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Thorn in the Side of Segregation: The Short Life, Long Odds, and Legacy of the Law School at South Carolina State College

Alfred D. Moore III
University of South Carolina

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Thorn in the Side of Segregation: The Short Life, Long Odds, and Legacy of the Law
School at South Carolina State College

by

Alfred D. Moore III

Bachelor of Arts
University of South Carolina, 2000

Master of Arts in Teaching
University of South Carolina, 2002

Master of Education Administration
Loyola University Chicago, 2005

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Accepted by:

Christian K. Anderson, Major Professor

Katherine Chaddock, Committee Member

Spencer C. Platt, Committee Member

W. Lewis Burke, Committee Member

Lacy Ford, Senior Vice Provost and Dean of Graduate Studies

Dedication

To the all-black law school in Orangeburg that was formed in a time of legalized segregation, but trained a generation of lawyers that challenged it in the Palmetto State.

Acknowledgements

I want to thank Daniel Martin, Sr., George Anderson, Jasper Cureton, Ruben Gray, Paul Webber III, Hemphill Pride II, Zack Townsend, and Ernest Finney, Jr. for their contributions to this dissertation. Their accounts as students who attended the Law School at South Carolina State College made it possible to study a small, segregated law program that closed nearly half-a-century ago. I want to thank Fred Moore, Cecil Williams, James Clyburn, Harvey Gantt, Henrie Montieth Treadwell, and Millicent Brown for the insights they provided on the Law School.

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Abstract

The Law School at South Carolina State College, or more commonly known as “State College,” opened on September 17, 1947 with nine African American students. It closed on May 15, 1966 when the Law School graduated its final class. The Law School was conceived when John Wrighten, an African American veteran of World War II and graduate of State College, applied for admission to the University of South Carolina (USC) School of Law on June 30, 1946. Wrighten, who was denied admission due to his race, sued the University on grounds that the rejection violated his constitutional rights under the Fourteenth Amendment. The case of *Wrighten v. Board of Trustees of University of South Carolina* was argued in the District Court of the United States for the Eastern District of South Carolina between June 15, 1947 and July 12, 1947. J. Waite Waring, the presiding judge, ruled on July 12, 1947 that the University could either close the School of Law for refusing to admit black students, admit Wrighten to the School of Law, or create a new law school for black students at State College. If Wrighten’s suit succeeded in gaining admission to USC, 1947 would have marked the year South Carolina desegregated its first public school since Reconstruction. However, due to the implicit racism in the post-war South and state laws against the comingling of races, USC agreed to the third option.

The opening of the Law School at State College was widely criticized. State leaders of the National Association for the Advancement of Colored People (NAACP), James Hinton and Modjeska Simkins, believed the new law school would be an inferior

program that expanded segregation in the state. Thurgood Marshall, Wrighten's attorney during the case, believed the developing law program would become a "monument to the perpetuation of segregation." Despite these and other objections, the Law School at State College opened in 1947.

The Law School occupied a single building that contained a library that could accommodate 50,000 volumes, offices for faculty and staff, a moot court, and a meeting place for a student-led organization that held membership with the American Law Student Association, a national club approved by the American Bar Association (ABA). The faculty of the law school graduated from historic law programs at Harvard and Howard Universities. Despite never being fully accredited, the Law School's provisional accreditation allowed it to graduate fifty-one students between 1947 and 1966. Though the Law School was plagued by low enrollment throughout its nineteen-year existence, a factor that played a major role in its closing, the students nevertheless experienced greater interaction with their professors than their counterparts in larger, more established law programs.

The alumni of the Law School at State College handled numerous major civil rights cases that enhanced civil rights liberties in South Carolina. The Law School alumni represented clients involved in sit-ins, boycotts, and civil rights demonstrations. Additionally, the alumni provided legal counsel in cases such as *Gantt v. Clemson Agricultural College of South Carolina* (1963), Henrie Monteith's lawsuit against the University of South Carolina (1963), and *Brown v. School District No.20, Charleston, South Carolina* (1963), which desegregated Clemson University, the University of South

Carolina, and Charleston County grade schools respectively. These institutions were the first public schools in South Carolina to admit black students in the Jim Crow era.

Furthermore, seven students who attended the Law School became judges, including Ernest A. Finney, Jr., the first black chief justice of the South Carolina Supreme Court, and Matthew J. Perry, Jr., who became the first black federal judge in South Carolina history.

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Chapter One

A Forgotten Legacy

In addition to seeking employment, the whereabouts of loved ones, and opportunities to live far away from the plantation, one of the freedoms ex-slaves sought after the Civil War was an education. To meet the educational needs of the freedmen, organizations like the Freedman's Bureau, the American Missionary Association, and the Methodist Episcopal Church created black colleges throughout the American South for ex-slaves not only to learn to read and write, but to make a living.¹ One of the professions blacks pursued during Reconstruction to earn money as well as to protect the new found rights they gained after slavery, was the legal profession. Ironically, one of the first schools to provide a legal education to African Americans was the University of South Carolina (USC). Between 1873 and 1877, nineteen African American students enrolled in the USC School of Law and eleven out of those nineteen students graduated.²

The election of blacks to the state legislature, state executive branch offices, and their involvement in drafting a post-war state constitution created a brief window of time when African Americans had the clout to enroll other blacks into the state's only law program at USC.³ By the 1870s most of the Radical Republicans, local, state, and federal level politicians who helped pass the Thirteenth, Fourteenth, and Fifteenth Amendments that ended slavery and gave black men the right to vote, were voted out of office. In 1877 President Rutherford B. Hayes removed federal troops in the South. Consequently, many of the freedoms the black community gained after the Civil War were reversed as

black Americans lost political and military protection.⁴

South Carolina adopted segregationist policies that barred black students from attending schools that traditionally only served white students such as the university's law program. In 1877 Governor Wade Hampton closed USC to prohibit black students from attending the institution. It reopened in 1880 as a whites-only school.⁵ For nearly eighty years after USC banned the admission of black students, blacks seeking to enter the legal profession had to enroll in schools in the North. The ban on the entry of blacks into all white schools and the preference among white Southerners to restrict the education of blacks to the agricultural and industrial trades made it impossible for black people to pursue the legal profession in the South. Blacks in South Carolina and across the South went to Howard University's School of Law, a historically black law school in Washington, D.C. that was created in 1869, or to law programs in the Midwest and Northeast to become lawyers.⁶

Yet, for nearly twenty years between 1947 and 1966, blacks who wanted to become lawyers did not have to look any further than Orangeburg, South Carolina, the site of South Carolina State College. The Law School at South Carolina State College (more commonly known as "State College") was created after John Wrighten, a black graduate of the College, sued the University of South Carolina in 1947 after it rejected his admission into its law program on racial grounds. Wrighten's lawsuit, supported by the NAACP's Legal Counsel, sought to integrate segregated educational institutions, including professional schools.⁷ Judge J. Waring Waives, the federal judge who presided over the case, gave the University of South Carolina and the state three options: (1) admit John Wrighten to the University, (2) discontinue operation of its law school, or

(3) establish a “separate, but equal” law school for the plaintiff and blacks in the state. Since the white power structure in the state and its white constituents were accustomed to racial separation in the classroom, the state and the University chose the third option. In its zealous attempt to maintain separate law facilities, the state appropriated \$200,000 for a law school and \$30,000 for a law library at State College. On September 17, 1947, the Law School opened at State College.⁸

Between 1947 and 1966, fifty-one students graduated from the Law School. Despite the school’s hasty formation, over its nearly twenty-year operation it possessed all the components of a fully functional law program. When the Law School opened, it had 7,500 volumes in its library. By the year that the Law School closed, the collection had grown to 21,537 volumes. Eleven African American faculty members taught within the institution at various times between 1947 and 1966. Two faculty members, including Dean Benner Turner, graduated from Harvard University, two from Howard University, and the others from Suffolk University, Case Western Reserve University, Wayne State University, the University of Iowa, the University of Kansas, and Fordham University. The Law School also employed Cassandra Maxwell, the first black female admitted to the bar in South Carolina.⁹ The Law School had a student organization called the “Thomas E. Miller Law Society.” It was named after Thomas E. Miller, who was not only a lawyer, but became the South Carolina State College’s first president when it initially opened under the name the “Colored Normal, Industrial, Agricultural and Mechanical College of South Carolina.”¹⁰

The Law School was an institutional member of the American Law Student Association (ALSA).¹¹ Through the Law School’s membership with ALSA, students

could join a national organization created to “cultivate and promote better scholarship by programs of discussion of law problems pertinent to courses being studied and by discussion of recent decisions and statutory enactments.”¹² The Law School had a “moot court” where students argued simulated or hypothetical practice cases.¹³

However, it was through the accomplishments of the alumni of the Law School that the program had its most significant impact. Former students practiced in South Carolina during segregation, throughout the U.S., and even internationally in Nigeria and the U.S. Virgin Islands. One student, Ernest Finney, Jr., became the first African American Chief Justice of the South Carolina Supreme Court. Matthew J. Perry, Jr. became the first African American from the Deep South to obtain a federal judiciary position, and Jasper Cureton became the first African American to graduate from USC’s School of Law since Reconstruction. The alumni were also at the forefront of civil rights litigation. At least twelve of the twenty-seven graduates who practiced law in South Carolina were engaged in civil rights legislation, including “reported cases” which were federal and appellate cases that impacted case law. Graduates of the Law School represented plaintiffs who desegregated Clemson University, USC, Charleston County School District, and those who participated in the first sit-ins and mass demonstrations against segregation in the state.¹⁴

Despite the contributions the Law School made through its graduates in expanding civil rights and opportunities for blacks in the legal profession, no permanent markers in the form of exhibits, monuments, or any other physical signs of recognition were created after its closing. This is particularly problematic considering that since the Law School closed in 1966, even its youngest graduates would be in their seventies.

What will happen to the memory of the Law School when the few that are living are all deceased? As demonstrated in Chapter Three of this dissertation, there are only six secondary sources that reference the Law School in a chapter or section of a chapter. Only one known source was ever written entirely about the Law School.¹⁵ Today the only distinguishable markers of the Law School are an one-sentence statement on the institution's online history page, a square metal placard located inside Moss Hall, the former location of the Law School, and a neglected carving above the entrance of Moss Hall that depicts the scales of justice.

In this dissertation I seek to write the first detailed, historical case study on the Law School at South Carolina State College. The research questions that will guide this study include:

- (1) Why was the Law School at State College created?
- (2) What was the nature of the Law School's organization, attendance, and administration?
- (3) Why did it close?
- (4) What was the legacy of the Law School?

This research study is not an "instrumental case study" where "a particular case is examined mainly to provide insight into an issue or to redraw a generalization," or where a "case is of secondary importance and helps provide insight into a larger phenomenon."¹⁶ This study is an "intrinsic case study" where "it is not undertaken primarily because the case represents other cases or because it illustrates a particular trait or problem, but because, in all its particularity and ordinariness, this case itself is of interest."¹⁷ This study will not address just one component of the Law School such as its

founding nor will it be used to tackle some larger phenomenon like the state of professional programs in historically black colleges and universities, but it will provide the most complete account to date of its origins, operation, legacy, and closing.

Situated Knowledge and Positionality

In 2009 I was employed as the Associate Registrar at South Carolina State University, formerly South Carolina State College. One day during the fall semester I was helping a business professor process an independent study contract for one of his students. The professor began teaching at the University in the 1960s. While chatting about how “State College,” the shortened name for South Carolina State College, has changed since the 1960s, the professor mentioned that Moss Hall, the current site of the Registrar’s Office, once housed a law school. Through previous conversations with older faculty and staff, I heard stories that in the 1950s and 1960s State College had a law school. It was through my conversation with the professor, who knew of its location and recalled seeing law students taking classes in Moss Hall, that its existence was confirmed to me.

