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The State v. Perry: Comparative Newspaper Coverage of South Carolina's Most Prominent Civil Rights Lawyer

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THE *STATE* V. PERRY: COMPARATIVE NEWSPAPER COVERAGE
OF SOUTH CAROLINA'S MOST PROMINENT CIVIL RIGHTS LAWYER

by

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ABSTRACT

This study analyzes news coverage of civil rights lawyer Matthew J. Perry Jr. by the South Carolina's largest newspaper, the (Columbia, SC) *State* at three points in his career as a lawyer, political candidate, and federal judge. At each point, Perry's legal and political work in the African American freedom struggle challenged the boundaries of the socially and politically legitimate in South Carolina and the Deep South. Perry negotiated the way forward with white officials. He helped African Americans achieve access to education, political office, and the administration of justice, and in the process helped reshape the racial caste system in the state. His efforts helped change dominant white supremacist notions of black achievement from being unacceptable to acceptable, and along the way, he himself moved from being a controversial figure to a consensus figure. Perry's political and social commitments remained the same, as did those of the African American freedom movement in South Carolina, but white society changed in response to the demands and persuasions of the movement, and Perry was a key actor in this movement. The *State's* coverage of Perry's legal and political career from the early 1960s through the end of the 1970s demonstrates this change.

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CHAPTER ONE

INTRODUCTION

When Matthew Perry died in 1935, his family paid for a classified advertisement in the city's largest circulation newspaper, the (Columbia, South Carolina) *State*, to announce the funeral service. Seven lines of paid information marked the passing of the World War I veteran, Columbia businessman, and father of three children.¹ Three years later, in 1938, the newspaper published a small news article about a high school choir performance and mentioned the veteran's oldest son, Matthew Jr., a soloist and one of the "cream of the crop" of the high school's choir.²

In 1951, Matthew J. Perry Jr. made *State* news twice in one week when he joined the South Carolina legal bar association. An Associated Press article in June listed all the people who passed the written bar exam and were prepared to join the state bar. A few days later, a staff-written article reported that two African Americans, including Perry, and a woman had passed the written bar exam and identified the lawyers in brief detail. One of the functions of the news media is surveillance for elite readers, and the article alerted members of South Carolina's legal community that the state bar—and the social landscape of the state—was changing.³

¹ "Perry," funeral invitations, *State*, April 7, 1935, 28.

² "Washington High Pupils Present Cantata Today," *State*, April 10, 1938, 40.

³ Beverly Ann Deepe Kever, "The Origins and Colors of a News Gap" in *U.S. News Coverage of Racial Minorities: A Sourcebook, 1934-1996*, eds. Beverly Ann Deepe Kever, Carolyn Martindale, and Mary

By the time Perry filed a federal lawsuit in 1962 seeking Harvey Gantt's admission to Clemson College, the civil rights lawyer had been to jail and to the Supreme Court to defend his clients.⁴ Perry assumed several prominent roles in South Carolina, and the *State* reported about Perry in his various public roles: professional, political, and social.⁵

This study analyzes news coverage of Perry by the *State* at three points in his career as a civil rights lawyer, political candidate, and federal judge. At each point, Perry's legal and political work in the African American freedom struggle challenged the boundaries of the socially and politically legitimate in South Carolina and the Deep South. Perry negotiated the way forward with white officials. He helped African Americans achieve access to education, political office, and the administration of justice, and in the process helped reshape the racial caste system in the state. His efforts helped change dominant white supremacist notions of black achievement from being unacceptable to acceptable, and along the way, he himself moved from being a controversial figure to a consensus figure. What changed? Perry's political and social commitments remained the same, as did those of the African American freedom movement in South Carolina, but white society changed in response to the demands and persuasions of the movement, and Perry was a key actor in this movement. The *State's* coverage of Perry's legal and political career from the early 1960s through the end of the

Ann Weston (Westport, CT: Greenwood Press 1997), 2, citing Harold D. Lasswell, "The Structure and Function of Communication in Society," *The Communication of Ideas* 37 (1948); Associated Press, "36 Men and One Woman to be Admitted to State Bar Friday," *State*, June 10, 1951, 2; "37 Lawyers Are Admitted to SC Bar," *State*, June 16, 1951, 8.

⁴ "Kin of S.C. Prof. Sue to End Hospital Jim Crow," *Chicago Daily Defender*, March 27, 1962, 5; Associated Press, "Bullock Is Granted Stay of Execution: Slaying Case Headed to US Supreme Court," *State*, January 7, 1960, 20.

⁵ Associated Press, "Suit Against Sumter NAACP Enters 2nd Day," *State*, October 5, 1956, 1; Associated Press, "Progressive Democrats Pave Way for Bolt From SC Party," *State*, April 24, 1952, 13; "Negro Leaders Promoting Seal Sale in SC Listed," *State*, December 7, 1952, 33.

1970s demonstrates this change.

Working as a lawyer in the African American freedom struggle from 1951 through 1976, Perry argued court cases for thousands of student activists, parents, teachers, death row prisoners, and other defendants and petitioners. He served as legal committee chairman for the state's National Association for the Advancement of Colored People, preparing and arguing cases and coordinating a mostly volunteer network of lawyers across the state. Perry lost nearly all of those cases in city and county courts but won them on appeal in federal courts, including eleven of twelve in the United States Supreme Court. Several of the cases established precedents, and one of those Supreme Court decisions answered an important question on the First Amendment rights of assembly and petition, establishing an enduring First Amendment precedent cited nearly 100 times in subsequent case law.⁶

The three events of Perry's career cover three important aspects of the African American freedom struggle: education, voting, and justice. The three events highlight Perry's work for his and his clients' access to education, political representation, and the administration of justice in South Carolina. The events in the study are the 1963 entry of the first African American student to Clemson College, Perry's 1974 campaign for the second district seat in Congress, and Perry's 1979 appointment to the federal district court. Those three events required public appearances by Perry, placing him in front of reporters in the traditional roles of courtroom lawyer, congressional candidate, and judge that were accepted and highly regarded by the news media.

Starting in the 1950s, Perry put himself forward and was chosen repeatedly by

⁶ *Edwards v. South Carolina*, 372 U.S. 229 (1963); Robert J. Moore, "Matthew J. Perry's Preparation," in *Matthew J. Perry: The Man, His Times, and His Legacy*, W. Lewis Burke and Belinda Gergel, eds. (Columbia: University of South Carolina Press, 2004), 61-80.

African Americans to represent their interests in court and in public. As a result, Perry was continually a forerunner, the representative of his race chosen by white institutional officials to speak for African American interests. Perry's actions challenged the *State* and its editors in how to represent the lawyer. Published in the capital city, the *State* remained South Carolina's largest newspaper and one of three identified informally as ideological leaders for most other newspapers in the state during the events studied.⁷ The newspaper's circulation increased through the decades of Perry's career, reaching 125,000 copies on Sundays in 1975. The privately owned newspaper remained in the hands of the founders' descendants, and the news and business executives often worked closely behind closed doors in the 1960s and 1970s with city and state leaders to control news about racial or economic development events and plans.⁸ The newspaper adhered to the news industry's ethical and professional standards, and one of the newspaper's editors served on the Pulitzer Prize jury.⁹ The *State* employed about 100 reporters, editors, and others in the newsroom. The newspaper maintained a self-defined conservative editorial page, whose editors objected to the federal government's school desegregation orders.¹⁰ The *State* was also the most widely read newspaper among African American professionals and activists in the 1960s.¹¹

The study examines the *State* newspaper coverage of Perry during three important events in his career and compares it with the coverage of other newspapers. The *State*,

⁷ Robert A. Pierce, *Palmettos and Oaks: A Centennial History of The State* (Columbia, S.C.: State-Record Co., 1991); Andrew McDowd Secrest, "In Black and White: Press Opinion and Race Relations in South Carolina, 1954-1964" (doctoral dissertation, Duke University, 1972); S.L. Latimer Jr., *The Story of The State 1891-1969 and the Gonzales Brothers* (Columbia, S.C.: The State-Record Co., 1970).

⁸ *Ibid.*, 209.

⁹ *Ibid.*, 248; Charles H. Wickenberg to John Hohenberg, 13 May 1974. Charles H. Wickenberg and Family Papers, South Carolina Political Collections, University of South Carolina.

¹⁰ Pierce, 237.

¹¹ Charles F. Behling, "South Carolina Negro Newspapers: Their History, Content, and Reception" (master's thesis, University of South Carolina, 1963).

however, is the focus of the news coverage analysis because the *State* was not only the highest circulation newspaper in the state but also a continuous presence from Perry's youth through his death. For coverage comparisons, the study uses several newspapers. The *Baltimore Afro-American*, a historically important black newspaper with an advocacy tradition and a substantial circulation in South Carolina, is an important point of comparison for all three events examined in this study. For the first event in 1963, the *New York Times* allows a comparison with a progressive, agenda-setting, white-owned newspaper with a large national circulation. For a second event in 1974, two alternative newspapers in Columbia provide two perspectives distinctly different from the *State*. For the third event in 1979, the alternative newspapers had ended, and the city's evening newspaper, the *Record*, provided a different perspective on events, although not a dramatically different perspective, because it was owned by the same company, operated in the same building, and shared many of the same staff.

I. THE MAN: MATTHEW PERRY

Perry was born on August 7, 1921, in Columbia.¹² After his father died in 1935, Perry's family lived in Columbia with his grandfather and step-grandmother. Perry graduated from Columbia's Booker T. Washington High School in 1939 and attended South Carolina State College until drafted into the U.S. Army in 1942.

In the Army, Perry experienced discrimination, and the memory stayed with him. Traveling by train on a leave from Army training, Perry had to eat a train station meal outside in the cold while an Italian prisoner of war sat inside, warm, well-fed, and flirting

¹² Perry corrected his birth date from August 3 in a background investigation interview with the FBI in 1979. FBI report in author's possession.

with waitresses. After World War II ended, Perry returned to Columbia, but before returning to finish his degree at South Carolina State College, he attended two landmark court civil rights trials in federal court in Columbia. At the trial, he saw the NAACP's Thurgood Marshall argue the winning side of both cases. Perry later recalled that Marshall's performance steered him toward law, so after finishing his business administration degree in 1948, he earned a law degree. Perry attended the new, segregated law school at South Carolina State College that Marshall's court case had helped create. Perry was in the second class of the law school but the first required to take a law exam to earn admission to the state bar. As a result, Perry became the first black South Carolinian to pass the law exam. He opened a solo practice in Spartanburg, South Carolina, in 1951 at the recommendation of relatives. There he learned how to practice in segregated courtrooms before racist judges. While he worked to build his practice, his wife Hallie supported the couple on her teacher's salary. He also started doing volunteer legal work and speaking engagements for the National Association for the Advancement of Colored People (NAACP), the organization of his hero, Thurgood Marshall. In 1961, he moved back to Columbia to share offices with childhood friend and fellow civil rights lawyer Lincoln C. Jenkins Jr. Perry also agreed to become formally the legal committee chairman of the NAACP state conference of branches state conference. In that role, he emulated Marshall in building a statewide network of mostly volunteer civil rights lawyers and organized the legal defense of an estimated 7,000 people in civil rights cases. During the 1960s and early 1970s, Perry served on the national NAACP board of directors and in a number of other prominent roles with the organization.¹³

¹³ Robert J. Moore, "Matthew J. Perry's Preparation," in *Matthew J. Perry: The Man, His Times, and His Legacy*, W. Lewis Burke and Belinda Gergel, eds. (University of South Carolina Press: Columbia, 2004),

Shortly after graduating from law school and establishing his practice, Perry accepted the role of “representing the race,” a model created by pioneering black lawyers outside the South.¹⁴ It was a role he aspired to for both personal and social reasons. Appearing in the courtroom gave Perry the venue “to cross racial lines like few other African Americans could.”¹⁵ In the courtroom, the black civil rights lawyer was “both radical and respectable” at the same time, a description that fit Perry like the suits he wore. As historian Kenneth Mack has written, “White observers invariably viewed his (the black civil rights lawyer’s) performance as courteous and respectful, even when he was telling the county’s patrician leaders, face to face, that they were perpetuating a system of white supremacy.”¹⁶ Perry’s network of civil rights lawyers responded to plaintiffs and defendants in civil and criminal cases, building legal cases in the trial court with precise, assertive questions. Historian Mack observed that in a Southern city the number of black lawyers was “always an index to the strength of black citizenship claims.”¹⁷ Like other black civil rights lawyers in mid-century America, Perry “encapsulated the highest aspirations of his racial or cultural group, in terms of education, professional advancement, and intellectual ability. The very existence of such persons was a potent argument for inclusion of marginalized peoples in the larger fabric of American life.”¹⁸

61.

¹⁴ Kenneth Mack, *Representing the Race: The Creation of the Civil Rights Lawyer* (Cambridge, MA: Harvard University Press, 2012), 4.

¹⁵ *Ibid.*, 5.

¹⁶ *Ibid.*, 90.

¹⁷ *Ibid.*, 27.

¹⁸ *Ibid.*, 4.

II. THE EVENTS: CLEMSON, CONGRESS, AND THE COURT

1963: CLEMSON

In 1963, South Carolina remained the only state in the nation to maintain segregated state colleges. Charleston honor student Harvey Gantt sought admission to Clemson College and its new, highly rated architecture program starting in late 1960.¹⁹ He wasn't the first or the only African American to seek admission by 1963, but with Matthew J. Perry Jr., and national NAACP Legal Defense Fund lawyers representing him, Gantt was the first to succeed, entering the college on January 28, 1963, with Perry as his only companion.²⁰ The college and state government appealed all the way to the U.S. Supreme Court to deny Gantt entry. The event was climactic legally because Gantt's case was classified as a class action lawsuit by federal courts, opening all South Carolina college doors to African American students seeking entry. As the departing governor, Ernest "Fritz" Hollings, told a joint session of the legislature in January 1963, the state had "run out of courts" to resist the entry.²¹

Gantt's admission to Clemson carried significance nationally because his campus arrival came less than four months after James Meredith's entry to the University of Mississippi, where the National Guard, reporters, and federal officials were met with white rioting that resulted in two deaths and more than 200 injuries.²² The violence of Mississippi served as the backdrop for all involved, and as the NAACP's Field Director I.

¹⁹ H. Lewis Suggs, "Harvey Gantt and the Desegregation of Clemson University, 1960-1963," in *Integration with Dignity: A Celebration of Harvey Gantt's Admission to Clemson*, ed. Skip Eisminger (Clemson, S.C.: Clemson University Digital Press, 2003), 1-28.

²⁰ Orville Vernon Burton, "Dining with Harvey Gantt: Myth and Realities of 'Integration with Dignity,'" in *Matthew J. Perry: The Man, His Times, and His Legacy*, eds. W. Lewis Burke and Belinda Gergel (University of South Carolina Press: Columbia, 2004), 183-220.

²¹ Charles H. Wickenberg, "Hollings: Integration May Test Courage of S.C.," *State*, January 10, 1963, 1A.

²² Gene Roberts and Hank Klibanoff, "Ole Miss," in *The Race Beat: The Press, the Civil Rights Struggle, and the Awakening of a Nation*, (New York: Alfred A. Knopf, 2007), 270-300.

DeQuincey Newman and Gov. Hollings separately observed, South Carolina had white people prepared to resist desegregation with violence if permitted or encouraged.²³

Perry represented Gantt in his case from the start, and Perry drafted letters for Gantt, filed lawsuits, compiled evidence, spoke in court for him, and drove Gantt to campus. Gantt's arrival at Clemson drew more than 150 national and state news reporters and camera operators. The state government made use of the South Carolina-based white newspapers to broadcast its message of submission to the court ruling and even tried to use the legislature to control news coverage. The *State* newspaper minimized Perry's presence and his role in its pages, identifying the lawyer only when he argued a case in court or met in public with white government officials and never featuring him or a lengthy statement by him. At the time, newspapers remained an influential news medium in America and in South Carolina. Television had not yet eroded the newspaper's circulation or importance.²⁴

1974: CAMPAIGN FOR CONGRESS

In 1974, the issue of who could represent South Carolinians in legislatures remained a battleground. That year, nine years after the landmark federal Voting Rights Act outlawed discriminatory election practices, South Carolina had three African American state representatives among the 124 House seats, no state senators, no U.S.

²³ Jack Bass and Walter De Vries, *The Transformation of Southern Politics: Social Change & Political Consequence Since 1945*, (Athens, Georgia: The University of Georgia Press, 1995).

²⁴ Laura J. Miller and David Paul Nord, "Reading the Data on Books, Newspapers, and Magazines: A Statistical Analysis," in *A History of the Book in America*, Vol. 5, *The Enduring Book: Print Culture in Postwar America*, eds. David Paul Nord and Joan Shelley Rubin, David D. Hall, and Michael Schudson (Chapel Hill: University of North Carolina Press, 2009), 503.

representatives, and no U.S. senators.²⁵

In his role as the state NAACP legal committee chairman, Perry pursued voting rights court cases to bring the federal law into effect at the state and municipal levels in South Carolina, one of seven states placed under special federal oversight in the Voting Rights Act. One of Perry's cases, *Stevenson v. West*, reached the U.S. Supreme Court in 1973.²⁶ The Court's decision in *Stevenson v. West* removed another apparatus obstructing African Americans' path to election. Specifically, the decision required South Carolina to change from at-large election of legislators to single-member districts. That change led to a "dramatic increase" in African American legislators elected to the state House from three in 1970 to thirteen in 1974.²⁷ The case was the last major civil rights court case that Perry pleaded.

After Perry's latest victory, Democratic Party leaders again approached Perry to run for office, as they had since the 1960s. He agreed to campaign for the state's second congressional district seat. Nationally, the political backdrop to the 1974 election was Watergate, the scandal that drove President Richard Nixon to resign from office and disgraced the Republican Party. The election appeared to bode well both for Democrats nationally and for African Americans in South Carolina.

Perry had already represented South Carolina Democrats nationally, serving on the party's national committee in 1968 at the Chicago convention.²⁸ He won the Democratic primary for the second congressional district seat over Cole Blease Graham,

²⁵ W. Lewis Burke, "All We Ask is Equal Rights": African-American Congressmen, Judges and Lawmakers in South Carolina, website, University of South Carolina School of Law, accessed http://law.sc.edu/equal_rights/.

²⁶ *Stevenson v. West*, 413 U.S. 902 (1973).

²⁷ Robert G. Liming, "S.C. GOP Loses 4 Seats: Blacks Triple Strength," *State*, November 7, 1974, 1D.

²⁸ "South Carolina Delegation **Will** Add Two Negroes," *New York Times*, September 16, 1968, 36.

a political science professor at the University of South Carolina. Graham withdrew late in the primary campaign, saying he refused to run a racist campaign to win, and then endorsed Perry in the general election. Perry eventually lost in the general election to Republican Floyd Spence Jr., the incumbent, who joined the white conservative flight to the Republican Party in the 1960s.²⁹

Perry's campaign was freighted with significance, and the heaviest of those, as always, was race. Anti-civil rights Republicans had taken the second district seat in 1965 and held onto it through three elections. The campaign for Congress was another front in South Carolina's struggle for full access to voting rights and political representation, and Perry ran for Congress to represent the second district's entire population, white and African American, Republican and Democrat, after representing civil rights clients in court for more than two decades.

How the *State* and the other newspapers covered Perry's campaign and possible representation of the district are significant because he was a nationally known person and would have been the first African American South Carolinian House member since 1897.

1979: FEDERAL COURT

The September 22, 1979, swearing in of Matthew Perry to the United States District Court in Columbia cemented Perry's move into the judiciary and out of direct civil rights legal advocacy. Perry joined the federal judiciary in 1976, serving three years on the United States Military Court of Appeals in Washington, D.C. The military court appointment carried a term limit, and Perry was appointed to fill an unfinished term. He

²⁹ "Rep. Spence Re-Elected," *State*, November 6, 1974, 1A.

thus could have served no more than six years.³⁰ The district court appointment, by contrast, carried a lifetime term. The timing of the appointment to the new court made him the chief judge. Perry served for 16 years, from 1979 to 1995, and then in senior status for the final 16 years of his life, until his death in 2011. His appointment also marked the conclusion to a decade of speculation and behind-the-scenes consideration of Perry for federal court positions.

Perry's position on the federal court was another landmark event in South Carolina history: Perry was the first African American to serve on the federal court in the state and was one of several prominent African American lawyers appointed to the bench at any level in the state. Perry's appointment signaled a prominent change: African Americans were finally gaining access to the administration of justice in South Carolina, after centuries of being considered by white society to be a class of people unworthy of authority positions. Perry experienced in person the denial of justice to his clients for decades in the state; now he held the scale of justice in his hands.

Perry's appointment was also significant on the national political scene. He was only the second African American appointed to the federal judiciary in the Deep South, joining the district court only months after an appointee in Louisiana.³¹ This fact made Perry's appointment national news, and national and state newspapers covered it. Finally, Perry's appointment to the federal district court holds a particular interest in South Carolina because of the political dynamics and the involvement of two prominent state

³⁰ Jack Bass and Marilyn W. Thompson, *Strom: The Complicated Personal and Political Life of Strom Thurmond*, (New York: Public Affairs, 2005), 242; United States Court of Appeals for the Armed Forces website, <http://www.armfor.uscourts.gov>.

³¹ "Both La. Senators Urge Ford to Name Black Judge," *Baltimore Afro-American*, October 25, 1975, 1.

politicians in his appointment: Strom Thurmond and Ernest Hollings.³²

All of these factors combine to make the news coverage of Perry's appointment important to examine. What makes the coverage significant is that the appointment came as the politics of electoral and judicial representation were still playing out in the South Carolina, following the Voting Rights Act of 1965. Just as South Carolina had delayed obeying the Supreme Court's 1954 order to desegregate schools for a decade, so the state delayed following the one person, one vote rule for nearly two decades following the 1965 law. Perry had just won one lawsuit to remedy state Assembly elections, and a second lawsuit to remedy state Senate elections was pending in the courts. This second case was won by Perry's NAACP legal successor John Roy Harper II a decade later, in 1983.³³ How the *State* in particular represented the man assuming judicial power in the state and interpreted his appointment provides a telling portrait of white public opinion in South Carolina responding to significant political and social contestation.

