any hiring preference to put a Baptist on the law school faculty, and he supported compliance with the AALS standard.¹²⁰

Gay equality ultimately would be the issue that tipped the Baptists into severing ties with Mercer years later. While there had been other conflicts over the years between Baptist doctrine and university policy, the precipitating event was a "coming out day" on campus, which Baptists considered an erosion of "common values and mutual trust."¹²¹ The final vote of the Georgia Baptist Convention severing its relationship with Mercer was November 14, 2006.¹²²

119. Letter from Interim Dean Richard W. Creswell to Dent Bostick, Chair of the Board of Visitors (Oct. 26, 1994). Creswell wrote that after the alumnus complaint, the University Trustees' Educational Policy Committee created a subcommittee to examine non-discrimination policies. He invited Godsey to one of its meetings, and Godsey described the trustees' commitment in what Creswell referred to as "the trustees' 1988 Select Commission Report."

120. *Id.*

121. *Baptists take first official step to split with Mercer*, MACON TELEGRAPH, Nov. 20, 2005, at 5B; *see also Group votes to cut ties with Mercer*, MACON TELEGRAPH, Nov. 16, 2005, at 1.

122. Jennifer Burk, *Mercer set to begin new era*, MACON TELEGRAPH, Nov. 14, 2006, at 10B; Jennifer Burk, *Mercer University, Baptists officially split*, MACON TELEGRAPH, Nov. 15, 2006, at 2B. The decision cost Mercer \$3.5 million from the Baptists for scholarships, which Mercer replaced through new contributions and from its internal funds. Mercer no longer had to submit trustees for approval of the Baptists. Jennifer Burk, *Mercer trustee selection a historic first*, MACON TELEGRAPH, Dec. 2, 2006, at 1B. The day after the Georgia Baptist vote, Tennessee Baptists cut off funding for Belmont College in Nashville. Bernie O'Donnell, *Baptist, college split widens*, MACON TELEGRAPH, Nov. 20, 2005, at 1A; Rose French, *Colleges battle with Southern Baptists*, MACON TELEGRAPH, Dec. 2, 2006, at 1A.

VI.

The 1950s produced no grand events like a new building or a new name for the law school, but the student body grew beyond that early limit of 150. Yet another building project began in the 1960s: a three-story addition to the Ryals Building that would contain a new library, a student lounge, and some faculty offices. A 1912 law graduate named Harley Langdale—a Valdosta lawyer, timber man, and turpentine mogul who was referred to as “Judge Langdale”—was the leading donor behind this new building, which took his name.¹²³

In 1969 came a new state law allowing senior law students to represent indigent clients if there was faculty supervision as part of a law school clinical program. Dean Quarles worked out arrangements with the Macon Bar Association and the Macon Legal Aid Society, and sixteen students were the first participants.¹²⁴ Quarles left for the University of Florida later that year, but his tenure as dean, 1956–1969, was the longest since the part-time tenure of the first dean, Judge Speer.

Dean Feild returned to the role as acting dean. Samuel A. Beatty arrived in 1970 as dean from a professorship at the University of Alabama Law School but left in 1972 to become vice president and trust officer of the First National Bank & Trust Company in Macon. President Harris said at the time that he would appoint a committee to search for a new dean, but less than five weeks after announcing Beatty’s departure, on March 22, 1972, President Harris peremptorily announced a familiar name as dean: Edgar H. Wilson, the dean at the University of Tulsa Law School, who had taught at Mercer Law School for twenty years up until 1968. During his prior time at Mercer, Wilson was twice elected to the Georgia legislature before running successfully for a four-year term as Macon’s mayor in 1958. He ran unsuccessfully for lieutenant governor in 1962 and was defeated in a second run for mayor in 1966.

Mercer’s law school was neither large nor nationally famous as the 1970s arrived. Mercer created a Law School Board of Visitors in 1971 to “provide advice, ways and means to raise funds . . . and to study and recommend action important to the maintenance of professional standards and practices of a school of the first class.”¹²⁵ School administrators began to develop a desire for “economies of scale” that

123. Harley Langdale and his family are the subject of a book. See JOHN E. LANCASTER, *JUDGE HARLEY AND HIS BOYS: THE LANGDALE STORY* (2002).

124. *For Indigents: 16 at Mercer to Practice Law*, MACON TELEGRAPH, Jan. 10, 1969, at 15.

125. Bootle History, *supra* note 37, at 134 (quoting a resolution creating a board of visitors for Mercer Law School, adopted by the trustees on April 15, 1971).

more students would provide. The library started running out of space, and students began to complain that they had no place to study. There was growing concern that the lack of space would cost the school its cherished accreditation from the ABA, which would send its next site-visit team to the school in 1977.

At the law school's century mark in 1973, there was a remarkable ceremony on November 18 in Willingham Chapel—the event Judge Sands remembered from his second year in law school. It jointly celebrated the 100th birthday of the law school and the 90th birthday of 1902 graduate Carl Vinson, who had recently retired after fifty-one years as the United States Congressman from Middle Georgia—longer than any past member of Congress.¹²⁶

Vinson was called the school's "most distinguished living alumnus," and his status attracted President Nixon to the event. Watergate hearings and newspaper stories had dogged Nixon since spring, so he was undoubtedly happy to be in a more friendly and less political environment. Noteworthy in retrospect was that President Nixon shared the stage with a future President: Georgia Governor Jimmy Carter, who would win the presidency in 1976 by campaigning on ethics and integrity after Nixon's resignation in 1974. Senator Herman Talmadge, who had succeeded Walter F. George and was a member of the Senate's Special Committee on Watergate in 1973, was on the stage as well.

It was one of those events where Rufus Harris gave a speech, then Dean Wilson gave a speech, then Vinson gave a speech, and then Nixon gave a long speech. Vinson's speech included what he called "evidence of that quality" of the law school in its graduates over the past 100 years: two judges of the United States Court of Appeals for the Fifth Circuit, five federal district judges, seven Supreme Court of Georgia justices, five Georgia Court of Appeals judges, twenty-six Georgia superior court judges, six governors of Georgia, two governors of Alabama, one governor of Texas, one governor-general of Puerto Rico, four U.S. senators, and eleven Congressmen, along with "distinguished lawyers whose forensic oratory rings daily down the corridors of the temples of justice."¹²⁷

At the end of his speech, Nixon announced one more distinction for a Mercer Law alumnus: the nation's third nuclear aircraft carrier, after the *Eisenhower* and the *Nimitz*, would be named the *Carl Vinson*.

126. MERCER UNIVERSITY, CELEBRATION: ONE HUNDREDTH ANNIVERSARY OF THE WALTER F. GEORGE SCHOOL OF LAW, NINETIETH BIRTHDAY OF THE HONORABLE CARL VINSON (1973).

127. *Id.* at 23–24 (text of Carl Vinson's remarks).

Vinson noted his happiness that the law school was “number one on the priority list to expand its classroom facilities to admit more of these deserving applicants under the University’s five-year, \$50-million fund-raising campaign.”¹²⁸ The Mercer trustees had decided earlier that year to create a campaign to raise money for a new “law center” that would hold 450 students and 125,000 books—twice what the school had at the time.

The assumption was that a new building would be somewhere on the campus, but other ideas came along. There came to Macon a huge new mall on Eisenhower Parkway, and downtown retailers headed for it like a gold rush. Sears Roebuck left behind a three-story brick building at the corner of Riverside Drive and Third Street, and two Mercer alums anonymously put up \$7,500 apiece for an option on the property to give the law school time to consider moving there. Despite the powerful retail brand of Sears back then, it was not the brand that the law school wanted to be identified with. Judge Bootle said “opponents could not bear the thought of seeing their alma mater moved from the campus down to the heart of the mercantile area of Macon” and what might long be known as “the old Sears Roebuck building.”¹²⁹ The idea was rejected in April 1975.

So was a second possibility: a three-story white building on Eisenhower Parkway that the Sinclair Oil Company had built in the late 1960s and immediately abandoned. The Macon Chamber of Commerce had been trying for years to find a tenant. Mercer wasted no time joining the nays.

The law school’s thoughts turned back toward expansion on campus, but not for long. Perched atop Coleman Hill overlooking downtown Macon was a building that the Insurance Company of North America (INA) owned but did not want anymore. Built in 1954–1955 to evoke the appearance of Philadelphia’s Independence Hall, the building might be available, Mercer’s trustees were told late in 1975.

The building symbolized INA’s founding at Independence Hall in 1792. The INA building is four stories high rather than two, and far longer overall, but both have white chair railing around the rooftop. Rather than the rectangular windows of Independence Hall, the ground floor of the INA building has arched windows, an allusion to occasional arches in the Philadelphia structure. The wide semi-circular covered front veranda and steps are entirely a Macon feature. The fifteen columns along the front, also uniquely a Macon feature, represent the fifteen states in the Union when INA was founded in 1792. The names of the states are carved

128. *Id.* at 24–26.

129. Bootle History, *supra* note 37, at 131.

in the base of the columns, with each state's seal in the marble at the top. The clock tower, with its cupola and spire, is a close match to the clock tower of Independence Hall. One law school couple—both students in the Class of 2016 who met at a reception for entering students in Atlanta—later climbed the internal stairs of the clock tower and got engaged there.¹³⁰ The building was designed by Dennis & Dennis Architects of Macon, said to be at that time the state's oldest existing architectural firm.¹³¹

Coleman Hill was a compelling site. The front lawn flowed down to Bond Street. The park on the other side continued down toward Spring Street and was a favorite spot for Easter sunrise services. The grounds around the building were landscaped in southern shrubs and trees—camellias, azaleas, dogwoods, crape myrtles, and many more. The views from the hilltop were among the most beautiful in Macon, extending down to the Hay House and other antebellum homes across Georgia Avenue, then on down to the green park dividing Mulberry Street. Toward the horizon was the downtown skyline. The neighborhood on Bond Street and Georgia Avenue and College Street had grand houses with a variety of old southern architecture. It was relatively convenient to the main Mercer campus, a mile-and-a-half from the front of Mercer's administration building on (of all things) Coleman Avenue.