After the business professor left, I looked for clues of this law school on the website. The “History of SC State” section of the website referenced the Law School at South Carolina State College, but it did not contain any information on its operation or when it opened and closed.¹⁸ I did not find any books or articles on the Law School on the University’s online library catalog. Finally, after I walked around Moss Hall searching for physical artifacts of the building, I found evidence of the Law School outside the main entrance. A building placard dated in 1949 contained the following titles “Moss Hall,” Law School,” and “South Carolina State College.” By the time I

found this placard, I had walked through the main entrance of Moss Hall hundreds of times on my way to work without noticing this remnant of the Law School. While viewing the placard I thought it was quite sad that the only reference to the Law School was a one-sentence statement on the institution's online history page and a square metal relic that I wondered if anyone ever noticed. The curiosity I had over what happened to the Law School has lingered in my mind from that moment.

Yet it is my positionality and subjectivity based on my background and multiple identities that turned that curiosity into the topic of my dissertation. I grew up in a family that took pride in black owned institutions that contributed to the welfare of the black community. Even though I attended USC, whenever the University played a historically black college or university in football or basketball, I sometimes rooted for teams like the South Carolina State University Bulldogs. Ever since I read C.L.R. James' *Black Jacobins* in middle school, I was captivated by the Haitian Revolution where slaves not only overthrew their masters to obtain their freedom, but created their own country.¹⁹ Whether on a large-scale like the creation of a nation or on a smaller-scale like a black-owned golf course, examples where black people are the "captains of industry" or owned their institutions have fascinated me. When I learned that South Carolina State College had its own Law School, I was immediately interested in how it was formed, operated, and if it made an impact on the black community and the state of South Carolina.

Study Significance

This study on the Law School at South Carolina State College will add to the literature of works on the Civil Rights Movement in South Carolina. In the past decade, historians have begun writing books exclusively about the civil rights struggles in South

Carolina which are lesser known than the well-documented civil rights campaigns in Alabama and Mississippi. These works include Peter F. Lau's *Democracy Rising in South Carolina* (2006), James Felder's *Civil Rights in South Carolina* (2012), and Winfred Moore and Orville Burton's *Toward the Meeting of the Waters* (2008). Lau's works traced the development of the Civil Rights Movement in the state from the origins of the NAACP in the state to school desegregation movements in the state during the 1960s.²⁰ Felder's book chronicles various civil rights campaigns throughout South Carolina such as "The Charleston Movement" or "The Orangeburg Movement."²¹ Moore and Burton's book provides a rationale as to why the civil rights events in South Carolina did not receive the same attention as other southern states. To avoid the degree of federal intervention and negative publicity that took place in Alabama and Mississippi, the white power structure in South Carolina took a less violent approach in resisting civil rights measures. This brought less media attention and national scrutiny to the state.²²

The Law School at South Carolina State College was closely connected to developments throughout the Civil Rights Movement in South Carolina. From its inception beginning with John Wrighten's attempt to desegregate USC's School of Law to the involvement of Law School alumni in the desegregation of Clemson and USC, graduates of the Law School won cases that desegregated grade schools and higher education institutions. Not only did Law School graduates represent plaintiffs in school desegregation cases, they provided legal counsel and freed imprisoned civil rights protestors throughout the 1950s and 1960s.²³ Between 1951, when South Carolina required a written examination for the bar, and 1968 when the last Law School at State College graduate took the bar exam, twenty-nine out of the fifty African Americans

admitted to the South Carolina Bar graduated from the Law School at State College.²⁴ Students who attended the Law School rose to prominent positions in the legal profession. Although only fifty one students graduated, they ran for public office, were appointed judges at the district, state, and federal levels, and practiced law throughout South Carolina, the nation, and overseas.²⁵

This dissertation also adds to the literature of works that provide detailed accounts of historical events, landmarks, injustices, and achievements within the African American community that did not receive much attention in the media, received little documentation in newspapers or in published books, or were forgotten over time due to ignorance or racism. These works include publications such as Daniel E. Littlefield's *Rice and Slavery* which challenged the perception that African slaves were unskilled laborers devoid of any form of culture or skills that existed prior to their enslavement. Littlefield's book emphasizes how slave owners during the Colonial period were aware of cultural variations between different African ethnic groups and their extensive knowledge of rice cultivation.²⁶ Books such as Eric Foner's *Reconstruction: America's Unfinished Revolution* provide an historical account of the achievements and contributions of Southern blacks during Reconstruction. Given that the contributions, achievements, and ancestry of African Americans often received little attention in the 19th century, their involvement in shaping the South was overlooked. Foner's work highlights the power of the black vote, the rise of black politicians, and the involvement of black leaders in the establishment of public schools systems that benefitted Southerners regardless of color.²⁷ While the shootings at Kent State were well documented, it was not until the publications of autobiographies such as Cleveland Sellers' *The River of No Return* that the campus

shootings on black colleges received public recognition. His book provided an account on the killing by state troopers of three unarmed black students near the campus of South Carolina State College.²⁸

This dissertation adds to this tradition of bringing greater attention to lesser-known events that were inspired by black Americans. In the 1950s and 1960s, Law School alumni were the only options for persons who joined the Civil Rights Movement in seeking legal representation in South Carolina. When students were arrested for participating in civil rights protests, students and community leaders sought the assistance of the Law School graduates to get public officials to release them from jail and drop their charges. Yet, the graduates received no compensation for their services. According to graduate Ruben Gray, on many occasions when traveling throughout the state to represent clients, the graduates “would not get a damned thing...not even gas for your car.”²⁹ When the Law School closed in 1966, another graduate Daniel Martin did not recall any attempts made by the local community to keep the doors of the institution open. As the USC School of Law began accepting black students in 1964, there was no reason for the black community to want to maintain any vestiges of segregation by maintaining dual law programs.³⁰ According to a former student Hemphill Pride, II who attended the Law School for one year before transferring to Florida Agricultural and Mechanical, “it was absolute silence” when the Law School closed.³¹

For nearly twenty years, the Law School served the state in maintaining its tradition of segregated schools. Once it became inevitable that South Carolina had to integrate its public schools in the years following the *Brown v. Board of Education* decision of 1954, the state legislature refused to finance two, public law schools.³²

Through focusing on the Law School at South Carolina State College and the students who attended the institution, this study attempts to enhance the literature on black institutions that closed in the years following school desegregation.

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Chapter Two

Segregation Expands in the Palmetto State

The founding of the Law School at South Carolina State College, known as “State College,” is inextricably linked to the USC School of Law.¹ Within a decade of its opening in 1867, USC became the first integrated law school in the South when it enrolled African American males in 1873.² The founding of the USC School of Law coincided with Reconstruction when the Radical Republicans, a group that included black freedmen, ex-slaves, and white abolitionists, took over South Carolina in 1867. Between 1867 and 1876, over half of the 487 elected state and federal officials in South Carolina were black. One of their greatest achievements was ratifying the 1868 State Constitution of South Carolina, which granted suffrage to all males regardless of race or property holding status and prohibited racial discrimination in public accommodations.³

Perhaps the most enduring contribution of black politicians from this period was the creation of the first public school system in South Carolina. According to Article X of the 1868 Constitution, South Carolina’s first public school system did not contain any racial or class restrictions.⁴ It was due to the efforts of the Radical Republican Party that in 1873 USC was open to black students.⁵ Between 1873 and 1876, nineteen black students attended the USC School of Law and eleven would graduate. Graduates included T. McCants Stewart, who delivered the valedictory address for his graduating class in 1875, William Raleigh Jones who served as secretary to the state financial board and director of the state penitentiary, and Richard T. Greener who became the first

African American professor at USC. In 1878, graduate Francis Cardozo, who was a delegate to the 1868 Constitutional Convention, was the state's first African American ever elected to a statewide office. He served as South Carolina's state treasurer from 1872 to 1877.⁶

Despite the fact the USC School of Law's enrollment of African Americans was short-lived when it ceased accepting black students in 1877, black students still made attempts to enroll into the law program. In 1938, Charles Bailey, a grandson of Paris Simpkins who attended the USC School of Law when it was open to blacks, applied to his grandfather's alma mater. However, based on his race, he was denied admission based on his race. Less than ten years later John Wrighten, a World War II veteran and graduate of State College, applied for admission in 1946.⁷ Wrighten eventually sued the institution for admission. Despite his efforts to desegregate the University of South Carolina, the state appropriated approximately \$230,000 to build facilities for a separate law program at State College.

From a financial standpoint, it was less expensive to accept one black student rather than build an entire new law school. When the Law School at State College opened, it had a ratio of four full-time faculty members for just eight students. The USC School of Law at USC had five full-time faculty and nine part-time faculty for 342 students. In addition to the high student-to professor-ratio, the USC School of Law suffered from cramped classrooms due to growing enrollment.⁸

Perhaps the \$230,000 the state allocated towards the creation of a separate law program could have alleviated this concern, but the money was used to create the Law School at State College.⁹ Carroll Gilliam, a student who wrote for USC's *Daily*

Gamecock newspaper, captured the frustration some students felt when they learned the state's plan to open a segregated law school, "South Carolina, as everyone knows, needs better education facilities....yet duplicity of institutions robs us of the full opportunities of the sums spent for these purposes...It is time to look at the calendar. The date is 1948 not 1868!"¹⁰

The reason why the state decided to open a separate law school for African Americans is rooted in the racial backlash that ensued at the end of the 19th century as white supremacists took over the state. Culminating with the South Carolina Convention of 1895, school segregation from grade schools to colleges was firmly entrenched by the end of 19th century.¹¹ The South Carolina Convention of 1895 resulted in the creation of the Colored Normal, Industrial, Agricultural, and Mechanical College, later known as South Carolina State College, the site of the Law School.¹² Yet, state laws governing segregated schools was just one of the factors that played a role in the creation of the Law School. The opening of the Law School in 1947 was a result of a national campaign launched by the NAACP to file lawsuits against local and state governments for maintaining substandard schools or failing to operate graduate and professional programs for African Americans. However, the main catalyst that forced the state to provide legal education for African Americans was John H. Wrihten's lawsuit against the University of South Carolina.¹³

The South Carolina Constitutional Convention of 1895

The state policy of maintaining segregated educational facilities for black and white students is rooted in the 1895 Constitution of South Carolina. In the case of *Wrihten v. Board of Trustees of South Carolina* (1947), the Constitution is cited as the

legal basis for the rejection of John Wrihten's admission into the USC School of Law. The court state that "John H. Wrihten was denied admission to the Law School at the University of South Carolina because the Constitution required that the University of South Carolina be operated exclusively for white persons."¹⁴ When Judge J. Waites Waring ruled in the case that the state had the option of closing the USC School of Law School, of accepting Wrihten's admission into the School of Law, or creating a separate law program for blacks, the state officials followed the racial segregation statues in its 1895 Constitution of South Carolina and elected to create an all-black law school at State College.¹⁵

The well-recognized case, *Plessy v. Ferguson*, is often cited in the development of segregated facilities in the United States. The U.S. Supreme Court's decision to allow Louisiana to continue its practice of maintaining segregated passenger trains was used by different states, especially in the South, to support segregated facilities ranging from parks, and gravesites, to schools.¹⁶ However, the legal basis behind *Plessy v. Ferguson* was a state act that preceded the U.S. Supreme Court's decision by more than five years. An act passed in Louisiana in 1890 mandated that all railway companies carrying passengers in the state provide equal but separate accommodations for whites and blacks.¹⁷ Like the Louisiana's Separate Car Act of 1890, the 1895 Constitution legalized segregated facilities in South Carolina prior to *Plessy v. Ferguson* in 1896.¹⁸

The 1895 Constitution was the capstone of a nearly twenty year effort by white supremacists to reclaim control of the state beginning with the Hamburg Massacre of 1876. The event took place in Hamburg, a small town populated mostly by blacks in Aiken County, South Carolina. The event began when a local black militia hesitated to

give way as they were approached by two white men from prominent families driving carriages. This breach in racial decorum between former slave masters and former-slaves escalated into a skirmish that would leave one white man and at least six black men dead. A mixture of white fear and rage over an incident where black men engaged in armed conflict with whites galvanized white supremacist elements of the Democratic Party which took control of the state as Reconstruction ended the following year.¹⁹

After ousting many black politicians from office, white supremacists in the state began their campaign to erode the black vote. In 1882 the state legislature adopted the “eight-box-law” that was designed to confuse and intimidate black voters by requiring them to match individual ballots with appropriately labeled boxes. For many black males who were deprived of an education during slavery, this provision made qualifying for the vote nearly impossible. Due to the eight box rule and other devices used to disenfranchise black people, the black vote was cut in half by 1884.²⁰ Another key factor in black disfranchisement and legalized school segregation was the political rise of Benjamin Tillman.