III. TWO MODELS OF MEDIA INFLUENCES

SHOEMAKER AND REESE: INFLUENCES ON NEWS CONTENT

Pamela J. Shoemaker and Stephen Reese developed a model of influences on news content. Rather than asking the traditional communication research question about the influence of content on the audience, Shoemaker and Reese asked about the

³² By Senate custom, the senator of the same party as the president recommends a person for judicial appointment. Republican Thurmond recommended Perry to President Gerald Ford in 1975, and Democrat Hollings recommended Perry to President Jimmy Carter in 1979. The FBI background investigation of Perry before his district court appointment appears to show that Thurmond did not approve of Perry's nomination to district court. Later, in 1984, Thurmond and Hollings had a public dispute over the South Carolina lawyer to recommend for the Fourth Circuit Court of Appeals. Hollings recommended Perry, but Thurmond opposed Perry and recommended Emory Sneed.

³³ *McCollum v. West*, C.A., No. 71-1211 (D.S.C., 1983).

influences on the content itself before publication.³⁴ Their hierarchy of influences conceptualizes five levels of influences on news content: 1) individuals, 2) routine practices, 3) media organizations, 4) social institutions, and 5) social systems. The model serves as a guide to exploring media content as a social construction, one fabricated by people and embedded in institutions as self-evident and the natural order. As the authors explain, “If content is a construction, then to understand its special quality it is essential to understand the ‘constructing.’”³⁵

The Shoemaker and Reese model explains why the *State* adopted the militantly conservative position on the African American freedom struggle that it did. Shoemaker and Reese built their media sociology model in part on J. Herbert Altschull’s contention that “mass media content reflects the ideology of those who finance the media,” and in most American newsrooms that means a mix of funding by “advertiser, audience, and owner.”³⁶ In the Shoemaker and Reese model, ownership trumps all other forms of influence on news content: “For all media, the ultimate power lies in ownership.”³⁷ At the *State*, descendants of the plantation-raised founders continued to own and oversee the company until the 1986 sale to the Knight-Ridder newspaper chain. Internal correspondence from the 1960s and 1970s shows that President and Publisher Ambrose Hampton met routinely with editors and at times gave them detailed directions on how to

³⁴ Pamela J. Shoemaker and Stephen D. Reese, *Mediating the Message in the 21st Century: A Media Sociology Perspective*, (New York: Routledge, 2014), 4-5.

³⁵ Shoemaker and Reese, *Mediating the Message in the 21st Century*, 4.

³⁶ Shoemaker and Reese, *Mediating the Message in the 21st Century*; Pamela J. Shoemaker with Elizabeth Kay Mayfield, “Building a Theory of News Content: A Synthesis of Current Approaches,” *Journalism Monographs*, 1987, 6-44.

³⁷ Shoemaker and Reese, *Mediating the Message in the 21st Century*, 151.

handle stories involving high profile news issues such as racial protest and nuclear policy.³⁸

In the Shoemaker and Reese model, even that ownership power to influence media content is moderated by other influences. Shoemaker and Reese propose that a network of influences — on the social, industry, newsroom, and individual levels — affect media content. The industry, newsroom, and individual level influences appear to account for use of professional standards of objectivity and neutrality in the news coverage of Perry.

HALLIN: SPHERES OF SOCIAL CONSENSUS, LEGITIMACY, AND DEVIANCE

While Shoemaker and Reese's theory explains influences on the *State* coverage at specific times, political scientist Daniel C. Hallin's theory explains coverage changes over time. Hallin describes three spheres of media coverage and public discourse in which journalists view events: the spheres of consensus, legitimate controversy, and deviance. The spheres are concentric with the sphere of consensus in the center. The sphere of consensus is the region of assumed agreement where journalists do not need to look for competing interpretations or ideas. The sphere of legitimate controversy is the second sphere and is the region of competing ideas and where journalism provides its greatest value in a democracy. Journalists seek out competing views and all sides of a controversy. The third, and outer, sphere is deviance. In the outmost sphere are the ideas, people, and groups that are understood to be unacceptable and beyond legitimate consideration. When the Federal Communications Commission explicitly banned

³⁸ In example, Henry F. Cauthen to Charles Wickenberg, 18 July 1963, box 2, correspondence, general, 1963 folder, Wickenberg Papers; Harry R.E. Hampton to the editors of the *State*, 20 January 1973, box 2, correspondence, general, 1973-1978 folder, Wickenberg Papers.

Communists from the Fairness Doctrine, which required political balance on television, it understood this group as existing within the sphere of deviance.³⁹ Hallin's spheres explain how journalists reach coverage decisions about people and groups, such as Perry and his NAACP legal work, at specific points in time. Hallin's theory also provides a framework for understanding how coverage of a topic or person changed over time.⁴⁰ Because the *State* newspaper covered Perry over time more consistently than any other newspaper, Hallin's theory of spheres makes a useful framework through which to consider the changes in the newspaper's coverage over time. Comparing the *State's* coverage with that of the other newspapers in the study provides another perspective on the newspaper's choices. Perry helped make social and legal change possible in South Carolina by taking on controversial cases and issues. Perry and his clients forced the issues into the courts, and that forced the issues onto the public agenda, and, as a result, onto the agenda of the *State* and other newspapers. How the coverage changed in the *State* over the two decades of events examined in this study, and changed in relation to the other newspapers in the study, shows the persistence of white favoritism and evidence of continued activism in the freedom struggle, or the "long civil rights movement," in South Carolina.⁴¹

The challenge to segregation and inequality was a challenge to white supremacist notions of race and racial differences. In South Carolina, racial differences were "taken-for-granted knowledge" and encoded in law and custom, and white lawyers played a

³⁹ Ibid.

⁴⁰ Daniel Hallin, *We Keep America on Top of the World: Television Journalism and the Public Sphere*, (New York: Routledge, 1993), 53-4.

⁴¹ Jacquelyn Dowd Hall, "The Long Civil Rights Movement and the Political Uses of the Past," *The Journal of American History* 91 no. 4 (March 2005), 1233-1263.

substantive role in building and reinforcing racial differences and barriers to equality.⁴² Like preceding civil rights lawyers, Perry demonstrated by “performances inside the courtroom . . . the fragility of racial boundaries in a nation committed to maintaining them. . . . Even in the era of segregation, racial identity could be fluid and malleable. It was often determined by who had access to public space and what kinds of things they could do and say once they got there.”⁴³ Newspapers were places of reinforcement and provide the materials for that fabrication. Perry challenged the meanings that the courts, the legislature, and the newspaper constructed about race.

The same issues that Perry and the network of civil rights lawyers contested in courts and other public forums remain matters of legitimate controversy in South Carolina. Just as Perry, Jenkins, and others argued for equal access to education at Clemson in 1963, for access to political office in Congress in 1974, and for a seat on the federal courts to administer justice equally in 1979, those issues of access to education, political office, and justice remain in debate in 2014.

⁴² Peter L. Berger and Thomas Luckmann, *The Social Construction of Reality: A Treatise in the Sociology of Knowledge*, (New York: Doubleday and Company, 1966), 1-17; Mack, 7.

⁴³ Mack, *Representing the Race*, 7-8.

CHAPTER TWO

GANTT V. CLEMSON: OPENING ARGUMENT

I. INTRODUCTION

When civil rights lawyer Matthew Perry met honor student Harvey Gantt in April 1960 for the first time, he met Gantt like he did hundreds of other South Carolina students in 1960: after a police arrest for a civil rights demonstration. Supported by socially active parents, Gantt helped lead an April 1960 sit-in demonstration at the S.H. Kress and Company department store in downtown Charleston, a month after a wave of sit-ins in Columbia, Greenville, Orangeburg, and Rock Hill. The two dozen high school students refused to leave without being served food, even when a bomb threat was called into the store.⁴⁴ As the state NAACP's legal committee chairman, Perry represented the students at their first hearing six days later. At the hearing, 150 supporters of the students packed the small, police station courtroom. Years later, Gantt remembered with clarity meeting Perry, who was famous among South Carolina students for his calm, commanding presence in the tense legal settings the students created with marches and demonstrations. Gantt introduced himself and told Perry of his interest in attending South Carolina's Clemson College to study architecture. That partnership between Perry and Gantt eventually opened the state's colleges and universities to all South Carolinians. The

⁴⁴ "24 Negroes Arrested After Charleston Sitdown," Associated Press, *State*, April 2, 1960, 14.

partnership, in turn, influenced the way the *State* newspaper reported on the African American freedom struggle.⁴⁵

The emphasis is on the *State*'s coverage of Perry — in this chapter Perry's legal work on behalf of Gantt's admission to Clemson — and the study compares the *State*'s coverage with that in available local and national African American newspapers and the *New York Times* to bring into focus the dominant newspaper's perspective. The comparison also will provide a more textured account of the events while highlighting exclusions in *State* coverage. Finally, the comparison will show the competing perspectives circulating in a Deep South city in which citizens were struggling for — and against — wider opportunities for African Americans in education.

II. TOPIC AND SIGNIFICANCE

Harvey Gantt's lawsuit to end Clemson College's racial segregation policy highlighted South Carolina's persistent support of white privilege. The college had planned for the admission of African American students for more than a decade, but the state government did not require the college to integrate, so the school never implemented the plan.⁴⁶ Quite the opposite, the government established a legislative committee to maintain segregation once a federal desegregation case, *Briggs v. Elliott*, was filed by parents in Clarendon County, South Carolina.⁴⁷ The *Briggs v. Elliott* case

⁴⁵ "Matthew J. Perry Jr.," in *Toward the Meeting of the Waters: Currents in the Civil Rights Movement of South Carolina during the Twentieth Century*, Winfred B. Moore Jr., and Orville Vernon Burton, eds. (University of South Carolina Press: Columbia, 2008), 351.

⁴⁶ H. Lewis Suggs, "Harvey Gantt and the Desegregation of Clemson University, 1960-1963," in *Integration with Dignity: A Celebration of Harvey Gantt's Admission to Clemson*, ed. Skip Eisminger (Clemson University Digital Press: Clemson, S.C., 2003), 17.

⁴⁷ *Briggs et al. v. Elliott et al.* 342 U.S. 350 (1952). The Supreme Court sent the case back to district court for rehearing and eventually combined it with four other cases in the 1954 *Brown v. Topeka (KS) Board of Education* 347 U.S. 483 (1954) decision.

from Clarendon County was arguably the central case of the five heard together and decided as *Brown v. Board of Education* in 1954.⁴⁸ Gantt's lawsuit raised the issue of minority student access to equal education and the economic opportunities that come with education. Gantt's lawsuit also raised race as an issue when Southern states were resisting social integration legally, politically, and with violence. Gantt's status as an in-state honors student with a strong record in a comparable program pointed up the only reason for Clemson's discrimination against him.

The larger topic of this chapter is equal access to education in the Deep South as American educational, legal, legislative, and media institutions adapted to the increased activism of students in the early 1960s. South Carolina students — including Harvey Gantt — led sit-in demonstrations in greater numbers than in any other state, and their efforts led to three landmark legal precedents by the United States Supreme Court.⁴⁹ The narrow topic is newspaper representation of Perry's 1962-1963 legal efforts on Gantt's behalf. I compare newspaper coverage of Perry's work to examine how the mainstream newspaper the *State* represented an African American civil rights lawyer, his client, and their cause to the public. That representation was important, because the newspaper's coverage and identification of Perry would influence white readers' perception of and response to social change.

Newspapers interpret events for readers and influence public opinion and interpretations of events. In American law, newspapers occupy a favored place and can influence public opinion toward equality and inclusion of marginalized groups or toward

⁴⁸ Patricia Sullivan, *Lift Every Voice: The NAACP and the Making of the Civil Rights Movement*, (New York: The New Press, 2009), 403-404.

⁴⁹ *Edwards v. South Carolina*, 372 U.S. 229 (1963); *Peterson v. City of Greenville*, 373 U.S. 244 (1963); *Bouie v. City of Columbia*, 378 U.S. 347 (1964).

the protection power and privilege of elites. In reference to equal access to education, those choices often influence how the state addresses enduring problems of resource allocation. Those issues were especially salient in South Carolina in the 1960s, nearly a decade after the Supreme Court's *Brown* ruling ordering an end to segregation. I identify two issues as the most important in the news coverage: 1) how the *State* and other newspapers treated the issue of race, which underlay all politics in South Carolina, and 2) the issue of minority access to education.

Gantt's successful case carries additional, enduring significance in South Carolina, because the media created a phrase to describe his admission — “integration with dignity” — that white officials adopted and the media, in turn, attributed to white officials. I will discuss the construction in detail later in the chapter, but Clemson, elected officials, historians, and journalists continued to use on the fiftieth anniversary of Gantt's enrollment.

Further, my interpretation is that Perry's work was instrumental in South Carolina's relatively less violent desegregation. The thousands of African American South Carolinians who participated directly in civil rights era protests faced violence, bloodshed, death.⁵⁰ Other, structural reasons for South Carolina's experience have been forwarded, but the particular, historical circumstances in South Carolina at the time provide evidence for other reasons for relatively less violence. Perry was involved in virtually every significant civil rights court petition in the state from 1951 through

⁵⁰ On March 5, 1961, Lenny Glover was attacked and stabbed at midday in downtown Columbia. His white attacker, who was verbally harassing Glover and another student before the attack, was allowed to escape and police never identified or arrested him. Glover suffered a critical wound but recovered to participate in more civil rights demonstrations. “Negro College Student Stabbed by White Man,” *State*, March 7, 1961, 1B.

1975.⁵¹ With his impeccable appearance and controlled demeanor, Perry exemplified how a black lawyer in the courtroom could be both “radical and respectable” in the same moment.⁵² Perry’s impressive courtroom performances and his legal successes — winning 12 of 13 cases argued before the U.S. Supreme Court and others decided on the precedents established in those cases⁵³ — offered African Americans a realistic channel for voicing their grievances and achieving victories in the freedom struggle. Perry’s successes also constrained the choices of the state government. White officials who professed a belief in the rule of law had few options once Perry and his civil rights colleagues had appealed cases to the United States Supreme Court and won. Faced with Perry’s brilliant courtroom tactics and execution of NAACP legal strategy, the state government faced the options of either defying federal law or encouraging unofficial white violence in resistance to the social changes mandated by the courts.

III. NEWSPAPERS

Of the national African American newspapers distributed in South Carolina, the *Baltimore Afro-American* had the largest circulation with a reported 10,000 copies in the early 1960s. The newspaper published an edition zoned for the region, including the state, and the *Afro-American* had five correspondents reporting news from Charleston to Spartanburg in the early 1960s. Although the newspaper had declined in circulation from

⁵¹ As a lawyer, Perry represented the Progressive Democratic Party in the early 1950s and the United Citizens Party in the 1970s; the state NAACP at least as early in 1955; Sarah Mae Flemming Brown in her civil rights case that established the legal precedent for Rosa Parks’s Montgomery bus boycott victory; students in landmark civil rights cases of 1960 and 1961; families of Orangeburg Massacre victims of 1968; death row prisoners; and thousands of other defendants and plaintiffs.

⁵² Mack, *Representing the Race*, 90.

⁵³ Robert J. Moore, “The Civil Rights Advocate,” in *Matthew J. Perry: The Man, His Times, and His Legacy*, W. Lewis Burke and Belinda F. Gergel, eds., (Columbia, S.C.: University of South Carolina Press, 2004).

230,000 copies in 1943 to 145,000 in 1963, it had maintained a larger distribution than either of the more famous national African American newspapers, the *Chicago Defender* or the *Pittsburgh Courier*. The “Afro” remained a key source of news for South Carolina’s African American readers.⁵⁴ The newspaper also covered Perry more extensively than the other newspapers.

The *New York Times* recognized the importance of “the race beat” in the American South, devoted and as a result covered Perry’s civil rights work throughout his career.⁵⁵ The progressive, national newspaper covered the rights struggle in the South starting in the 1950s with its own reporters rather than relying on wire service reports.⁵⁶ Published in a northern city, the *Times* was insulated from the many of the social and financial pressures that some Southern editors cited as inhibiting coverage of the freedom struggle.⁵⁷ The *Times* didn’t have to rely on Southern businesses for advertising or on Southern readers for circulation, the pillars of newspaper revenue, and its reporters didn’t face the social and political censure from white supremacist officials and readers.

The central newspaper in the study, the *State* was published in Columbia, Perry’s hometown and his residence from 1961 through 2011 excepting a term from 1976 to

⁵⁴ Accessed through the ProQuest Historical Newspapers database at the University of North Carolina’s Davis Library, the *Baltimore Afro-American* digital archive containing articles from 1893 through 1988 returned 88 unduplicated news items about or mentioning “Matthew Perry” or “Matthew J. Perry.” None of the other three national African American newspapers covered Perry as extensively: the *New York Amsterdam News* (archive covering 1922-1993 returned 23 unduplicated articles), the *Pittsburgh Courier* (archive covering 1911-2002 returned 20 unduplicated news items), and the *Chicago Defender* (archive covering 1910-1975 returned 11 unduplicated news items).

⁵⁵ Gene Roberts and Hank Klibanoff, *The Race Beat: The Press, the Civil Rights Struggle, and the Awakening of a Nation* (New York: Random House, 2008); accessed through the ProQuest Historical Newspapers database at the University of North Carolina’s Davis Library, the *New York Times* digital archive containing articles 35 unduplicated news items about or mentioning Matthew Perry or Matthew J. Perry.

⁵⁶ Roberts and Klibanoff, “New Eyes on the South,” in *The Race Beat*, 184-207.

⁵⁷ Buford Boone, “Southern Newsmen and Local Press” in *Race and the News Media*, ed. Paul L. Fisher and Ralph L. Lowenstein, (New York: Frederick A. Prager, 1967).

1979 in Washington, D.C. The newspaper also was the primary newspaper in the state's capital, giving it a prominence as the newspaper of record in the capital city.

Three sons of a Cuban immigrant and plantation owner founded the newspaper in 1891. Brothers Ambrose, Narciso, and William Gonzales started the newspaper in Columbia. As was typical of the era, the newspaper had political affiliations from the start. Democratic politicians urged the two older brothers, Ambrose and Narciso, to found a Democratic daily newspaper in the state capital. The newspaper identified itself as liberal, but a later editor noted that the brothers and their paper were ideologically identified with the conservative faction of the Democratic Party rather than the reform faction of the party. Similarly, in the mid-twentieth century, the newspaper identified itself as the state's progressive newspaper, but the company meant to emphasize a progressive approach to economic development rather than politics.⁵⁸

IV. BACKGROUND

When Gantt petitioned the court for admission in mid-1962, only three states — Alabama, Mississippi, and South Carolina — still resisted the U.S. Supreme Court's landmark *Brown v. Board of Education* ruling to desegregate education. In the fall of 1962, as Gantt's case moved through proceedings in South Carolina and Virginia, the state of Mississippi created a fatal debacle with its refusal to accept and protect James Meredith's entry to the flagship school, Ole Miss. Two people were killed and more than 100 U.S. marshals were wounded when white resistance rioters turned the campus into a battleground at news of Meredith's nighttime arrival.

⁵⁸ Pierce, *Palmettos and Oaks*, 15; Secrest, "In Black and White," 431.

At the same time that Gantt's lawsuit was moving through the federal courts, the *State* made substantive personnel changes in its newsroom. The newspaper also announced a shakeup of its newsroom leadership. Long-time editor Samuel L. Latimer Jr., retired in 1961 after 20 years of managing the newsroom, ending a "long, placid era" in the newsroom.⁵⁹ During that "placid" approach to news coverage, the *State* covered out-of-city events with Associated Press copy, and in 1960 even covered the legislature in Columbia with wire copy.⁶⁰ The newspaper named Henry Cauthen editor and Lloyd Huntington executive news editor, a new position to manage both the morning *State* and the evening *Record* newsrooms. As this thesis will show, two other editors hired during 1962 would influence the newsroom for the next two decades.

In the first of the two notable changes, Charles H. Wickenberg Jr., joined the staff as the governmental affairs editor. Before joining the *State*, Wickenberg ran the *Charlotte Observer's* Columbia bureau, and his work at the state capitol for the competing newspaper forced the *State* to cover the legislature with staff rather wire service copy. A South Carolina native, Wickenberg was highly regarded in the *Observer's* parent company, Knight Newspapers, and his hiring was well received in political circles. Then-state representative Robert E. McNair wrote to Wickenberg, "They have certainly needed someone for a long time that knew enough about what was going on to head up this department for these two newspapers."⁶¹ In his new position at the *State*, Wickenberg covered Gantt's case in person. He traveled to Washington, D.C., to cover appeals to the Fourth Circuit and the U.S. Supreme Court. Wickenberg wrote long, detailed articles and

⁵⁹ Pierce, Palmettos and Oaks, 194.

⁶⁰ Jack Claiborne, *The Charlotte Observer* (Chapel Hill: University of North Carolina Press, 1986), 267.

⁶¹ Robert E. McNair, state representative, to C. H. Wickenberg, 5 September 1962, Wickenberg Papers.

frequently contributing what the newspaper labeled an “interpretive report,” a new style of news report for the *State*.

The second of the *State*’s notable newsroom hirings came at the end of 1962. The newspaper hired William D. Workman Jr., as associate editor and heir apparent to the editor.⁶² The accomplished journalist Workman had previously worked for the state’s other two major city newspapers: the Greenville *News* and the Charleston *News and Courier*. Workman had earned a national reputation as a syndicated opinion columnist while at the *News and Courier*. Workman also had deep political commitments. When the *State* hired Workman in December 1962, he had just finished running for the U.S. Senate and losing as the Republican candidate.⁶³

Both Wickenberg and Workman brought extensive political ties with them to the Columbia newspaper. While in Charleston, Workman worked behind the scenes along with his editor to help the state Republican Party establish a white conservative alternative to the dominant Democratic Party.⁶⁴ Wickenberg worked as a top assistant to Governor George Bell Timmerman Jr., from 1955 through 1958. As a news writer, Wickenberg did not exhibit racial vitriol in his copy. Workman, on the other hand, was hired to write editorials and opinion columns, and his copy exhibited the inflammatory language that he had laid out in his 1960 book, *The Case for the South*. In that book, Workman called the NAACP the “black beast” of the white Southerner, who should “feel every justification in striking back at the NAACP, as at a mortal enemy, with every

⁶² The verbal agreement included Workman to succeed Cauthen as editor. Typed notes from telephone conversation, 6 November 1962, box 16. William D. Workman Jr. Papers, South Carolina Political Collections, University of South Carolina.

⁶³ Sid Bedingfield, “Partisan Journalism and the Rise of the Republican Party in South Carolina, 1959–1962,” *Journalism & Mass Communication Quarterly* 90, no. 1 (2013): 5-22.