This was definitely not a "Sears building." It would be a huge financial undertaking for Mercer, though, at an estimated market price of \$3.5 million, with \$900,000 needed for renovating and equipping the INA building for a law school. Mercer President Rufus Harris was reluctant, but the boosters behind the project were some of the law school's most prominent and loyal alumni and donors.

130. Interview with Marilyn Sutton, Assistant Dean of Admissions and Fin. Aid, Mercer L. Sch. (Sept. 29, 2022).

131. The Dennis firm designed a number of other historic buildings throughout Georgia and was associate architect for the copper-domed Macon City Auditorium, with its classic Doric columns, in 1925. Founding architect Peter E. Dennis (1854–1929) attended the University of Georgia from 1871 to 1872, the same period that law school founder Walter B. Hill attended. The firm also designed the Centenary Methodist Church near the Mercer campus and the gatehouse and general layout at Riverside Cemetery (where he is buried). Sons Ward and John Dennis carried on the firm. A.R. Briggs Construction Company of Macon was the building contractor. "Construction About to Begin" (Photo caption), MACON TELEGRAPH, July 29, 1954, p.1. *See, e.g., Architect Receives Top State Honor*, MACON TELEGRAPH, Oct. 19, 1963, p. 5; *Obituary for Ward Dennis*, MACON TELEGRAPH, Nov. 5, 1999, p. 24.

The INA building would provide “both the space and the dignity that we are all seeking,”¹³² wrote Macon attorney Charles F. Adams to Bob Steed on February 5, 1976. Steed headed a trustee committee appointed to evaluate the suitability of the INA building for the law school. Adams chaired the Board of Visitors and was one of the two lawyers who had bought the option on the Sears building. He and the board had just listened to a presentation from Eugene Dunwody, the consulting architect Steed’s group had hired. “The 90,000 square feet available in the proposed building is perhaps much larger than what would be offered in a new building [on campus],” said Adams, adding that the Board of Visitors, made up of alumni from around the state, gave “enthusiastic support” to the acquisition.¹³³

INA, which purchased the property in 1953, was one of the largest insurance companies in North America. It invented the homeowners insurance policy in 1950, combining fire, theft, and liability insurance, which had previously been sold separately.

The chain of title to the hilltop property went back to a deed from the City of Macon. A summary by INA said title went to a prominent physician, Dr. Marcus Aurelius Franklin, in “the 1800s.”¹³⁴ The house that Franklin built was Greek Revival architecture, the style of what is now the Woodruff House next door. Dr. Franklin’s widow lived there “for some years” after the doctor’s death in 1860, the INA summary reports.¹³⁵ Mrs. Mary L. Franklin put an ad in the Macon Telegraph shortly after her husband’s death advertising the “Valuable House & Lot” for sale with seller financing. The ad noted that “all things considered, it is believed to

132. Letter from Charles F. Adams to Robert Steed (Feb. 5, 1976). This source and many others are located in the William Augustus Bootle Collection, which is on file with the Mercer University Tarver Library, Folders 1/1 and 1/2 [hereinafter Bootle Archive].

133. *Id.*

134. The date of Dr. Franklin’s acquisition could not be found in Bibb County property records. The sale of a “Lot 28,” described as “in the rear of M.A. Franklin’s residence” is dated June 23, 1857. Book U, Page 583. The earliest indexed deeds to M.A. Franklin were dated March 21, 1846, and Oct. 17, 1846, with the index adding as property information “6 & 26.” Lot 26 in the “Western Range” is the future INA property. The index page in county records does not show the correct deed. The deeds were not recorded until 1871, four months after the recording of the Lot 28 deed to Dr. Franklin.

135. INA, “The Early History of the INA Property,” undated typewritten document. The date of the initial transfer is not in the document. A summary of the chain of title prepared by Mercer University identifies the first transferee as Robert Collins in 1836, perhaps accidentally referring to the original owner of the house next door, now known as Woodruff House. It also refers to a 996-year land lease expiring in 2832. Mercer News, Untitled and Undated News Release (possibly a draft), with handwritten notes “Law School Dedication” and “By Eliz. Drinnon Jan. 1979.” Both summaries are photocopies in the Bootle Archive.

be the most elegant residence in the state.”¹³⁶ But the house wasn’t sold, and the “elegant mansion” was put up for sale at the courthouse door on April 1, 1863. James A. Ralston of New York, who owned other property in Macon, was the highest bidder.¹³⁷

Joseph Marshall Johnston, a former Confederate captain who had served with General James Longstreet, bought the property in 1881.¹³⁸ Born in Tennessee, Marsh Johnston became a businessman and banker in New York City after the war before moving to Macon. He was one of the wealthiest men in town. His obituary in 1905 said he later became president of the American National Bank in 1893 and, at his death, was on the board of Georgia Southern Railway and Bibb Manufacturing Company, a textile firm.¹³⁹ His wife Mattie (formally, Martha) was from a Milledgeville family, “a remarkably beautiful and fascinating girl, with dark hair and eyes . . . [with] a full rich voice,” according to her memorial in 1934.¹⁴⁰ She “rather suddenly decided to marry” Captain Johnston, a “New York gentleman who had been paying her attention for some time.”¹⁴¹ The groom likewise “was urgent, insisting that the marriage take place at once,” and it did, five weeks later, on June 11, 1871.¹⁴² He was 34; she was 22.

The Johnstons tore down the Greek Revival house and built a red brick mansion in Victorian style, “the finest money could buy,” as longtime Macon writer Elizabeth Drinnon later put it in a Mercer news release.¹⁴³ The house had numerous turrets, gables, bay windows, and balconies,

136. MACON TELEGRAPH, Mar. 5, 1860, p. 1.

137. Deed of April 7, 1863. From Anna M. Franklin, Administratrix of M.A. Franklin to James A. Ralston. Bibb County Deed Book Q, p. 856–57. Dr. Franklin had died with no will.

138. Bibb County Property Deeds, Book EE, p. 247–48. The property is described in the deed as being “known as the Ralston residence” and consisting of “all of two-acre Lot 26 and one-half of two-acre Lot 27” except for a portion of Lot 27 that was reserved to Jerry Cowles, the first resident of what is now known as the Woodruff House. Ralston’s wife, Ann Ralston, signed a separate ratification of the sale to Johnston (it is the next item in the same deed book).

139. *Marsh. Johnston has passed away*, ATLANTA CONSTITUTION, Mar. 7, 1905, at 2, <https://www.findagrave.com/memorial/48322076/joseph-marshall> [<https://perma.cc/QG43-ESKU>].

140. KATE HAYNES FORT, MEMOIRS OF THE FORT AND FANNIN FAMILIES 91, 93–95 (1903); see also *Martha Fannin Huguenin Johnston*, FIND A GRAVE, <https://www.findagrave.com/memorial/56199781/martha-fannin-johnston> [<https://perma.cc/3FJW-4DX9>] (listing death as Oct. 21, 1934) (last visited Jan. 10, 2023).

141. *Id.*

142. *Id.*

143. MERCER NEWS, *supra* note 135 (Bootle Archive).

complete with wood from England and marble mantles from Italy. Stone trims featured carvings with oak leaf and lotus blossom designs.¹⁴⁴

Jefferson Davis, who had been president of the Confederacy, stayed at the Johnstons' house in 1887 on a visit to Macon for a reunion of Confederate veterans, on what was called Veterans' Day on October 24. The reunion drew the governors (or former governors) of Georgia, Florida, and Mississippi. Drinnon added that Davis extended his stay in Macon because of illness, and there was a ball for Davis's daughter at the Samuel T. Coleman mansion next door (now Woodruff House). Johnston family members continued living in the house until the 1920s, said INA (Marshall died in 1905, Mattie in 1934). Later owners, according to the INA summary, were J. Emory Clay, who converted the house into apartments, and Holst C. Beall Jr., who made it a deluxe hotel called "The Mansion."¹⁴⁵

INA tore the house down in 1954.¹⁴⁶

When it was acquiring the property in 1953, INA discovered that the original deed from the City of Macon had been a 999-year lease and that the stated "consideration" was "a peppercorn," a metaphor familiar to law students as a token amount (meaning it was essentially a gift). The problem wasn't the peppercorn, as students in Jim Rehberg's property class or Ed Wilson's contracts class at the time would have known. The problem was the 999-year lease. It still had about 880 years to run—further into the future than any science-fiction film dares to go. But INA, being an insurance company and more careful about risk than the "New York gentleman" Captain Johnston, required a quit-claim deed to ensure its rights for the 29th century and beyond. The Macon City Council approved such a deed on January 15, 1954, and Mayor B.F. Merritt signed it.¹⁴⁷

144. On June 8, 1884, Marsh Johnston deeded the house to his wife, Mattie. Book KK, at 59–60.

145. J. Emory Clay acquired the property Oct. 16, 1936, by executor's deed from Mrs. Isabel T. Johnston and First National Bank as executors of Mattie Johnston's estate. Deed Book 438, p. 44, the last in a series of related deeds beginning at Book 438, p. 43. Dr. Clay sold the property to Beall on Sept. 7, 1948. The deed was "re-recorded" in Deed Book 673, p. 449, in 1954 in connection with the INA transactions.

146. *This Once Queen of Macon Homes Will Soon Become a Memory*, MACON TELEGRAPH, Mar. 17, 1954, at p. 11 (Drinnon Photo by Ralph Jones).

147. *The Early History of the INA Property*, *supra* note 135. The use of a 999-year "peppercorn" lease appears to have been common earlier in the city's existence. One to Robert Collins, which included some of what became the INA property as well as what is now Woodruff House, was in 1836. Collins's transfer of the property to Jerry Cowles was on June 14, 1836. Another 999-year peppercorn lease was to a David Ralston (a relationship to James Ralston, *supra* note 137, is not known) in the "Western Common" Lot 8. The

The INA building was finished in 1955.

Two decades later, it became a space that INA could not afford. Its intent had been to fill the building with clerical staff, but computers were substantially reducing the staffing requirements. INA now needed only 40,000 square feet, not 90,000. To avoid arousing any panic among employees, INA hired local real estate agent Fickling & Walker to approach potential buyers discreetly.