Born into an elite planter family who owned nearly 5000 acres of land and fifty slaves by the Civil War, Tillman rose to political power after his participation in the Hamburg Massacre and by leading the Edgefield Agricultural and Mechanical Society, an organization comprised of agriculturalists, white landowners, and white tenant farmers who became a powerful force in the Democratic Party.²¹ After Tillman was elected as governor in 1890 and to the U.S. Senate in 1894, he was influential in organizing the Constitutional Convention of 1895 that would effectively disenfranchise African Americans and create segregated schools. Tillman also served as a chair during the

Convention.²² According to Tillman, the primary purpose of the Convention “was the preservation of white supremacy by such purification of the suffrage as will save us from negro domination in the future under any and all circumstances.”²³

The Constitutional Convention of 1895 was a far cry from the 1868 Convention where out of the 124 delegates present, seventy-six were black.²⁴ Conversely, only six delegates out of the 160 people at the 1895 Convention were black. While black delegates Thomas Miller, James E. Wigg, Isaiah Weed, Robert Anderson and two former delegates at the 1868 Convention, William Whipper and Robert Smalls, tried to block efforts to disenfranchise the black community, the Democratic majority passed measures to restrict the black vote.²⁵ These measures included provisions that registrants must possess at least \$300 of property and be able to read and write any section of the 1895 Constitution. However, to prevent the literacy provision from disfranchising illiterate whites, delegates passed an understanding clause in which males who could read or at least understand a clause in the Constitution to the satisfaction of the registration officer could vote.²⁶ The property and reading provisions would restrict the black vote due to higher rates of poverty and illiteracy among blacks in relation to whites in the state. Since registration officers by 1895 were all white, they could discriminate between black and white voters by giving blacks the most difficult sections of the Constitution while allowing white registrants to read just a few words.²⁷

Yet, the provision in the 1895 Constitutional Convention that would have a major influence on the opening of the Law School at State College was Article X. While this Article maintained the 1868 constitutional provision of a public school system, it also created separate schools for black and white children:

That intelligence and virtue being safeguards of liberty and the bulwark of a free and good government, the State shall maintain a general, suitable, and efficient system of free schools, whereby all persons in the State between the ages of six and twenty-one years may receive gratuitous instruction, but separate schools shall be provided for the children of African descent.²⁸

By the time John Wrihten sued USC for rejecting his admission into the School of Law, a precedent was set through Article X of the South Carolina Constitution of 1895 in which the state could limit the educational experiences of black South Carolinians strictly to all black schools.²⁹ The state created the Law School at State College because a black student attending the USC School of Law, a program with an exclusively white student body since it closed in 1877 and reopened in 1880, violated the racial separation policies in its constitution.³⁰

The 1895 Constitution, as referenced in the *Wrihten v. Board of Trustees* case, ensured that all educational institutions from kindergarten schools to law schools would be separate, but also unequal.³¹ In addition to preventing social unions between black and white school children, Article X did not contain a provision requiring that the General Assembly fund white and black schools equally. As stated by one white legislator at the Convention, providing an equal education might give blacks “an opportunity to take advantage of the school house, get an education, and outvote us.”³² From 1876 to 1880, the expenditures for black students were nearly on equal parity with expenditures for white students.³³ However, by 1895, expenditures for white students began to grossly outpace funding for black students. Within thirty years after the ratification of the 1895 State Constitution, expenditures for white students were eight times as high as they were for black students.³⁴

When John Wrighten enrolled as an undergraduate at State College, South Carolina appropriated \$1.1 million, or \$220,000 if split equally, for the five white state colleges, but only \$100,000 for State College. The state legislature allowed this funding imbalance despite the fact that enrollment at the College increased from less than 1,000 to over 2,000 as former soldiers like Wrighten began to attend the College after World War II.³⁵ Although the state appropriated funds to the Law School in 1947, it was hastily built. When the state elected to build the Law School in response to Judge Waring's decision, it did not have its own building, a library, administrators, faculty, or any enrollment management procedures for admitting students. Several years after the *Wrighten v. Board of Trustees* case concluded in 1947, the more established law program at USC graduated four out of the state's six representatives in Congress, a U.S. Senator, twenty out of forty state senators, and three out of five state supreme court justices.³⁶ It was for this reason that Thurgood Marshall, who represented Wrighten in his case, strongly advised his client not to enroll in a program he considered a "Jim Crow dump in South Carolina."³⁷ By denying Wrighten's admission into the USC School of Law, the state not only complied with the Constitution of 1895's provision of racial separation, it restricted black access to socio-political power through the establishment of law program that lacked the reputation, connections, prestige, and infrastructure of its all-white counterpart.³⁸

The Colored Normal, Industrial, Agricultural and Mechanical College

The 1895 Constitution of South Carolina not only provided the legal foundation used by state officials to create a segregated law school for black students, it is the reason the Law School opened at State College. Several other all black colleges existed in South

Carolina in the 1940s. Four of these schools, Claflin University, Benedict College (formerly Benedict Institute), Allen University, and Voorhees College (formerly Denmark Industrial School) were founded in the last three decades of the 19th century. Morris College was established in 1908.³⁹ Decades before the *Wrighten v. the Board of Trustees* case, both Claflin College and Allen University had law schools.⁴⁰ While Claflin's program was short-lived, Allen's law program operated for nearly two decades. Founded in the 1880s by Daniel Straker, a graduate of Howard University School of Law who served as the dean of Allen's law school from 1882 to 1887, Allen graduated nearly thirty students between 1884 and 1898.⁴¹ It would seem that these other black colleges, especially Allen University, were also logical sites to create a law school in response to the *Wrighten* case. Yet what played a major role in the opening of the Law School at State College was that as a public institution it was the only black college the state could fully control and exploit.

The origins of State College began with the creation of the South Carolina Agricultural College and Mechanics Institute in 1872. It was created in response to the Morrill Act of 1862 in which the federal government granted money to states for the development of agricultural and mechanical schools. It was later renamed Claflin College in 1878 due to its close relationship with Claflin University, the state's first black college. While the schools had separate boards, Edward Cooke, a white Methodist minister, was the president of both institutions.⁴²

During the Convention of 1895, the six black delegates led by Thomas E. Miller, who later became the first president of State College, requested the creation of a new higher educational institution for blacks stating, "That Claflin is hereby discovered and

separated from the management, control or any connection whatever with Claflin University, and that the professors and instructors of Claflin College be men or women of the negro race.”⁴³ The six black delegates also referenced a provision in the Morrill Land Grant Act of 1890 that states must provide educational facilities to blacks denied entry into public higher educational institutions. Consequently, the state had to create a separate public college for black people. Although Claflin College served as the state’s mechanical and industrial arts school, it was led by the president of Claflin University, a private institution.⁴⁴

Many whites at the Convention feared black colleges like Claflin University, Benedict College, and Allen University. These institutions obtained funding through organizations, such as the Methodist Episcopal Church, which contained factions that opposed slavery during the Civil War and supported higher education amongst blacks during Reconstruction. Claflin University was founded by a group of Methodist clergymen with the intention of not only hiring faculty regardless of race, but accepting students regardless of color. Benedict College was founded through the benefaction of Bethesba A. Benedict, a northerner from Pawtucket, RI, who wanted to educate the newly emancipated slaves. Allen University was founded by the African Methodist Episcopal Church, a black denomination that opposed discrimination against African Americans.⁴⁵ White politicians believed that these schools were creating literate groups of blacks who not only could hold substantial voting power in the state, but would preach ideas of racial equality and integration.⁴⁶

The six black delegates at the Convention of 1895 exploited white fears over the external influences on black colleges to create a higher educational institutions managed

by African Americans.⁴⁷ For the first few decades in the history of the state's earliest black colleges, students were instructed and led by white men. From 1870 to about 1930, Benedict College's first seven presidents were white Baptist ministers from the North.⁴⁸ Ironically it was Benjamin Tillman, the man who stated that "when you educate a negro you educate a candidate for the penitentiary or spoil a good field hand" who used his influence to open a public black college.⁴⁹ Tillman not only requested that the General Assembly separate Claflin College from Claflin University and ensure that the school was represented entirely by black administrators and staff, but requested a new name, the "Colored Normal Industrial Agricultural and Mechanical College."⁵⁰

After the Convention, Thomas Miller helped pass a bill to establish the Colored Normal Industrial Agricultural and Mechanical College, or by its short name, State College, on March 3, 1896. On June 10, 1896, Miller was appointed as the first president of the new school. While the delegates obtained a new institution of higher education for blacks, it came with a cost. Miller was the president, but the school was controlled by an all-white board of trustees, the same trustees who worked diligently to completely disenfranchise the black community. The board was comprised of seven members, six of whom were elected by the General Assembly. The governor of South Carolina served ex-officio as the seventh member. According to Section 8 of the bill to create the new college, the board had complete control over the infrastructure, the appointment of the president, the curriculum, the selection of faculty, and employee salaries.⁵¹ It was not until the year that the Law School closed in 1966, that a black person was elected to the board.⁵² Black faculty and administrators led the institution in its day to day governance, but the major decisions were made by white people. So powerful was state control over

the institution that after President Miller publicly opposed the election of Cole Blease as the governor of South Carolina in 1911, Governor Cole successfully requested that Miller resign as the president.⁵³

Due to the state's complete control over the Colored Normal Industrial Agricultural and Mechanical College, it was the ideal black college in the state to serve as the site of an all-black law school. Even before John Wrighten applied to the USC School of Law in 1946, the state authorized college officials at USC to establish a law school, graduate school, and medical school for blacks. In 1945 state officials charged W.H. Callcott, dean of USC's Graduate School, with the task of visiting the Colored Normal Industrial Agricultural and Mechanical College to explore the possibilities of establishing graduate and professional programs at the institution. After Cleveland M. McQueen, a black graduate from the Colored Normal Industrial Agricultural and Mechanical College, applied for admission into a graduate program at USC, the state appropriated \$25,000 to the Agricultural and Mechanical College for the purpose of creating a graduate program.⁵⁴ When Judge Waites Waring gave the state the option to create a separate law school for blacks within three months of his July 12, 1947 ruling, the state did not have time to work with South Carolina's other black colleges which had too many external influences to quickly establish a law school. By the state possessing complete control over the governance of the Colored Normal Industrial Agricultural and Mechanical College, it was the ideal site to hastily create a law program within the time span of one summer.⁵⁵ In response to the state's decision to open a separate law school for blacks, Miller F. Whitaker, president of the Colored Normal Industrial Agricultural and Mechanical College complained privately that "they are putting me in the middle

between the plaintiff and the defendants in this Law School business.”⁵⁶ Given that the college was controlled by an all-white board of trustees who wanted to maintain segregated educational facilities at all costs, Whittaker had no choice but to comply with their wishes in creating a law program.⁵⁷

The NAACP’s Legal Campaign Against Segregated Schools

In the 1930s, the National Association for the Advancement of Colored People (NAACP) launched a campaign to combat segregation through filing lawsuits against local and state governments that denied African American students an education equal to that of their white counterparts. Some of the organization’s first cases during this period involved representing clients who sued all-white law schools for failing to admit black students.⁵⁸ The NAACP’s campaign had an immense impact on the creation of the Law School through the utilization of state and federal laws that pressured South Carolina officials to appropriate funds to organize a law program at State College.⁵⁹

The NAACP began in 1909 largely in response to an intense period of lynching that ensued after Reconstruction. The catalyst that formed the organization was a 1908 race riot that involved the lynching of blacks in Springfield, Illinois. The fact a race riot took place in the hometown and on the eve of birth of “the great Emancipator,” Abraham Lincoln, inspired some of the country’s most prominent civil right leaders to create an organization to challenge racial discrimination and racial violence in all forms.⁶⁰ While the organization addressed many issues impacting the black community such as education, disfranchisement, employment discrimination, and segregation in the military, bringing individuals and mobs that lynched blacks to justice remained the organization’s top priority. As early as 1911, the NAACP began investigating lynchings. In 1916 the

organization created an anti-lynching committee and in 1919 published, *Thirty Years of Lynching in the United States 1889-1918*, the nation's first study on lynching.⁶¹ In the 1920s and 1930s, the organization lobbied for the passage of the Dyer-Anti and the Costigan-Wagner Anti-Lynching Bills.⁶² After both bills were defeated in Congress, the NAACP adopted another strategy to promote the advancement of black people by attacking the inequalities that existed in the education of black children.