⁶⁴ *Ibid.*, 5.

weapon at hand.”⁶⁵ Workman termed the civil rights organization Communist in its aims and part of the “conspiracy to overthrow the democratic governments of this nation.”⁶⁶ He concluded melodramatically that the South was at war, “a war for the survival of civilization.”⁶⁷ At the *News and Courier*, Workman also edited at least one white supremacist Citizens Councils pamphlet and supplied his articles from the *News and Courier* for reprint in the pamphlets.⁶⁸ At the *State*, Workman was not confined to the opinion columns. The new editor Cauthen asked Workman to serve on a news council and advise the editor on how to handle specific news events and issues.⁶⁹

The *State* also implemented structural changes to the news operation, announcing in July 1962 the opening of its third new reporters bureau in a month. In response to competition and, indirectly, the statewide activity of student civil rights demonstrations, the newspaper set up bureaus to cover the Rock Hill area near Charlotte, the Upstate region near Greenville, and the Pee Dee region of Florence and nearby oceanfront cities. The *Charlotte Observer* loomed a short distance from the capital city, with its Columbia news bureau and 25,000 subscriptions in South Carolina concentrated on the border near the North Carolina metropolis. While the *State* had created a monopoly position for print advertising in Columbia, that did not remove news competition, which the *Observer* and city television stations provided.

⁶⁵ William D. Workman Jr. *The Case for the South* (Greenwich, Conn.: Devin-Adair, 1960) in which he called the NAACP the black beast, or *bête noire*, of the white Southerner, 190; Robert A. Pierce, *Palmettos & Oaks: A Centennial History of The State, 1891-1991* (The State-Record Company: Columbia, 1991), 192.

⁶⁶ *Ibid.*, vii, 190, 192.

⁶⁷ *Ibid.*, 193.

⁶⁸ Workman’s correspondence with South Carolina Citizens Council, 1962, personal correspondence, 1961-1982, box 20. Workman Papers.

⁶⁹ Workman’s typed notes from conversation, 12 December 1962, Workman Papers.

TWO MODELS FOR EVALUATING NEWS COVERAGE

Hallin's model of news coverage and public discourse uses three spheres to explain variations in news coverage over time. The variations depend on the sphere in which journalists view events: the sphere of consensus, legitimate controversy, or deviance. Hallin's spheres explain how journalists reach coverage decisions about people and groups, such as Perry and his NAACP legal work, at specific points in time such as the legal battle for equal access to education. In the sphere of consensus — or “motherhood and apple pie”⁷⁰ — journalists don't cover competing views because they perceive no controversy over the ideas. In the sphere of legitimate controversy, journalists apply the traditional standard of objectivity, covering both sides of the controversy, striving for neutrality and balance in reporting on the competing parties. The sphere of deviance encompasses people and groups considered beyond the pale of acceptable political or social discussion as the journalists define or accept the socially defined boundary.⁷¹ Perry and his clients took issues of freedom and access into the courts, and presented the issues for public discussion and debate, and, potentially, for publication in the pages of the *State* and other newspapers.

The Shoemaker and Reese model of hierarchical influences on media content holds that ownership is the greatest influence on news content.⁷² At the *State*, that influence was felt closely by editors and reporters as one owner serving in the role of publisher sat with editors weekly to discuss editorial page opinions, influencing decisions if not ordering editors to take certain positions. In the opinion writing about Perry and the

⁷⁰ Hallin, *We Keep America on Top of the World*, 54.

⁷¹ *Ibid.*

⁷² Shoemaker and Reese, *Mediating the Message in the 21st Century*, 151.

larger issue that he represented — equal access to education — the editors later admitted that the newspaper opposed his causes.⁷³

The newspaper covered the filing of Harvey Gantt’s petition and the case as it moved through the courts during six months, from the federal courthouse in Anderson, South Carolina, to Alexandria, Virginia, back to Anderson, and then to Alexandria and neighboring Washington, D.C., for the decisive rejection of Clemson’s appeal. In the process, honor student Harvey Gantt of Charleston became the face of access to education in South Carolina. Perry was with Gantt, or representing him, throughout the process, and the lawyer and the student directly challenged the social order or “the way of life” that Workman reinforced with his newspaper writing.

THE CIVIL RIGHTS LAWYER

Part of Perry’s success was his performance in court. The tall lawyer had a resonant baritone voice and a carefully crafted public manner that met social expectations. Combined with his careful, thorough preparation for court appearances, Perry’s manner made his presence in court acceptable to white elites in the narrow sense of securing his admittance.

“He was such a role model in that he possessed qualities that people really wanted to emulate,” a contemporary observed. “He possessed a temperament that people were so impressed with. People commonly gave him good grades for being so courteous and so well-mannered. . . . Practically every African American lawyer in this state has

⁷³ “The Way of the Law,” editorial, *State*, February 25, 1968, 12A.

attempted to emulate [him]. All lawyers, black and white, have given him great credit for doing things that made them better lawyers.”⁷⁴

CHRONOLOGY OF EVENTS

On July 7, 1962, Perry filed Gantt’s lawsuit in federal district court in Anderson, South Carolina, about 20 miles from the Clemson campus. On August 22, U.S. District Judge Charles Cecil Wyche held the first hearing: Perry’s request for an injunction ordering Clemson to cease discriminatory admission practices. On September 6, Wyche rejected the petition, and Perry appealed. For the September 25 and October 4 hearings at the federal Fourth Circuit Court of Appeals in Virginia, the NAACP Legal Defense Fund’s Constance Baker Motley argued Gantt’s case. The appeals court denied the immediate injunction and returned the case to the Anderson district court for trial.

Gantt got his day in court before Judge Wyche on November 19 and 20, but as expected, the judge ruled against Gantt and dismissed his complaint on December 21. At that point, the case accelerated through the federal courts as the start of Clemson classes approached. Perry filed the appeal to the Fourth Circuit Court on January 4, and the lawyers argued the appeal on January 9 in Virginia. The court reversed Wyche’s dismissal and ordered him to issue an order directing Clemson to admit Gantt for the new term starting at the end of the month. With the lawyers already in the Washington, D.C., area, the South Carolina state lawyers requested a stay of the ruling. The Fourth Circuit immediately denied the request, the lawyers appealed to the Supreme Court, Chief Justice

⁷⁴ I.S. Leevy Johnson, “I.S. Leevy Johnson on Judge Perry: Raw Video,” August 2011 interview, WLTX Columbia television station website.

Earl Warren considered the request on the same afternoon. Warren denied the appeal, and six days later on January 22 Judge Wyche issued the order to Clemson.

On January 28, Gantt enrolled in Clemson College with about 150 news reporters on scene. In May the U.S. Supreme Court denied Clemson's petition to review the case, and in October the same court denied the college's petition to review the class action status of Gantt's case thus affirming that the desegregation decision applied to all African American and other minority students in South Carolina and all of the state's colleges and universities.

V. COVERAGE AND ANALYSIS

After Perry filed Gantt's lawsuit on July 7, 1962, the *State* published the news three days later in a short, one-column wire service article by below the fold. The newspaper treated it as front-page news but gave it less prominence than a Canadian hospital strike and assigned it the smallest space of the nine front-page articles that morning. As the newspaper routinely did at the time, the *State* published an Associated Press article rather than a staff-written one. That might seem odd for a newspaper of the *State's* size and presence in the capital city, but until fall 1962, the newspaper generally covered the legislature and state and federal government with copy from the national wire services, the Associated Press and United Press International.⁷⁵ Before Wickenberg's hiring from the *Observer*, the *State* continued its practice of covering out-of-town events, even important ones, with wire service copy. Wickenberg introduced new, more

⁷⁵ "Suit Seeks Integration of Clemson," Associated Press, *State*, July 10, 1962, 1; Claiborne, *The Charlotte Observer*, 267.

professional reporting routines to the newspaper and covered Gantt's case himself after he arrived in September.

The impetus for change that led to the hiring of Wickenberg came from outside the newsroom. Lucy Hampton Bostick, one of the newspaper's owners, convinced her brother, Publisher Ambrose Hampton, to hire Wickenberg to address severe weaknesses in the newspaper's coverage of civil rights demonstrations. As chief librarian of the Richland County Public Library, Bostick saw the differences between Wickenberg's *Observer* and her family's *State* in daily coverage of the desegregation campaign in Columbia. She also experienced firsthand the campaign to desegregate public libraries, and she found the *Observer's* detailed "unemotional" coverage superior.⁷⁶

The mechanics of *State* reporting changed substantially with Wickenberg's arrival, the tone changed, but the perspective on events remained similar. For example, the newspaper did not report from the plaintiff's (Gantt's) perspective, maintaining a white official perspective on events. As a result, the newspaper did not interview Gantt about his pursuit or Perry about the case throughout.

From the first hearing on August 22 before federal district judge Charles Cecil Wyche, the veteran litigator Perry pressed Gantt's case in challenging ways. The *State* noted that Perry moved to have oral testimony from Clemson College's president at the initial hearing, a break from custom in the court. Hardened by courtroom confrontations with biased South Carolina judges, Perry did not back down when federal Judge Wyche challenged his request for a "rare procedure" of questioning witnesses during the first hearing. The *State* reported that "Perry made the move . . . (and) Wyche finally agreed" but noted the unusual decision. Wyche traditionally heard oral arguments from lawyers

⁷⁶ Pierce, Palmettos and Oaks, 202.

but not testimony from witnesses. Perry had sparred with resistant and openly racist judges for more than a decade by the time of Gantt's first hearing, and he convinced Wyche to allow his questioning. In myriad small but significant ways, Perry had established himself as polite but tenacious in pursuit of his client's cases.⁷⁷

One of the New York Legal and Educational Defense Fund lawyers who collaborated with Perry and Jenkins on later federal cases noted the dramatic difference in skills required for arguing a case before a trial court and before an appeals court. An experienced appellate lawyer, Michael Meltsner called the confrontation in this Southern trial court "defeating." Cross-examining "a truly hostile witness" bent on "stonewalling" the lawyer required savvy, carefully planned questioning, and a sense of the courtroom as a theater for possible success. Confronting "uncooperative law enforcement witnesses bent on sowing confusion" taught young lawyers how much they had to learn to survive in the Southern courtroom. That Perry had mastered the trial side and was quickly mastering the appellate side speaks to his skill. He was used to defeat, but he had learned how to build a trial record in the white supremacist setting that would allow him to successfully plead his clients' cases in higher court. The newspaper might silence Perry outside the courtroom, but even in reporting the event from the consensus perspective, the newspaper could not suppress Perry's challenge to the system.⁷⁸

After Wyche refused to grant Perry's request for immediate action, Perry appealed the case to the Fourth Circuit Court of Appeals.⁷⁹ The appeals court heard the case in two sessions: September 25 and October 4. Between the sessions, a defining

⁷⁷ "Dr. Edwards, Gantt Take Stand in Rare Procedure," news article, *State*, August 23, 1962, 1A.

⁷⁸ *Ibid.*

⁷⁹ The Fourth Circuit Court of Appeals sits in Richmond, Virginia, but the courthouse was under renovation during the months of Gantt's case, so the court met in Alexandria, Virginia, a town near Washington, D.C.

moment of the civil rights era took place. On October 1, the University of Mississippi erupted in violence when James Meredith enrolled. The violence became a frame through which the national media interpreted and reported Gantt's case.⁸⁰ The violence also served as the backdrop behind South Carolina's legislative debates and administration discussions about Gantt's case. The appeals court returned the case to Wyche's district court for a trial.

Wyche conducted a three-day bench trial in Anderson from November 19 to 21. As Perry recalled later, "This was in the fall of 1962. James Meredith had now entered the University of Mississippi. The riots had already gone on down there. Now we're in that kind of a national atmosphere. . . . Judge Wyche was a rather interesting judge, who had any number of known dislikes. He didn't like northern lawyers. He didn't like government lawyers. Reportedly, he did not like Jewish lawyers. . . . He didn't like women lawyers. . . . There was one other category of lawyer that he did not like. [laughter] He didn't especially like black people. . . He was a rather mean rascal of a judge. There were many others that he did not like."⁸¹

In a Monday article previewing the trial, Wickenberg identified Perry as an important actor in the case, noting that Perry subpoenaed Clemson records for review. When the trial started, the Tuesday coverage led with an exchange between Gantt's Legal Defense Fund attorney Constance Baker Motley and Judge Wyche. Consistent with coverage at many other Southern newspapers at the time, the *State* identified Motley both

⁸⁰ "Clemson, 'Ole Miss,' in Same Racial Boat," United Press International, *Chicago Daily Defender*, October 1, 1962, 4; Walter B. Douglas, "Meredith Lawyer Argues Clemson Applicant Case," *Washington Post*, October 5, 1962; James Booker, "South Carolina's Meredith," *New York Amsterdam News*, November 3, 1962, 21; "Meredith Case State of the States," *New York Times*, January 14, 1963, 10.

⁸¹ Robert J. Moore interview with Matthew J. Perry Jr., South Carolina Political Collections, available online at library.sc.edu/scpc, 54-58.

by race and gender — “the Negro woman attorney” — but did not identify the race or gender of the white, male judge or any of the Clemson defense lawyers. The construction and reinforcement of racial identities was a pervasive practice in American journalism in the 1960s and a means of social and legal exclusion.⁸²

Through the case coverage, the newspaper identified Gantt by his race. In marking Gantt’s race, the newspaper referred to him as the representative student. At times, the newspaper referred to Gantt as the representative student in South Carolina. To *State* readers, Gantt was “the Negro.” Viewed in a legal sense, Gantt *was* the representative student: he stood for all black students in South Carolina because Perry filed Gantt’s case as a class action lawsuit, meaning that his victory would count for anyone “similarly situated”; that is, any African American student seeking admission to Clemson would be included in an affirmative decision. If successful, the legal decision also would extend to the other state-supported colleges, and Perry filed a lawsuit for Henri Monteith to enter the largest one, the University of South Carolina. Further, a Gantt victory could extend to private colleges in the state through the moral and social pressure of the precedent. The descriptions about Gantt are significant, because for the newspaper and its readers Perry and Gantt were linked in the legal struggle.

About Perry, the newspaper typically wrote little. Certainly the newspaper wrote almost nothing about Perry outside the courthouse or other settings with white officials. For Perry to be visible to the *State* newspaper, he had to be situated in a courtroom,

⁸² David Theo Goldberg in *The Racial State* (London: Blackwell Publishing, 2002) argues that the construction of race was integral to the formation of the modern state, forming inclusions and exclusions to define citizenship homogenously and against others. In *Uneven Encounters: Making Race and Nation in Brazil and the United States* (Durham, N.C.: Duke University Press, 2009) Micol Seigel traces the role of newspapers and journalists in specific constructions of race and racial identity between the United States and Brazil.

immediately outside a courthouse, or coming or going from an important meeting with white officials. The newspaper treated Perry not as a successful trial and constitutional lawyer, but as either a private attorney for Gantt or an NAACP lawyer. Even though he was more successful than “the ablest attorneys” in the state enlisted to defend the state system of segregation, the newspaper did not seek out Perry for interviews or extended comments.

Just as the newspaper could not suppress Perry’s challenges to traditional order, Wickenberg caught the importance and the drama of the trial for African American residents of South Carolina. Without describing the content of the scene, Wickenberg reported that “the Negro spectators reacted with laughter at a reply by a witness and Judge Wyche wheeled toward the courtroom and threatened to clear it if there were further demonstrations. ‘This is no theater,’ the 77-year-old jurist snapped. ‘This is no place for curiosity-seekers.’”⁸³ From the courtroom gallery, the African American citizens watching were enjoying the skilled performance of lawyers Motley and Perry. For the lawyers and the watchers, the courtroom was a theater. It was a theater in both senses of the word — a performance and a battleground — and Perry was one of South Carolina’s premier practitioners of law as both theatrical and military art.⁸⁴

Over the course of Gantt’s lawsuit, from the filing of his petition through his successful admission to Clemson, the *State* newspaper described Perry’s client in two successively distinct ways, highlighting different aspects of Gantt. First, in the early coverage, the newspaper identified Gantt’s status as a minor, under the age of 21 and so

⁸³ Charles H. Wickenberg, “Judge Says Gantt Case Won’t Cover All Others,” *State*, November 20, 1962, 1A.

⁸⁴ Robin D.G. Kelley, “‘We Are Not What We Seem’: Rethinking Black Working-class Opposition in the Jim Crow South,” *The Journal of American History* (1993), 75-112.

legally not permitted to file the lawsuit on his own behalf. As with most lawsuits seeking access to education in the American South, including *Brown v. Board of Education*, a parent served as plaintiff for the student seeking entrance to the school.⁸⁵ In the early reports of the lawsuit, the newspaper noted Gantt's youth and his status as a minor.

Conversely, the *Baltimore Afro-American*, from its first report, interviewed Gantt and represented him as a mature person acting from his own motivations:

“Gantt says he plans to make South Carolina his home and, therefore, wants to go to a state college. He said today, however, that he feels his suit to enter Clemson ‘would be much like another step up the ladder for first-class citizenship for the race.

‘I feel I will have helped in opening the door for other boys and girls to better educational opportunities in South Carolina.’ ”⁸⁶

As Gantt's case neared a successful conclusion, the *State*, shifted its focus on Gantt to note his physical attributes. In specific, the newspaper emphasized Gantt's stature and superficial physical characteristics, such as his height, his build, and his dark skin tone. Instead of emphasizing his academic interests and credentials, the South Carolina newspaper focused on his physical attributes. The *Afro-American*, on the other hand, mentioned Gantt's academic ranking and extracurricular interests in the newspaper's first report on the lawsuit.⁸⁷

⁸⁵ Harvey B. Gantt, a minor, by his father and next friend, Christopher Gantt, Plaintiff, v. The Clemson Agricultural College of South Carolina, a public body corporate, et al., Defendants, or in standard citation, *Gantt v. Clemson*, 213 F.Supp. 103 (1962).

⁸⁶ “Rejected SC Youth Files US Suit to Mix Clemson: Plea Seeks Decision by September,” *Baltimore Afro-American*, July 21, 1962, 3.

⁸⁷ “Rejected SC Youth Files US Suit to Mix Clemson: Plea Seeks Decision by September,” *Baltimore Afro-American*, July 21, 1962, 3.

Newspapers along the East Coast and elsewhere reported on the progress of Gantt's lawsuit.⁸⁸ Following the November 19-21 trial, Wyche deliberated and wrote for nearly a month before issuing his opinion on December 21 against Gantt. Wyche dismissed Gantt's petition but noted that a student filing a proper application could not be denied on account of race. After the Christmas holiday, Perry filed the appeal on January 4 to return to the Fourth Circuit Court of Appeals.

On January 9, the same day the lawyers argued the appeal in Virginia, outgoing Governor Ernest "Fritz" Hollings grabbed headlines with an address to the legislature. In contrast to other Deep South governors, Hollings called for white South Carolinians to accept inevitable integration, that the state government and operate as "a government of laws rather than a government of men."⁸⁹ Perry and Gantt had won even before the final court ruling.

A week later, the Appeals Court reversed Wyche and directed that he issue a new order for Gantt's immediate admission. The state's lawyers appealed the ruling, asking the same Appeals Court for a delay in implementing the order. In a flurry of petitions on the same day, January 16, Clemson asked the Fourth Circuit for a stay. When denied the stay, Clemson immediately appealed to the U.S. Supreme Court, and the lawyers trundled off in cars to wait for the chief justice's decision.

Chief Justice Earl Warren assigned himself the Fourth Circuit Court of Appeals, handling the cases rising from Southern courts. As a consequence, Warren himself

⁸⁸ "Judge Rejects Negro's Bid to Attend Clemson," *Washington Post*, December 22, 1962, 2A; "Ask Immediate Hearing In S.C. College Case," *Chicago Daily Defender*, December 31, 1962, 6; "Appeal Filed in Clemson Case," *Pittsburgh Courier*, January 5, 1963, 5; "Appeal Denial of Negro Transfer to Clemson," *New York Amsterdam News*, January 5, 1963, 24; Claude Sitton, "Negro Resumes Battle to Gain Admission to Clemson," *New York Times*, January 9, 1963, 6.

⁸⁹ Charles H. Wickenberg, "Hollings: Integration May Test Courage of S.C.," *State*, January 10, 1963, 1A.

refused South Carolina's appeal, writing "Denied" with his initials "EW" and the date "1-21-63" on the petition for his clerk to deliver to the group of lawyers and at least one reporter sitting and waiting for the decision. The change — in journalistic practices — in how the newspaper covered the case from the beginning of the lawsuit was gradual but nonetheless noticeable when looked at in its full scope. The *State* opened its coverage of Gantt's petition for admission with an Associated Press wire story rather than a staff-written article that might have required a trip to Anderson, South Carolina, and the newspaper ended the legal saga with a reporter traveling to Washington, D.C., to sit with lawyers in a Supreme Court anteroom. The newspaper's commitment to sending a reporter to cover the final steps of the lawsuit yielded the *State's* most intimate description of Perry in all the newspaper's coverage of Gantt's case. As Perry sat with the state and NAACP lawyers, Wickenberg reported:

“At 3:48, a clerk returned with the rejected application. [Defense lawyers] Watkins and McLeod were solemn as they glanced at the one word ‘denied.’ Perry and Mrs. Motley smiled.

“ ‘Well, that’s it,’ said Perry.

“ ‘Yes,’ said Watkins.

“ ‘It has been a long day,’ Mrs. Motley said as she pulled on her coat.

Perry said he would see Gantt as soon as he returned to South Carolina and would work out arrangements with Clemson for his matriculation.

“ ‘The way is clear now,’ Perry said.”⁹⁰

⁹⁰ Charles H. Wickenberg, “Final Clemson Effort To Block Gantt Fails: Negro Will Enter School Next Week,” *State*, January 22, 1963, 1A.

The description is not much and it came from interaction with white lawyers in an official setting, but Wickenberg's description was the most personal that the newspaper provided.

The *State* published official statements from educators and legislators, ran profiles of Clemson's president and other important figures, and conducted interviews with college lawyers and dozens of others about the case and the coming desegregation, but the newspaper did not publish a statement, profile, or extended interview with Perry, Jenkins, Motley, or an NAACP official. The newspaper ran page after page of lengthy statements from people only tangentially related to the case but left silent the winning lawyers for newspaper readers. Despite Wickenberg's higher reporting standards, he did not manage the newsroom. Those who did, including Workman, treated the lawyers as outside the sphere of legitimate controversy when they were outside the courtroom. When they spoke inside the courtroom, the newspaper would quote them. Outside the newsroom, the reporters did not seek them out.