Mercer's interest in a new law building was already widely known because of newspaper stories about the Sears discussions. The trustees created Bob Steed's committee to examine the INA possibility more closely, even though price seemed a potential deal-killer. At a meeting of the trustees' finance committee on January 22, 1976, Mercer's chief financial officer, William T. Haywood, outlined the committee's financial estimate for the INA building: INA was asking \$2.7 million for the building, and it would cost \$680,000 for conversion of the interior and up to \$200,000 for furnishings, with nothing planned for the third floor. That added up to about \$3.6 million.

Trustee Chairman W.O. DuVall reported that Steed would try to negotiate the price down to \$2 million and suggested that the university chip in approximately \$1 million, since the Liberal Arts College would be taking over the law school's on-campus facilities. President Harris, according to the committee minutes, "responded that 'this would not wash from Harvard to Podunk.'"¹⁴⁸

At the suggestion of Woodruff Foundation trustee John Sibley, Harris created a separate group to negotiate with INA. They were some of Mercer's most trusted elders.¹⁴⁹ The team's chairman was William P. Simmons, chairman and president of the First National Bank of Macon and a Woodruff Foundation trustee. The other members were Foundation trustees Robert L. Steed and John B. Zellars, plus T. Baldwin Martin, senior partner of the Macon law firm then known as Martin, Snow, Grant

"peppercorn lease" typically required, as the Ralston lease did, paying to the Mayor & Council "on the 1st day of April in each and every year ensuing, one pepper corn (provided the same be lawfully demanded) as well as payment of taxes." A typed and unofficial version of the Ralston lease is at Book 173, Page 409. The quit-claim deed from the City of Macon to the Insurance Company of North America is recorded in Bibb County property records at Deed Book 673, page 458 (Jan. 14, 1954). The 999-year lease is not explicitly mentioned. The City Clerk attesting the document was Viola Ross Napier; *supra* note 105.

148. MINUTES OF THE MEETING OF THE FINANCE AND INVESTMENT COMMITTEE OF THE BOARD OF TRUSTEES OF THE CORPORATION OF MERCER UNIVERSITY, Jan. 22, 1976 (Bootle Archive).

149. Charles F. Adams Letter to Robert Steed, *supra* note 132. The files include copies of their correspondence with each other and with INA.

& Napier. Steed and Zellars were also members of the trustee committee that had been examining the feasibility of converting the interior to a law school building. That group also included Judge Bootle.

The negotiating team was struggling to come up with a financial proposal to present to INA. A few days after the group was created, Steed was playing golf with Lamar Plunkett, a corporate executive, former state senator, and fellow esteemed Mercer alum and donor. They started talking about the INA building and the financial hurdles. Plunkett wondered if the answer might be a “bargain-sale” arrangement—partly a purchase by a buyer and partly a tax-deductible gift from the seller.

This was a potential breakthrough. It would reduce the cash outlay by Mercer, and it might produce after-tax cash for INA equivalent to what it would realize from a traditional sale.

Steed went back to King & Spalding, alerted the negotiating committee, and put the King & Spalding tax team to work. The tax team studied INA’s financial reports from 1974 and 1975 and consulted an INA financial executive. The research showed that INA had operating losses, not profits, the past two years (perhaps a factor in INA’s decision to sell the Macon building). As a result, a charitable deduction—a major objective of a bargain-sale—might not have as much value. But INA was interested. The INA financial executive gave the Mercer group some assumptions to use in assessing the tax effects on any deal and agreed that a return to profitability for the company would make the bargain-sale structure work.

Mercer’s plan started with the depreciated value of the property on INA’s books, reflecting its original purchase price minus the annual depreciation recorded over the years. This “book value” of the property would be the price Mercer would pay in cash to INA. INA would get a formal appraisal for the full value of the building based on current market values. The difference between the “book value” and the “market value” would then be a tax-deductible charitable gift from INA to Mercer, which would reduce INA’s current and perhaps future taxes.

Three weeks after Adams’s supportive letter to Steed about the Board of Visitors review, Steed sent a detailed outline of the deal to the rest of the negotiating team, got their prompt approval, and went to Simmons’s office to write Mercer’s formal proposal to INA in Philadelphia. The letter, dated February 26, 1976, with Simmons’s signature as chairman of the negotiating team, noted that the Mercer group was “fully aware” of INA’s financial condition. The deal they were proposing would produce after-tax cash to INA of \$2,080,000. To get the same cash from a traditional sale, Simmons noted that INA would have to sell the building

for a cash sales price slightly in excess of \$3,000,000. Mercer offered \$1,000,000 in cash and payment of all transaction costs.

Simmons's letter pitched INA on the "goodwill and public relations" from the gift to Mercer, "which we would of course publicize to the extent you permit us to do so."¹⁵⁰ A law school would also be a "dignified use of a building which has historical significance to your company and to our community."¹⁵¹ They proposed "some permanent memorial" of the building's history and the company's generosity.¹⁵²

From Mercer's standpoint, their letter went on, the deal "would enhance the prestige of the university and the law school" with "a facility which would stand with any in the nation."¹⁵³ Enrollment could be increased to 425 students from the current 250. The city too would benefit from the "stable, continued and dignified use for a facility which has been and continues to be the source of considerable civic pride."¹⁵⁴ Its use as a law school would encourage a restoration movement in the Coleman Hill and College Street area.

INA accepted the deal in early June, subject only to its move to new space in Macon. Closing on the property would be before January 1, 1977.

Mercer still had not raised the \$1 million purchase price, much less the renovation cost. The university had raised only \$600,000 or so, and \$500,000 of it had come from the Woodruff Fund, created by George and Robert Woodruff's father and mother.

Once again, at a pivotal moment, just as his brother had done when the school was named for Walter F. George, and just as he had done in joining the Walter F. George Foundation board in 1965, George Woodruff stepped in. He offered another \$500,000 from the Woodruff Fund to fully fund the purchase, but only if the university would provide the renovations and begin them promptly. Harris readily agreed and even said that he would not be "parsimonious" and wanted the interior to be as nice as the exterior.¹⁵⁵

The contract was signed in September. The valuation of the building came in at \$4 million, so INA's gift to Mercer (after subtracting Mercer's \$1 million payment) was \$3 million. In a letter on September 8 to INA's lead negotiator, Executive Vice President William Slugg, President

150. *See* Bootle History, *supra* note 37, at 132.

151. *See id.*

152. *See id.*

153. *See id.*

154. *See id.* at 133.

155. *See id.*

Harris expressed “Mercer’s deep and abiding appreciation for the gift.”¹⁵⁶ In a separate letter of appreciation to his own chief negotiator, Bill Simmons, Harris called the INA gift “the largest single gift that ever came to Mercer in her long history, and in many ways it will mark her greatest opportunity for community and professional service.”¹⁵⁷

As it was working to close the transaction, Mercer was also contemplating the purchase of the Greek Revival mansion that shared the hilltop with INA. Additional parking for the law school on the acreage behind the house was a factor, but the historic antebellum house was vacant and deteriorating. Mercer proposed that the house be used for a new John Adams Sibley Institute for Public Affairs, to honor Sibley, who was a philanthropist, Walter F. George Foundation trustee, and lifelong friend and business associate of George Woodruff. It was Woodruff who prompted the Ernest and Emily Woodruff Fund to fund that purchase as well. The City of Macon and the Woodruff Fund financed major renovations.¹⁵⁸

156. Letter from Rufus C. Harris to William Slugg dated Sept. 8, 1976 (Bootle Archive).

157. Letter from Rufus C. Harris to Bill Simmons (Bootle Archive). In 1982, INA merged with Connecticut General Corporation to form CIGNA, a blend of the two names. In 1999, Cigna sold its property and casualty business, including INA, to what is now Chubb. *Company Histories: Cigna*, FUNDING UNIVERSE, <http://www.fundinguniverse.com/company-histories/cigna-corporation-history/> [<https://perma.cc/PU5K-FHQF>] (last visited Jan. 2, 2023). The deed from INA to Mercer is dated December 31, 1976, and is recorded in Bibb County Property Deeds Book 1285, pages 100–04. The deed comprises four separately described parcels, (1) the primary parcel that was the Mansion Hotel property conveyed to INA from Holst C. Beall; (2) two adjacent alleys; and (3) property used for parking that had been the site of “the old Turpin home” beyond the alley behind the main building, which INA had purchased from the family of prominent Macon lawyer William C. Turpin: son William N. Turpin, prominent for international posts with the U.S. State Department, sisters Ann Page Turpin and Mrs. Evelyn T. Walters, and Mrs. Virginia T. Carr. See *Insurance Firm Buys Property*, MACON TELEGRAPH, July 25, 1956, p. 2.

158. WELLS, *supra* note 14, at 142. The property was originally deeded from the city to Robert Collins. The Greek Revival house that shares the crest of Coleman Hill with the law school was built in 1836 for a financier and banker, Jerry Cowles. The colonnade was added in 1840. Cowles apparently fell onto hard times, and the property was auctioned to pay creditors in 1842, was returned to Cowles’s ownership, and was sold on July 20, 1847, to Joseph Bond, a prominent cotton grower who owned multiple plantations totaling more than 17,000 acres. In 1879, the house was purchased by Samuel T. Coleman and his wife, Aurelia, and the hilltop became known as Coleman Hill. They sold it in 1907. In 1954 the house became Stratford Academy, a private “segregation academy” after *Brown v. Board of Education* banned segregation of public schools. The school (later integrated) moved to a new campus in 1974. Mercer bought the property in 1977. Charles H. Brittain, AIA, *History of Overlook Mansion*, undated typed manuscript with business card, apparently to identify the source (Bootle Archive).

And then more money came pouring in. Judge Bootle's history of the school recounts a list of the largest donors and the resulting naming of rooms in the new building, including \$1 million from the Callaway Foundation for the renamed Furman Smith Library. The renovations ended up well above initial estimates, at \$1.2 million. The third floor, however, would still be reserved for future use.

The move-in was after the end of the fall quarter in 1977 (the school converted to the semester system in the 1980–1981 school year). The ceremonial dedication of the new building on May 4, 1979 featured a speech by Supreme Court of the United States Chief Justice Warren E. Burger, introduced by trustee chairman and former United States Attorney General Griffin Bell.¹⁵⁹ Honorary Doctor of Laws degrees were conferred on George Woodruff, INA Chairman Ralph S. Saul, and Bob Steed.