The Margold Report, Charles Hamilton Houston, and the School Desegregation Strategy

In 1929 the NAACP hired Nathan Margold, a white, former assistant United States attorney from New York, to study the legal status of African Americans. While Margold's study provided a detailed overview on the discrimination of African Americans, most of his research dealt with racial discrimination and unequal funding in public schools. Margold proposed to the NAACP that if it attacked "the constitutional validity" of separate but equal in public schools, it could "strike directly at the most prolific sources of discrimination" in other areas of public life.⁶³ After the Margold report was completed in 1931, abolishing racial segregation in public schools became one of the NAACP's top priorities.⁶⁴ However, after Margold resigned from the NAACP in 1933, the organization needed a lawyer who could challenge the legitimacy of segregated schools in the courts. The organization would find that lawyer in Charles Hamilton Houston.⁶⁵

When the NAACP appointed Houston as its first special counsel in 1935, the organization hired one of the most highly regarded black lawyers in the United States. Houston graduated with a Doctor of Law from Harvard Law School in 1923. A year earlier he became the first African American editor of the *Harvard Law Review*. Houston

later served as the dean of Howard University School of Law, the nation's oldest law school for African Americans, where Houston and Thurgood Marshall began crafting the legal profession as a tool against segregation.⁶⁶ Thurgood Marshall, Houston's protégé who served as the assistant counsel for the NAACP and later achieved fame in the landmark *Brown v. Board* case, stated that Houston was "hell bent on establishing a cadre of Negro lawyers, dedicated to fighting for equal rights."⁶⁷

Due the pervasiveness of racism, especially in the Deep South, Houston decided to set a series of legal precedents to combat school segregation rather than directly attacking the constitutional validity of separate but equal. Houston developed a strategy of using litigation to force local and state governments to provide equal funding for black and white facilities. In states where segregated facilities for blacks were not available, states would have to create "separate but equal" institutions for blacks. Houston predicted that if states had to fund separate institutions for blacks at the same level of funding reserved for white schools, states would be compelled to allow black students to desegregate white facilities due to the high cost of segregation. This indirect challenge to the "Separate But Equal" doctrine could potentially threaten the application of *Plessy v. Ferguson*. By desegregating public schools, Houston and other NAACP lawyers could challenge segregation in other public facilities including public parks, lunch counters, and bus stations.⁶⁸

Houston and Thurgood Marshall selected all white law schools to test the strategy to either force states to create law schools for black students or to integrate existing law schools. Law Schools were selected for three reasons: they were mostly male which would avoid the issue of miscegenation between black men and white women, a hot

button issue they believed no white judge, politician, or jury in the South would support; judges may be sympathetic to plaintiffs pursuing law careers; and challenging professional as opposed to grade schools would avoid white fear of close social interactions between black and white children.⁶⁹ Two landmark cases that had a direct bearing on the creation of the law program at State College emerged from challenging segregated law schools: *Murray v. Pearson* (1936) and *Gaines v. Canada* (1938).

Murray v. Pearson and Gaines v. Canada

In 1935, Donald Murray applied for admission into the University of Maryland Law School, but was rejected due to his race. Houston and Thurgood Marshall, who represented Murray in his lawsuit against the University, argued that since the black law schools Murray would otherwise attend were not on par academically and financially with the University's law school, the state violated the principle of "separate but equal." In addition, Houston and Marshall argued that since Maryland did not have a law school for blacks, the state also violated the "equal protection clause" of the Fourteenth Amendment by not providing equal provisions for all citizens regardless of color. Houston and Marshall also argued that the inequalities between the white and black law schools were so great that the only solution was to allow black students to attend the law program at the University of Maryland. The Baltimore City Court agreed with their argument. Despite the University of Maryland's appeal, the Court of Appeals also ruled in favor of the plaintiff and Murray integrated the Law School in 1936.⁷⁰

Gaines v. Canada had a different outcome. In 1936 Lloyd Gaines applied for admission into the University of Missouri's Law School, but was also denied due to his race. Missouri state officials offered to provide Gaines funding to attend an out-of-state

law school since the state did not possess a law school for black students. Gaines rejected their offer and sought the services of the NAACP through Charles Houston and Thurgood Marshall to challenge Missouri's refusal to admit Gaines to Missouri University's Law School. After nearly two years of litigation and appeals, the case was eventually heard in the U.S. Supreme Court. However, the justices in the U.S. Supreme Court were not ready to rule in favor of Gaines attending the University of Missouri in 1938. It would take fourteen more years and dozens of various cases before the U.S. Supreme Court declared "separate but equal" unconstitutional in 1954.⁷¹ The U.S. Supreme Court did agree that sending Gaines to another state to pursue a law degree violated the Fourteenth Amendment, and ruled that Missouri had to create a separate law program for black students. In 1939 a separate law school opened at Lincoln University, one of the black colleges in the state.⁷²

As the outcomes of *Gaines v. Canada* and *Murray v. Pearson* became known throughout the South, state legislators in South Carolina began to make preparations to create an all-black law school at State College. By restricting admission to the USC School of Law to white students, not having a separate law program for black students, or granting scholarships for black students to attend law schools in other states, South Carolina was in violation of the separate, but equal doctrine of *Plessy v. Ferguson* and the equal protection clause of the Fourteenth Amendment.⁷³

Following the *Gaines* decision in 1936, James Frierson, dean of the USC School of Law, recommended to the president that the state create a law program at State College. By creating an all-black law school, state officials intended to avoid the courts intervening in state affairs concerning educational facilities. Frierson stated, "I believe,

however, that if reasonably good facilities are offered there, the Courts will not keenly critical and would not (in the present development of the two races in this State) require exact equivalents the facilities furnished.”⁷⁴ After Charles Bailey, a black graduate from Morehouse College, applied to the USC School of Law, the state introduced legislation to open a law school at State College. The *Gaines* decision weighed heavily in the state’s efforts to open an all-black law school as Solomon Blatt, a member of the University’s Board of Trustees and state legislature, cited the NAACP’s legal strategy as prompting the necessity of the state to open a black law school.⁷⁵

The involvement of the NAACP in suits to desegregate public schools and to create professional programs for blacks made an impact on the *Wrighten v. Board of Trustees* case. In the *Wrighten* brief, *Gaines v. Canada* is referenced by the Court as a legal precedent in the court ordered injunction that forced South Carolina to open an all-black law school. Two other NAACP cases that took place simultaneously during the *Wrighten* suit, *Sipuel v. Board of Regents of University of Oklahoma* and *Sweatt v. Painter* in Texas, were referenced in the brief since these cases also involved black students who were denied admission into state law schools due to their race. As result of the NAACP’s involvement in lawsuits that mandated states to either integrate existing white programs or create duplicate programs for black students, South Carolina opened a law program at State College to avoid punitive measures and further incursions on its segregationist policies by the federal government.⁷⁶

Wrighten v. Board of Trustees of University of South Carolina

The Plaintiff John H. Wrighten

No singular event had more of an impact on the opening of the Law School at State College than John Wrighten's lawsuit against USC. Immediately following the outcomes of the *Murray v. Pearson* and *Gaines v. Canada* decisions, South Carolina began enacting legislation to create an all-black law school at State College. In 1945 state legislature gave State College permission to create a law school to comply with the policies of the Constitution of 1895 that schools remain separate for black and white students. However, since no one applied to State College's proposed law program, state officials delayed opening a law school or appropriating funds to build facilities or to hire law faculty and staff. It was John Wrighten's lawsuit that gave the federal government authority to order the state to take action in establish a functioning law program at State College.⁷⁷

It is important to note that John Wrighten was not the first black person to apply to the USC School of Law after the Reconstruction era. Charles Bailey, grandson of Paris Simpkins, a black graduate of the Law School's 1876 class, applied for admission into the Law School in 1938. Despite his initial rejection by James Frierson, dean of the USC School of Law on racial grounds, Bailey challenged his denial by seeking admission through the president of USC and the Board of Trustees. Bailey sought legal assistance from the NAACP and received letters of encouragement from the organization, but that encouragement did not materialize into a lawsuit. Due to the University's refusal to make a decision on Bailey's application and the state's failure to provide funding for

Bailey to earn a law degree in another state, Bailey eventually gave up on his dreams of becoming a lawyer and accepted a position as a postman in Columbia.

Bailey's failed attempt to desegregate the USC School of Law did not deter Wrighten from applying to the state's only law program several years later in 1946.⁷⁸ Wrighten's determination not only to become a lawyer, but to fight against racial inequality was shaped by his experiences at Avery Normal Institute. A native of Edisto Island, South Carolina, John Howard Wrighten III was born in 1921.⁷⁹ By black standards of what constituted the black middle class, Wrighten was born into a family that had its own land and had enough funds to send him to Charleston's prestigious Avery Normal Institute.⁸⁰ Founded in 1865, Avery was the first accredited secondary school for blacks in Charleston.⁸¹ From the beginning, the school was a hotbed of black progressive thought that influenced Wrighten. Its first principal, Francis Cardozo, was an 1878 graduate of the USC School of Law and was the first African American ever elected to a statewide office.⁸² The school was influential in establishing a local branch of the NAACP in 1917.⁸³ When Wrighten enrolled in 1935, principals Frank DeCosta and Howard Bennett encouraged teachers to become actively involved in "community participation" to uplift the black community both inside and outside the classroom.

William Bluford and Julia Brogdon, Wrighten's social studies teachers, explored the injustices of race relations in the United States despite the risks. As an active member of the local NAACP chapter, Bluford taught on the Constitution, the Bill of Rights, and the Thirteenth, Fourteenth, and Fifteenth Amendments to impress upon students that black Americans deserved the same rights as white Americans. In his recollections of his experiences in their classrooms, Wrighten stated that the teachings of Bluford and

Brogdon “inspired me to become politically active.”⁸⁴ Wrighten eventually had to withdraw from Avery for financial reasons and was later drafted into the Army. After he was discharged due to an ulcer, Wrighten returned to Avery in 1943 and became involved in the NAACP youth chapter. He eventually became the organization’s president prior to his graduation.

In July of 1943, Wrighten submitted his first application to an all-white school when he applied to the College of Charleston’s social sciences program. Although George Grice, president of the College of Charleston, referred his letter to the board of trustees, the institution deliberately delayed making a decision concerning his application. Eventually by the fall of 1943 Wrighten enrolled into South Carolina State College, but he did not abandon his goal to desegregate the College of Charleston. Over the next two years, Wrighten played a pivotal role in guiding younger Avery students in their attempts to desegregate the institution.⁸⁵ In May 1944, members of Avery’s senior class selected Wrighten to represent them in a letter writing campaign requesting admissions requirements from the College of Charleston.⁸⁶ In June 11, 1944 thirty-three graduating seniors from Avery applied to the school.

Unfortunately for Wrighten and other graduates of Avery Institute, Charleston’s black elite did not support the Avery alumni in their efforts to desegregate higher education in South Carolina. Since Avery Institute was dependent on the benefaction of the white community for its economic survival, including those who supported segregation, it was not in the best interest of the school’s black constituency to support Wrighten’s attempt for school desegregation. Nor did Wrighten receive support from the NAACP’s legal office as World War Two made it difficult for Thurgood Marshall and

Charles Hamilton Houston to support public education cases. Under pressure from Charleston's black elite to give up the fight to desegregate the College of Charleston and without the support of the NAACP, Wrighten was forced to end the campaign initiated by Avery alumni to attend the institution.⁸⁷ However, Wrighten's efforts to attend an all-white college or to pursue a social justice career in law did not end with the College of Charleston.