Less than two weeks later, Perry drove Gantt to Clemson to register for classes. By precise arrangement with the cooperation of state police, Perry dropped off Gantt in front of the registration office into a sea of state and national print and broadcast media reporters. In the competitive news environment, the *State* reporters clamored to talk with Gantt, to record his words, to hear his opinions. The newspaper had months to interview him, but the *State* published one brief phone interview with Gantt before his arrival at Clemson. Gantt's home in Charleston was accessible by car, and the Gantt family welcomed reporters from any number of other news media, yet the *State* reporter called and no photographer visited.⁹¹ By contrast, the startup weekly newspaper the *Palmetto*

⁹¹ Bert Lunan, "Harvey Gantt: A Step Into The Unknown," *State*, January 19, 1963, p. 1A.

Times managed to interview Gantt at his home in Charleston and then to attend an interview session with Gantt's father in Greenville on the day his son entered the college.⁹²

The *Palmetto Times* also captured the debate within the African American community about Gantt's admission to Clemson. Black Muslim leader Malcolm X visited Columbia less than two months after Gantt's entry, and he challenged the goal of the legal decision and its reception among African Americans in South Carolina: "How that Negroes (so-called) could want integration with a race that has enslaved them for 400 years is beyond my comprehension! The token integration of Clemson College by Gantt is not integration for you . . . why, it's integration for Gantt only! You're still way out in left field."⁹³

Seven months after Harvey Gantt entered Clemson College, the *State* made Matthew Perry the face of the freedom struggle in South Carolina.⁹⁴ In a Sunday edition front-page article in a prominent position, the newspaper published an article interpreting the legal and social changes sweeping over South Carolina. Above the article, the newspaper ran three one-column photographs, known as headshots, of three figures associated with the changes. The *State* pictured Perry's face between that of the dean of South Carolina's law school and of Thurgood Marshall. Beneath the names of each man, Dean R. McC. Figg, Matthew J. Perry, and Thurgood Marshall, the newspaper printed a three-word description: "Nothing to Fear" beneath the law school dean Figg and "The

⁹² "Gantt Rates Integration As Second Issue: I Feel Good Says Gantt!," *Palmetto Times*, January 31, 1963, 1.

⁹³ "What Malcolm X Really Said! 'Negros Full of Shame and Fear!' 'Integration a Sham' Fiery Black Muslim Speaks," *Palmetto Times*, April 18, 1963, 1.

⁹⁴ William B. Williams, "The Negro Effort In South Carolina," *State*, September 1, 1963, 1A.

Long Struggle” beneath Thurgood Marshall. Between the two, the newspaper identified Perry as “The New Era.”

The article appeared to reveal a shift in the newspaper’s news coverage. Instead of reporting about a specific civil rights news event, the *State* interpreted the issue of racial desegregation for readers and the increasingly successful campaign to end the laws and social customs of segregation. The article offered an analysis of the issue in the style that Wickenberg had introduced, but Wickenberg did not write the article. He did not write it, because Wickenberg had been named the newspaper’s executive news editor in April 1963 to manage both newsrooms after the untimely death of Huntington.⁹⁵

The “new era” referred to what the headline called “The Negro Effort in South Carolina.” With the placement of the photographs, the newspaper identified Perry as what could be interpreted as the heir to Thurgood Marshall and the state representative of the NAACP’s activism. By 1963, the NAACP had conducted a long struggle in South Carolina, with a series of lawyers challenging the Jim Crow laws of racial segregation in the spheres of education, voting, recreation, and dining. Before Perry, Columbia lawyers Nathaniel J. Frederick, Harold Boulware, and Lincoln C. Jenkins Jr., had carried the lonely torch as civil rights lawyers in the Deep South city. Most famously, Boulware was the South Carolina attorney for the *Briggs v. Elliott* case that shaped the central argument of the landmark *Brown v. Board of Education* case of 1954.

The photographs illustrating the *State* article conveyed a greater connection than explicitly stated, because in the *Brown v. Board* case, the two men flanking Perry had

⁹⁵ Wickenberg wrote in the letter, “There is a great deal that I do not know about this new job but I can promise you this — we are going to put out a newspaper like the state of South Carolina has never seen before.” Charles H. Wickenberg Jr. to John West, 24 April 1963, box 2, correspondence, general, 1963 folder, Wickenberg Papers.

battled, and Marshall had handed Figg a defeat in the biggest legal forum in the country, the U.S. Supreme Court. By the time of the article, Marshall had moved on to a federal judgeship, and Figg had become dean of the still-segregated University of South Carolina law school. Between them, Perry represented the changes under way. In less than four years, African American students had successfully pressured the city's lunch counters to open to them, the students had successfully pressed their case to redefine the First Amendment right to protest and petition with a statehouse march, they had successfully pressed downtown stores to remove "white" and "colored" segregation signs from stores, and they had gained admittance to the state's formerly all-white colleges.

The article attempted to interpret the social changes happening at a rapid pace in the early 1960s. The lawyer supporting the legal parts of the student activism, in jail and in the courtroom, was Perry. Placing Perry between a white authority figure asserting "nothing to fear" about the "Negro effort" and in the line of the nationally known black lawyer who conducted a successful "long struggle," the newspaper positioned Perry in the center of the changes.

The way the newspaper described the changes and the "effort" behind the changes fit with the manner in which the newspaper covered the events and Perry's role in them. The article opened with a seven-word sentence that told the readers how to view the effort: "This is a story of a war." Perry, by implication, was the face of the enemy. The newspaper had not often pictured Perry and quoted him only in official settings such as the courtroom.

In light of media scholar Hallin's model of spheres of public debate and media coverage, the article represents a change in the *State's* treatment of Perry and the

NAACP.⁹⁶ The *State* included a “callout box,” larger text within a box just beneath the headline, quoting “The White Side” and “The Negro Side.” Prior to the article, the newspaper treated the group as outside the realm of acceptable discussion in the pages of the newspaper. The *State* likened the NAACP to the Ku Klux Klan, comparing the two as extreme groups operating in the sphere of deviancy, or outside the sphere of social and political legitimacy. By writing about the “effort” in the objective journalistic style, making the issue a two-sided one and publishing quotations from people on both sides of the issue, the newspaper treated the push for social change as an issue up for debate, or in Hallin’s term, within the sphere of legitimate controversy.

The article was published about a week before another major milestone of social change in the state: the enrollment of three African American students to the University of South Carolina’s main campus in downtown Columbia. With impending change, the reporter appeared to answer the question of perspective shift near the end of the lengthy article: “Perry describes the admission of Charleston Negro Harvey B. Gantt to Clemson as ‘the new era’ in South Carolina.” In the “new era,” the freedom struggle penetrated the sphere of legitimate controversy, and a representative man involved in the struggle was now interviewed and quoted at length.

THE EDITORIAL VOICE

The *State*’s editorials occasionally captured the tension between social order preservation and economic progress. The tension pitted the two important ideological concerns for a Deep South newspaper against one another, both pulling the newspaper in

⁹⁶ Daniel Hallin theorized three spheres of public discourse: the sphere of consensus, the sphere of legitimate debate, and the sphere of deviancy. Hallin, *We Keep America on Top of the World: Television Journalism and the Public Sphere*, 53-4.

different directions. Shoemaker and Reese's model of influences on media content suggest that the owners' ideological interests trump all other influences but that commercial interests also bear on the overall direction of coverage. The *State* identified itself as a progressive newspaper, meaning economic progress not social progress. Preservation of the segregated social order in South Carolina, which was confronted with civil rights protests and federal court rulings, required political, economic, and perhaps social resistance, but that resistance could lead to mass violence as it had in Mississippi. Mass violence could mean the loss of new industry. In a November 1, 1962, editorial, the *State* lamented that the federal government was reportedly discouraging new business investment in Mississippi in the wake of that state government's deadly blunders in opposing James Meredith's attendance at the University of Mississippi.

The *State* appeared to manage the tension between its ideological and commercial interests by delaying acceptance of social changes until endorsed by public officials. That interpretation meshes with Hallin's findings that the news media do not act in opposition to government but report dissent and debate when it appears within the government.⁹⁷ By hiring Workman, the newspaper acquired a staunch, acerbic defender of the social order.

Before Workman arrived at the *State*, the newspaper's editorials were blander even when addressing contentious topics.⁹⁸ The newspaper also frequently employed the unusual tactic of publishing an editorial on the front page to draw more attention to it. Following federal Judge Wyche's late December ruling against Gantt's admission, the *State* published an editorial, "Main Job Still Ours," on the front page. In the editorial, the newspaper first decried "the righteously resented encroachment from Washington" then

⁹⁷ Ibid.

⁹⁸ Pierce, Palmettos and Oaks, 208.

advised readers to make South Carolina “a provocative example of private enterprise constructively at work and a devastating refutation of socialism.”⁹⁹

The editorial page made more pointed arguments and employed more militaristic language and heightened religious language following Workman’s hiring. For example, after Wyche issued the order for Gantt’s admission, an editorial said, “South Carolina’s line of resistance has been broken. It was a line established before the 1954 Supreme Court decision and held until yesterday.”¹⁰⁰ Then, just before Gantt’s enrollment, the newspaper editorialized:

“Our newsmen have dug out the information that Attorney General Bobby Kennedy called Governor Russell Offering help in installing Harvey Gantt at Clemson College. . . . One wonders if young Mr. Kennedy might have been a little disappointed at not being able to throw his weight around in South Carolina, and dismayed that a state that has been so low-rated in the national sweepstakes was able to take care of its own without being wet-nursed by the federal government with troops and bayonets. . . . South Carolina has just cause to be proud of itself . . . And we are fully confident that everyone concerned in South Carolina will maintain the same dignity throughout the remainder of the ordeal and earn the eternal accolade of ‘Well Done.’”¹⁰¹

On the editorial page, the newspaper represented Gantt as lacking personal agency, or the power to act on his own will and intentions. He was “installed” at Clemson. His petition was an “ordeal” for the government. The editorial voice of the *State* remained one of white privilege and begrudging desegregation. The editorial page was managed by the

⁹⁹ “An Editorial: Main Job Still Ours,” editorial, *State*, December 27, 1962, 1A.

¹⁰⁰ “Duty is Fulfilled,” editorial, *State*, January 23, 1963, 12A.

¹⁰¹ “Kennedy Help Not Needed,” editorial, *State*, January 26, 1963, 14A.

deeply anti-integration, Workman. Even there, Perry's ability to be, in historian Mack's phrase both "radical and respectable" in the courtroom won acknowledgement that the field of battle had shifted. Perry's legal colleague Hemphill Pride observed, "regardless of the circumstances and how repugnant, how offensive things became [he] ... was always able to keep a cool head and make a cool approach and keep things rational and on point. There were situations that were very volatile and but for the coolness and sanity of [Matthew] Perry I'm certain that they could have been explosive and they could have been harmful not only to various communities but to this entire state."¹⁰²

¹⁰² Hemphill Pride II, WLTX Columbia, "Hemphill Pride II Remembers Judge Perry: Raw Interview," August 2011 interview, WLTX Columbia television station website.

CHAPTER THREE

PERRY FOR CONGRESS: RACE AND REPRESENTATION IN SOUTH CAROLINA

I. INTRODUCTION

In the midst of the American presidential Watergate scandal in 1974, a young University of South Carolina professor got approval from the university's board of trustees to take leave to run for Congress. Cole Blease Graham said he thought as a matter of principle the incumbent Republican Floyd Spence ought to have an opponent during one of the nation's worst political scandals. Even as Watergate enveloped Republican President Richard Nixon, Graham discovered that South Carolina's Democratic Party leaders did not share his plan and had no interest in his congressional candidacy to oppose Spence. Graham gathered quickly that the political establishment had selected someone else. A state senator with whom Graham had worked told him, "You may not be my man." When Graham visited the law office of Robert McNair, the former Democratic governor sent out a partner to talk with him. The message was clear: the party establishment backed Democratic National Committee Member Matthew Perry, who filed for the primary a day before the deadline.¹⁰³ By 1974, Perry, the NAACP civil rights lawyer, represented a part of the political establishment in South Carolina.¹⁰⁴

¹⁰³ Dr. Cole B. Graham, telephone interview with author, May 21, 2013, at his Texas A&M University office.

¹⁰⁴ Graham said he is named for but not a direct descendant of former governor Coleman Blease "perhaps the most blatantly racist politician in the state's history," according to Jack Bass and Walter DeVries, *The*

Perry represented a radical change to the historical political order in South Carolina. He was the first black nominee for Congress in the twentieth century and the first black Democratic nominee in state history. The inclusion of a prominent African American lawyer on a major political party's ticket might indicate victory for black politicians and voters seeking participation and influence in proportion to their membership in the party and their presence in the population. But one candidate and even one officeholder do not equal inclusion. In the end, Perry did not win the election. Political observers argued at the time that Perry's position on the ticket was calculated to attract black voters to the polls to elect white candidates, not black representatives. Further, the observers argued that Perry's greater interest was in appointment to federal judgeship and the campaign was, in part, a political favor for the Democratic leaders who would control that appointment.¹⁰⁵

Part of the political and social upheaval in Columbia, South Carolina, in the early-to mid-1970s was a change in print media. The *State* retained its circulation lead on other newspapers in the city and a dominant commercial position in print advertising. A decade earlier, the newspaper addressed competitive weaknesses in its news reporting by hiring a talented, politically connected capital bureau chief from a competing newspaper. In the growing capitol city, two alternative publishers started tabloid newspapers in the early 1970s. The publications— *Black On News*, a black nationalist social movement periodical, and *Osceola*, an alternative political tabloid — had different audiences and goals, and they offered dramatically different perspectives on South Carolina's political,

Transformation of Southern Politics: Social Change and Political Consequence (Athens, Ga.: University of Georgia Press, 1995), 273.

¹⁰⁵ Jon Buchan, "Is anybody here a liberal?: Well, not exactly...", Columbia, S.C., *Osceola*, April 26, 1974, 6.

economic, and social order. My emphasis will remain on the *State*'s coverage of Perry — in this chapter Perry's campaign for Congress — and I will use the two alternative newspapers and other periodicals for comparison to highlight the dominant newspaper's perspective. The comparison will reveal exclusions in *State* coverage, describe the events more fully, and show the competing perspectives circulating in a Deep South city in the midst of social change.

II. TOPIC AND SIGNIFICANCE

Perry's candidacy raised two important issues for the political and media elite in South Carolina. First, his candidacy raised the issue of minority voter access to the polls and political office in a system dominated by a small group within the majority white population. Second, Perry's candidacy raised race as an issue, even if the candidates did not dwell on race or make it an explicit issue. The larger topic of this chapter is black electoral power and political representation in the Deep South as American political, social, and media institutions adapted to the increased power of African American voters following the Voting Rights Act of 1965. The narrow topic is newspaper representation of Perry's 1974 campaign for Congress. I compare newspaper coverage of Perry's 1974 congressional campaign to examine how the mainstream newspaper the *State* represented Perry to the voting public. That representation was important, because the newspaper's coverage and identification of Perry would influence white voters, the pivotal bloc whose votes Perry's required to win election. In South Carolina, voting controlled access to the

levers of social and economic power to a remarkable extent, and Perry pursued the congressional seat as a representative of his race and his political party.¹⁰⁶

As a lawyer and as a public spokesman for the NAACP, Perry repeatedly challenged the existing social order in South Carolina and the Deep South. He also supported those who challenged the social and political restrictions for African Americans in public life. In this instance, he sought political office and engaged in the landmark legal effort to redistrict South Carolina's legislature to help others who sought office. He was successful for others but not for himself. Perhaps he was not successful for multiple reasons: he sought to maintain his professionalism, restraint, and lawyerly persona, rather than engage in verbal attacks on the incumbent. Also, he sought a higher goal, the federal bench, long denied to him. As a candidate for Congress, he was a forerunner, but that also made him controversial among some black political leaders and activists. For the white establishment, Perry was the most acceptable representative of his race.

Newspapers interpret events for readers and influence public opinion and interpretations of events. As such, newspapers can recognize the interests of marginalized groups and guide public opinion toward a more inclusive, democratic society. In reference to elections and political representation, those choices often influence how the state addresses enduring problems of resource allocation. Those issues were especially salient in South Carolina in the 1970s, when legislative control of state and local budgets was expansive. In the election, the issues of race and minority representation as portrayed

¹⁰⁶ Peter Lamis, *The Two-Party South*, 2nd edition (New York: Oxford University Press, 1990); Bass and DeVries, *The Transformation of Southern Politics*.

in the *State* and other newspapers were the most important to consider in the context of this study.

III. NEWSPAPERS

By the mid-1970s, when Perry and Graham were running for Congress, an alternative press had grown roots in Columbia, offering a voice in contrast and sometimes in opposition to the mainstream *State*. Published in the state capital, the *State* also retained its influential position on public opinion, legislators, and other newspapers in South Carolina.¹⁰⁷ Two newspapers, in particular, voiced sharp opinions in the public debate about politics and social issues in the state capital. The two small-circulation newspapers — *Black On News* and *Osceola* — were alternative not only in voice but also in form, publishing in the less-expensive tabloid format. With their titles, the newspapers defined themselves as offering a different perspective on South Carolina: *Black on Nation* and *Osceola*.

Black on Nation started in 1973 as *Black on to the Bone*, the mimeographed monthly newsletter of Black on Nation, a Columbia grassroots activist group. The newsletter grew into a tabloid newspaper within a few months. For its first several editions, the group mailed the newsletter to African Americans registered to vote in Richland County and solicited membership in Black on Nation. Political and social activism, not the production of the publication, was the main work of the group. After 1978, the newspaper's owners changed the name to *Black News*, changed format to broadsheet, and became a more traditional black newspaper in the style of national black newspapers such as the *Pittsburgh Courier* and the *Chicago Defender*.

¹⁰⁷ Secretst, "In Black and White: Press Opinion and Race Relations in South Carolina, 1954-1964", 14.

Osceola's editors named the publication for a Seminole warrior in Florida who fought against government attempts to resettle native Americans to make way for development. The publication pledged a "courageous populism" to its readers and aspired "to serve as voice of the people in Richland County and South Carolina at a time when most people are speechless." The newsprint tabloid magazine published every other week but did not promote itself as a movement organ. It clearly placed publication above direct social action as its mission.¹⁰⁸ The inexpensive subscription tabloid newspaper reported on politics with an eye to stories, sources, and information that the *State* was not covering.¹⁰⁹ Distributed primarily in the capital city, the newspaper started as a tabloid published every two weeks and later became a weekly. The newspaper survived for six years.

IV. BACKGROUND

Voting and political representation always have been important areas of inclusion and exclusion in the United States and particularly so in South Carolina. At both levels, the structure of government places power in citizen voting and the legislative discretion of those elected. As a consequence, party leaders and public officials in power long guarded the rules for political participation, and this system was especially fraught in the Jim Crow South. Following passage of the Voting Rights Act of 1965, all involved in the political process understood the stakes involved in changes to the system.

¹⁰⁸ "A dead Indian, a new magazine," *Osceola*, May 23, 1972, 2. The full-page introductory article did not mention any relation between the newspaper's name and a noted 1940s civil rights activist Osceola McKaine of South Carolina.

¹⁰⁹ "You May Have Missed It In Your Daily Newspaper," *Osceola*, July 6, 1973, 2.

In South Carolina, the state constitution invested expansive powers in the legislature, down to appointing county government officers and setting county budgets. Further, the apportionment of seats by county rather than population meant that a small ring of senators from small, rural counties could collectively control policy and the allocation of government services.¹¹⁰ The Voting Rights Act of 1965 and the U.S. Supreme Court's 1962-1964 rulings on legislative apportionment established the principle of equal access to voting and the principle of one-person, one-vote. In combination, the act and the court decisions loosened the political hold of segregationists in the South, but participation by black voters and candidates took place slowly and required sustained efforts.¹¹¹

Perry was one of the faces and voices of black political leadership in South Carolina, and he was involved in every substantial effort to increase black political participation and representation. The *State's* coverage of Perry's campaign is an index of the newspaper's perspective on the acceptability of African American political participation. To some extent, the newspaper's perspective also represented the level of elite white acceptance of African American participation.

In this chapter, I follow the events and coverage of Perry's campaign chronologically to give readers a logical order. To facilitate my analysis of the coverage, I first studied the coverage in each newspaper separately then compared the coverage between newspapers. Each newspaper is distinct in content and editorial philosophy and belongs to a particular category of newspaper: the *New York Times*, an elite mainstream

¹¹⁰ Bass and De Vries, *The Transformation of Southern Politics*, 276.

¹¹¹ *Baker v. Carr*, 369 U.S. 186 (1962); *Reynolds v. Sims* 379, U.S. 870 (1964). Lawsuits had to be filed in each state to challenge redistricting. In South Carolina, Matthew Perry represented plaintiff Lerverne Stevenson, vice president of the state NAACP, in *Stevenson v. West*, 413 U.S. 902 (1973).

national newspaper; the *State*, an elite mainstream state newspaper; the *Baltimore Afro-American*, a minority national newspaper; *Black On News*, a minority social movement city newspaper; and *Osceola*, an alternative political city newspaper. The diverse collection of newspapers provided multiple perspectives on Perry's campaign for Congress, reflecting a diverse set of political, social, and economic interests in Columbia at the time.

To evaluate coverage in the *State*, I first separated editorials from news articles and analyzed each as a group. The unsigned editorial is the collective opinion of the newspaper's editorial leadership. In American journalism, the editorial is understood to be the voice of the newspaper. A long-time *State* editor and historian of the newspaper also identified the editorial as the heart of the *State* and the place where readers would see the opinion and values of the newspaper's owners and newsroom executives on an issue more explicitly than anything conveyed in the day-to-day coverage of events. That role distinguishes the editorial page from the news pages, making a separate analysis of the opinions and values communicated in editorials useful to understand the newspaper's representation of Perry and his work in the African American freedom struggle. Additionally, the archived papers of two *State* editors reveal that the newspaper owners were involved in determining the opinions and values expressed in daily editorials. However, the editorial page is part of the larger newspaper, so, after analyzing the editorials and news articles as separate groups, I recombined them in chronological order to consider what insights reading the articles in chronological sequence yielded. The other newspapers included in the study either did not publish traditional editorials or did

not write more than one about Perry or South Carolina's second district congressional race.