Steed had a legendary sense of humor, going back to his popular column in the *Mercer Cluster* during his undergraduate days with the title, "Willard Lives." He had written half a dozen or more humor books with titles like *A Ship Without an Udder* and *Lucid Intervals*. Griffin Bell jokingly said of him, "[He] has written more books than he has read."¹⁶⁰ Steed graduated from Mercer Law in 1961, clerked at the Supreme Court of Georgia, then joined King & Spalding. He was as serious as anyone about Mercer, though: he was a Mercer trustee for six terms, including time as chairman, a longtime trustee of the George Foundation, and chair of the law school's Board of Visitors.

Woodruff, 83 years old when he received the Mercer degree, had never received a diploma from any university. He had studied mechanical engineering at Georgia Tech and then at Massachusetts Institute of Technology (MIT) in Boston, but by the end of his junior year in 1916, the country was preparing to join World War I after Germany's sinking of the American passenger ocean liner *Lusitania* the previous year. After the spring term ended at MIT, Woodruff was looking for a role in the war effort that would use his engineering knowledge. Meanwhile, this son of a multi-millionaire spent the summer with the Emory Medical Corps transporting doctors and medical supplies between Emory medical facilities in east Atlanta and the Army's Fort McPherson in south

159. The text of the introduction and the chief justice's speech are published in the Mercer Law Review. Griffin Bell, *Law Day Dedication Address*, 31 MERCER L. REV. 395 (1980).

160. News At Mercer, *Mercer Grieves the Loss of University Icon and Life Trustee Robert L. Steed*, THE DEN (June 6, 2016), <https://den.mercer.edu/merc-grieves-the-loss-of-university-icon-and-life-trustee-robert-l-steed/> [<https://perma.cc/PAX2-RAWQ>].

Atlanta. Mandatory wartime service prevented Woodruff's return to MIT that fall.¹⁶¹ Although he had made millions applying his knowledge of mechanical engineering, Woodruff never got a degree.

The day after the dedication ceremony, Woodruff called Steed and asked if Steed had checked to see if the word "honorary" appeared on his Doctor of Laws diploma. Steed, who recounted the conversation years later, replied that he had not checked.

"Well, I have," Woodruff said, "and it doesn't say 'honorary' anywhere. I wonder if I could practice law."¹⁶²

Woodruff then asked Steed if he could keep the hood he had worn with the academic gown.

Steed told him he could.¹⁶³

VII.

With the new building came a new dean. Ed Wilson had resigned at the end of the 1976–1977 school year. Inspired by the plans for physical growth, the faculty vowed to find a person with a national reputation to boost the law school's effort to win national recognition. The search committee found Bruce R. Jacob at Ohio State University. Jacob's enduring fame was as the assistant attorney general who unsuccessfully represented the State of Florida in Clarence Earl Gideon's appeal at the Supreme Court of the United States over a right to government-paid counsel for criminal suspects who could not afford a lawyer.¹⁶⁴ Jacob became Mercer's dean in the fall of 1978.

As student enrollment doubled with the new building, Jacob expanded admission decisions beyond what he called "bare numbers" of LSAT scores and grade-point averages to develop a more diverse student body. "We believe the students learn a great deal from each other," he wrote in a report near the end of his two-year tenure.¹⁶⁵

One significant concept paired the enlargement of enrollment with the addition of four new merit scholarships to attract top students who might be deterred by private-school tuition. The 1980–1981 class had 173 students from seventy-three different undergraduate institutions and

161. WELLS, *supra* note 14, at 69–72.

162. *Id.* at 142.

163. *Id.*

164. Jacob recounted fascinating details of his *Gideon v. Wainwright*, 372 U.S. 335 (1963), experience years later. Bruce R. Jacob, *Memories and Reflections About Gideon v. Wainwright*, 33 STETSON L. REV. 181 (2003).

165. "Report from Bruce R. Jacob, Dean, Walter F. George School of Law, November, 1980," at 7. The report is available in the author's archives and in the Bootle Archive.

included fifty women, slightly more than the forty-eight women in the entering class two years earlier. Jacob's report did not mention minority students. After two years as dean, Jacob returned to Florida as dean of Stetson Law School.

Another new dean arrived in 1982: Karl P. Warden, previously the law dean at the University of North Dakota. He was something of an adventurer, both intellectually and geographically. Warden had been on the faculty at Vanderbilt and had taught at a dozen other law schools in the United States and in England, Russia, and Papua New Guinea. While at Vanderbilt, Warden had been winning counsel in *Johnson v. Avery*,¹⁶⁶ in which the Supreme Court of the United States struck down a Tennessee law banning prison inmates from helping each other on legal matters. Late in his life, Warden's adventurous mind extended to the authorship of adventure mysteries *Clumsy Foot*,¹⁶⁷ *Professor Thief*,¹⁶⁸ and *Jack's Joke*.¹⁶⁹

Warden and adjunct professor Deryl Dantzler brought the National Criminal Defense College to Mercer. It was a struggling organization that provided training programs for criminal defense lawyers nationwide. It started at the University of Houston in the early 1980s. Its cast of instructors included celebrity Wyoming lawyer Gerry Spence¹⁷⁰ and Georgia's Bobby Lee Cook, whose cases included the defense that inspired *Midnight in the Garden of Good and Evil*¹⁷¹ and whose win-loss record and folksy manner were said to have inspired the Andy Griffith television series *Matlock*.¹⁷² Dantzler was a popular member and teacher there. She had taught as an adjunct at Mercer and then joined the faculty full-time in 1978. As the Criminal Defense College struggled financially,

166. 393 U.S. 483 (1969). Warden's obituary contains more detail on his career. See *Karl Warden Obituary*, THE TELEGRAPH (Mar. 18, 2008), <https://www.legacy.com/us/obituaries/macon/name/karl-warden-obituary?id=17258568>. Warden appointed the author to the Mercer Law School Board of Visitors.

167. KARL P. WARDEN, *CLUMSY FOOT* (2007).

168. KARL P. WARDEN, *PROFESSOR THIEF* (2007).

169. KARL P. WARDEN, *JACK'S JOKE* (2007).

170. Gerry Spence's website can be visited at <https://www.gerryspence.com> [<https://perma.cc/UHD6-GANB>] (last visited Jan. 10, 2023).

171. JOHN BERENDT, *MIDNIGHT IN THE GARDEN OF GOOD AND EVIL: A SAVANNAH STORY* (First Vintage Books Ed. 1999).

172. Patrick Filbin, *Bobby Lee Cook, legendary Georgia attorney, dead at 94*, CHATTANOOGA TIMES FREE PRESS (Feb. 19, 2021), <https://www.timesfreepress.com/news/2021/feb/19/boblee-cook-legendary-georgiattorney-dead-94/> [<https://perma.cc/QK5R-9Q7K>]; see also *Bobby Lee Cook: 2009 Inductee*, TRIAL LAWYER HALL OF FAME, <http://www.triallawyerhalloffame.org/inductees/bobby-lee-cook/> [<https://perma.cc/CS4N-9A66>] (last visited Jan. 10, 2023).

the board decided to start over and sought a new home for the school. Warden offered free space at the law school, Dantzler became the dean, and Cook was a member of the new founding board. The organization moved in at the law school and remained for more than thirty years. Its programs brought participants to Macon from all over the country. After Dantzler retired from the role in 2014, the school moved to Rhode Island in 2017.¹⁷³

Finances of the law school were stronger after the significant effects of the move, and the law school was growing—more faculty, more minority recruiting. And then came 1984, the most challenging year for the law school since the move to Coleman Hill. Across the country, applications to law school shrank 12% from two years earlier after a steady increase over the past twenty years. School budgets are driven by enrollment, and across the country, schools continued to target enrollments close to the prior year. So as schools maintained enrollment, the credentials of the entering class went down.¹⁷⁴ Mercer was hit worse than average. Not only was the drop in applications substantial, but Warden and the faculty also anticipated that acceptances might fall as well, so they accepted every applicant who met their qualifications—and then some. Of 706 applications, 510 were accepted. It turned out that a fairly normal portion of those, 37%, actually enrolled, so the school ended up with a class of 190 students, about twenty more than targeted, and the median class credentials were significantly below the law school's usual standards, measured by median LSAT score and grade point average.¹⁷⁵

To add to the pressure on the school, 1984 was also the time of another ABA accreditation site visit, which happens every seven years and which increased the need for a strong response from the administration. Recruiting was ramped up for the 1985 class. Dean Warden himself went on the road recruiting outside the Southeast to try to bring in more applicants. Over the next two years, the school cut acceptances and reduced the size of the new classes more significantly to bring overall

173. A detailed history is at the National Criminal Defense College website. *History of NCDC*, NATIONAL CRIMINAL DEFENSE COLLEGE, <https://ncdc.net/history-of-ncdc/> [<https://perma.cc/4VBN-65VF>] (last visited Jan. 10, 2023). Footnote “x” on the NCDC website suggests a source of its financial challenges in training defense lawyers and the significance of Mercer’s contribution of space: “The 2017 Report of the Ad Hoc Committee . . . chaired by Judge Kathleen Cardone notes that ‘the Department of Justice’s expenditures on training and training facilities for prosecutors exceeds the entire budget of the [federal] Defender Services Office (DSO).’” *Id.*

174. Nancy Blodgett, *Law School Applications Plummet*, 71 ABA J. 47 (1985).

175. Figures are from the report of the 1991 ABA site visit, excerpts of which are in author’s possession, contrasting 1991 with 1984.

enrollment back to normal. Warden took the occasion to return to teaching in 1986 after four years as dean.

The experience turned out to be a precursor of larger challenges to come.

After the third interim deanship in nine years (professors John Cole after Wilson, Glen Clark after Jacob, and Leah Chanin after Warden), Philip D. Shelton arrived as dean in 1987. He had just completed two years as interim dean and ten years as associate dean at Washington University in St. Louis.