An Attempt to Desegregate the USC School of Law

Nearly a year before he graduated from State College in May of 1947, twenty-five year old John Wrighten applied to the USC School of Law on July 2, 1946. Wrighten initially submitted his application to Samuel L. Prince, dean of the School of Law, who referred his application to Norman M. Smith, president of the University. After Wrighten's application was rejected by the president, he appealed to the Board of Trustees for admission. After Wrighten was denied admission on grounds that his application violated state laws that restricted enrollment to white persons, he sought legal assistance from the South Carolina Branch of the NAACP.⁸⁸ While Wrighten's determination certainly played a factor in the initiation of the lawsuit, Wrighten was the beneficiary of good timing.

When Charles Bailey applied to the USC School of Law earlier in 1938, the NAACP did not have the financial resources within its national and local branches to support Bailey while simultaneously handling numerous segregation cases from grade schools to professional schools. The outbreak of World War II also interrupted the NAACP's campaign against segregated schools as segregated military barracks became a competing priority.⁸⁹ Wrighten applied to USC several years after the creation of the

NAACP's Legal Defense Fund that had the objective of obtaining additional sources of revenue beyond membership dues to support its causes. The end of World War II also increased funding for the NAACP's legal enterprises as its attention along with its financial resources were no longer diverted by the war. As returning black veterans returned from the war, many donated to the NAACP Legal Defense Fund in protest of the racist treatment they experienced at home and abroad.⁹⁰

Several years prior to Wrihten's application, the state branch of the NAACP in South Carolina followed the example of the national branch by creating a legal counsel unit to fight discrimination in 1939.⁹¹ In 1940 the South Carolina Branch appointed Harold Boulware to the position. Boulware's appointment impacted the Branch's vision to engage in civil rights litigation because as a graduate of the Howard University School of Law, he was influenced by the philosophy of Charles Hamilton Houston and the Howard University School of Law School that lawyers should be at the forefront of civil rights litigation.⁹² The combination of the Legal Defense Fund and the local legal support of Harold Boulware allowed the NAACP to fully address Wrihten's suit against USC which was filed on January 8, 1947 with the Eastern District Court of South Carolina .⁹³

Wrihten was represented by the national branch of the NAACP through Thurgood Marshall and Robert L. Carter.⁹⁴ Both men would play a key role in the landmark *Brown v. Board* case several years later with Marshall serving as lead counsel and Carter providing the oral argument that public school segregation as a legal practice was unconstitutional.⁹⁵ Wrihten received representation through local NAACP attorneys Harold Boulware, E.A. Parker, and W.F. Robinson.

The Trial Begins

When Wrighten filed suit asking for declaratory judgments, injunctive relief and damages against USC on January 8, 1947, he was taking on the state's ruling political class.⁹⁶ While Norman M. Smith, president of the university, Samuel L. Prince, the law school dean, and R.C Needham, registrar, served as defendants when the case came to trial on June 5, 1947, the lawsuit was against the Board of Trustees of the University of South Carolina. In the 1940s, the governor of South Carolina served as the ex-officio member of the board of trustees.⁹⁷ The defendants in *Wrighten v. Board of Trustees* were represented by John M. Daniels, Attorney General of South Carolina.⁹⁸ The USC School of Law was the alma mater for the state political elite. By 1950 forty-four out of the state's 124 representatives and twenty out of the state's forty-six senators graduated from the School of Law School. *Wrighten v. Board of Trustees* is significant in that the lawsuit was not only an attack on the Law School, but the alma mater of many powerful politicians in the state and also on school segregation itself.⁹⁹

Judge J. Waites Waring of the United States District Court for the Eastern District of South Carolina presided over the case.¹⁰⁰ Judge Waring, who was born the son of a Confederate veteran in Charleston, South Carolina, ironically had a positive role in school desegregation and civil rights. In 1947 he ruled in the case of *Elmore v. Rice* that the state's all white Democratic Party could not exclude black people from voting in primaries. In the *Briggs v. Elliot* case of 1948, the NAACP filed a suit in behalf of local black citizens in Clarendon County for the county's failure to provide busing services to black students. The case was one of several cases combined into the *Brown v. Board of Education* case. While the panel consisting of three judges ruled against desegregating

the school district, it was Waring, the lone dissenting judge who agreed with Thurgood Marshall and the plaintiffs that the school districts must end the practice of racial segregation. When Marshall intended to use state and federal laws to force South Carolina to honor its laws regarding equal facilities, it was Judge Waring who advised him to challenge the Separate But Equal doctrine directly by demonstrating that racial segregation in itself was unequal.¹⁰¹

While the defense alluded to the fact the state authorized the establishment of a law school at State College in 1945 and 1946, it was through Wrighten's suit that the District Court mandated the state to appropriate funds and collaborate with the school to hire faculty and build facilities for a law program.¹⁰² As the federal judge for the Eastern District of South Carolina, Waring had federal jurisdiction over both Richland and Orangeburg counties, the sites of both the USC and State College. Consequently, Waring had the authority to levy a federal court injunction against the USC and State College to comply with his ruling.¹⁰³ By the time of the trial in June of 1947, Wrighten met the entrance requirements for the USC School of Law including earning a baccalaureate degree from State College and presenting a certificate of good moral character from the institution. Wrighten also demonstrated during the trial that he had the ability to pay all required fees and charges for admission.¹⁰⁴ In the court opinion it was revealed early in the trial proceedings that the presiding judge viewed the rejection of a qualified applicant's admission based on race as a clear violation of the plaintiff's constitutional rights:

That policy, custom and usage maintained by the defendants, Board of Trustees, Norman A. Smith, President, Samuel Prince, Dean and R.C. Needham, Registrar in denying to your plaintiff and other qualified Negro applicants the right to attend the law school at the University of South Carolina amounts to a systematic denial of

the equal protection of the Plaintiff's rights under the Fourteenth Amendment to the Federal Constitution.¹⁰⁵

Since no law programs existed for black people in South Carolina, the state denied black people equal protection under the Fourteenth Amendment. By violating the Fourteenth Amendment through refusing the plaintiff's admission based on race, the court could issue an injunction restraining the defendants from continuing that practice. The case would set a precedent in which not only USC, but other all white higher educational institutions in the state would have to admit blacks to educational programs that did not exist in the state's black schools.¹⁰⁶

Unfortunately for the plaintiff, the NAACP, and other proponents of racial integration, 1947 would not be the year that South Carolina desegregated one of its public schools. The court took into consideration state legislative acts to open a law school at State College in 1945 and 1946. The court also took into consideration that although the state appropriated \$60,000 to develop a law school for black students, no one applied to the proposed law program at State College.¹⁰⁷ A concession made by the plaintiff's counsel would play a key role in the court's consideration of allowing the state to continue its practice of maintaining separate educational facilities for blacks and whites:

Counsel for the plaintiff concede that his constitutional right to a legal education from the State of South Carolina is met if the State provides for him at the State supported negro college educational facilities substantially equal to those provided for white students at the University of South Carolina Law School. In other words, plaintiff has abandoned the contention, of which his complaint was susceptible of interpretation, that the State cannot constitutionally require the separation of the races in its educational institutions.¹⁰⁸

If the state wanted to avoid a federal court injunction that it accepts qualified black applicants to the USC School of Law, it would have to do more than just appropriate

funds for a black law school, it would have to prove to the prosecution and the court that it was equal to the law program reserved for whites.¹⁰⁹

On July 12, 1947, Judge Waring ordered the state to create a law school at State College that was equal to the USC School of Law. If the state failed to comply with Judge Waring's ruling, it risked a federal court injunction forcing the desegregation of the USC School of Law or its closure:

if at that time the plaintiff and others who are qualified can and do obtain entrance to a law school at State College, satisfactorily staffed, equipped, and a going concern, and on a substantial parity in all respects with the services furnished at the University Law School, then the demands of the plaintiff will be adequately satisfied and no further action will be necessary by this Court. On the other hand, if that be not done completely and fully, then the plaintiff will be entitled to entrance at the Law School of the University. The third alternative is that the State furnish no law school education to any persons of either white or negro race.¹¹⁰

The state would have until September of 1947 to comply with the court order by creating an equal, all-black counterpart to the USC's law program. If the state failed to do so by that date, the court would have required that the state to admit WRIGHTEN into the USC School of Law School or risk contempt of court.¹¹¹

Threatened by the risk of either admitting WRIGHTEN to USC or closing the University's law program, the USC Board of Trustees appealed Waring's ruling to enjoin the University in admitting WRIGHTEN if the state failed to open an equivalent law program for black students.¹¹² It was the opinion of the appellant judges that South Carolina afforded WRIGHTEN "equal protection" under law by passing acts like the 1945 Appropriation Act and setting aside funds to open a law school at State College. Since neither WRIGHTEN nor any other black student submitted an application to the new black law school prior to the trial in the District Court, the state was under no obligation to release funds to hire law school faculty and staff until after the first black student applied

to the new law program. The Court of Appeals ruled in favor of the defense by allowing a reversal of the injunction if the lower court dismissed Wrigthen's suit.¹¹³ Thurgood Marshall and his co-counsel filed a brief in opposition of the higher court's decision that would give the District Court the option of dismissing the suit. It was Marshall's intention to continue the District Court's injunction against USC for prohibiting the admission of black students into the School of Law. If the state failed to open a separate but equal law school by September of 1947, Wrigthen potentially would make history by becoming the first black student to attend USC since Reconstruction.¹¹⁴

It was then in the hands of Judge Waites Waring to decide if 1947 would be the year South Carolina desegregates its public schools beginning with the USC School of Law.¹¹⁵ In June of 1948, a follow up hearing was conducted by the Eastern District Court to examine if the Law School was compatible to the USC School of Law. During Thurgood Marshall's cross examination of Miller Whittaker, president of State College, Whittaker's testimony revealed that as late as June of 1948 there was not an entire building or library reserved strictly for the law school. Despite the funds the state appropriated for State College in 1948, it was sent to State College without designating that the College use those funds specifically towards expanding the facilities of the Law School.¹¹⁶

Even if the law program had facilities comparable to the USC School of Law, it would be unaccredited and unequal to its all-white counterpart in terms of longevity and influence. During Marshall's cross examination, Samuel Prince, the dean of the School of Law, testified that the USC's law program met the minimum standards to be accredited by the American Bar Association was a member of the Association of

American Law Schools. Without a building or a law library, it was virtually impossible for the new law program at State College to meet the minimum performance standards to be accredited or obtain membership with established law school organizations.