The *State* newspaper treated Perry's campaign in its news articles as a matter of legitimate controversy. As the Hallin model defines it, the sphere of legitimate controversy encompasses events that are in dispute and that newspapers cover using the standard of journalistic objectivity.¹¹² In the newspaper's editorials, however, the *State* treated Perry's candidacy as outside that sphere, or as unacceptable and a deviance from the social and political values and opinions accepted as the norm by the newspaper's owners and newsroom leaders.

In 1974, the *State* newspaper remained a commercially funded newspaper, profitable and relying on advertising and subscription fees. In Shoemaker and Reese's model, the ideological views of owners and advertisers influence content on specific issues rather than across all issues. Perry's campaign surfaced two issues that revealed an ideology of white privilege. One issue was increased political power of African Americans. A more specific issue arose during the general election: organized voter intimidation at the polls against African Americans. How the newspaper editorialized about the two issues reveals that both African American representation and politicized racism, or organized efforts at intimidation of black South Carolinian voters, remained outside the realm of legitimate discussion.

In South Carolina, African American voters increased their electoral power with voter registration, but the two established parties continued to frustrate African American political ambitions. That led directly to the establishment of a third political party, the United Citizens Party headed by lawyer John Roy Harper II, and the election of three

¹¹² Hallin, *We Keep America on Top of the World*, 53-4.

African American state representatives in 1970 for the first time since the end of Reconstruction.¹¹³ Then in 1973, the U.S. Supreme Court ruled in Perry's favor and ordered the redistricting of South Carolina's House of Representatives, opening the door to more representation.¹¹⁴ With the space widened for African American representation and the prospect of access to what Perry called "the spoils" of the political system, factions emerged and disagreements heightened among African American politicians.¹¹⁵ *Black on News* covered the disputes and campaigns in candid detail, except for Perry's campaign. In 1974, the challenge Perry and other African Americans presented to white elites was political representation.¹¹⁶ In the year that Perry ran for Congress, thirteen African American candidates were elected to office, more than tripling the number of representatives in the legislature.¹¹⁷

At the same time that African American political influence and presence was rising, the traditional African American newspapers were disappearing. The national publications shrank following World War II and declined again following the desegregation of the 1960s. The surviving newspapers — the *New York Amsterdam News*, the *Chicago Defender*, the *Pittsburgh Courier*, the *Baltimore Afro-American* — continued to cover South Carolina and Matthew Perry but in the early to mid-1970s, only the *Afro-American* continued to cover the state and the lawyer with any regularity. Traditional African American newspapers published in South Carolina not only declined

¹¹³ United Citizens Party of South Carolina v. South Carolina State Election Commission, 319 F. Supp. 784 (D.S.C. 1970).

¹¹⁴ *Stevenson v. West*, following the Supreme Court precedents set in *Baker v. Carr*, 369 U.S. 186 (1962); *Reynolds v. Sims*, 377 U.S. 533 (1964).

¹¹⁵ Paki Dumisal Rashidi, "Matthew Perry Nominated for Federal Judgeship," *Black On News*, December 20, 1975, 1.

¹¹⁶ P.J. Henderson, "Black Vote Defeats I.S. Leevy Johnson," *Black On News*, August 1974, 1 as an example.

¹¹⁷ Robert G. Liming, "S.C. GOP Loses 4 Seats: Blacks Triple Strength," *State*, November 7, 1974, 1D.

but also mostly disappeared by the mid-1970s. The highly regarded *Lighthouse and Informer* had ended publication in the late 1950s. *The Palmetto Leader*, one of the longest-published newspapers in the state, survived until 1966, ending a 41-year run in print. The startup *Palmetto Times* lasted only three years before folding operations but still managed to leave an important record of several events in the black community. The NAACP antagonist Davis Lee published his *Herald* in Anderson, South Carolina, from 1957 into the early 1970s.¹¹⁸

Perry's run for Congress also shows his opponent's and the *State's* use of the political strategy of submerging racial ideas under publicly acceptable terms.¹¹⁹ The new terms served as an effective code to anti-integrationist voters. The strategy of appealing to disaffected white Democrats was developed by South Carolinian Harry Dent, Sr., an adviser to U.S. Senator Strom Thurmond. Dent took his "Southern strategy" to the Richard Nixon presidential campaign and then to the White House. In a 1970 fundraising letter, for example, the South Carolina Republican Party overlaid potent religious language on racial ideas in accusing the state Democratic Party of forming "an unholy alliance" with "special interest voters."¹²⁰ Incumbent congressman Floyd Spence's campaign used coded language to re-identify Matthew Perry with political extremism and thus suggested he was outside the sphere of legitimate consideration. Using the terms "left-wing," "political extremism," "racial voting," "bloc voting," and "special interest group," the Spence campaign and its Republican supporters attempted to paint Perry as

¹¹⁸ Ted Hemingway, "South Carolina," in Henry Lewis Suggs, ed. *The Black Press in the South, 1865-1979* (Westport, CT: Greenwood Press, 1983).

¹¹⁹ Walter Rugaber, "Southern Aide to the President: Harry Shuler Dent," *New York Times*, February 25, 1969, 15; for the intellectual and media sources of the color-blind argument, see William Hustwit, "From Caste to Color Blindness: James J. Kilpatrick's Segregationist Semantics," *Journal of Southern History* 77, no. 3 (2011): 639-670.

¹²⁰ South Carolina Republican Party form letter, 15 May 1970, box 50, campaign files, Republican folder, Workman Papers.

an illegitimate candidate to represent white interests. As Peter Lamis observed, “The Southern one-party system had many effects, but its overriding purpose, the preservation of white supremacy, ought never to be underemphasized. The argument was simple. If whites divided their votes between two parties, blacks would hold the balance of power and could bargain for concessions to end their second-class status.”¹²¹ Lamis quoted an observer’s assessment of Nixon’s so-called Southern strategy as ““anti-black, not with passion but with a cool, clear-eyed political cynicism.””¹²²

Perry worked to counter that re-identification, but he did so on the same aracial terms that Spence employed. Rather than confront the racial element in Spence’s campaign, Perry met the challenge in terms acceptable to white voters. With the Cold War political restrictions on ideology still in effect, Perry relied on the inclusive idea of “American” to identify himself. Perry identified himself as an acceptable political moderate so much that *Osceola*, the alternative political tabloid questioned whether Perry was indeed a liberal candidate.¹²³ While the liberal political newspaper questioned Perry’s commitment to liberal ideals, the *State* newspaper’s reporters represented Perry as within the political mainstream. As a Democrat, Perry was “no firebrand” and “no left-winger.”¹²⁴

The three newspapers in Columbia — the *State*, *Black on News*, and *Osceola* — all offered different perspectives on Matthew Perry and his campaign for Congress. *Osceola* made clear the social acceptance Perry had built in Columbia. In covering

¹²¹ Lamis, *The Two-Party South*, 4.

¹²² *Ibid.*, 30.

¹²³ Jon Buchan, “Is anybody here a liberal?: Well, not exactly...,” Columbia, S.C., *Osceola*, April 26, 1974, 6.

¹²⁴ Lee Bandy, “Washington Report: Spence Faces Tough Fight If Perry Wins Primary,” *State*, April 28, 1974. 4B. Bandy wrote the article as a news analysis for the news pages of the *State*.

Perry's candidacy, the newspaper observed, "Perry has long been embraced by much of the white establishment, political and otherwise, because of his willingness to be so embraced, and because of his intelligence and social grace ... Perry developed respect and scored bunches of points through the eagerness of white leaders to seek him out for service in countless bi-racial settings. IOU's are inevitably generated from such popularity, but more than that, Perry's past involvements are proof of his ability to communicate with whites. As one party pro put it, 'You can put Matthew Perry in a room full of whites who've never seen him before, and in ten minutes, they'll forget he's black. They'll be eating out of his hands.'"¹²⁵

Of the Columbia newspapers reporting on the congressional campaign, *Black on News* covered Matthew Perry the least of the three. The newspaper published a single letter to the editor from two readers in support of Perry, a short press release about ministers supporting Perry, and one ad from his campaign before the November election, even though the newspaper covered the city and state elections extensively and consistently, particularly contests with African American candidates. *Black on News* did not cover Matthew Perry because, in the editor's view, he was not the news in 1974. Redfern II, pronounced "Deuce," viewed Perry as peripheral to the politics of the African American community. He held that Perry's "day had passed" as an influential political leader. Deuce, formerly James Redfern II, largely ignored Perry's campaign and concentrated his limited journalistic resources on the heated contests for city, county, and state government positions. Perry's campaign for the congressional seat also was not likely to end in victory, Deuce observed, because Perry had lost his connection to the

¹²⁵ "Perry's uphill climb," Politicus column, Columbia, S.C., *Osceola*, October 18, 1974, 2.

grassroots and had no personal political following in the city that would mobilize for him. Perry was now largely a figurehead, in the editor's estimation.¹²⁶

Perry seemed to be at a place in his career where he was in between roles, caught between the community he had represented for more than twenty years and a national office that seemed his due. No longer guiding the tactical decisions in coordination with student activists, Perry had suffered a loss of esteem among students for his role in ending a student protest at Voorhees College.¹²⁷ Perry still held a place of admiration and stature in the larger African American community. By 1974, Perry was a financially successful lawyer in private practice; the central figure in a statewide network of civil rights lawyers; a mentor to a generation of new African American lawyers; a member of the Democratic National Committee; and member of the national NAACP board. Yet the judgeship he had expected, and which others had expected him to receive, remained out of reach, blocked by white politicians in the state Legislature and Senator Strom Thurmond at the federal level. Once mentioned as a potential nominee for the United States Supreme Court, Perry saw his prospects for even a state circuit court judgeship evaporate in the late 1960s because of political opposition.

With his path to the courts blocked, Perry considered elective office in the late 1960s. In spring 1968, a newspaper reported that Matthew Perry might challenge Republican Albert Watson for Congress.¹²⁸ The announcement came less than two months after the Orangeburg Massacre, a shocking moment when state police shot at unarmed African American college student protesters, killing three and wounding 28

¹²⁶ Redfern II interview with the author, Columbia, S.C., June 11, 2013.

¹²⁷ Redfern II interview with author.

¹²⁸ William E. Mahoney, "Local Negro Lawyer May Oppose Watson," (Columbia, S.C.) *Record*, March 25, 1968; accessed as a clip from William D. Workman, University of South Carolina, South Carolina Political Collections, Box 50, folder on Matthew J. Perry.

others.¹²⁹ Perry told the newspaper, “He should be opposed. . . . The people of this district are entitled to some positive representation.” Party leaders dissuaded him, and Perry did not mount a campaign.¹³⁰

In 1974, for Democratic leaders, Perry represented a strategic choice to attract African Americans to the polls without turning off white voters. As early as 1970, Democratic leaders acknowledged privately the increasingly tenuous hold of the party on the levers of state political power. In a private memo to the Columbia-region legislative delegation, an analyst reported, “Had 12% of the blacks, who voted in 1968, not gone to the polls, it is entirely possible that the entire House Delegation would have been defeated. The Delegation, as a team, did not receive a majority of white voters in any Ward.”¹³¹

As *Osceola* noted trenchantly, Democratic Party leaders “hypothesized that ‘the race issue’ had been sufficiently neutralized in South Carolina politics, so that the advantages of added drawing power with Perry on the ballot would not be offset by a greater backlash from white voters. . . . In addition, Perry’s reputation and personality seemed well-suited to minimize any racially-oriented adverse reactions.” The party leaders made all the calculations based on race, because federal law ensured that they could no longer exclude African American participation in elections. To the alternative newspaper, the calculations showed “the continuing sad truth that racism survives in our society.”¹³²

¹²⁹ Jack Bass and Jack Nelson, *The Orangeburg Massacre*, 2nd edition, (Macon, GA: Mercer University Press, 1984).

¹³⁰ “Perry’s uphill climb,” *Politicus* column, Columbia, S.C., *Osceola*, October 18, 1974, 2.

¹³¹ William F. Spann to Richland County legislative delegation, 15 May 1970, box 8, Workman Papers.

¹³² “Perry’s uphill climb,” *Osceola*.

Politics is never a one-way transaction between party leaders and voters, and as *Osceola* reported, “There is some discussion of the possibility that Perry, if he wins the primary but loses the election, would be awarded a future position as a judge.”¹³³ *Osceola* published the most in-depth articles about politics. The alternative newspaper carved its niche as a perceptive observer of Columbia politics.

V. COVERAGE & ANALYSIS

Against this backdrop in 1974, the *State* newspaper covered the campaign of South Carolina’s first African American congressional candidate in the twentieth century. Following journalistic conventions, the *State* reserved direct opinions for editorials, where the newspaper’s ideology showed most clearly. The newspaper consistently identified Perry as a respected lawyer in Columbia but as the election drew nearer the newspaper’s editorial writers just as consistently opposed the idea of African American political representation. The newspaper submerged the resistance under language expressing concern for whose interests these new representatives would advocate. In an early editorial, published less than a week after Perry’s announcement and the candidacy filing deadline, the *State* predicted a “fascinating political year ahead” for South Carolina. It was an easy prediction, because the gubernatorial race alone had already encountered controversy. Democratic challenger Charles “Pug” Ravenel survived a court challenge to his residency, and the young financier promised to shake up the field with a progressive ideology. On the Republican side, retired Army General William C. Westmoreland’s candidacy brought national attention to the contest. The newspaper equated interest with newsworthiness rather than historic qualities, because the editorial relegated the second

¹³³ Jon Buchan, “Is anybody here a liberal?: Well, not exactly...”

district race to one sentence not mentioning Perry's status as the party favorite or the historic aspect of his candidacy as the first African American Democratic congressional candidate in the state. Perry was a "respected civil rights leader" running against Graham, "a newcomer who bears watching."¹³⁴

When Perry and other African American figures ran for office in 1974, white politicians had an object lesson from four years earlier about the dangers of open racism in widely reported statewide campaigns. In 1970, Republican Congressman Albert Watson ran for governor. Early in the campaign, Watson decried court-ordered busing to integrate public schools. At a large rally near Florence, South Carolina, Watson told white parents to "stand up and use every means at your disposal to defend (against) what I consider an illegal order of the Circuit Court of the United States."¹³⁵ A week later, a mob of 100 white men armed with chains, ax handles, and bricks pelted school buses carrying black school children, injuring several, then overturned the buses after the children had exited. The violence shocked state voters, including the moderate white voters who had voted Republican in 1968. The reaction against the Lamar violence helped Democrat John West defeat Watson. The Lamar violence also appeared to chasten the *State* editorial page. The newspaper had advocated for the growth of the Republican Party but following the mob attack, the *State* endorsed West, the Democrat.¹³⁶

The most prominent issue nationally in the South Carolina 1974 election was the Republican gubernatorial campaign of retired Army General William C. Westmoreland, who led the American military during the central years of the Vietnam War from 1964 through the Tet Offensive of 1968. In its report about Westmoreland's surprising

¹³⁴ "Fascinating Political Year Ahead for State," editorial, *State*, April 17, 1974, 20A.

¹³⁵ Bass and DeVries, *The Transformation of Southern Politics*, 262.

¹³⁶ "Watson Blames Demos for Lamar Violence," *Sumter Daily Item*, March 4, 1970, 2A.

Republican primary loss, the *New York Times* reported Matthew Perry's primary victory, placing it in its historically significant context: "a black civil rights lawyer, Matthew Perry, won the nomination, thus becoming the first black in this century to capture a Democratic nomination for a Congressional seat in the state."¹³⁷

For African Americans nationally, the 1974 elections held the promise of greater political gains: the largest number of African American candidates in American history ran for Congress, with 54 candidates vying for 39 seats. The *Baltimore Afro-American* followed the campaigns actively, with John W. Lewis Jr. reporting from Washington. The newspaper had the only consistent, unduplicated coverage among national African American newspapers, and reported Perry's primary victory through the general election results. The newspaper identified Perry as one of two African American congressional challengers most likely to defeat a white Republican incumbent for office, "if blacks get out and vote."¹³⁸

South Carolina's white political elites resisted black voter access to the ballot box and political representation. South Carolina's resistance in the 1960s and 1970s both to black political participation and to federal government oversight followed in the state's lengthy and famous history of opposition to federal requirements. South Carolina was the first state to challenge the Voting Rights Act of 1965.¹³⁹ South Carolina adopted highly restrictive voting laws as early as 1865, the year the Civil War ended. Known informally as "black codes," those slavery-like laws were overturned by the federal government and later replaced with federal protection of Reconstruction, which ensured black political

¹³⁷ B. Drummond Ayres Jr., "Westmoreland Loses in South Carolina," *New York Times*, July 17, 1974, 6.

¹³⁸ John W. Lewis Jr., "Capitol Comment: November elections augur success," *Baltimore Afro-American*, October 19, 1974, 6.

¹³⁹ *South Carolina v. Katzenbach*, 383 U.S. 301 (1966).

participation.¹⁴⁰ Federal troops protected access to polls and offices, and South Carolina attracted national black political and intellectual leaders. At the abrupt, politically engineered end of Reconstruction, southern white politicians moved to regain control of the state government. In South Carolina, the competition culminated in a new state constitution in 1895, codifying a set of restrictive laws common among states in the Deep South. Known collectively as Jim Crow laws, the laws instituted a poll tax, a literacy test, reregistration, and other stipulations to deny all blacks access to political participation.¹⁴¹ When the national Democratic Party liberalized in the New Deal era, the state Democratic Party cut off access to the primary elections, which Perry's predecessor as state NAACP legal counsel successfully challenged with Thurgood Marshall.¹⁴² The state government's legal resistance to the Voting Rights Act and black participation in the political process, then, fell in a long history of such resistance.

After the state government challenged the constitutionality of the Voting Rights Act of 1965 in court, a *State* editorial called the Voting Rights Act "peculiar and perverted" and admonished the state government to "get out from under" the law. The newspaper lamented that the restrictions on state control of voter registration and elections "do not apply to most of the other states of the union." The editorialist called the state's voter qualification standards "equitable" and wrote that the state did not have

¹⁴⁰ The Statute at Large of South Carolina Vol. XII containing the Acts from December 1861 to December 1866. An Act to Establish and Regulate the Domestic Relations of Persons of Color and to Amend the Law in Relation to Paupers and Vagrancy, Act No. 4733. General Assembly, 19 December 1865 (Columbia, SC: Republican Printing Corp., 1875): 269-285. South Carolina Department of Archives and History, Columbia, South Carolina.

¹⁴¹ Constitution of the State of South Carolina Ratified in Convention December 4, 1895 (Abbeville, SC: Hugh Wilson, Printer, 1900). Accessed via Google Books; Orville Vernon Burton, Terence R. Finnegan, Peyton McCrary, and James W. Loewen, "South Carolina," in *Quiet Revolution in the South: The Impact of the Voting Rights Act, 1965-1990*, eds. Chandler Davidson and Bernard Grofman (Princeton, NJ: Princeton University Press, 1994), 191.

¹⁴² *Elmore v. Rice*, 72 F.Supp. 516 (1947).

“any pattern of racial discrimination in registration and voting.”¹⁴³ The day the editorial appeared the South Carolina Voter Education Project reported that 19 of the state’s 46 counties had more than 100 percent white voter registration.¹⁴⁴

A. IDENTIFYING THE CANDIDATE

On April 10, 1974, Matthew Perry opened his campaign for the U.S. House seat in South Carolina’s second district with a press conference in Columbia. On the morning of the event, the *State* ran a United Press International wire service story anticipating Perry’s announcement, and the following morning the newspaper published a staff-written article and photograph of Perry taken at the press conference. From the first article, the *State* limited the coverage to routine political campaign reporting, and the newspaper omitted the historic aspects of Perry’s campaign.¹⁴⁵ The coverage demonstrated that the newspaper treated Perry’s candidacy as a matter within the sphere of legitimate controversy. That is, the newspaper reporters were covering it according to the routines and norms for political campaigns.¹⁴⁶

The immediate controversy was stirred up by a familiar figure on the South Carolina political scene. The state’s senior senator, Strom Thurmond, launched a preemptive political attack on Perry and any other Democratic candidate in a fundraising letter for Republican Floyd Spence. As a result, Perry spent part of the news conference rebutting Thurmond’s allegations that Perry was an extremist and left-winger. At the news conference, Perry defined himself for reporters and their audience. The reporter

¹⁴³ “Get Out From Under,” editorial, *State*, August 7, 1966, 14A.

¹⁴⁴ Dick Elliott, “Official Wants Case If S.C. Presses Suit,” *State*, August 8, 1966, 1B.

¹⁴⁵ Robert Liming, “Perry Challenges Spence for Seat,” *State*, April 11, 1974, 33.

¹⁴⁶ “Who’s covering — or not covering — our candidates?” *Osceola*, July 5, 1974, 3.

treated Perry's press conference as a discrete event and reported what the candidate said in prepared remarks and in answer to reporter questions. Notably, the reporter added little context outside the immediate political setting. For example, the article does not include the historical context that Perry was the first black candidate for Congress in the twentieth century or the first black Democratic congressional candidate in the state's history.¹⁴⁷

In the report of Perry's press conference opening his candidacy, the newspaper did allow Perry to identify himself for readers. In prior coverage, the newspaper variously identified Perry for readers as "Negro," "Columbian," "NAACP lawyer," or "52-year-old black lawyer," depending on the context. As with any self-definition in a public setting, Perry's self-identifications, noted in the announcement article, offer a point-in-time insight into Perry, African American political activism, South Carolina politics, and national politics. Perry identified himself as a "liberal" politically and more fundamentally as "an American." Perry emphasized, "I was born in South Carolina, and I have spent my life here."¹⁴⁸ Perry continued by defining himself in contrast to the labels cast on him by Thurmond. After defending himself and his clients for two decades against accusations of Communist influence, Perry had to defend himself against charges of political extremism: "I categorically reject any labels of left-winger, or any other labels that would detract from my heritage as an American."

Perry's involvement with the NAACP and civil rights advocacy evidently remained controversial for the dominant press. At the press conference, Liming wrote that Perry "said he would not try and hide his long-time association with the civil rights

¹⁴⁷ Robert Liming, "Perry Challenges Spence for Seat," *State*, April 11, 1974, 33.

¹⁴⁸ *Ibid.*

organization.”¹⁴⁹ Before political advisor Harry Dent’s revision of Thurmond’s image, the senator had used segregationist language to cast African Americans and the NAACP activists as controlled by politically illegitimate outside forces. With the 1974 campaign letter, Thurmond attempted to preemptively identify Perry and any other opponent of Spence as politically extreme.