Shelton soon faced a pair of crises. First, the number of law school applications continued to decline. The financial pressure to maintain maximum enrollment, which would bring in needed tuition revenue to balance the budget, led to another sharp decline in student statistics and in passage rates on the Georgia bar exam.

Second, the university itself was experiencing serious financial strain because of ambitious growth, including creation of a medical school and an engineering school and other schools as well as difficulty selling the empty Tift campus in Forsyth after Mercer absorbed the struggling Tift College. There had also been a stock market crash in 1987. Operating deficits over a five-year period totaled \$20 million, and they had been hidden from the trustees. With an operating budget of about \$87 million for 1988–1989, the university would have to cut about \$7 million the following year.¹⁷⁶

The strains at the law school and the strains at the university joined as the university sought to impose higher “overhead charges” on law school income, including income from the Walter F. George Foundation. The law school now had a substantial independent endowment, and President Godsey needed to tap some of that money. The law faculty, already feeling an urgent need to reduce enrollment to improve the quality measures of the school, became persistent opponents of Godsey’s efforts to tap law school money to bail out the university. Chanin, as dean, noted to Godsey the American Bar Association accreditation provisions warning universities about excessive overhead charges that weaken a law school’s financial strength. Godsey saw no good option.

Godsey endured calls for his resignation from across the campus and even from the law school’s Board of Visitors in a meeting with Godsey (who responded that he “respectfully” disagreed with them).¹⁷⁷ Although

176. See Audrey Post, *Mercer used variety of methods to keep rising debts hidden*, MACON TELEGRAPH, Apr. 30, 1989, at 1; *Chronology of financial developments at Mercer*, MACON TELEGRAPH, Apr. 30, 1989, at 12A.

177. The author was a participant in the meeting as a member of the Board of Visitors.

the trustees expressed “keen disappointment” at being kept in the dark about the deficits, they stood by him.¹⁷⁸ Former Macon Mayor Buckner Melton, with undergraduate and law degrees from Mercer, stepped forward in public defense of Godsey and the trustees. Melton noted that Mercer’s endowment had risen from about \$16 million in 1979 to about \$90 million in 1988, when the deficits came to light, and total assets of the university were \$240 million.¹⁷⁹

Dean Shelton proved to be a masterful budgeter, to the point that Godsey formally enlisted him as interim chief financial officer of the university in addition to his deanship. Shelton found ways to moderate the university’s draw on law school money. By 1992 the trustees were able to approve a balanced budget, and the three-year furor faded.¹⁸⁰

Still, the school had to find a way to raise the credentials of its entering students. Whatever strategy was used—recruitment, scholarships, lower enrollment—would require money, and the law school couldn’t wait for better financial times. Fortunately, one last time, George Woodruff came through for the law school at a time of need and opportunity.

A few years earlier, Bob Steed had formally presented to Woodruff a proposal that his will include a bequest to the law school of \$3 million to \$5 million. Woodruff, who by then had served more than twenty years as a trustee of the Walter F. George Foundation, had a different idea. He revised his will to give the law school a bequest he estimated to be approximately \$11 million in stock. By 1990, when Mercer’s need for more income had become acute, the value had risen to more than \$18 million.¹⁸¹ The bequest far exceeded the previous largest gift, INA’s \$3 million contribution of its building, which also had happened because Woodruff had provided the \$1 million that Mercer had to pay for the building.

George Woodruff died at age ninety-one on February 4, 1987, while Chanin was interim dean and was pushing back against Godsey’s encroachments. The university and law school commemorated Woodruff’s life and his role at Mercer, but as his second gift to buy the INA building had demonstrated, Woodruff was an investor, and he wanted investment in the quality of the law school.

178. Sheron Smith & David Goldberg, *Funds chief at Mercer resigns post*, MACON TELEGRAPH, Dec. 3, 1988, at 1A, 11A.

179. Buckner Melton, *No crisis at Mercer*, MACON TELEGRAPH, Jan. 22, 1989, at 5D.

180. Mitch Clarke, *Mercer board OKs balanced budget; Plan indicates school recovering*, MACON TELEGRAPH, Apr. 18, 1992, at 1.

181. Bootle History, *supra* note 37, at 134.

VIII.

Even as the university's deficits were coming to light and putting Godsey and the law school at odds, the university and the law school engaged in common cause to seize the opportunity presented by Woodruff's final gift. The trustees, on April 15, 1988, adopted a report from a "Select Commission on University Priorities" that urged the law school to use "new revenues available for the [s]chool" for "improvement of the academic quality of the student body, the improvement of faculty compensation, and maintaining the quality of the present facility."¹⁸²

The financial plan developed by the law school and approved by the trustees drew more heavily than normal from the trust for four years to provide annual income exceeding \$1.3 million by 1991—more than ten times the income from the school's regular endowment or from "annual fund" gifts from alumni. On the other hand, there would still be significant "overhead" charges by the university.

Like most such formal reports, this one followed prior discussions among top administrators—in this case, between Godsey and Shelton and between Shelton and the law faculty. The Saturday after the trustees formally issued the challenge, two leading authorities on legal education were in Macon for an all-day session with the law faculty. Afterwards, Shelton appointed three faculty members to lead the planning for use of the Woodruff money: Professors Jack L. Sammons, Harold S. Lewis, and Richard W. Creswell. "Phil Shelton should get all the credit for conceptualizing the idea," Creswell said years later.¹⁸³ "We would take this new money and use it to change the course of history for Mercer Law School."¹⁸⁴

The three committee members, who came to call themselves "the Woodies," met every day of June in 1988 and talked with others on the faculty. They reworked the curriculum backwards from the third year, which had been complicated by Georgia's unusual policy of allowing students to take the bar exam in February of their third year, before graduation. Professors were frustrated that most third-year students spent January and February focused more on the bar exam than class, then spent the remaining ten weeks coasting through classes until graduation and exam results.

182. DEAN AND FACULTY OF THE WALTER F. GEORGE SCHOOL OF LAW, THE WOODRUFF CHALLENGE, 'DISTINCTIVE EXCELLENCE IN LEGAL EDUCATION:' A REPORT FOR THE PRESIDENT AND BOARD OF TRUSTEES FROM THE DEAN AND FACULTY OF THE WALTER F. GEORGE SCHOOL OF LAW (1989) [hereinafter "The Woodruff Challenge"].

183. Interview with Richard W. Creswell, Professor of Law Emeritus (Sept. 8, 2022).

184. *Id.*

By August, “the Woodies” had a 100-page draft of a plan for reshaping the curriculum and meeting other elements of the trustees’ formal challenge. In mid-August the faculty journeyed to north Georgia and spent two days at the lodge at Unicoi State Park talking about the draft. Afterwards, Shelton met individually with each faculty member, and then in September the faculty began meeting weekly on the curriculum.

The faculty voted on everything. Some of the changes were a hard sell. Some professors had to teach courses they had never taught, but Shelton agreed to ease their pain with salary bonuses to compensate for the substantial preparation those professors would have to do. Compromises were made. Courses were dropped or added. On March 6, 1989, the faculty adopted the Woodruff Plan by overwhelming vote. The centerpiece was the “Woodruff Curriculum.”

In the new curriculum, the last semester became “really a change of status—students working with us more as colleagues,” Creswell said.¹⁸⁵ “It was changing the culture, the feel of law school, not just the mechanics.”¹⁸⁶ The sixth semester took advantage of what had been a distraction by focusing on law practice skills students would soon need: effective client consultation, negotiating, trial practice, and other law-practice skills that were rarely such a concentrated focus in law schools. A January session, just before the bar exam, was a single course, Remedies, which contained issues from contracts and torts and property and other subjects on the exam. The previous semester focused on specialized electives and writing papers that let each student focus on areas of greatest interest.

Legal writing moved to a central place in the curriculum—something that was extraordinary at the time and remains distinctive. For years the mechanics of writing memos for partners was taught largely by third-year students, with variable standards and quality. Under the Woodruff Curriculum, Professor Linda Edwards was hired to lead the Legal Writing program. Also joining the faculty were three recent law school graduates who had experience as law clerks for appellate judges. Edwards, who had practiced law for eleven years before teaching at New York University, became one of the premier legal writing professors in the country, won several national awards, and was a visiting scholar at Harvard Law School. She was at Mercer for nineteen years before moving to the University of Nevada at Las Vegas in 2009. As the legal writing program developed, Mercer later took another step ahead of other schools

185. *Id.*

186. *Id.*

in legal writing programs by giving legal writing instructors tenure-track status.

The Woodruff Curriculum also led to a growing roster of adjunct professors teaching a variety of real-life topics based on their own work as practicing lawyers.

Courses were assigned to rigid categories, or “blocks” from which students had to choose in an established sequence and which faculty had to teach in specific semesters. Third-years were focused on skills. Second-years were focused on a sequence of required and elective courses in substantive areas of law. First-years were still learning basics like torts and contracts but also had a new focus on the “legal process” and “professionalism,” developing their character as lawyers serving clients and a larger system of justice.

There were other needs besides curriculum, however, and the Woodruff Plan addressed those as well. One was faculty compensation. The trustees’ report preceding the challenge to the law school said it “joins the dean of the school in wishing to place a high priority on raising . . . average salaries in the law school” to the median for law faculty in the Southeast.¹⁸⁷ Mercer’s average faculty salary at the time was \$3,600 below the median in the Southeast and \$4,560 below the national average. Shelton promised the faculty he would meet this objective within five years. Shelton and the faculty also again deferred a buildout of the third floor for faculty offices until funds from outside the Woodruff bequest and tuition fees could be generated to pay for it.