Marshall's cross examination with the dean also revealed that the credits of students attending an unaccredited law school seeking admission into an accredited law school would not automatically transfer.¹¹⁷ While Prince did not specify the benefits of the School of Law's accreditation and membership, his testimony did reveal that the School of Law's accreditation and membership was significant enough for the USC to continue paying dues and meeting the standards of agencies that aimed "to develop the legal profession through education."¹¹⁸

Thurgood Marshall Opposes Building a Segregated Law School

Prior to the state's appeal to the Fourth Circuit Court of Appeals, it created a subcommittee that included Board Members of State College and President Miller Whittaker, to hire faculty, a dean, and find facilities on the college campus for a law school. Dean Prince assisted the subcommittee as a consultant.¹¹⁹ Within two weeks of the District court's decision, Whittaker hired Bennett Turner, a black law professor from North Carolina College of Law for Negroes (modern day North Carolina Central University College of Law), as the dean of the new law school. Whittaker and Turner then proceeded to hire black law professors Leo Kerford and Cassandra Maxwell, the only black female lawyer in the state.¹²⁰ When Marshall was asked by Frank DeCosta, the former Avery school principal hired by Whittaker as State College's new graduate school dean, whether he knew of any good black professors to serve as faculty, Marshall replied "I don't believe that a Negro lawyers should be interested in being a dean of a Jim

Crow law school. I, for one, am opposed to the extension of segregation, and the setting up of these small law schools can be labeled as an extension of segregation.”¹²¹

Perhaps the force driving the intensification of Marshall’s opposition to the law program was a series of court rulings and executive orders that took place during his cross examinations of President Whittaker and other law school supporters between 1947 and 1948.¹²² These legal precedents were signs that members of the judicial, legislative, and executive branches of the federal government were beginning to support civil rights for African Americans and the desegregation of public facilities. In December of 1946, President Harry Truman established the Commission on Civil Rights to investigate hate crimes and the status of civil rights throughout the nation. On October 29, 1947 the Commission published a report called, *To Secure These Rights*, that denounced racism in the United States and supported an end to segregation.¹²³ In March of 1947, the Senate Armed Services Committee heard testimony from the Committee Against Jim Crow in Military Service and Training which included African American leaders. The Committee’s reports influenced President Truman’s issuing of Executive Order 9981 on July 26, 1948 which desegregated the armed forces.¹²⁴

Two landmark cases argued by Marshall in the U.S. Supreme Court scored major victories for supporters of desegregation as South Carolina developed State’s law program. Marshall represented Aida Sipuel, an African American woman who applied for admission into the University of Oklahoma School of Law in January of 1946, but was denied admission due to her race. The case was heard by justices of the U.S. Supreme Court on January 7, 1948 and decided on January 12, 1948. The U.S. Supreme Court reversed the decision of the Supreme Court of Oklahoma to create a separate law

school for blacks. The U.S. Supreme Court ordered the University of Oklahoma to admit Sipuel into its law program, thus desegregating the institution. Beginning in January 15, 1948, the U.S Supreme Court heard arguments in the case of *Shelly v. Kramer*. Marshall represented a black family by the name of Shelly that unknowingly purchased a house in St Louis, Missouri that was restricted for white families. On May 3, 1948 the U.S. Supreme Court issued a decision to ban the enforcement of racial restrictive property covenants in the courts.¹²⁵

By the time *Wrighten v. Board of Trustees University of South Carolina* trial and the subsequent court proceeding concerning State College's law program, Marshall and other NAACP attorneys began to abandon the Margold strategy. Rather than force states to support costly, dual systems of professional and graduate schools which would compel states to desegregate colleges due to cost, Marshall and his associates began to shift their focus towards directly attacking the constitutionality of segregation. Even Marshall's mentor, Charles Hamilton Houston, who pioneered the Margold strategy, called for a policy shift regarding desegregation by stating:

The NAACP lawyers in order to get the campaign underway accepted the doctrine that the state could segregate...provided equal accommodations were afforded....Now the NAACP is making a direct, open, all-out fight against segregation... There is no such thing as "separate but equal. Segregation itself imports inequality.¹²⁶

Unfortunately for Marshall and his colleagues, they failed to halt the extension of segregation in South Carolina.

The Law School Opens

Pressured by State College's all-white Board of Trustees, Whittaker and DeCosta moved forward with plans to open the law school. By the summer of 1947, Whittaker

secured classrooms and offices for the law school in Wilkinson Hall, the location of the president's office, and the women's dormitory. Hundreds of law books were collected and the State College began accepting applicants for admission.¹²⁷ The Law School at State College opened on September 17, 1947 with three faculty members, a dean, nine students and 7,500 volumes in its law library.¹²⁸

Unable to convince Whittaker and DeCosta not to proceed with plans to open the law school, Marshall turned to Wrighten for help in ceasing the creation of another segregated law program. While filing the appeal of Judge Waring's decision, Marshall confided to Wrighten "not to go the Jim Crow law school which has been set up in one room in the Administration Building in Orangeburg with practically no library and three teachers without previous law school teaching experience."¹²⁹ However, the trial took its toll on John Wrighten. Wrighten's association with the lawsuit against the state's flagship institution made it difficult for him to maintain a job with white employers. Friends who did not want to associate with someone the white power structure considered a troublemaker abandoned him. In addition, the financial toll of the case left Wrighten nearly destitute.

Wrighten's personal losses were exacerbated by the competing interests of Marshall and the national branch of the NAACP and black leadership within Charleston's branch of the NAACP. Marshall wanted Wrighten to continue his original mission to desegregate the USC School of Law while local black leaders wanted him to enroll into State College's law program. For many influential black people in Charleston, a segregated law program was better than a total exclusion of black students from a legal education in the state. By the spring of 1948, Wrighten was ready to quit the case

because he needed to focus his energies on caring for his wife and child. Marshall was ready to drop the case because he considered WRIGHTEN not reliable enough to continue the fight against segregation. WRIGHTEN's local counsel, Harold Boulware, managed to convince Marshall and WRIGHTEN to proceed with their appeal. However by 1948, state support for an all-black law school continued to gain momentum.¹³⁰ Despite the efforts of WRIGHTEN and the NAACP Legal Defense team, the development of State College's law school would proceed as planned.

During several follow up hearings in 1948 to report on the Law School's progress, the court acknowledged that the new law school had a dean and faculty members with law degrees from established law programs like Harvard Law School and the University of Kansas. It took into consideration that during the first year State College was able to house the first year classe and a library in Wilkinson Hall.¹³¹ In 1948 the legislature appropriated \$200,000 to build a two story law building to house the classrooms, a law library, and offices for each faculty member. Another \$30,000 was spent on books and other items for the law library. In terms of how the new law school compared to USC's law program in regards to membership into prestigious legal education associations, by erecting a building to house the classrooms, faculty offices, and a library, State College's new law program could apply for membership with the Association of American Law Schools.

The court referenced in its brief that while the USC School of Law benefitted from its longstanding reputation, the students at the new law school would benefit from smaller class sizes and more interaction with faculty in comparison to the USC's overcrowded law program. During the Law School at State College's inaugural year,

both schools offered roughly same number and types of courses for first year students.¹³²

Judge Waring concluded the hearing by ruling that the Law School at State College met the requirements of the July 12, 1947 court injunction and the Fourteenth Amendment:

“Since South Carolina has provided in State College a law school where negro citizens may obtain a legal education equal to that available for white students at the University of South Carolina, the State has complied with its obligations under the Fourteenth Amendment.”¹³³ Consequently, in June of 1948 the suit was dismissed as Waring found that the new law school met the requirements of his ruling.¹³⁴

Ironically, John Wrighten, the State College graduate and veteran whose lawsuit resulted in the creation of a law school for the state’s black populace, was not the first student to enroll into the program. Wrighten applied to the new law school through a letter to Dean Turner on August 15, 1947. Although he was accepted on August 28, 1947, he withdrew his application on September 2nd of that year.¹³⁵ Due to the financial and emotional turmoil he endured during the trial and the responsibilities he had as a husband and father, Wrighten had too many competing interests and challenges in his life to start law school in 1947.¹³⁶ However, he enrolled into the Law School at State College in September of 1949 and graduated from the Law School in 1952.¹³⁷

John Wrighten’s lawsuit against USC resulted in a federal court injunction that forced the state to create an all-black law program at State College. While the Law School at State College was hastily opened within three months of the court injunction and was symbolic of the state’s policy of racial desegregation, Wrighten’s lawsuit resulted in the creation of a law program that from 1947 to 1966 gave black students the

tools to dismantle the system that blocked WRIGHTEN's admission to the University of South Carolina.¹³⁸

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Chapter Three

The Operating Years from 1947 to 1966

The Student Body

In the 1948 edition of *The Bulldog*, State College's annual yearbook, a group photo of eight Law School students and four faculty and staff members is featured.¹ Shot less than a year after the Law School opened, the photo is the first picture taken of students in the law program. Beyond their names, the photo does not include any background information on the students. Fortunately eight men who attended the Law School at State College contributed to this study through interviews or written correspondence. Their insights presented a profile of the Law School alumni that was in many ways atypical of the makeup of students attending historically black colleges and universities in the 1940s, 50s and 60s.

Socioeconomic Backgrounds of the Students

With the exception of Ohio, Missouri, and Pennsylvania, when the Law School at State College was in operation, most of the 105 traditionally black institutions were located in the South. Nine out of every ten black students attending these schools came from states in which these institutions were located.² Given the economic conditions of most blacks living in the South, it would seem that most of the students who attended the Law School grew up in poverty. From 1963 to 1964, sociologist J.H. Fitcher was commissioned by the National Opinion Research Center to conduct one of the first comprehensive studies of students attending predominantly black institutions. The study

compiled data from surveys of 8,000 students enrolled at fifty traditionally black colleges.³ Out of more than 3,000 respondents who reported family income, 64% of the students surveyed came from families with parental incomes below \$5,000.⁴ To put this percentage in perspective, the median parental income of all families in 1963, including those who did not send their kids to college, was \$6,249.⁵ In a survey of over 18,000 college-bound students who took the ACT between November 1, 1964 and October 31, 1965, the median parental income was \$8,500.⁶

For those who attended public black institutions like State College, the percentage who came from families with incomes below \$5,000 was 68% in comparison to private black colleges at 60%.⁷ In terms of educational attainment, 63% of over 3,000 respondents reported that their father had less than a high school education. The percentage of the survey respondents with mothers who had less than a high school education was 53%.⁸ Even by the start of the 1970s the economic statuses of the black parents who sent their children to college was dire. A study of black colleges in 1973 found that two-thirds of the students surveyed reported that their parents had incomes below \$5,000.⁹ The survey results for the respondents who reported parental education also demonstrated that even in a time period when a large percentage of women stayed at home, the percentage of black women working outside the home were nearly equal to that of the men. Economic hardship and the low incomes of father necessitated the need for dual earner households.¹⁰

While the interview sample used in this study represented only eight students who attended the Law School, the backgrounds of seven participants did not reflect the impoverished backgrounds of many students in Fitcher's study. George Anderson's

father was a police officer in Washington, D.C. and in 1975 became the deputy secretary for D.C. transit.¹¹ Hemphill Pride II, who attended the Law School for a year and later transferred to the law program at Florida A & M, was the son of a dentist who had both a private practice and worked for the Department of Mental Health. Pride's mother was the first African-American woman to be licensed in South Carolina as a real estate broker.¹² His father also was a businessman who owned Capital City Real Estate, one of the first insurance companies to be owned by an African American in Columbia, South Carolina.¹³

Zack Townsend's father was the valedictorian of his class at Benedict College in 1921.¹⁴ Not only did his father obtain another baccalaureate degree from Ohio State University, he later become a math instructor at Benedict College and served as the principal of Benedict College's high school.¹⁵ Ernest Finney, Jr's, father was high school principal, a civil training officer for the War Department in Washington D.C., and the Dean of Claflin College.¹⁶ Paul Webber III's father owned a popular soda shop that was the first African American owned pharmacy in Orangeburg, South Carolina.¹⁷ In a time when women were not encouraged to pursue career fields in the sciences or to obtain graduate degrees, Webber's mother earned a bachelor's degree in chemistry and later a doctorate in education. She also taught at State College for several decades as a chemistry and economics professor.¹⁸

Ruben Gray's father was a timber contractor for an international paper company.¹⁹ While neither of his parents had a college education, they were land and homeowners. Gray's father earned enough money for his wife to stay at home. Gray's parents had the means to support his education and the education of his older brother at

Claflin.²⁰ While Daniel Martin did not mention the occupations of his parents, they were able to send both him and his older brother to college. Not only did Martin's brother graduate from college, he had aspirations of becoming a lawyer. According to Martin, several years after John Wrighten attempted to desegregate the USC School of Law, his brother applied to the same law program. Unfortunately, due to the NAACP's involvement in the cases that culminated in *Brown v. Board*, he did not receive the legal support to challenge the rejection of his admission on racial grounds.