The congressional campaign ran from Perry’s April 10 announcement of his candidacy to the July 17 party primary nominations and through the November 5 general election. University of South Carolina professor Cole Graham also filed as a Democratic candidate, and the *State* reported on his candidacy. After the initial article reporting the launch of Perry’s campaign, the *State* published an analytical column in the news section before the end of the month. The piece by Washington bureau reporter Lee Bandy posed Matthew Perry as the likely victor in the Democratic primary and the most difficult challenger for Spence. The column included candidate photographs of equal size and prominence, a journalistic objective approach. Reinforcing the idea of Perry as an acceptable black candidate, the article identified Perry as “not a firebrand activist, the type that tends to alienate white voters.” The article granted anonymity to a source commenting on Perry’s candidacy, “a Democrat in the South Carolina congressional delegation” who told the newspaper, “Don’t sell Matthew short.” The article perpetuated two long-standing practices in *State* political journalism: granting anonymity to white officials to comment on African American politics and politicians and the offensive practice of white officials referring to African Americans by first name.¹⁵⁰

¹⁴⁹ Ibid.

¹⁵⁰ Lee Bandy, “Spence Faces Tough Fight If Perry Wins Primary,” *State*, April 28, 1974, 28.

In contrast to the *State's* coverage, the alternative political weekly *Osceola* featured the campaign for the second district seat on its April 26, 1974, cover. In keeping with its emphasis on South Carolina politics, the tabloid emphasized the candidates' ideology and announced on the cover "The 'Leftists' Are After Floyd Spence." In a two-page spread inside the edition, the tabloid asked in its article headline, "Is anybody here a liberal?"¹⁵¹ and answered, "Well, not exactly . . ." In the article, the reporter added more biographical background about Perry and more social context about his campaign than did the *State* reporter. However, the newspaper also omitted the larger historical context of Perry's campaign and treated it as part of an ideological contest between the Democratic candidates and Republican Spence.

Black On News, the black power tabloid monthly newspaper, had other topics on its agenda and did not publish an article about Matthew Perry or the second district campaign in the newspaper's editions from April through July even though the editor published a second, extra edition in July before the primary election and identified part of its mission as mobilizing readers for political activity such as registration and voting. *Black On News* concentrated its articles on elections that a black candidate was expected to win, including a state House district race and a Columbia-area magistrate's race. *Black On News* did not expect a Perry victory.

B. PRIMARY RACISM

Race surfaced prominently as an issue twice in the *State's* campaign coverage: during the primary campaign and on election day. The first incident came in June 1974, about a month before the primary election, when Perry's Democratic opponent Cole

¹⁵¹ Jon Buchan, "Is anybody here a liberal?" *Osceola*, April 26, 1974, 6.

Graham effectively ended his campaign. On June 20, 1974, Cole Graham ceased active campaigning, saying he refused to appeal to racist voters to campaign to win yet he continued his candidacy out of respect for Perry. Graham explained that white voters offered to support his campaign solely so a black man would not represent the congressional district.¹⁵² Perry claimed the primary by 7,000 votes.¹⁵³ Graham ended “active campaigning” but did not withdraw from the contest. Graham explained that he stopped campaigning because he felt “he was being forced into a racist campaign” to attract votes. Graham said that voters in rural counties in particular told him they supported him against Perry for explicitly racist reasons, and Graham realized he would need to accept the voters’ sentiments to win the Democratic Party nomination. In its editorial on the topic, the *State* credited Graham for not adopting a racist stance but called him naïve for not continuing his campaign and rejecting overt racist support. In the same editorial, the writer identified Perry by the adjective “Negro” and used a nostalgic tone in describing “old-style bigotry and racism.”¹⁵⁴

Perry’s historic position as the black nominee for Congress received attention in the national press but not in the *State* or in the other local newspapers. Perry won the July 16 primary election with 57 percent of the vote against Graham, but his historic victory as the first black Democrat nominee in South Carolina history was not reported with that contextual information in the *State*. His victory also was not the most prominent news to come out of the primary. In the national media, South Carolina’s primary elections gained attention for the surprising defeat of Westmoreland. In a state moving to white

¹⁵² Graham telephone interview with author, May 21, 2013; WIS-TV, Columbia, S.C., June 20, 1974, evening broadcast transcript, Moving Images Research Collection, University of South Carolina.

¹⁵³ Jack Trulock, “Perry Comes Back to Beat Graham,” *State*, July 18, 1974, 1B.

¹⁵⁴ “Rejects Racist Race,” editorial, *State*, June 26, 1974, 24A.

Republican control, Westmoreland lost to state Senator James Edwards, a dentist and party regular. In the national press, Perry's historic position and the increased success of black candidates for the state legislature were notable issues. The *New York Times* devoted about one of the article's three columns to the primary success of Perry and state House candidates.¹⁵⁵ The *State* treated Perry's candidacy as a matter of political controversy rather than social controversy, so racism was treated as an issue when the white candidate introduced it rather than a structural obstacle that Perry had to confront.

Following the primary elections, Perry's campaign and those of other black candidates received intermittent coverage. Meanwhile, South Carolina's fall campaign discussions slowly reached a rolling boil over the candidacy of the Democratic nominee for governor and his legal status as a resident. When retired Army General William Westmoreland, the Vietnam War commander, lost in the Republican primary, the national press attention regarding South Carolina turned to the Democratic candidacy of Charles D. "Pug" Ravenel. The Charleston investor positioned himself as a political reformer who had lived in South Carolina all his life "in his heart" despite his nine-year tenure on Wall Street. Opinion polls identified Ravenel as the Democrat who could beat the Republican candidate, but opponents challenged his candidacy and the state Supreme Court ruled that he did not qualify. The decision thrust the "unspectacular" Congressman William Jennings Bryan Dorn into the contest as Ravenel's replacement.¹⁵⁶

While the controversial Ravenel wrangled to keep his place on the ballot, Perry was the uncontroversial party nominee. The *Afro-American* provided telling coverage of a major fundraiser for Perry held in Washington, D.C. The article highlighted the

¹⁵⁵ B. Drummond Ayres Jr., "Westmoreland Loses in South Carolina," *New York Times*, July 17, 1974, 6; "Perry wins primary bid," *Baltimore Afro-American*, July 27, 1974, 1.

¹⁵⁶ "An Unhappy Choice," editorial, *Record*, November 1, 1974, 12A.

prominent national Democratic Party politicians who attended to support Perry and attract contributors. The party luminaries included Senator Ted Kennedy, Congressman Andrew Young, and South Carolina's Senator Ernest Hollings. The article identified Perry as "soft-spoken," perhaps the only time that the eloquent, famously resonant Perry was described that way. However, in contrast to black power activists and African American politicians from northern cities, Perry struck a milder tone. The newspaper also sought out a different type of source than the *State* did: a South Carolina State College classmate of Perry, Howard University researcher W.A. Sojourner, who told the reporter that Perry "fought for civil rights, but he always stuck within the strictly legal aspects. He never alienated the white folks. But he was never mealy-mouthed either."¹⁵⁷

Black On News carried two small items about Perry's campaign during the early fall. The newspaper published a letter to the editor from two prisoners whom Perry represented in criminal court. The prisoners endorsed Perry. The newspaper later carried a brief press release about ministers endorsing Perry. In keeping with its political mobilization role for Columbia voters, *Black On News* devoted its front page and inside pages to coverage of state and city contests, but very little space to the congressional contest. In short, *Black On News* did not represent Perry as an important candidate to support or one who would mobilize the newspaper's readers to attend the polls to vote.

C. INSTRUCTIONS FOR VOTERS

In the final month before the general election, the *State* relied on anonymous insider comments and an opinion poll the newspaper conducted to portray Spence as the

¹⁵⁷ John W. Lewis Jr., "S. Carolina challenger drums up \$\$, support," *Baltimore Afro-American*, August 24, 1974, 8.

certain winner over Perry. In keeping with journalistic routines for covering political campaigns, the newspaper reported on the campaign endorsement visit by Georgia Governor Jimmy Carter to Columbia.

In editorials, the *State* addressed the campaigns again as the general election drew near, publishing several from late October through early November. The newspaper instructed readers on the type of representatives they should elect, the issues they should ignore, and in some cases the people or amendments they should vote for. The challenge that Matthew Perry and a slate of other African Americans posed to the newspaper and other guardians of the existing order was a different political perspective, so the newspaper also went into more detail about the proper type of representative. The reason for the instruction was the unprecedented political change that the NAACP had effected. With Perry's advocacy, the federal courts required South Carolina to adhere to the mid-1960s Supreme Court ruling requiring redistricting that ensured each person's vote counted equally. As the newspaper observed, "for the first time in almost three hundred years of electing members to the state legislature, South Carolina will choose representatives from single-member districts." However, the newspaper looked on this not as an achievement but "virtually imposed on the Palmetto State by federal direction." The editorial then directed readers how to select a proper representative, and it was not to vote according to their interests, or those of their electoral district. The editorial noted that "minority groups . . . stand a much better chance of electing one of their number to the House." The newspaper assumed that an African American or other minority could not represent a white majority district and that those "elected for the first time" would be incapable of proper representation. Under the old system that the court had ruled was

discriminatory, the editorial claimed, representatives could not “write off any sizable minority bloc, whether he lived among them or not.” Further, these minorities have “interests somewhat removed from the mainstream of South Carolina” and these “special interests” are not good for the “general welfare of the entire state.” The newspaper instructed voters to cast ballots for competent representatives and instructed the candidates not to represent “any narrow constituency.”¹⁵⁸

The *State* addressed the issue of race head-on in a brief editorial two days later, writing that race was not an issue in the election and should not be made into one. The editorial observed, “We have detected no overt element of racism which so long characterized this state’s elections.” The newspaper published this despite the specific statement by Perry’s primary opponent, Cole Graham, that he withdrew from active campaigning in June because of overt racism among voters opposing Perry and willing to support Graham as a white man. The element of racism was particularly evident true in Lexington and Calhoun counties, which Perry did not carry in the primary. Nonetheless, the newspaper’s late October editorial concluded that the state had “decent race relations.”¹⁵⁹

When the election season drew close to the wire, the newspaper more clearly defined acceptable representatives for voters to elect: “fiscal conservatives.” Following the new code of political language, the newspaper identified Perry as “a moderate and able black candidate,” but he still was not acceptable to the newspaper. The newspaper used a familiar theme of linking the unwelcome change or petition for change to a threatening outside force. The problem, as diagnosed by the newspaper, were not the

¹⁵⁸ “Voters Should Elect ‘State’ Representatives,” editorial, *State*, October 19, 1974, 14A.

¹⁵⁹ “Racism Is No Issue,” editorial, *State*, October 21, 1974, 12A.

South Carolinians but the outside groups and forces influencing them. In earlier decades the NAACP and Communism were blamed as the disturbing outside forces. This time, in 1974, the intruder on South Carolina politics was a labor interest group. Associating Perry with a feared “legislative dictatorship” of a Democratic majority able to override presidential vetoes, the newspaper concluded in its final instructions to second district voters, “Mr. Spence is the choice.”¹⁶⁰

D. A MATTER OF DEBRIS

Spence did tally more votes than Perry, but the civil rights lawyer refused to concede because of systematic, widespread voter intimidation by white operatives impersonating federal elections monitors required by the Voting Rights Act of 1965. The real monitors were authorized to protect the access of black voters to the polls. In the 1974 general election, however, the imitators served a sinister purpose. Instead of working to ensure open access to the polls, the Republican workers checked credentials of all African American voters in Richland, Orangeburg, and other counties to prevent them from voting and to intimidate others from trying to vote. The *State* treated the illegal conduct as political tactics and ran a wire story in the newspaper’s second section. Two days later, in an editorial “Post-Election Debris,” the newspaper criticized Republicans for wearing fake “federal election observer” badges to the polls throughout the state in heavily African American precincts. The newspaper called the illegal activity a “shenanigan.” Then the editorial writer observed that by “some reports” Republicans used the badges to challenge voters. The editorial then criticized Matthew Perry, making

¹⁶⁰ “Fiscal Conservatives Needed In Congress,” editorial, *State*, November 1, 1974, 14A.

light of decades of brutally discriminatory voting practices in the state: “But not long ago, many blacks welcomed genuine federal monitors into South Carolina at election time.”¹⁶¹

Belying the image of innocent political gamesmanship, the intimidation campaign followed a statewide voter purge of African Americans before the election.¹⁶² The South Carolina Republican Party attempted to “purge black voters from the registration lists across the state at the last minute.” The party mailed letters to confirm a voter’s residence less than two weeks before the election, and the party mailed the letters only to voters in black majority wards.¹⁶³ The *State* did not report the charges of registration fraud in detail or prominently. The newspaper did report the intimidation charges, but it reported the charges with a brief United Press International news wire article. The newspaper followed up with one brief staff-written article reporting that Perry was undecided about filing a federal complaint. The newspaper reported the issue only by talking with campaign representatives and did not follow up with local election officials, eyewitnesses, or victims of either the fraud or the intimidation. In the end, Perry evidently concluded that the intimidation did not account for the difference in vote totals and did not file a complaint. Neither *Black On News* nor *Osceola* reported on the fraud in detail. *Black On News* was published monthly at the time, and *Osceola* was published every other week. By the time the two newspapers went to press Perry had decided against pressing a federal complaint.

The only African American candidate elected to the House in the 1974 election survived an attempt at ballot theft. Harold Ford, Sr., defeated his conservative Republican opponent by 600 votes after he found six unreported ballot boxes from precincts with a

¹⁶¹ “Post-Election Debris,” editorial, *State*, November 9, 1974, 14A.

¹⁶² Walter Putnam, “County GOP Denies Black Voter Purge,” *Record*, November 1, 1974, 1D.

¹⁶³ *Ibid.*

majority of black voters. On election night, Ford went to the Shelby County Election Commission offices to determine why television newscasts reported Ford behind in the contest. Ford and his staff found the six ballot boxes “stored off in a can . . . so they could put them on a truck and haul them away. They changed the result of the race.”¹⁶⁴

In covering the 1974 congressional campaign of an African American lawyer in an historic position, the *State* omitted consideration of that historic position. The newspaper also treated race as an infrequent, unwelcome intrusion on the regular order of politics rather than acknowledging racial inequality as a condition underlying the political structure of the state. Finally, the newspaper adopted the logic of color-blind ideology in its editorial comments on Perry’s congressional campaign and the larger competition for black political representation.

South Carolina partisan politics turned on the pivot of 1974. In the face of the national Watergate scandal, South Carolina voters elected a Republican as governor, and seven of the next ten terms were served by Republicans. Following the Supreme Court’s ruling forcing the reapportionment of the state House, the 1974 election results tripled the number of African Americans serving in the state House and increased the number of women to three, including Juanita Goggins, the first African American woman to serve in the House.¹⁶⁵ Perry did not win the election for himself, but his previous legal work to establish the United Citizens Party and to force reapportionment of the state House helped others to win landmark elections.

¹⁶⁴ John W. Lewis Jr., “Ford becomes 17th House member credits Strauss with a key boost,” *Baltimore Afro-American*, November 16, 1974, 1.

¹⁶⁵ Walter Putnam, “Landslide: 13 Blacks, 2 Women Win Seats,” *Record*, November 6, 1974; Robert G. Liming, “S.C. GOP Loses 4 Seats: Blacks Triple Strength,” *State*, November 7, 1974, 1D; Steve Bailey, “She’s S.C.’s First Black Female Legislator,” *State*, November 7, 1974, 14D.

CHAPTER FOUR

THURMOND V. PERRY: WAITING ON JUSTICE

I. INTRODUCTION

When civil rights lawyer Matthew J. Perry Jr., traveled to Union, South Carolina, in late summer 1975 to meet at U.S. Senator Strom Thurmond's request, Thurmond made Perry wait. He finished a conversation before walking over to Perry. The wait symbolized how Thurmond had made Perry wait for nomination to federal court for nearly a decade. In the 1960s, Perry and other successful African American lawyers openly sought greater representation on the federal bench. In 1964, Perry and other leading African American lawyers met with President Lyndon B. Johnson to petition for appointments to the bench. In the years following, the *New York Times* and other newspapers identified Perry as a likely candidate for federal appellate court or the Supreme Court.¹⁶⁶

Perry and other African American lawyers were well aware of the hindrance: senatorial privilege and two senators in particular. The Constitution and American political practice tightly limit access to judicial selection to federal courts. Candidates must be nominated by the President and confirmed by the Senate, a process that requires the approval of the home-state senator of the candidate. Senators can also use other legislative techniques, including secretive ones, to block consideration of specific

¹⁶⁶ Paki Dumisal Rashidi, "Matthew Perry Nominated for Federal Judgeship," *Black On News*, December 20, 1975, 1; Homer Bigart, "Captain's Trial Opened to 'War Crime' Evidence," *New York Times*, May 18, 1967, 2. The reporter quotes Perry and mentions that he "is being mentioned for possible appointment by President Johnson as Federal Judge on the United States Court of Appeals for the Fourth Circuit."

candidates.¹⁶⁷ The senator in the most important position to prevent African American judicial confirmation was James O. Eastland of Mississippi, a virulent racist who served from 1956 through 1978, which was the longest tenure for a judiciary committee chairman.¹⁶⁸ South Carolina's senior senator, Thurmond, also was an influential member of the committee starting in 1967.¹⁶⁹ Thurmond was the Republican senator during eight years of Republican presidents from 1969-1977. Because presidents traditionally defer to the home-state senators and particularly those of the same political party, the concurrence of Republican presidents with Thurmond's committee membership gave him further customary powers in recommendation and confirmation of South Carolina nominees. In short, from the mid-1960s on, if Thurmond did not approve of a candidate, the candidate had little chance of appointment.

Most political topics in South Carolina from the 1930s through the 1990s involved the savvy Thurmond at some point and in some way, and Thurmond involved himself in Perry's rise to and career on the federal bench and his career there. Just as most political topics involved Thurmond, most topics of African American advancement from the 1950s through the 1980s involved Perry.

II. TOPIC AND SIGNIFICANCE

The narrow topic of this chapter is newspaper coverage of Perry's appointment to the federal court. The larger subject is the access of African American lawyers and

¹⁶⁷ The first Jewish lawyer accepted appointment to the United States Supreme Court in 1916; the first African American in 1967; the first woman in 1981; the first Hispanic justice in 2009; and the court has never had a justice of Native American ethnicity.

¹⁶⁸ Eastland notoriously offered to trade President John F. Kennedy approval of Thurgood Marshall for federal court in 1961 for the president's approval of a white Mississippi federal district judge who used vicious epithets for African Americans during trials.

¹⁶⁹ Thurmond later served as chairman of the judiciary committee from 1981 to 1987.

politicians in the Deep South to judicial appointments and, ultimately, to the administration of justice. The subject was particularly poignant for Perry, as he explained to an interviewer, “I think the absence of justice, the absence of equality was evident at one’s every turn, and so there were several alternatives, at least two that occurred to me after I came back from my involvement in World War Two. I could, of course, either leave our state as many very distinguished former South Carolinians did — you know many of them went on to other states and, of course, became successes in their chosen professions — or as I viewed it at that time, I could stay in our state.”¹⁷⁰

Staying in South Carolina also meant Perry chose to study law, and he represented death penalty clients early in his career and consistently throughout it. At the U.S. Supreme Court, Perry’s only loss came in a death penalty case.¹⁷¹

Decades later, Perry explained his involvement,

“I did not represent him [Bullock] at his [original] trial... In my role as the state chairman, this matter was literally laid at my feet, with a request by the state organization that I amass a group of lawyers to do something about it, to try and save this man’s life. ...

“There was a general awareness that the death penalty as then applied in South Carolina, and indeed, in a good many other states, was considered an instrument of racial suppression. ... with respect to the crime of rape, it was undoubtedly an instrument of racial suppression. The death penalty was, for the most part, meted out against black males accused of committing that offense

¹⁷⁰ Beryl Dakers, “1976 South Carolinian of the Year,” WIS-TV 10 News, Columbia, South Carolina, January 1977. Digital transfer of original recording in author’s possession courtesy of the University of South Carolina Department of History and Dr. Bobby Donaldson.

¹⁷¹ *Bullock v. South Carolina*, 365 U.S. 292 (1961).

against white females. . . . This was a fact that was very well-known in the black community at the time. . . .

“You have to also understand another thing. The white members of the bar were not always receptive to lending assistance. . . . The Supreme Court of the United States had not yet decided some major cases deciding the right of state prisoners convicted of state crimes to later seek federal habeas corpus review. The right was there, but it had not been put into widespread uses that today are evident. We were literally plowing new ground. A young inexperienced lawyer, handling his first such case, was nevertheless plowing new ground procedurally. I sought the assistance of Thurgood Marshall. I spoke with him, and he declined to offer assistance. He said that it was not a case that he had any interest in. He and the members of his staff were busy with other cases then pending.”¹⁷²

Perry’s partner in civil rights law, Lincoln C. Jenkins Jr., joined Perry for the Supreme Court argument and recalled later, “That is the case that Mr. Perry says taught him to really practice law. It was the first time he had handled a real serious appeal. Bear in mind, Quincy Bullock was sentenced to die in the electric chair as a result of that trial, and we spent years of work and effort trying to save him. He ultimately was electrocuted after maybe five years from the time we originally got involved. That is the case that caused us, Mr. Perry and myself, to become very, very interested in civil rights matters, human rights.”¹⁷³

¹⁷² Matthew Perry, oral history interview with Robert Moore, South Carolina Political Collections, Hollings Special Collections, Thomas Cooper Library, University of South Carolina. Accessible online at <http://library.sc.edu/scpc/Perry.pdf>.

¹⁷³ Dakers, “1976 South Carolinian of the Year.”

III. NEWSPAPERS

Multiple perspectives emerged in South Carolina's politics and news in the 1970s. The decade was a period of substantial political change for African American South Carolinians. From the late 1960s through the 1970s, South Carolina politics saw a new political party, the United Citizens Party, capable of getting candidates elected; greater competition between the two major parties, the Democrats and newly ascendant Republicans; new coalitions, factions, opportunities, and adversaries. For Perry's first appointment to the federal bench, two alternative newspapers circulated in Columbia, one a black nationalist newspaper, *Black On News*, and the other a political tabloid, *Osceola*. The newspapers had ceased publication by the time of Perry's 1979 appointment to the federal district court in Columbia, but provide insightful perspectives on Perry and the African American challenge to whites-only control of the administration of justice. Among national newspapers, the *Baltimore Afro-American*, the *New York Times*, and the *Washington Post* covered Perry's judicial appointments and activities with the greatest frequency and in the greatest depth.