Then came the most urgent challenge: student credentials. “The higher the objective credentials of our students, the better our reputation among prospective students, the legal profession, the academic community, and virtually every other constituency important to the development of Mercer’s reputation,” the faculty report said.¹⁸⁸ They had focused on “how best to utilize these limited resources to achieve the greatest impact on student quality.”¹⁸⁹ They rejected reliance on more aggressive recruitment and new scholarships, which were “essential . . . but cannot stand alone” to meet the challenge of improving the most common external measures of law school quality—LSAT medians and grade-point averages of entering students and passage rate on the bar exam as students graduated.¹⁹⁰

187. The Woodruff Challenge, *supra* note 182.

188. *Id.*

189. *Id.*

190. *Id.*

Unlike a prior effort when Bruce Jacob was dean, which admitted four additional students to fund four scholarships for top applicants, this plan would use all the initial allocation of Woodruff revenues, except as preempted by the dean for faculty pay, to reduce the enrollment from the 1988–1989 level, 470, to “stable enrollment” of 380 over a seven-year period.¹⁹¹ Using some accumulated past income from the trust as well as the full ongoing income, there would be “extraordinary cuts in first-year enrollment” in the first years of the plan.¹⁹² The extra withdrawal would continue until the objective measures of entering students “equals that of entering students at ABA-accredited schools nationally.”¹⁹³ Less-qualified students were visibly affecting the interaction in classrooms. “Assuming that professors teach primarily to the level of a student at the top of the lower third of the class, cutting 10 to 15 percent out of the bottom of the class will have a measurable impact on the classroom environment.”¹⁹⁴

The idea from Jacob’s deanship for four merit scholarships would become a Woodruff merit scholarship program starting in 1991–1992. It offered full tuition as well as a \$5,000 stipend. The program was structured to achieve a double benefit. Mimicking the selection process for similar prestige grants at Vanderbilt Law School and at Emory, Mercer invited twelve finalists for interviews. Prospective students’ opinions of “Mercer and Macon are far more favorable when they view it in person,” said Creswell, who became associate dean under Shelton with responsibility for implementing the Woodruff plan.¹⁹⁵ “As a result, we sometimes actually enrolled as many as ten of the twelve finalists, even though only four received the Woodruff stipend,” Creswell said.¹⁹⁶

Once the curriculum and the new enrollment strategy were in place, Shelton and Creswell focused on changing the way the law school was presented in brochures for prospective students. Mercer would be presented as a law school with a distinctive building, a distinctive curriculum, and a distinctive culture.

“Your very first class at Mercer Law school is part of Mercer’s distinctiveness,” began a brochure on the new “Distinctive Curriculum of

191. Although the text of the Woodruff Report set a target of 390 on page six, the financial projections in the report and much of the later discussion focused on a target of 380. *See id.* at 6.

192. *Id.*

193. *Id.*

194. *Id.*

195. Email from Richard W. Creswell to author (Oct. 9, 2022) (on file with author).

196. *Id.*

Mercer Law School.” A one-week “Introduction to Law” simulated the typical classroom experience, including an exam, to better prepare for the kind of experiences students would encounter in what was still a traditional use of Dean Langdell’s “case method” in the traditional law subjects.

By the time of the 1991 site visit to renew accreditation, the ABA team noted a “sea change” in student quality since 1984.¹⁹⁷ For fall of 1991, the team noted, the law school received more than 1,500 applications for the targeted 145 slots and accepted 321, about 21%. Only nine students had test scores and GPAs below what had been the substandard median—half the class—in 1984. The number of students with LSAT scores of 40 (on what was then a 10–48 scale) was 25, more than twice the highest number in any previous class. The class included fifteen African Americans and five other minorities.

The Woodruff Plan combined with a fortunate increase in applications had driven this “sea change.”¹⁹⁸

The ABA team would not accept complacency, however. It challenged the school to develop additional strategies to maintain an acceptable volume of applicants of high quality and to enhance financial and academic assistance to ensure the ability to enroll both minority students and “exceptionally well-qualified applicants.”¹⁹⁹ The sense of crisis faded, both at the law school and at the university administration.

The ABA’s Accreditation Committee, however, was still expressing concern about adequacy of resources at Mercer’s law school in November 1993, with a focus on faculty salaries, support for faculty scholarship, and library staffing. Shelton had just left Mercer to head the Law School Admissions Council, and Creswell was interim dean.

Ten months after the ABA letter, Creswell reported to the ABA that the law school “continues to improve in every category of law school endeavor, while maintaining its commitment to being a very small law school.”²⁰⁰ Enrollment was down to 419 in 1994–1995—not the 380 targeted in the Woodruff Plan, but enough to reach targeted medians on

197. Excerpts from 1991 ABA Site Evaluation report in author’s possession.

198. *Id.*

199. *Id.*

200. The document available to the author is an unsigned draft prepared by Dean Richard W. Creswell for the signature of Godsey and himself, “Re: ABA Action Letter” and dated Sept. 30, 1994. On Oct. 26, 1994, Creswell provided a copy of the response to the Board of Visitors, adding that “while I would have liked to report further improvements in the financial relationship of the law school to the university, I am satisfied that our current level of resource contribution . . . is as low as the university can reasonably afford at the present time.” *Id.*

student qualifications. “The entering class for last year (1993–1994) had better credentials than any Mercer class in the preceding fifteen years, with a median 3.1 GPA and a median 157 LSAT.”²⁰¹ The new class in the fall of 1994 maintained that GPA and reached a 158 median LSAT score.

Bar passage rates in 1993 and 1994 on the February exam, when most Mercer students took the exam in those days, were 98%, and the overall pass rate of 95% in 1994 marked a winding down of the effects of “repeat bar failures” from the large classes before the Woodruff-funded reduction in enrollment. The letter added that the library installed a new automation system, and the school showed record levels of giving, in the upper quartile of schools reporting this data to the ABA. Faculty scholarship, measured by number of publications, was at an all-time high.

The most dramatic gain reported in Creswell’s letter was in faculty salaries. Creswell acknowledged that until the current year, Mercer had not made progress on faculty salaries and that a university-wide salary freeze had actually widened the gap below the median pay to more than \$8,000. But in the fall of 1993, the letter added, Godsey authorized Creswell to give some extraordinary raises, averaging 14.2%—more than \$10,500 annually, which was more than the gap below the median. The law school also, Creswell told the ABA, increased support for faculty scholarship through summer research grants by 50% and granted two research sabbaticals.

The Woodruff Curriculum was made more flexible in the late 1990s, partly because in 1997 Georgia stopped letting third-years take the bar exam in February and partly because students wanted the flexibility to take a course in an area related to a new job offer. Student credentials settled in a bit below the 1994 high point through the 1990s.²⁰²

The crisis was effectively over.

Godsey weathered the very public embarrassment and went on to sell the Tift campus, create seven new schools and colleges, enlarge the Atlanta campus he almost had to eliminate, double the number of students, and quadruple the endowment. He remained as president for twenty-seven years, longer than any previous president.

After Godsey’s retirement into the role of chancellor in 2006, he was succeeded by William D. Underwood, an accomplished trial lawyer in Texas and a law professor at Baylor University who served a year as Baylor’s interim president in 2005.

201. *Id.*

202. Email from Richard W. Creswell to author, *supra* note 195.

Underwood initially had bad news for the law faculty. He met with them and told them he had identified a new deficit in the university budget and was going to again increase the overhead charges. That lasted through the “Great Recession” of 2007–2009. But then Underwood started a sustained reduction, with only a couple of relatively small increases over the next twelve years. The charges as of 2022 are 60% lower than in 2009.²⁰³

IX.

After Creswell’s two years as interim dean, Larry Dessem arrived as dean in 1995 from the University of Tennessee Law School, where he had been associate dean for academic affairs. He was in the role for seven years.

An unusual opportunity came Mercer’s way during Dessem’s tenure. The DuPont Company, a chemicals manufacturer, was a defendant in multiple products-liability cases over a fungicide called Benlate that was said to have been contaminated. In 1991, farmers across the United States sued for millions of dollars of crop damage they claimed resulted from Benlate. One lawsuit, in the Middle District of Georgia, was settled in 1993. Afterwards, discovery in a Hawaii case revealed raw test data that had not been disclosed to the Georgia plaintiffs.

After six years of litigation on the alleged discovery violation, the parties entered into an unusual consent decree: Du Pont agreed to pay \$11 million into a fund, not to compensate victims, but to increase professionalism of lawyers. The decree gave \$2.5 million to each of the four major law schools in Georgia, including Mercer, to enable each to endow a professorial chair “devoted to fostering and teaching professionalism and ethics in the practice of law.”²⁰⁴ The remaining \$1 million would fund an annual symposium of professionalism and ethics in law practice, to be rotated among the four schools. The order was signed on New Year’s Eve in 1998 by United States District Judge Hugh Lawson.²⁰⁵

203. Telephone Interview with Larry Brumley, Senior Vice President and Chief of Staff, Mercer University (Oct. 14, 2022).

204. Center For Legal Ethics and Professionalism, MERCER UNIVERSITY SCHOOL OF LAW <https://law.mercer.edu/academics/centers/lep/> [<https://perma.cc/ENL5-3J6R>] (last visited February 28, 2023).

205. Judge Lawson’s order is not reported, but it is recorded in the Bootle Archive. An Eleventh Circuit opinion remanding the original contempt ruling has considerable background on this case. See *In re E.I Dupont De Nemours & Company–Benlate Litigation*, 99 F.3d 363 (11th Cir. 1996).

At Mercer, the settlement led to the creation of the William Augustus Bootle Chair in Professionalism and Ethics, filled in 2000 by Patrick E. Longan, previously a professor at Stetson Law School. He would direct a Center of Legal Ethics and Professionalism, a vehicle for a variety of educational activities that reached beyond the law school to lawyers and judges. The most significant aspect was Longan's creation of a first-year course on legal ethics and professionalism—not to teach “ethics rules” taught in the second year but to help new law students develop the values and characteristics of outstanding lawyers.

The course, begun in 2003, made Mercer the first law school in the country to have a required first-year course in the formation of “professional identity,” the term now in common use. More than forty law schools now have such a course. Mercer's program received new attention as the American Bar Association, in 2022, adopted an accreditation standard requiring law schools to provide “substantial opportunities” for students’ “development of a professional identity,” along with participation in clinics or externships and participation in pro bono and other law-related public service.²⁰⁶

Just as the legal writing component of the Woodruff Curriculum pointed the way for other law schools, so did the focus on professionalism. Fourteen years after Longan arrived, in 2014, the American Bar Association awarded Mercer its Gambrell Award for Professionalism, which recognizes excellence and innovation in professionalism programs.²⁰⁷ The ABA specially mentioned Longan's first-year course and his series of interviews with lawyers and judges in front of the class.²⁰⁸

206. Email from Daisy Hurst Floyd (Oct. 19, 2022) (on file with author). See American Bar Association, Section of Legal Education and Admissions to the Bar, *Report to the House of Delegates* (Feb. 22, 2022), <https://www.americanbar.org/content/dam/aba/administrative/news/2022/02/midyear-hod-resolutions/300.pdf> [<https://perma.cc/CV2S-BA2H>].