Several deceased Law School students were affluent by black standards. George Crawford was the son of a medical physician.²¹ Matthew Perry's father was a tailor and his grandfather was a brakeman on the Southern Railway Company. According to Perry, his family was better off than most because his grandfather's employment was steady, it was a living wage, and the family were homeowners.²² John Wrighten recalled that his family, which included eight siblings, "lived fairly well." The Wrighten family owned land and secured enough money to send fourteen year-old Wrighten to Avery Normal Institute, Charleston's private high school for the black elite.²³ Out of all the students who attended the Law School and in which information on their childhood experiences were included in this study, only one former student explicitly referenced poverty during his upbringing. Jasper Cureton, who transferred to the USC School of Law in 1965 as State College made plans to close the Law School at State College, had a father who was a cotton farmer with a 4th grade education. Cureton attended a school that did not have a library and had an outside bathroom. However, his parents still managed to send him and most of his five siblings to college.²⁴

A Predominantly Male Law School

From a demographic standpoint, the students who attended the Law School at State College differed from students enrolled in most academic programs at predominantly black colleges in terms of gender. In a study of private black colleges in the 1960s, sixty to seventy percent of the populations at these colleges were female.²⁵ In a study that included both private and public colleges in the 1960s, nearly 64% of the 3,543 respondents were female. This gender imbalance was a stark contrast to the gender ratio on predominantly white southern institutions where out of 5,282 respondents, 60.6% were male.²⁶ In the first few years of the Law School's operation, State College was predominantly male, mainly due to enrollment of servicemen after World War II. In October of 1947, there were 664 continuing male students and 455 female students. Out of the 493 veterans enrolled on campus, only three were female. However, in the graduate school twenty-four female students were enrolled versus nine males.²⁷

By the 1948-1949 academic year, female students would dominate the overall student body with 1,564 females versus 910 males. The number of female graduate students outnumbered male graduate students by eight.²⁸ This trend would continue throughout most the Law School's nearly twenty-year existence. By the 1955-56 academic year, the number of women in graduate school was double that of the men.²⁹ Two years prior to the Law School's closing, there were 1710 women enrolled at State College versus 1004 men.³⁰

Yet, the students who attended the Law School deviated from the campus norm due to its predominantly male composition. When State College reported the enrollment of the Law School's inaugural class in October 1, 1947, nine students were enrolled. The

class was comprised of eight males and one female.³¹ The following year, female enrollment in the Law School dropped to zero.³² The highest female enrollment the Law School experienced was in the 1952-1953 academic year when three out of eleven students enrolled were women.³³ Out of the fifty-one students who graduated from the Law School at State College, Laura Ponds who graduated in 1965, was the only woman.

Table 3.1 Graduates of the Law School at South Carolina State College³⁴

1950	1951	1952	1953
Albert A. Kennedy Julius T. Williams, Jr.	Frank E. Cain Harold A. Jackson Alfred T. Pearson Matthew Perry, Jr. Robert L. Williams	Talmadge L. Bartell Vernoid R. Bunch Willie J. Martin W. Newton Pough John Wrighten III	William W. Bennett John E. McCall V. Campbell Smith Cleveland Stevens
1954	1956	1957	1958
Herman G. Boyd Ernest A. Finney, Jr. John Rodgers Willie T. Smith, Jr. Edgar T. Thompson	John Brownie McQuirter	Mack E. Davis Paul Rainey Webber III	Bassey Mbrey Bassey James E. Jackson
1959	1960	1961	1962
Russell Brown Alphonso W. Pendergrass	Charles H. Benton, Jr.	Ned Edward Felder Willie Ray Murray Benjamin E. Price	Robert L. Knight William C. Hall, Jr.
1963	1964	1965	1966
Joe Louis Black Ruben L. Gray Louis Weldon Hammond Ralph Waldo Sparks, Jr. Zack E. Townsend	Franklin Roosevelt DeWitt Ernest Simmons	Robert K. Wright George A. Anderson Allan A. Christian George M. Crawford Ernest G. DeVeaux, Jr. George A. Payton Jr. Laura Ponds*	Daniel E. Martin Rupert F. Taylor Damon G. Thomas
*Laura Ponds was the Law School at South Carolina State College's only female graduate			

Nationally, women of all racial backgrounds only constituted about three percent of each law class from 1951 to 1965.³⁵ Ruben Gray, who knew Laura Ponds, stated that the restriction of black attorneys to civil rights law made the profession unattractive to women. Civil rights cases often involved litigation in the courts which were traditionally male domains. If there were opportunities for black attorneys to practice in areas with higher concentrations of women such as family law, education law, and legal aid, the Law School may have had more female graduates.³⁶ While the low percentage of women who attended the Law School reflected the number of women attending law schools nationwide, the fact there was such a gender imbalance at State College made the predominantly male student body of the Law School a demographic anomaly on campus.³⁷

Non-traditional Students

While the student body of the Law School was not diverse in terms of gender, there was greater diversity in age. According to George Anderson, many graduates were in their late 20s, 30s, and 40s by the time they started the law program.³⁸ By the time Wrigthen applied for admission, he was already a twenty-four year old World War II veteran.³⁹ Wrigthen was already raising a family when the Law School at State College opened the following year.⁴⁰ Matthew Perry, also a World War II veteran, was in his late twenties when he enrolled into the Law School in 1948.⁴¹ Some students had previous careers and additional adult responsibilities before enrolling into the Law School. Daniel Martin, who was admitted in 1963, was already married with children, had spent some time in the military, and taught school for several years.⁴² There were more traditional-aged students who entered the Law School as twenty-one to twenty-two year-old post

graduates. Ruben Gray enrolled into the six year program where he graduated with a business degree in three years and within an additional three years, earned a law degree.⁴³

After graduating from college at the age of twenty from Claflin University in 1952, Ernest Finney graduated from the Law School in 1954.⁴⁴

There were students such as Hemphill Pride II who pursued their undergraduate education at other black colleges such as Johnson C. Smith in Charlotte, North Carolina.⁴⁵ However, most Law School students obtained undergraduate degrees at State College.

Table 3.2 Year Students Graduated with Undergraduate Degrees from South Carolina State College⁴⁶

Year of Graduation	Name
1947	John H. Wrihten III, B.A. in Sociology
1948	Matthew J. Perry, Jr., B.S. in Business
1950	W. Newton Pough, B.A. in Arts Willie T. Smith, Jr., B.S.
1955	Paul Rainey Webber III, B.S. in Business
1957	Alphophonso W. Pendergrass, B.A.
1958	Robert L. Knight, B.A.
1959	Ned Felder, B.S. in Business
1960	Jasper Cureton, B.S. in Agriculture
1961	Rueben Gray, B.S. in Business
1962	Franklin Dewiit, B.S. in Business Ernest Simmons, B.A. in Arts Ernest DeVeaux, B.A. in Arts George Anderson
1963	Laura Ponds, B.A. in Arts

Choosing the Legal Profession

The fact that the students who attended the Law School decided to pursue legal careers distinguished them from most black students attending higher educational institutions from the 1940s through the 1960s. According to Zack Townsend, the only

jobs available to blacks during that time were as preachers and teachers.⁴⁷ Law was not a field openly accessible to black student. Consequently, few black students majored in law.⁴⁸ Studies conducted during that general time period support comments made by Townsend and other former students that law was not one of the top career aspirations for black students. In a study that surveyed over 3,000 black students representing various predominantly black colleges between 1963 and 1964, only 2% of the respondents who intended to pursue postgraduate study wanted to go into law. The majority of these students, 42%, wanted to enter a field in education.⁴⁹ Out of eight professional occupations, law was the second highest-rated profession in which respondents felt in which it out was of reach due to the amount of money and time it took to pursue a law degree.⁵⁰ By the end of the 1960s, between dentistry, medicine, engineering, teaching, life and physical sciences, and law, law had the smallest percentage of black professionals.⁵¹ A decade after the Law School opened it had the lowest enrollment of any of the degree programs within State College.⁵²

While this study is limited to a fraction of the total number of peoples who attended the Law School, data from the participant interviews, from primary source documents, and secondary source documents provided some insight into why they decided to enter what was an unpopular profession in the black community. John Wrigthen's decision to become a lawyer was influenced by his activist background. Wrigthen attended Avery Institute, a progressive black secondary school where instructors such as William Bluford challenged students to fight social inequalities.⁵³ Wrigthen, who was member of the NAACP at Avery, was inspired to follow in the footsteps of NAACP lawyers like Thurgood Marshall who used litigation to undermine

segregation.⁵⁴ W. Newton Pough, a 1952 Law School graduate who was instrumental in the early stages of the civil rights movement in Orangeburg, South Carolina, was inspired to become a lawyer after reading about an attorney in high school.⁵⁵

Other students were motivated by their own personal experiences with racism. When Paul Webber III was in the eighth or ninth grade, a thirteen year classmate of his was sentenced to five years hard labor for allegedly peeping into the window of a white woman. Frequently seeing his classmate on the back of a prison chain gang truck with adult prisoners both angered and saddened him as a child. It was during that time he began thinking of a career in law.⁵⁶ During World War II, Matthew Perry recalled an experience when his military unit made a stop in Birmingham, Alabama en route to Columbia, South Carolina. Italian and German prisoners of war were able to patronize establishments that were prohibited to blacks. When eating at restaurants in town, Perry and other black soldiers were expected to stand outside a window to place and receive their orders as they watched the enemy flirt with the white waitresses. In response to these incidents and others, Perry recalled that as a young person that,

there was something wrong with a system that sanctioned such different treatments of people simply because of race. I wasn't sure that this could be sustained against the attacks of reason and rationality. I wasn't at all sure this could be sustained or whether I had the capacity to do anything about it. I know that something ought to be done about it, and as I began contemplating my own career choices, I had in mind that I ought to do something that would be both useful and productive to my own needs and to the needs of my family, but that it would be good if I could think of some way coming to grips with some of the problems that I had discovered.⁵⁷

Immediately after the war, Perry decided to fight these racial inequalities by becoming a lawyer.⁵⁸

Other students were encouraged to become lawyers as advised by people in their communities or through chance encounters with established black lawyers. Ruben Gray,

who was involved in the debate club at his childhood church, was encouraged by the church elders to embark on a law career. By the 12th grade after deciding not to become a teacher or preacher, he pursued a legal career.⁵⁹ Daniel Martin decided to attend Law School after several encounters with Thurgood Marshall while attending Allen University.⁶⁰ Hemphill Pride II intended to become a dentist like his father. However, through an encounter with Paul Webber III he was persuaded to apply to the Law School.⁶¹ Zack Townsend had dreams of becoming a lawyer due to the outrage he experienced as child reading about Emmitt Till, a fourteen-year old African American boy who was murdered for allegedly making sexual advances towards a white woman. As he became older, his interest shifted to other careers. While on a visit to Pittsburg, he met an African American law student who reinvigorated his interest in the law profession while giving Townsend a tour of the University of Pittsburgh's Law School. That law student was Derrick Bell, the first tenured African American professor at Harvard and one of the originators of critical race theory, a theory that analyzes the connections between race, law, power, and privilege. Townsend returned to South Carolina where he later graduated from the Law School at State College in 1963.⁶²

While there were students enrolled at the Law School who came from families that were considered middle class, they were middle class as compared to other blacks. Economics and accessibility played a major role in the students deciding to pursue a legal education in-state. When the Law School opened in 1947, the median income of white Americans at \$3,157.00 was nearly double the income of blacks at \$1,614.00.⁶³ Although NAACP attorneys Thurgood Marshall and Harold Boulware tried to persuade Wrighten to continue the appeal of Judge Waring's decision to grant South Carolina a

segregated law school, his involvement in the case made it difficult for him to maintain a job, especially with white employers. The financial toll of the lawsuit played a major factor in WRIGHTEN's decision to withdraw from the case and enroll into State College's Law School in 1948.⁶⁴ Matthew Perry initially wanted to study law at Howard or in Boston after completing his undergraduate studies at State College. However, after he was approached by one of State College's law professors to sit in on a law course, he was persuaded to study in his home state.⁶⁵

Before beginning his legal studies at State College, Jasper Cureton applied to State College, the University of South Carolina, and the University of Georgia. However, after leaving the military, he had little money saved. The financial cost of a protracted legal fight to desegregate an all-white law school or to attend an out-of-state college made State College the logical choice. Ironically for Cureton, he became the first African American to graduate from the USC School of Law since Reconstruction.⁶⁶ Ruben Gray also wanted to attend law school outside of South Carolina. So great was his desire to leave rural Georgetown County that after he graduated from high school, Gray and several high school friends left the state to make a living in the North. They settled in Norwich, Connecticut where Gray spent the summer working in a garment factory. Although he was tempted to attend law school in a big city, Gray returned home in August of 1956 to enroll in State College's six-year program where he could obtain dual degrees in business administration and law. With an older brother already in college at Claflin, Gray did not want to burden his parents with out-of-state tuition costs or worry them by trying to survive in a big city.⁶⁷

Attending the Law School

Although Judge Waites Waring's ruling in June of 1947 forced South Carolina to open a law school for its black citizens, there were voices in the black community who were unhappy with this decision which not only extended segregation, but created a school that was considered unequal.⁶⁸ Local black leaders in South Carolina also expressed concern over blacks attending a school they considered inferior. The head of the South Carolina Branch of NAACP, James Hinton, called it "the make shift law school in Orangeburg." Modjeska Simpkins, secretary for the South Carolina Branch, stated in response to the Law School's opening that "The only persons who could become even more objects of derision would be the persons who, knowing the score, deliberately walk into these chump courses."⁶⁹ Even Judge Waring stated that it was "almost impossible to intellectually compare" State's law program to the more established program at USC which had a far larger enrollment.⁷⁰

Enrollment

In some measures, the Law School at State College did not compare favorably to the USC School of Law. The USC's law program had an enrollment of 342 students, five full time faculty, and nine part time of faculty in the fall of 1947.⁷¹ Even though enrollment in USC's School of Law declined due to a downturn in the college attendance of GI soldiers by 1950, the program experienced a three year increase in the years leading to the closing of the Law School at State College.⁷² Enrollment was 224 students in September of 1962.⁷³ By 1964 enrollment surged to 294 students.⁷⁴ While strong enrollment ensured greater programmatic and financial stability for the University's law program, dwindling enrollment was perilous for State College's law program.