The *State* remains the central newspaper for comparison on the topic of Perry's appointment to the federal bench. The commercially dominant newspaper had institutionalized routines of in-person coverage of important news events developed under Executive News Editor Charles H. Wickenberg in the 1960s. Wickenberg established the newspaper's Washington, D.C., bureau in 1966, assigning Lee Bandy and tasking him with "aggressive news reporting."¹⁷⁴ Bandy remained bureau chief during the time of both of Perry's federal appointments. The newspaper company's evening edition,

¹⁷⁴ Pierce, *Palmettos and Oaks*, 204.

the *Record*, provides a useful comparison in tone about Perry and the African American freedom struggle.

Perry accepted the appointment to the federal military court of appeals, confirming his acceptance by white political elites, who either accepted him or acknowledged the public value of working with him. A reward for Perry was career elevation, which he sought. The appointment not only rewarded him for his collaboration with the white establishment but also—ever aware of his public role—provided a meaningful symbol of African American acceptance, participation, representation, and success. Most meaningfully, the appointment put the administration of justice in the hands of a lawyer who had sought it for thousands of people seeking to secure, affirm, or protect their basic rights as American citizens.

IV. BACKGROUND

The U.S. Military Court of Appeals was created following the exposure of — and media publicity about — military officer mistreatment of African American service members and discriminatory use of courts martial during World War II and the Korean War.¹⁷⁵ The court was established in late 1952 with civilian judges sitting in review of military court martial convictions. The three-member panel of judges provided independent review of military rulings.¹⁷⁶ Both political parties must be represented on the court, and Perry represented Democrats. Perry was not the first African American

¹⁷⁵ United States Court of Appeals for the Armed Forces website, accessed May 3, 2013; Patricia Sullivan, *Lift Every Voice: The NAACP and the Making of the Civil Rights Movement*, (New York: New Press, 2009), 394-5.

¹⁷⁶ Congress increased the membership to five judges in 1989 and changed the name to the Court of Appeals for the Armed Forces in 1994.

lawyer to serve on the court, but he was the first African American lawyer from the Deep South to serve.

Perry lived with the tensions and burdens that come with racial representation. As Harvard historian Kenneth Mack identified, the tension comes as a civil rights lawyer has to perform in an acceptable manner to whites to succeed as a representative but that very performance calls into question how authentic a representative the lawyer is. In addition to that tension, Perry's generation of civil rights lawyers was integrationist, seeking admittance to the closed institutions of life, whether civic, social, educational, legal.

One of the burdens of representation that Perry spoke of was his very public life. In an interview with Beryl Dakers for a WIS-TV feature in 1977, he said, "I think that the nature of my activities as a lawyer and as a man have made me recognize that I've always been on display and when you know that you're on display, why, you're a little careful about what you say and what you do." The news media were an important part of that public life and image that Perry presented, and Perry resolved that tension through a carefully crafted and controlled performance.

Perry was recommended to Republican President Gerald Ford in September 1975 by U.S. Senator Strom Thurmond, also a Republican. President Ford nominated Perry for the position in late October, and the U.S. Senate confirmed Perry's appointment on December 19, 1975. The civil rights lawyer closed his private practice and was sworn into the court on February 18, 1976, by U.S. Supreme Court Justice Thurgood Marshall. Perry served from 1976 through August 1979 on the military court in Washington, D.C., living with his family in the city.

Perry was nominated for a new seat on the U.S. District Court for South Carolina in Columbia on July 3, 1979. Democratic President Jimmy Carter nominated Perry after U.S. Senator Ernest “Fritz” Hollings recommended Perry for the seat. The U.S. Senate confirmed Perry by voice vote in an expedited approval on September 19, 1979, and four days later in Columbia Perry was sworn in as federal district court judge.

V. COVERAGE AND ANALYSIS

In the early 1970s, Thurmond did not openly support Perry for a court position at the state level. In 1972, when the state legislature considered adding a state circuit court position to the state court system, U.S. Senator Ernest Hollings endorsed Perry, but Thurmond did not publicly support Perry for the position, and Hollings’ endorsement did not carry the vote in the state legislature. In a rare move, Perry publicly announced before the legislature’s vote that he would accept the appointment if the position were created.¹⁷⁷

Beyond the senatorial courtesy issue, Perry worked in a South Carolina influenced, and at times dominated, by Thurmond and his white supremacist perspective. In the late 1940s, Thurmond served as governor and ran for president on a states rights platform. He defied state Democratic Party leaders and won a Senate seat in 1954 as a write-in candidate. Three years later, he set the Senate record for a filibuster, speaking for more than a full day in 1957 to try to defeat a civil rights bill. Thurmond switched political parties in 1964 in opposition to the Civil Rights Act, which barred racial discrimination in public accommodations.

¹⁷⁷ Neville Patterson, “Perry Will Seek Circuit Judgeship,” *Record*, January 31, 1972.

By the time of their 1975 meeting in Union, Perry had accumulated substantial political influence, as well. Perry served on the Democratic National Committee, brokered two major party compromises in 1972 and 1974, and ran for Congress in 1974 at the party's behest against Thurmond's protégé Floyd Spence. Perry had engineered a major legal victory in voting rights, forcing a redistricting of the state House of Representatives, and had recently filed a second lawsuit to redistrict the state Senate, the functional seat of power in South Carolina government. By 1975, Thurmond was in the midst of a reputation makeover under the tutelage of South Carolinian Harry Dent Sr., author of Richard Nixon's successful Southern strategy. Dent devised a strategy of appealing to socially conservative white voters of either party by invoking racial and segregationist concepts through coded language that was superficially neutral but carried racist meaning for readers or listeners. Words and phrases such as "local control," "order," "merit," and "individual freedom" meant the preservation of the economic privilege of whites and the removal of federal protections against discrimination.¹⁷⁸ Through hiring African American staffers and channeling government funding to black communities, Thurmond was trying to build a base of support for reelection.

As a result Thurmond's maneuverings, his offer to Perry of recommendation to military court came with political complications, and Perry turned to other civil rights leaders to evaluate the consequences of accepting the offer. Perry wrestled with the tension between the historic significance of the prospective appointment and the loss of his leadership in the continuing freedom struggle in South Carolina. Accepting a seat on the bench would remove the most experienced civil rights lawyer from South Carolina, putting him not just outside legal representation but also outside the state itself, because

¹⁷⁸ Hustwit, James J. Kilpatrick and Segregation, 669.

the military court is located in Washington, D.C. In addition, Perry could have waged a more vigorous campaign against Spence in a second campaign for Congress.

After his meeting with Thurmond, Perry listened to colleagues from state and national civil rights leaders, deliberated with Hallie, his wife, then in the morning called Thurmond to accept the invitation. Perry embraced the public aspect of his position and carefully managed a public image of respectability, professionalism, and controlled intellect.¹⁷⁹

In an article in the independent weekly newspaper *Black On News*, Perry discussed the politics and politicking behind his appointment to the military court. He identified Strom Thurmond's possible political motivations in nominating Perry to the military court and Perry's own frustrations waiting for an appointment to federal court. Perry said he was involved in national discussions about African American appointments to judgeships starting in the early 1960s. Perry told the reporter, "early during the Johnson administration Black lawyers from every Southern state met with the President in Washington to consider appointing Blacks to federal judgeships. 'We went there out of frustration... We felt that we were shut out.'"¹⁸⁰

The State reported news of Perry's recommendation in September 1975, after the formal recommendation. In December, following the FBI background check, President Gerald Ford nominated Perry, and the Senate held a hearing on Perry's nomination. Perry clearly was not a consensus figure for Republicans and Southern politicians. President Ford had to be reassured that Perry was not "too liberal" to suit the president, and at the hearing a Mississippi senator questioned whether the civil rights lawyer would "support

¹⁷⁹ Jack Bass and Marilyn W. Thompson, *Strom: The Complicated Personal and Political Life of Strom Thurmond* (New York: Public Affairs, 2005), 242-243.

¹⁸⁰ Rashidi, "Matthew Perry Nominated for Federal Judgeship," *Black On News*, December 20, 1975, 1.

the necessary penalties of those who disobeyed or rebelled.”¹⁸¹ Despite the questioning, once conservatives were reassured, the Senate confirmed Perry unanimously on a voice vote, and in February 1976, Perry joined the important but little-noticed United States Military Court of Appeals. Congress created the court as part of a sweeping overhaul of military justice following World War II. The court of appeals provides outside review of military courts martial by civilian lawyers. Typically, though, the lawyers have prior military experience, as did Perry, who was drafted and served during World War II. The experiences of African American soldiers during the war gave the impetus for reforms of the Army and other branches of the military, including the introduction of the civilian court oversight of military justice. As a member of the judiciary Perry could no longer choose his cases, but he and the other two members of the three-judge court shortly had to resolve a national scandal.

Perry might not have been a consensus figure in Washington or even in Columbia at the time, but he was respected among the white political, business, and governmental elite in South Carolina, and the state and national media took note of his appointment. The night before Perry’s swearing in at the Washington, D.C., military court, a host of prominent Columbians held a reception in his honor. Among those attending were state Senator Marion Gressette, former Governor Robert McNair, and Harry S. Dent, Sr.¹⁸² While Perry’s appointment was not historic for the court, it was historic and emotionally meaningful for a packed courtroom of visitors, according to coverage. The State’s Washington reporter, Lee Bandy, reported the ceremony was “one of the most moving

¹⁸¹ Lee Bandy, “Perry Promises He Will Defend Discipline Concept,” *State*, December 17, 1975.

¹⁸² WIS-TV February 16, 1976, 11 p.m. news broadcast transcript, Moving Images Research Collection, University of South Carolina.

ceremonies observers say they have seen here in sometime.”¹⁸³ U.S. Supreme Court Justice Thurgood Marshall administered the oath of office at Perry’s request. As a civil rights lawyer, Marshall had inspired Perry to pursue a legal career to change Columbia. At the ceremony, NAACP official Clarence Mitchell sounded a theme that had long been present in African American intellectual thought: the patriotic service of an African American making him fit for full participation in American life and government. Mitchell noted the event as historically fitting in the nation’s bicentennial year. The *New York Times* and the *Washington Post* took note of Perry’s appointment, both publishing lengthy news stories about the ceremony. In both national newspapers, Strom Thurmond got his due. The *Post* quoted Perry’s remark, “Until Sen. Thurmond, no senator had the audacity to make such a recommendation” of an African American lawyer for a judgeship. The *Times*, however, noted that Thurmond’s recommendation was “politically safe” and necessary as “another effort . . . to neutralize once-solid opposition to him by black voters, who now make up more than fourth of the electorate in the state.”¹⁸⁴ Likewise, the independent *Black On News* conducted the most revealing interview of Perry of the time. In the interview, Perry explained that Thurmond might have been trying to remove him as a competitor to U.S. Rep. Floyd Spence, and to “spruce up” Thurmond’s own image as a “racist.”¹⁸⁵

In April, less than two months after Perry joined the court, West Point cadets revealed an investigation into the largest academic cheating scandal in the Army military academy’s history.¹⁸⁶ By June, the scandal made the front cover of *Time* magazine, and

¹⁸³ Lee Bandy, “Judge Perry Sworn In At Moving Ceremony,” *State*, February 19, 1976.

¹⁸⁴ “Southern Black a U.S. Judge: Matthew James Perry Jr.,” *New York Times*, February 20, 1976, 26.

¹⁸⁵ Rashidi, “Matthew Perry Nominated for Federal Judgeship,” *Black On News*, December 20, 1975, 1.

¹⁸⁶ James Feron, “New Cheating Case Erupts At West Point,” *New York Times*, April 7, 1976, 1.

in August the case made it to Perry's court with extensive national coverage. While the cheating scandal attracted national attention, an opinion that Perry authored later in the year gained attention in legal and military circles for its importance. As the *Record* reported, the opinion "barred 'shakedown searches' of military barracks to ferret out illegal drugs," noting that the *Washington Post* praised Perry and the court "for bringing 'a new day to military justice' by ruling that even military personnel have a right to a measure of privacy."¹⁸⁷

For the *State*, Perry was not in the sphere of consensus that he would reach later in his career. That shift came later only after changes in the newspaper personnel and ownership and further changes in African American political power in the state. In 1976 and through his appointment to U.S. District Court in 1979, Perry remained in the sphere of legitimate controversy. The newspaper followed the predicted media content model identified by Pamela Shoemaker, reporting officials' comments and contrasting opinions of Perry. In the mid-1970s, neither the Thurmond Republicans nor the Hollings Democrats controlled politics in South Carolina, as the Democrats had for decades earlier and the Republicans would later, and the newspaper gave equal weight to opinions from competing political views of Perry and African American governmental representation in general. Perry and other South Carolinians were moving African American governmental representation closer to the sphere of consensus, as considered through Daniel Hallin's model of media coverage.¹⁸⁸ It was not acceptable to dismiss openly Perry or African American complaints, and the *State* provided anonymity to the politicians making critical

¹⁸⁷ Jan Stucker, "'Columbia Is Still Home For Matthew Perry,'" *Record*, January 31, 1977.

¹⁸⁸ Daniel Hallin, "The Media, the War in Vietnam, and Political Support: A Critique of the Thesis of an Oppositional Media," in *We Keep America on Top of the World: Television Journalism and the Public Sphere* (New York: Routledge, 1994), 35-51.

comments about Perry, and the newspaper editorialized about open racism only to condemn it.

U.S. DISTRICT COURT

Not long after Perry joined the military court, Congress expanded the federal bench nationwide in 1977, adding more than 150 district and circuit judgeships. South Carolina received three of those new seats for Columbia, and even before the president signed the increase into law, lawyers angled for the posts. With a Democratic president in office and Democratic control of both houses of Congress, the party had the opportunity to seed the court with a new generation of judges, an important task at any time but one that had added significance following the legal battles over the White House privileges during Watergate proceedings. With Democrat Jimmy Carter in the White House, South Carolina Democrat Senator Ernest Hollings had the prerogative to recommend judges for Carter to recommend to the Senate for confirmation. He reported to the *State* newspaper that he was “besieged” with letters and phone calls from lawyers promoting himself or someone else.

One of the seats Hollings reserved for Matthew Perry. Early in 1977, Hollings said in a television interview that he planned to nominate the Columbia attorney for a further judgeship should the seat open, and when the Senate voted to approve new seats the *State* reported that “Hollings has already promised U.S. Military Court of Appeals Judge Matthew Perry the first vacancy in the reported appointed, Perry became the first African American to serve on the South Carolina federal bench. He broke the barrier as the first African American from the Deep South to serve in the federal judiciary with his appointment to the military court. As a result of Perry’s earlier nomination, the debate

about groundbreaking judicial moves shifted to the nomination of a woman for federal judgeship in South Carolina. With Perry in line for one recommendation, the *State's* Washington bureau reporter discussed the possibility of Hollings nominating a woman for one of the seats — “Hollings hasn’t ruled out a woman for one of the positions” — and two candidates. For government officials and the *State* newspaper, the appointment of women remained outside the sphere of legitimate debate. Representatives were quoted or reported on when they appeared in official settings to protest decisions excluding women or to appeal for access, but the *State* did not treat their plea for access as a matter of legitimate debate to report on at length. Sen. Hollings assured the Senate review committee that “he looked hard for ‘an outstanding lady lawyer’ with courtroom experience for one of the positions, but couldn’t find any.” He told the committee, “some are ‘coming along’ and should have the necessary experience for the next federal bench job.”¹⁸⁹

Even though Perry’s appointment appeared to be a political formality by mid-1977, the *Charleston News and Courier* openly criticized the move. The newspaper called Perry’s appointment “being kicked upstairs” after “a dubious performance” on the military court, which was in itself a “serious error.” The newspaper laced the editorial with critical references to Perry and his work on the military court, writing that his rulings undermined military discipline. The contempt for Perry included narrative of white victimization. Politicians “fear to criticize Perry because he is black.” Perry was one of three judges on the court and the newest to the court but the newspaper attributed weak military discipline, a weak military, and a weak national defense indirectly to Perry.

¹⁸⁹ Lee Bandy, “Women’s Groups Oppose 2 Judgeship Candidates,” *State*, July 24, 1979, 1A.

The *State* newspaper did not publish editorials or opinion columns about Perry's historic appointment, but the *Record* newspaper noted the event as a moment of celebration. The difference in the coverage highlights the different roles the company had created for the two newspapers. In 1979, the *Record* remained in effect a "black star" edition with more coverage and more prominent coverage of African Americans than the *State* provided. For example, the *Record* noted in an editorial the "cheap shots" that Perry had endured at the Senate hearing. A former federal attorney from Sumter, South Carolina, called Perry's nomination "pure tokenism" and a move "designed to gain Negro votes for Sen. Hollings in the 1980 elections." The *State* had reported the lawyer's extended caustic comments in a news article, but the *Record* editorially fired back that Perry was highly qualified and the appointment of a black judge was "overdue."¹⁹⁰

The *State* newspaper criticized Perry less directly, questioning his performance on the court so in news articles. In one front-page article, the newspaper recounted anonymous complaints about Perry's work only to note in the next sentence that authorities had dismissed the complaint. Newspapers use anonymous sources to bring important information to light that otherwise would not be printed, but the practice is not without controversy, and in this case, reporter Lee Bandy raised the rumored complaint only to dismiss the rumor immediately. The effect of printing the rumor gave credence to the complaint rather than the dismissal. The report did not note the source of the complaints, attributing them to "reliable sources." The FBI background investigation included the same complaints by two people interviewed, if the bureau directly or indirectly gave Bandy access to the investigative report. Bandy also did not offer any further information about the case backlog or place it in any larger context in the military

¹⁹⁰ "Perry, Too..." editorial, *Record*, July 26, 1979.

or judicial systems. Hallin's model suggests that the *State*, following industry standards for news coverage, was capturing the official debate over the appointment of an African American to a federal judgeship. Even a person as respected and accepted as Perry was a figure of legitimate controversy when considered for a lifetime appointment to administer justice in South Carolina.

The article also excluded Perry from the announcement of three South Carolina attorneys being nominated for three new federal judgeships, announcing that two attorneys were nominated. The article reported that officials delayed Perry's nomination on a technicality that they expected to be resolved within the day. By that point, Perry had already passed a thorough FBI background investigation, but still the article emphasized the nomination delay for four of the first five paragraphs of a twelve-paragraph story. The article then recounted the rumored complaint about Perry's work in another long paragraph. In summary, the Washington Bureau reporter used the first half of the article to question Perry's compliance with nomination procedure and fitness for the job. In what might have been an announcement that was cause for celebration or questioning why the acknowledged candidacy was delayed, the newspaper made the prospective nomination a cause for questioning about Perry. The newspaper might have legitimately noted that Perry had paid more than \$4,000 in back taxes about two years earlier, a story reported in 1977 in the *Baltimore Afro-American*, but the *State* did not refer to the problem.

From a larger perspective, the *State* did not mention the historic aspect of the nomination. When confirmed, Perry stood to be the first African American lawyer appointed to the federal bench in South Carolina history and only the second in the Deep

South. The news article also did not mention his 25-year career as a civil rights lawyer and his work on a dozen victories in U.S. Supreme Court appeals. In the *Record*, Perry's swearing in was a moment to hear from African American freedom movement leaders and Perry's colleagues. The *Record* wrote a feature the day before the ceremony with photographs of law partner Lincoln C. Jenkins Jr., and the Rev. I. DeQuincey Newman noting Perry's intelligence, empathy, and legal skills.¹⁹¹ In an editorial comment following the ceremony, the *Record* noted the praise Perry received from "the white establishment who once were his legal and philosophical foes" and concluded by remarking on the qualities that made Perry an excellent judge for South Carolina: "those human qualities — personal sensitivity to flesh-and-blood situations — which matched with his sharp legal intelligence stood him in such good stead as a practicing attorney."¹⁹² In contrast, the tone of the *State's* reporting shifted based on which official the reporter interviewed. In keeping with an issue of legitimate controversy, reporters appeared to treat all official opinions as valid and reported them at length.

A week after the hearing in which the South Carolina lawyer blasted the choice of Perry as "tokenism," Thurmond blocked Perry and the other nominees in a power play to gain approval for two conservative judicial candidates. Thurmond made Perry wait again. The senator who made the lawyer wait a decade for an appointment to federal court made him wait more than a month for confirmation and swearing in.¹⁹³ Thurmond made Perry wait for the seat he had desired for a decade or more, for the seat in the court in which he had to battle racist, sexist judges such as George B. Timmerman, Sr., and Charles C.

¹⁹¹ "Judge Perry: South Carolina's first black federal district judge is used to pioneering advancements for his race," *Record*, September 21, 1979.

¹⁹² ". . . Judge Perry," editorial, *Record*, September 27, 1979.

¹⁹³ Lee Bandy, "Thurmond Blacks Judgeships In Dispute," *State*, August 1, 1979, 1A.

Wyche for plaintiffs' rights. The FBI file appears to show that Thurmond did not support Perry for the second confirmation, when it was not Thurmond's plan and his benefit.¹⁹⁴

A *State* article on September 20, 1979, announced Perry's confirmation for the judgeship. The newspaper's Washington-based reporter Bandy reported that Perry had been confirmed the previous day on a voice vote in the U.S. Senate. South Carolina Sen. Hollings made special arrangements to put the confirming vote on a fast track to have Perry sworn in as the first of the three new judges in a separate ceremony. Unlike the earlier front-page article, the confirmation article identified Perry as a civil rights lawyer and made no mention of the earlier delays or concerns. Instead, the article spent the second half of the 12 paragraphs reprinting selections from Hollings' floor remarks praising Perry. The article had a different tone than the first. Bandy took a neutral tone and allowed the senator to praise Perry. While Bandy still didn't mention the historic aspect of Perry's appointment to the federal bench, he also did not revive discredited rumors.