207. See *Anti-bias, professionalism standards teed up for law schools*, AMERICAN BAR ASSOCIATION (May 24, 2021), <https://www.americanbar.org/news/abanews/aba-news-archives/2021/05/law-school-standards/> [<https://perma.cc/53EZ-9UR3>]. The ABA's legal education council proposal was subsumed by the governing House of Delegates into what were considered more specific standards of diversity and inclusion. See *American Bar Association Revises Accreditation Standards*, AFFIRMATIVE ACTION DEBATE, <https://affirmativeactiondebate.org/2022/03/10/february-2022-american-bar-association-revises-accreditation-standards/> [<https://perma.cc/BG89-8FDK>] (last visited Jan. 10, 2023).

208. *Mercer Law School Receives Prestigious ABA Gambrell Professionalism Award*, MERCER UNIVERSITY (Aug. 18, 2014). Many of the interviews are videotaped and published on the law school's YouTube channel, <https://www.youtube.com/user/MercerLawSchool> [<https://perma.cc/MKR3-GZ7D>].

It was a rare second Gambrell Award for Mercer. The first was in 1996 for its Woodruff Curriculum. The ABA cited the “depth and excellence” of Mercer’s commitment to professionalism education.²⁰⁹ Those two aspects of Mercer have really been fellow travelers from the start of the Woodruff Curriculum. Over the years, multiple faculty members have had a significant effect on scholarship in professional identity: Longan, Jack Sammons, Mark Jones, Sarah Gerwig, Timothy Floyd, and Daisy Hurst Floyd.²¹⁰

Dessem served seven years as dean, then in 2002 moved to the University of Missouri at Columbia as dean. Professor Michael Sabbath served as interim dean for two years.

In 2004, Daisy Hurst Floyd became dean, the first woman to be selected as dean through the formal search process. Floyd grew up in Savannah, received her degrees from Emory and the University of Georgia, and was teaching at Texas Tech University Law School when Mercer brought her back to Georgia for the deanship. Her teaching and research focus, which was on new concepts in legal education and clinical experiences for students, aligned well with the Woodruff Curriculum and made her arrival as dean particularly timely.

Her husband, Tim Floyd, joined the Mercer faculty after two years as a visiting professor at Georgia State University Law School. He became director of a new Law and Public Service program, now known as Experiential Education. His work included creation of a clinic for students from Georgia State and Emory law schools as well as Mercer to work in Georgia’s Capital Defender program. That specific program ended, but in the years ahead, Experiential Education grew rapidly.

Daisy Floyd served twice as dean. After her first tenure of six years, she returned to teaching and was succeeded by Gary Simson, who moved to Mercer from the deanship at Case Western Reserve. Simson brought a strong focus on academics and faculty scholarship. He was a double graduate of Yale University and taught at Cornell Law School for 26 years, including three years as associate dean for faculty development and three more as associate dean for academic affairs. He was dean at Case Western Reserve Law School for two years before moving to Mercer as dean and Macon Chair in Law professor in 2010. When Simson became the university’s senior vice provost for faculty scholarship in 2014, Floyd

209. *Id.*

210. Email from Daisy Hurst Floyd, *supra* note 206. An extended discussion of “professional identity” is a book by three of those professors: PATRICK EMERY LONGAN, DAISY HURST FLOYD, & TIMOTHY W. FLOYD, *THE FORMATION OF PROFESSIONAL IDENTITY: THE PATH FROM STUDENT TO LAWYER* (2019).

served again as dean from February 2014 to July 2017. Simson later returned to teaching.

Floyd was succeeded the second time by Cathy Cox, a *magna cum laude* graduate of Mercer Law, who in 1999 became the first woman elected as Georgia's Secretary of State. After leaving office in 2007, she was awarded an honorary degree from Mercer and served as president of Young Harris College in Towns County, just below the Tennessee state line. She became the dean at Mercer in 2017. She left four years later to be president of Georgia College & State University in Milledgeville.

By 2012, women had become half of the student enrollment and averaged 52% for the next ten years. The percentage spiked to the highest percentage ever, 62%, in the 2022–2023 academic year. Marilyn Sutton, Assistant Dean for Admissions, said personal statements from female applicants showed an interest in social justice and making a difference as leaders in their communities. The greater emphasis on roles such as mediation, often viewed as one where women have an advantage, also was appealing, said Sutton, a Mercer law graduate who became director of financial aid in 1987 before moving to her role in admissions in 1999.²¹¹

For total enrollment, that 380 target from Dean Shelton's era thirty years ago has renewed importance. The target for each newly admitted class is under 135 students—still, as in the late 1980s, with an eye on maintaining the entering credentials of the students and their likelihood of successfully passing the bar exam. “That’s where we are best,” said Sutton, noting the continuing importance of the Woodruff bequest in allowing smaller classes with more individual attention for students.²¹²

The class that entered in the fall of 2022 had a bumper crop—148 students. Besides Mercer, the top feeder undergraduate programs were the University of Georgia and, for the first time, Auburn University. “Many students loved the big school experience, but for law school, they want something smaller,” said Interim Dean Karen J. Sneddon, who took on the role after the departure of Dean Cox.²¹³

Sneddon arrived at Mercer in 2006 to teach in the legal writing program. She came from Tulane, where she was a Forrester Fellow teaching legal writing, after graduating from there *summa cum laude* and practicing law in New York City. She had always wanted to teach writing and selected legal writing, which was emerging throughout legal education partly because of Mercer's pioneering Woodruff Curriculum.

211. Interview with Marilyn Sutton, *supra* note 130.

212. *Id.*

213. Interview with Dean Karen J. Sneddon (Oct. 4, 2022).

“In order to write, the first thing you have to do is have something to say that makes a difference,” she said.²¹⁴ That means critical reading and critical thinking. “I like to help someone find a way of writing on the page what is in their mind.”²¹⁵

“All lawyers are writers,” Sneddon said, yet students enter law school with varying experience in writing.²¹⁶ “There is no one path into law school. You have engineering majors and English majors; some are from hard sciences.”²¹⁷

The notion of professionalism, or “professional identity,” remains a distinct focus at Mercer as well. “A lot of schools copied our homework on professional identity, just as they did on legal writing,” Sneddon said.²¹⁸ “I’d like for our students to become leaders in communities they choose to join . . . to be the next generation of Griffin Bells and Bob Steeds. That’s what the legal profession needs. That’s what America needs.”²¹⁹ She noted that in 2022–2023, the chief justice of the Supreme Court of Georgia, the president of the Georgia Bar, and the president of the Georgia Young Lawyers Division are all Mercer Law grads.

Mercer’s traditional competitive teams in mock trial and moot court have been joined by other advocacy teams that compete in client counseling, arbitration, and negotiation competitions. Those programs now have full-time faculty leadership: former Clayton County Superior Court Judge Kathryn Powers.²²⁰

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. *Id.*

219. *Id.* President Bill Underwood’s eulogy of Judge Griffin Bell implicitly spoke to what is now called professional identity. He recounted Bell’s belief in “the nobility, neutrality, and independence of the law.” William D. Underwood, President, Mercer University, *Eulogy*, MERCER UNIVERSITY, <https://bell.mercer.edu/eulogy/> [<https://perma.cc/3FZ7-HQMB>]. On his last visit with Bell, Underwood said, he asked Bell which of his accomplishments made him most proud. It was not any of the historic elements of his biography. It was a murder case he handled for free in Savannah, during his first four years after law school. When the prosecutor wouldn’t send the fatal bullet to the crime lab, Bell got a court order. When the lab report showed the bullet didn’t match his client’s gun, Bell thought the prosecutor would drop the charges. He didn’t. “And he said—I’ll never forget what he said—I’m going to burn your man,” Bell told Underwood. Bell took the case to trial. The jury deliberated for fifteen minutes and returned a verdict of not guilty. “Judge Bell looked at us,” Underwood recounted, “and said, ‘Well, you know, I thought that was a great thing.’” *Id.*

220. Jennifer Falk, *Law Advocacy Teams See Unprecedented Success While Preparing Students for Practice*, THE DEN (Oct. 13, 2022), <https://den.mercer.edu/law-advocacy-teams->

The school has continued to add experiential programs, which trace their origin to the legal aid clinic created by Dean Quarles in 1969. They go beyond traditional simulations such as mock trial and moot court and provide work on actual cases. Professor Sarah Gerwig created a Habeas Clinic.²²¹ From there the clinics have multiplied: a Taxpayer Clinic, an Asylum and Human Rights Clinic; and a new one in 2022, a Domestic Violence Clinic. In clinics, the professors supervise the students working on the cases as both lead counsel and professor.

There are also externships, in which students work on cases with law firms, legal organizations, and government offices, with faculty involvement to enhance the learning component of the experience. Those include a Public Defender externship, a Semester in Practice, and a Judicial Field Placement. The two most recent additions to the lineup are a Consumer Bankruptcy externship and a Corporate Counsel externship.

The law school also joined with two initiatives expanding access to legal services in the Macon area: a program with the Atrium Health medical center and Georgia Legal Services to provide counseling to patients in need of legal help; and Middle Georgia Access to Justice, founded by Mercer alum and retired State Court Judge Bill Adams, whose father, Charles F. Adams, had a role in the school's move to Coleman Hill four decades ago.

Joint degree programs and joint-study programs now exist, including a JD-MBA degree with Mercer's Stetson-Hatcher School of Business as well as certificates in corporate finance and practice management—part of a larger goal of “collaboration across the twelve academic units” of Mercer University, said Dean Sneddon.²²² Students in Trial Advocacy, for example, take mock depositions from students at the medical school, which also gives future doctors a chance to experience what it is like to be a witness in a trial.