SWEARING-IN CEREMONY

The *State's* coverage of Perry's swearing-in ceremony presented a different picture of Perry than either of the earlier two articles and represented a further departure from the critical article. The news of Perry's ceremony ran at the top center of the front page with a photograph of a smiling Perry and wife Hallie walking up the courthouse stairs. Columbia-based staff writer Tom Kapsidelis started the article with the historic aspect of the ceremony, Perry's position as the first African American on the federal court in South Carolina. The writer then identified Perry's "distinguished" record in civil

¹⁹⁴ Federal Bureau of Investigation background investigation files on Matthew Perry in author's possession.

rights law. The longer, 29-paragraph article mentioned the 500-person crowd and the official setting. The newspaper reporter noted that the court lifted the policy forbidding cameras in the courtroom, but the newspaper didn't picture either the large crowd or the ceremony. The article included remarks from dignitaries lauding Perry and observations from the writer, Kapsidelis, which rose to favorable editorial commentary: "It was a ceremony marked by dignity and good humor."¹⁹⁵

The third article also introduced a theme that the fourth and final article developed at length: Perry as a hard-working example. The *State* published four articles relating to Perry's appointment to the federal bench, and the fourth took the form of a lengthy feature article.¹⁹⁶ The October 14, 1979, cover story for the newspaper's Sunday magazine extolled Perry for working hard: "He worked to 'be somebody' — now he's a federal judge." In the table of contents, the magazine headlined the article, "Federal Judge Matthew Perry enjoys being a 'workaholic.'" The article written by Lee Bandy spanned two tabloid-size pages. Despite the article's length, the writer quoted only Perry. A "single-source" article is frowned upon in the newspaper industry as not a well-researched, serious article, and the magazine contained lighter fare for readers.

Perry's appointment to the federal bench marked an historic step for South Carolina. His appointment to the U.S. district court carried with it a lifetime appointment, so the judgeship not only gave an African American lawyer substantial legal power it also was an almost irrevocable power. No longer would white officials hold power over Perry. Unsuccessful in his 1974 bid to represent the residents of several South Carolina counties

¹⁹⁵ "Perry," news article jump, *State*, September 23, 1979, 15A.

¹⁹⁶ Lee Bandy, "Matthew Perry: He Worked To 'Be Somebody' — Now He's A Federal Judge," *State Magazine*, October 14, 1979, 4.

in Congress, Perry just five years later represented residents of at least a third state as a judge.

Perry had worked through those same federal courts to help clients achieve legal victories in voting, education, and access to public spaces. The *State* consistently cast those victories for Perry's clients -- and the African Americans of South Carolina — as battles lost in a long war. When the state government lost the effort to keep colleges segregated in 1963, the *State* expressed distaste for the outcome and urged readers to continue the war. When the state government lost the power to restrict registration and voting by African Americans, the government used other means to restrict the franchise among African Americans, and the *State* endorsed those tactics. The state government lost repeated battles to use such tactics and the federal government stepped in to monitor and approve the operation of and any changes to the electoral system. The *State* continued to endorse the spirit of those tactics. The newspaper then reframed the contests for governmental positions and power, arguing that issue of race didn't belong in electoral politics. When the battle to control the vote had been lost over race, the *State* wanted to take race out of the system. The effect would be the same: to deny positions of power to African Americans and to maintain white supremacy.

THURMOND BLOCKS AGAIN

A few years after Perry joined the federal district court, the former civil rights lawyer figured in another political struggle between Senators Thurmond and Hollings. As many disputes before involving Perry, this one involved a mixture of Perry as lawyer and Perry as symbol, the representative man. A position on the Fourth Circuit Court of

Appeals in Richmond, Virginia, opened, in 1984, and Hollings recommended Perry, a sitting district court judge. Thurmond recommended a lobbyist. As he did in his 1968 decision not to run for Congress, Perry chose political peace over engaging in a political battle in 1984, and he did not press his candidacy for the Fourth Circuit bench. Perry remained a federal district court judge in Columbia for the rest of his career.

Opening the dispute to public view, Senator Hollings issued a press release in late July, announcing that he sent a letter to President Ronald Reagan recommending Perry for the judgeship.¹⁹⁷ However, the Democrat Hollings did not have the traditional privilege of recommending a candidate to the Republican president. That privilege, known as senatorial courtesy, rested with the senator of the same party as the president, or Strom Thurmond, who famously left the Democratic Party for the Republican Party in 1964, in protest of the Civil Rights Act passage.

Two days after Hollings' announcement, the *State's* Lee Bandy reported the breach between Hollings and Thurmond.¹⁹⁸ Hollings told the newspaper that he would fight Thurmond's choice, Emory Sneed, objecting that the retired Army officer lacked "any kind of qualifications" for the post. Hollings pointedly observed that Sneed had "never been a practicing lawyer in a court." Hollings understated Sneed's record, because the Army general had served as the chief judge of the Army. Sneed's resume included a stint on Thurmond's staff and as associate dean of the University of South Carolina Law School. Hollings was correct, though, that Sneed's record lacked in comparison to Perry's record, especially in trial and appellate court experience. At the time Thurmond recommended him, Sneed was a Washington, D.C., lobbyist.

¹⁹⁷ Both the *State* and *Record* newspapers ran the same Associated Press article based on the release, although the *Record* gave more space and greater prominence to the article.

¹⁹⁸ Lee Bandy, "Senators split on nominee," *State*, July 25, 1984.

Perry resolved the dispute by writing a letter recommending Sneed to Thurmond, the Senate Judiciary Committee chairman. “Armed with a letter of support from U.S. District Judge Matthew J. Perry, the Senate Judiciary Committee is expected to approve the nomination of Emory M. Sneed of Columbia today to be a judge on the U.S. 4th Circuit Court of appeals. . .”¹⁹⁹ If Perry obtained anything from Thurmond for relinquishing his claim to the seat, it was not lasting, because in the next decade Thurmond fought intensely to prevent a new federal courthouse in Columbia for being named for anyone other than himself. That time, Perry’s advocate U.S. Representative Jim Clyburn had the presidency on his side, and Democrat Bill Clinton ensured the courthouse was named for Matthew J. Perry Jr.

While Strom Thurmond made Matthew Perry wait for his appointment to court until it served the senator’s political interests, Perry worked patiently and relentlessly for African American political and social interests. Between his 1964 meeting with President Johnson and his 1975 meeting with Thurmond, Perry represented thousands of South Carolinians in successful challenges to educational and political restrictions against African Americans. The lawyer earned success after success in civil rights legal cases, culminating in the state House and Senate redistricting lawsuits that tripled the number of African American state representatives in one election alone. As always, Perry presented himself carefully and knowingly as a representative able to navigate the channels of white elite legal and social power. By 1975, that work made Perry a respected figure, but he continued to challenge the social, legal, educational, and political restrictions on African Americans, so he remained for the *State* newspaper a figure of legitimate controversy.

¹⁹⁹ Lee Bandy, “Sneed praised by man Hollings pushed for job,” *State*, August 9, 1984.

CHAPTER FIVE

EPILOGUE

When civil rights lawyer and federal judge Matthew J. Perry Jr., died on July 31, 2011, South Carolina's largest newspaper searched for ways to explain his importance and to define him for its readers. In headlines, the *State* selected quotations that likened Perry to a giant, a tree, Moses, an icon.²⁰⁰ For two consecutive days, Perry's death dominated the front page with large photographs of the late federal judge and banner headlines about him. On the day following Perry's memorial service, the newspaper devoted the entire front page and five full inside pages to stories and photographs of the service.²⁰¹ A *New York Times* staff-written obituary identified Perry as a legal pioneer, and the Associated Press news service distributed a nearly 700-word obituary about Perry written in the style of a feature story.²⁰² South Carolina's public television and radio networks broadcast Perry's memorial service live and in its entirety with more than an

²⁰⁰ Dawn Hinshaw, "S.C. mourns death of civil-rights 'giant,'" *State*, August 1, 2011, A1; Carolyn Click and Dawn Hinshaw, "Perry Services Set for Today - Civil Rights Icon," *State*, August 4, 2011, A1; Carolyn Click, Dawn Hinshaw, "He was our Moses," *State*, August 5, 2011, A1; "A Giant Tree Has Fallen," *State*, August 5, 2011, A15.

²⁰¹ Carolyn Click, Dawn Hinshaw, "He was our Moses," *State*, August 5, 2011, p. A1; "A Giant Tree Has Fallen," *State*, August 5, 2011, A15.

²⁰² Douglas Martin, "M.J. Perry Jr., Legal Pioneer, Dies at 89," *New York Times*, August 5, 2011, A21; Jeffrey Collins, "Civil Rights Lawyer, Federal Judge Perry Dies," the Associated Press, August 1, 2011.

hour of advance coverage and commentary.²⁰³ The news media covered Perry's memorial service as if it were a state funeral.

South Carolina's dignitaries similarly honored Perry. The governor attended the service with former governors, senators and retired senators, legislators past and present, state Supreme Court justices, judges, and lawyers. Ministers, professors, and veterans of the civil rights struggle joined more than two thousand others to pay tribute to South Carolina's most famous civil rights lawyer. The officials gathered to memorialize a lawyer who altered not only the legal but also the social landscape of South Carolina.

The coverage and tributes offer evidence that Perry had entered the sphere of consensus as defined in Hallin's model of public discourse and news coverage.²⁰⁴ As stated before, Hallin's theory of spheres of journalistic coverage offers a useful framework for evaluating the *State's* coverage of Perry.²⁰⁵ The *State* played an influential role in covering Perry's actions in South Carolina. A fellow newspaper editor identified the *State* as one of the three most influential newspapers in South Carolina, with almost all other white-owned newspapers operating as "intellectual satellites" of Columbia, Charleston, and Greenville.²⁰⁶ Founded in 1891, the *State* identified itself as South Carolina's progressive newspaper and explained it advocated for "new privileges as they could be assumed" by African Americans. The use of "privileges" and the phrase "could be assumed" reveals the ideology of the editor who managed the newsroom for two

²⁰³ South Carolina Educational Television, "ETV to air funeral service of the late judge Matthew Perry," <http://www.sctv.org> (accessed December 10, 2012); News article, "ETV to broadcast Perry's funeral service live on Thursday," *Orangeburg Times and Democrat*, August 2, 2011.

²⁰⁴ The extensive, week-long attention to Perry's memorial service and life drew my attention to the man and his work and eventually led to this study.

²⁰⁵ Hallin, *We Keep America on Top of the World*, 53-4.

²⁰⁶ Secrest, *In Black and White*, 13.

decades from 1941 through 1961, because the writer of the history in 1970 was the top editor from 1941 through 1960.²⁰⁷

This study applies Hallin's three spheres to the *State's* coverage of three important events in Perry's life. The *State* treated the NAACP's and Perry's efforts during the 1963 desegregation of Clemson College as deviant. The newspaper treated Perry's 1974 Congressional campaign as existing somewhere on the border between the spheres of deviance and legitimacy. The newspaper handled Perry's nomination to federal judgeship as a legitimate controversy. Finally, in response to Perry's death, the newspaper's coverage of his life and career fell within the sphere of consensus.

In covering the desegregation of Clemson, the newspaper did not cover the group's leaders or attempt to understand its interests and actions on behalf of the people of South Carolina. Indeed, the newspaper and senior editors had earlier identified the group as a Communist ally.²⁰⁸ In Perry's 1974 congressional campaign, the newspaper appeared to include his campaign in the sphere of legitimate controversy but during the ten months reviewed for this study, the newspaper did not explore issues in the campaign and did not encourage debates. The newspaper first suggested that candidates remove race from the discussion, then editorialized in news stories that Perry could not win. In news coverage, the *State* treated Perry as one of the legitimate candidates but as one with a small chance of winning. In editorials, the newspaper treated Perry as outside the borders of legitimacy. In the third event, Perry's nomination to federal district court, the *State* handled his candidacy as a legitimate controversy, repeating rumors criticizing Perry, even though the rumors had already been discredited. The newspaper covered the

²⁰⁷ Latimer, *The Story of The State 1891-1969 and the Gonzales Brothers*, 221.

²⁰⁸ Workman, *The Case for the South*, 190-192.

story uncontroversially only after Perry's confirmation on a fast-track voice vote by the U.S. Senate.

In the *State's* 2011 posthumous coverage of Perry, the newspaper represented Perry as a respected, admired figure in South Carolina and particularly so among the African American community. The newspaper also used its own voice, the editorial page, to recognize Perry as a consensus, respected figure. As my analysis in chapter two showed, the shift from deviance toward legitimate controversy started in 1963 after Perry's successful legal work in helping Harvey Gantt gain entrance to Clemson College. In the September 1963 news analysis, "The Negro Effort," the newspaper quoted Perry on the issue of integration. Previously, the newspaper had confined its coverage of Perry to settings such as court hearings where he appeared alongside government officials. As my analysis in chapter four showed, the shift toward consensus in the *State's* coverage of Perry started after his 1979 appointment as the senior United States District Court judge. In the month after Perry's swearing in, the newspaper featured Perry as an example to South Carolina's poor and all African Americans of the rewards of hard work. In the 1980s and 1990s, the newspaper covered Perry's work in the federal court as a matter of legitimate controversy as defined in Hallin's model. In the *State's* news coverage, Perry emerged as a consensus figure in the 2000s, after he had retired from daily judicial service and assumed senior status. In the decade before Perry's death, the federal government named the new district courthouse for him and the University of South Carolina Press published a book about his career. The *State's* coverage of the court

opening and the book publication reflected the favorable official and social consensus about Perry.²⁰⁹

Hallin argued that the news media are not adversarial towards government, but rather the media reflect elite debates and include dissent only when the government officials themselves dissent from policy.²¹⁰ Hallin's model of news coverage and public discourse adequately explains the change in news coverage of Perry throughout the lawyer's career. However, the model does not explain two aspects of newspaper coverage of Perry, and for those two aspects I sought explanations that complement and supplement the Hallin model. First, the Hallin model does not explain the difference between the news coverage of Perry and the newspaper's editorial opinions about Perry. For that, I used the Shoemaker and Reese model of hierarchical influences on media content.²¹¹ Second, the Hallin model does not explain *how* the official discourse about Perry and South Carolina's African American residents changed. For that, I return in this concluding chapter to the media coverage and a reconsideration of Perry's role in the African American freedom struggle.

In media sociology model by Shoemaker and Reese, of all the influences on news content in their hierarchical model — from individual to societal — the influence of ownership ideology and interests is the most significant.²¹² At the *State*, at least one family member represented ownership interests in active management of the newspapers and the influence shows most clearly on the editorial page.²¹³ In the Shoemaker and

²⁰⁹ Valerie Bauerlein, "There Was A Lot to be Done," *State*, August 23, 2004, 1B.

²¹⁰ Hallin studied coverage of the Vietnam War to test the concept.

²¹¹ Shoemaker and Reese, *Mediating the Message in the 21st Century*.

²¹² *Ibid.*, 151.

²¹³ In example, Henry F. Cauthen to Charles Wickenberg, 18 July 1963, box 2, correspondence, general, 1963 folder, Wickenberg Papers; Harry R.E. Hampton to the editors of the *State*, 20 January 1973, box 2, correspondence, general, 1973-1978 folder, Wickenberg Papers.

Reese model, however, the influences form a network of effects on the resulting news content, so the owners' influence is moderated by the other levels. In news coverage, the newspaper followed professional standards that account for the differences between editorial writing and news reporting in the *State* about Perry and his clients.

The opposition of the *State's* owners and editorial writers to Perry is not surprising, because, at each event considered in this study, Perry challenged the dominant social and political ideas of what was legitimate in South Carolina and the Deep South. Perry represented people challenging the existing social and political order, and he represented them successfully. Typically, Perry and his clients succeeded at the U.S. Supreme Court after losing at county, state supreme, or federal district court.²¹⁴ Perry's personal efforts, combined with his legal work, helped push African American access to education, political office, and the administration of justice from the sphere of illegitimate controversy to legitimate controversy, and in the case of Perry himself to consensus. From the opening of his law practice in 1951, Perry agreed to represent African American clients in their individual interests in court. He also represented the collective political, legal, and social interests of African American South Carolinians in public through organizations including the NAACP and the Progressive Democratic Party. In part through the efforts of Perry and the network of civil rights lawyers that he joined and developed, African Americans in South Carolina gained access to education, political office, and justice.

The newspaper's editorials often employed militant language. That outlook fit a newspaper that had Workman as an editorial writer and influential figure in the

²¹⁴ Mack, *Representing the Race*.

newsroom.²¹⁵ As noted earlier, Workman had written a racially noxious book, *The Case for the South*, in which he called the NAACP a black beast, Communist in its aims, and part of a conspiracy against the U.S. government.²¹⁶ White Southerners were justified “in striking back at the NAACP, as at a mortal enemy, with every weapon at hand.”²¹⁷ Workman wrote that the South was in “a war for the survival of civilization.”²¹⁸

The *State* lumped Perry with the mistrusted organization during the lawyer’s work to open access to higher education. Until Perry was sworn in as federal district judge, the newspaper treated him in various ways as an outsider, disregarding his contributions to changes in the state. The newspaper wrote about victories for the NAACP and Perry as losses for South Carolina. The newspaper described the court-enforced changes that Perry helped bring about as losses in state control of government, in the state’s way of life, in the operation of the legislature, in restraint on government spending. The newspaper further described the losses as military battles. In covering Matthew Perry’s work in the three selected events, the *State* newspaper never looked at the sources of grievance or gave credence to the African American point of view. The newspaper consistently identified discontent as generated by outside forces. Perry put the *State* in an untenable position with that explanation. Perry was born in Columbia. He attended the state’s segregated college and law school. He passed the state’s law exam and practiced law within the state. He worked with local attorneys throughout the state when pursuing cases with the NAACP. The newspaper would have had a difficult time explaining Perry’s activism, so not until the end of the third event, in late 1979, did the newspaper try.

²¹⁵ Pierce, Palmettos and Oaks, 202.

²¹⁶ Workman, *The Case for the South*, vii, 190, 192.

²¹⁷ *Ibid.*, 192.

²¹⁸ *Ibid.*, 193.

As newspaper coverage and particularly the editorial commentary suggest, the important issues remained in contest in the 1970s. As Perry's work exhibits, the African American freedom struggle extended beyond the civil rights era of the 1950s and 1960s. The three concerns of the African American freedom struggle covered in this study — access to education, electoral office, and justice — did not end in 1965 with the passage of the Voting Rights Act or in 1968 with the assassination of the Rev. Dr. Martin Luther King Jr., the traditional close of the civil rights era.

One of the enduring narratives that developed in South Carolina during the Clemson hearings was the phrase “integration with dignity.” The term originated with a *Saturday Evening Post* national magazine article written by Aiken, South Carolina, writer George MacMillan.²¹⁹ Clemson administrators, South Carolina Governor Ernest Hollings, and other white officials adopted the phrase and continued to use it in 2014. The phrase conveyed the idea that South Carolina had desegregated its public universities without violence in stark contrast to Mississippi's fatally violent opposition to integration in fall 1962. The phrase, like the article, revealed a white elite perspective. In the article, MacMillan interviewed only white government and college officials and wrote the multiple-page article from their perspective. The article omitted the perspectives of Gantt, Perry, and other African Americans involved. The dignity imputed to the process did not extend to Perry, who had to face a racist federal judge.

Legal Defense Fund lawyer Michael Meltsner observed that Perry was strikingly unusual in his legal skills and effectiveness in the Deep South.²²⁰ Meltsner described feeling defeated himself when he tried cases in Southern courtrooms and encountered

²¹⁹ George MacMillan, “Integration with Dignity: The Inside Story of How South Carolina Kept the Peace,” *Saturday Evening Post*, March 16, 1963, 16.

²²⁰ Phone conversation with Michael Meltsner, 12 June 2013.

“truly hostile witnesses,” who stonewalled and were “bent on sowing confusion.”²²¹ Trial experience in the South, he wrote, revealed the difference between constitutional, appellate lawyers arguing case law before judges and trial lawyers questioning uncooperative law enforcement witnesses in municipal courts.²²² Perry did both successfully. He cut his professional teeth on cross-examining hostile witnesses before hostile judges and hostile juries in the early 1950s in Spartanburg and Columbia.²²³ Perry’s rare skill in court and in organizing a network of cooperative attorneys throughout South Carolina helped the NAACP initiate or defend more cases in the courts. His skill was remarkable in building trial records for appeal. Along with his law partner Lincoln C. Jenkins Jr., Perry established facts from the defendant’s or plaintiff’s first hearings that appellate judges later relied on to overturn convictions and establish precedents. In one instance, Supreme Court Justice Potter Stewart called one of Perry’s cases “pristine.”²²⁴ Perry’s skill at arguing in the courts offered black South Carolinians a viable means of achieving their goal of equal, or less discriminatory, treatment. That legal venue also offered white officials an avenue to a peaceful desegregation. Perry’s work cornered state officials into a choice: accept federal court orders and desegregation or reject federal authority.

In 1967 Perry addressed the state convention of newspaper editors in Columbia. The *State’s* coverage of his address reveals the consensus opinion that Perry felt he had to address among the mainstream media. In talking about political affiliations and voting in the wake of the Voting Rights Act of 1965, Perry “denied that Negroes are being led like

²²¹ Michael Meltsner, *The Making of a Civil Rights Lawyer* (Charlottesville, VA: University of Virginia Press, 2007).

²²² *Ibid.*, 68.

²²³ Sarah Mae Flemming Brown v. South Carolina Electric and Gas Company, 239 F2d 277 (1956).

²²⁴ Edwards v. South Carolina, 372 U.S. 229 (1963).

blind sheep to the polls for any political party.”²²⁵ Perry reminded the group of white editors that as a result of the court decisions, “no longer do I have to be humiliated trying to eat lunch.”

The issues that Perry fought for — access to education, elective office, and the administration of justice — remain in contest well after his civil rights legal career. The state of South Carolina has an unresolved court case over adequate funding for poor — and mostly black— school districts. The Clarendon County schools that formed the foundation of the *Brown v. Board of Education* case remain deeply segregated by race. South Carolina and other Deep South states are trying to enforce new restrictions on voting rights. Jails and prisons remain disproportionately filled with African American men, forty years after Perry successfully argued against the racial disparities of the death penalty. Just as one African American president does not change political representation, so one African American civil rights lawyer could not change the situation of all South Carolinians. Matthew Perry never stopped trying, though. On his final day of work, Perry won his final federal court argument for the rights of defendants. The decision was a small one — the right of defense lawyers to carry cell phones into the federal courthouse as long as federal prosecutors could — but Perry alone spoke at the meeting of South Carolina federal judges for the equal privileges of defense lawyers.²²⁶

²²⁵ Jerry Ausband, “Perry Tells Need of Negroes Today,” *State*, March 11, 1967, 1B; via box 50, clippings, loose, person, Matthew Perry folder, Workman Papers.

²²⁶ Joseph F. Anderson Jr., “In Memoriam: Matthew J. Perry Jr.,” *South Carolina Law Review* 63, no. 4, 769-797.

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