The financial relationship with the university has been relatively drama-free since Underwood's arrival in 2006. In large measure that is because the university itself has steadily improved its financial strength. In May 2022, the university received an A-rating from Moody's Investors Service on its newest bonds.²²³ Moody's said the upgrade reflects a

see-unprecedented-success-while-preparing-students-for-practice/ [https://perma.cc/9Y7K-UA79].

221. Andrea Honaker, *Habeas Project Helps Prisoners While Giving Mercer Law Students Real-Life Experience*, THE DEN (Oct. 20, 2022), <https://den.mercer.edu/law-clinic-helps-prisoners-while-giving-students-real-life-experience/> [https://perma.cc/G47V-998X].

222. Interview with Dean Karen J. Sneddon, *supra* note 213.

223. Moody's Investor Service, *Rating Action: Moody's upgrades Mercer University, GA to A3 and assigns A3 to revenue bonds; outlook is stable*, MOODY'S (May 12, 2022),

“growing scale of operations, consistently positive operating performance, stable student demand across undergraduate and professional degrees and strong fundraising.”²²⁴

University presidents typically also have a tenured professorship in their academic discipline, and Underwood is a professor of law. He has taken an interest in faculty hiring, to the point of interviewing applicants, and has pressed for further improvements in the passage rate on the bar exam, that crucial final step before a student uses the professional skills that have been a focus for the three years of law school.

Mercer’s twenty-year high was a 95.8% rate on the Georgia exam in 2008, and the rate was 92.7% in 2012. After falling as low as 66.9% in 2016, it regained a rate above 80% in 2019 through the most recent available report in 2021. Mercer’s rates roughly tracked patterns in the statewide and national rate.²²⁵ Still, Mercer has trailed Georgia’s three other university-affiliated law schools in recent years.

Mercer’s challenge at its 150-year milestone is complicated by another general decline nationally in law school applications. The number of applications nationwide in 2021 declined 11%, and in 2022 fell another 14%. Much of the decline, Sneddon said, was in students scoring in a broad swath at the top of the scale on the LSAT, between 160 and 180. That heightens the competition for the best remaining applicants.

LSAT scores have a correlation with passage rate on the bar, and students with an LSAT score below 152 have a bigger challenge in being ready to pass the bar exam. They also require disproportionate resources of the school to overcome that disadvantage. The goal, Sneddon said, is “recruiting that talented class that is ready for law school and providing them support as they are preparing to take the bar exam.”²²⁶

https://www.moodys.com/research/Moodys-upgrades-Mercer-University-GA-to-A3-and-assigns-A3—PR_907697048. The ratings boost is three levels higher, from Baa1 in 2021. Moody’s added: “Mercer’s management credibility and track record, as well as very good financial policy and strategy, reflect the university’s operating discipline and attainment of strategic objectives.” *Id.*

224. *Id.*

225. *Ten-Year Summary of Bar Passage Rates, Overall and First-Time, 2012–2021*, THE BAR EXAMINER, <https://thebarexaminer.ncbex.org/2021-statistics/ten-year-summary-of-bar-passage-rates-overall-and-first-time-2012-2021/> [<https://perma.cc/JSH4-AEBW>]. National averages show a similar pattern at levels about one percentage point below Georgia’s. Dean Sneddon pointed out that the Class of 2020, after two years, had a 92.6% pass rate, far more than the ABA accreditation standard of 75% passage after two years. Telephone Interview with Karen J. Sneddon, *supra* note 213.

226. Telephone Interview with Karen J. Sneddon, *supra* note 213.

Underwood's pressure to improve bar passage rates echoes concerns from alumni. "They call me and are frustrated with the bar results," the dean said, "and it *is* frustrating when bar results come out and don't reflect what Mercer students are capable of."²²⁷ Some alums have stepped in to help by grading practice exams and coaching students at greater risk. The school also hired a bar exam specialist.

Sneddon, Sutton, and the admissions committee also decided not to admit any student in 2022 with an LSAT score below 150, which is considered to put a student at "high risk" of failure to pass the bar. Any effect that cut-off might have had in reducing eventual enrollment was offset by above-average retention of admitted students who were wait-listed at other schools. Mercer's entering class in 2022 had 148 students with a 154 LSAT median. Total enrollment is 377, finally at that 380-student target from the Woodruff Plan.²²⁸

Thirty years after it began, the fundamental concepts of the Woodruff Curriculum remain in place.²²⁹ The curriculum's creative trio would refer to them as skills, knowledge, and values.²³⁰

"Banners on campus say that everyone at Mercer majors in changing the world," Sneddon said.²³¹ The law school today "amplifies the great

227. *Id.*

228. The role of the LSAT, first administered in 1948, continues to evolve. In 2023, accrediting organizations were moving toward relaxation of the LSAT requirement. Schools had already been allowed to use the Graduate Record Exam (GRE) as a substitute. In November 2022, the ABA accreditation body voted to eliminate its requirement in Standard 503 for law schools to use the LSAT or any other standardized test for admitting students, beginning with the fall of 2025. Unchanged was Standard 501, requiring that a law school "only admit applicants who appear capable of satisfactorily completing its program of legal education and being admitted to the bar." The LSAT would be optional for schools. The change awaited approval of the ABA's full House of Delegates. Mercer's Dean Sneddon said the law school is considering its next steps in admission. Since law schools face variability among applicants in the level of rigor behind high grade-point averages, they might seek additional information about the applicant's readiness for law school. The LSAT might still be used for merit scholarships or other narrower purposes, perhaps even to assess students after admission. Mercer's goal, she said, will continue to be to "meet students where they are" to "help each student admitted to Mercer to be successful." Telephone Interview with Karen Sneddon, Feb. 2, 2023, *supra* note 213.

229. See *Curriculum and Catalog*, MERCER UNIVERSITY SCHOOL OF LAW, <https://law.mercer.edu/academics/curriculum/> [<https://perma.cc/Y2SS-K5TV>] (last visited Jan. 10, 2023).

230. Interview with Richard W. Creswell, *supra* note 183. Cf. Jack L. Sammons, "Traditionalists, Technicians, and Legal Education," 38 GONZAGA L. REV. 237 (No. 1), 237, 247-49 (2003).

231. Telephone Interview with Karen J. Sneddon, *supra* note 213.

work of Walter Hill, who thought there needed to be a place in middle Georgia to create lawyers.”²³²

X.

As the law school marks its 150th anniversary in 2023, it has spent almost as much of its life on Coleman Hill as it did in Ryals Hall or in the early years with no building at all. Teaching evolved from Judge Cole’s lectures on *Chitty’s Pleadings* and Walter Hill’s lectures on *Blackstone’s Commentaries* in 1873, evolved again from Langdell’s Socratic case method introduced to the school in the 1920s, and today embraces a richer attention to the development of professional character, to the skills of advocacy, and to engagement in the lives of actual clients through clinical practice.

Memory of Walter F. George has faded. It has been sixty-six years since he left the United States Senate only eight months before he died. No longer does his eminence as a business-friendly senator chairing Senate Finance and Senate Foreign Relations committees draw major benefactors like George Woodruff and John A. Sibley into the gravitational pull of the law school.

The friends of Senator George made a lot happen for the law school at key moments of challenge and opportunity. With their support, the law school caught a wave after World War II, just as others seized opportunities before them and after them—Walter Hill and his co-founders and early colleagues; Emory Speer and his colleagues half a century later who were still working for leftovers from tuition but never faltered in their commitment; Judge Gus Bootle, engaged with the school across multiple generations; Griffin Bell and Bob Steed and their contemporaries who conquered Coleman Hill; and the deans and professors in more recent years who reimagined the school and made it a pioneer in a new way of preparing future lawyers.

As serious as they seemed at the time, the challenges were met with the entrepreneurship that girded the school at its founding, sometimes with capital investment, always with creativity and innovation.

Although Senator George stood apart from the vocal segregationists who held his Senate seat before and after him, the statesman from the Mercer Law Class of 1901 largely avoided engagement in the second Reconstruction that slowly gave effect to the constitutional rights that were often subverted for nearly a century after the Civil War. “It’s a

232. *Id.*

legacy we have to acknowledge,” Sneddon said.²³³ “It’s not all positive, but he lived a life of service, which continues to be an important characteristic of a Mercer lawyer.”²³⁴

Just as the memory of Walter George has faded, so has the visibility of his name. It still is the formal name on the records of the American Bar Association, but it no longer is on the law school’s signage, website, or printed materials. Side by side in a hallway at the law school are photographs of the “Walter F. George School of Law Class of 2017” and of the “Mercer University School of Law Class of 2018.”

There, in that hallway of the stately building known simply as “the law school,” our 150-year journey to Coleman Hill ends in reflection on the past and consideration of challenges and opportunities still to come. To believe the words of some Southern Rock musicians whose first home in Macon was on College Street a couple of blocks away,²³⁵ “the road goes on forever.”²³⁶

233. *Id.*

234. *Id.*

235. 309 College Street, pointed out by Jessica Walden of Rock Candy Tours, <https://rockcandytours.com/> [<https://perma.cc/RMB7-R95N>] (last visited Jan. 10, 2023). See also Duane Allman, <https://www.duaneallman.info/macon.htm> (last visited Jan. 27, 2023). The Allman Brothers arrived in Macon in 1969 under the management of Jessica Walden’s uncle, Phil Walden, and lived in a house there, later torn down. See also “Hippie Crash Pad” *The First Residence In Macon, GA For the Allman Brothers*, ROCK & ROLL ROADMAPS, <https://rockandrollroadmap.com/places/homes-of-rock-and-roll-stars/other-u-s-locations-homes-of-rock-and-roll-stars/hippie-crash-pad-the-first-residence-in-macon-ga-for-the-allman-brothers/> [<https://perma.cc/UN7W-NAKR>] (last visited Jan. 10, 2023).

236. THE ALLMAN BROTHERS, *Midnight Rider*, on THE ROAD GOES ON FOREVER (Capricorn Records 2001). *The Road Goes on Forever* is the title of the Allman Brothers Band’s 1975 album, taken from their song “Midnight Rider,” written primarily by Gregg Allman. It was recorded in the middle of the night at the Capricorn Studio, which was restored four decades later under Mercer’s ownership.