The Law School at State College opened in 1947 with nine students and three faculty members.⁷⁵ It experienced its highest enrollment in its nineteen year operation with twenty students in the fall of 1951-1952 school year.⁷⁶ However, the Law School experienced annual declines in the number of students who attended until it closed in 1966. As early as 1956 President Benner Turner began reporting that the high cost to run the Law School threatened its continuation.⁷⁷ Between 1961 and 1965, enrollment decreased from fourteen to four students.⁷⁸ Strong enrollment at the University of South Carolina's Law School created the perception that it was on a firm financial standing. The financial difficulties at State College's Law School that were attributed to low enrollment played a factor in the decision made by Jasper Cureton to transfer from State College to USC.⁷⁹

Accreditation

More than twenty years prior to the opening of the Law School at State College, the USC School of Law was fully accredited by the American Bar Association (ABA) in 1925.⁸⁰ It would maintain its accreditation and was still accredited when the Law School at State College closed in 1966.⁸¹ One of the reasons the ABA was created in 1878 was to provide states with the first general standards to assess the quality of law schools as there was a proliferation of unregulated law programs that grew after the civil war.⁸² In 1923 the ABA published for the first time its listing of ABA approved schools.⁸³ The nation's most elite and oldest law programs such as the laws schools at Harvard, Cornell, and Yale were approved by that year. Even Southern law programs, such as the University of Texas and the University of North Carolina-Chapel Hill joined the list. Howard University's School of Law, the oldest black law school in the country, was fully

accredited in 1931.⁸⁴ As the state's only law school in 1925, joining the ABA's listing validated that the USC School of Law and consequently the state were producing lawyers that met a minimum set of national standards for professional practice.⁸⁵

Besides the ABA's influence on the reputations of law programs, it impacted the reputations of law school graduates. Graduating from a law program accredited by the ABA meant that a student was an alumnus of a program that met standards created by a national-level agency. If a law school graduate decided to practice outside his or her state, graduating from an ABA approved school gave alumni greater regional and national respectability.⁸⁶ Unfortunately in the ABA's listings of approved schools between 1948 and 1967, the Law School at South Carolina State College is nowhere to be found.⁸⁷ While the Law School was provisionally accredited in 1950, it was never fully accredited due to State College's failure to meet the ABA's minimum salary requirements for law school faculty and deans. By 1956 the Law School had the unfortunate distinction of being provisionally accredited longer than any other law school in the country.⁸⁸

In addition to having an advantage given accreditation, the Law School at State College did not compare to the USC School of Law in terms of historical prestige or state influence. Established in 1867, the University's law program was already 80 years old when the Law School at State College was opened in 1947.⁸⁹ By the early 1950s, four out of six representatives in Congress, a U.S. Senator, twenty out of forty-six state senators, and three out of the five state supreme-court justices from South Carolina graduated from the USC School of Law School. A combination of racism and attendance in a law program that lacked the influence of the USC School of Law restricted Law

School at State College students from the same political, career, and networking opportunities as their white counterparts.⁹⁰

Advantages to Attending the All Black Law School

In response to the decision of the General Assembly to appropriate money to construct a building and library for the new law school in 1949, Samuel Prince, Dean of the USC School of Law stated, “Gentlemen, well I’ll tell you, the price of prejudice is very high.”⁹¹ Ironically, the state’s racist decision to keep blacks and whites separate created an all-black law program that was comparable and in some cases more advantageous than the white law program. The USC School of Law’s 300 plus student enrollment came at a price. According to a review of both law schools by the U.S. Eastern District Court of South Carolina in 1948, the building that housed the USC School of Law accommodated 342 students when it was designed for enrollment not to exceed seventy-five. The building was so crowded that the library was scattered on several floors and there was not enough shelf space for all of the books. There were only five full-time faculty and nine part-time faculty to instruct over 300 students.⁹²

That same year, the Law School at State College had a dean along with three faculty members to teach eight students.⁹³ Due to the low enrollment that persisted throughout the Law School’s history, students benefitted from a low student to teacher ratio. While the students in the USC School of Law took classes in large lecture halls, State College law students took courses in small classrooms that were akin to tutorial centers. Consequently, the Law School at State College faculty were more accessible to students compared to their peers in Columbia, South Carolina.⁹⁴

The USC School of Law did open a new building, Petigru Hall, named after attorney James Petigru, in 1950 to deal with the crowded conditions.⁹⁵ Yet, State College opened a new building to house its law program a year prior to the opening of Petigru Hall. Named after Adam Moss, a white attorney who previously served on the board of trustees, in 1949 State College opened Moss Hall to house the Law School with \$200,000 in appropriations from the state.⁹⁶

The faculty of the Law School compared favorably to the USC School of Law in terms of their legal education. Along with the law programs at Yale and Columbia, Harvard Law School was one of the elite law programs in the United States during the postwar years.⁹⁷ Benner Turner, the Law School at State College's first dean, and faculty member Paul Simmons, both graduated from Harvard Law School. Earl Coblyn, LeMarquis Dejarmon, Theodis R. Gray, Blinzy L. Gore, Leo Kerford, and Samuel Scott graduated from reputable law programs at Suffolk University, Case Western Reserve, Wayne State University, the University of Iowa, and the University of Kansas respectively. Cassandra E. Maxwell and Charles E. Washington graduated from the nation's most respected black law program, the Howard University School of Law.⁹⁸ Since the Law School hired faculty that did not earn law degrees from State College, it was able to draw law professors from all over the country. Faculty members who graduated from other programs could bring new legal tactics to students.

One of the shortcomings of the USC School of Law was that it was comprised of a large number of faculty who graduated from the institution. According to Judge Waring in his assessment of the two law programs following the Wrighten case, too many law faculty at USC graduated from the University's law program. The Association

of American Law Schools, of which the USC School of Law was a member, preferred that law schools hire graduates from outside law programs.⁹⁹ Several years after Waring's review, seven out of the twelve faculty employed were USC School of Law graduates.¹⁰⁰ The Law School at State College faculty also benefited from lighter teaching loads which granted them more time to engage in other activities of the professorate beyond teaching. Due to smaller class sizes, the faculty at the Law School at State College had teaching loads of seven hours or less while USC School of Law faculty, including part-time faculty, were required to teach a minimum of nine hours in the fall of 1947.¹⁰¹

Both law programs had roughly the same admissions standards, similar curriculums, and offered the same degrees. Admission into the USC School of Law required either a bachelor's degree or a certificate that an applicant completed at least three full years of college coursework.¹⁰² Admission into the Law School at State College also required a bachelor's degree or three full years of college coursework.¹⁰³ By the 1960s, the USC School of Law added the Law School Admissions Test (LSAT) as an admissions requirement.¹⁰⁴ To ensure that law students at State College were held to the same admissions standards, the LSAT also became an admissions requirement by the 1960s.¹⁰⁵

During the nineteen-year history of the Law School at State College, students had the same graduate credentials as the students at the USC School of Law. The Bachelor of Laws (LL.B.) was awarded after six years for students enrolled in dual degree programs where they earned either a Bachelor of Science or Arts degree after four years of pre-law course work and two years of coursework in the professional program. Seven years of

coursework, including four years of pre-professional courses and three years in the professional program, were required for students who did not enter the dual degree programs.¹⁰⁶ The USC School of Law also offered the LL.B. between 1947 and 1966, and had a similar combined academic and law degree.¹⁰⁷ Beginning in the 1966-1967 school year, the USC School of Law began awarding the Juris Doctor (J.D.) to students. However, by the beginning of that year, the Law School at State College was closed.¹⁰⁸

In terms of coursework, students in both programs took similar classes. The first year curriculum at the USC School of Law consisted of two semesters of contracts, property, torts, criminal law, and a legal history and bibliography.¹⁰⁹ Law students at State College also took two semesters of contracts, two semesters of property, criminal law, and a legal bibliography course.¹¹⁰ By the 1963-1964 school year, the USC School of Law library housed more than 50,000 volumes for 224 students.¹¹¹ While the law library at State College had an less extensive collection with 20,000 volumes, it served only fourteen students in the fall of 1964. The law library was also a member of the American Association of Law Libraries.¹¹²

Students enrolled in both law programs paid roughly the same amount to attend law school. During the 1952-1953 school year at the USC School of Law in-state tuition was \$60.00 per semester, out-of-state tuition was \$125.00, and the maintenance fee was \$40.00.¹¹³ In the fall of 1954, in-state tuition at the Law School at State College was \$60.00, the out-of-state tuition was \$125.00, and a college fee similar to the USC's maintenance fee was \$40.00.¹¹⁴ In terms of educational experiences outside the classroom, both law schools offered opportunities for students to join professional law

organizations. Students at the USC School of Law could join one of seven sections under the umbrella of what was called the “Law Federation.”

These seven sections included the Library Committee, Building Committee, Program Committee, Social Committee, Professional Integration Committee, Publications Committee, and the Publicity Committee. The chairmen of these organizations constituted the Council of the Federation which served as intermediary between students, faculty, and the administration.¹¹⁵ Only one student organization was available to students at the Law School at State College. However, State College served far fewer law students than USC. In addition, the Thomas E. Miller Law Club, named after the first president of State College, was a multi-purpose organization with many of the same charges as the USC’s Law Federation. The Thomas E. Miller Club represented the Law School students in formal interactions with faculty and administration, enabled members to participate in extracurricular activities with other units within State College, provided tutorial services for members, and served as a platform to discuss subject matter in law courses and new developments in the legal profession.¹¹⁶

While the Law School at State College was not in the same league as its Columbia counterpart in size and scope, what was viewed as a weakness was considered a strength of the program. According to students who attended the Law School, there were some distinct advantages in obtaining a legal education in a small program. One major advantage and what may be the most significant resource in any higher educational program, was the accessibility of the faculty. Due to the nearly balanced student to faculty ratio during the Law School’s operation, students experienced the literal interpretation of “No Child Left Behind” in the sense that no one was allowed to fall

through the cracks. There was considerably more one-on-one interaction with faculty than what students encountered in larger law programs. Faculty not only knew the career aspirations of their students, but knew their families, their personal struggles, and provided advice not only on legal issues, but on everything from dating to raising a family. The faculty were seen not only as instructors, but mentors who provided guidance inside and outside the classroom.¹¹⁷ Jasper Cureton, a student who had the distinction of attending the law programs at both State College and USC, stated that “there was a lot of give and take between instructors and students. We were taught a lot of survival skills and that sort of thing. They asked a lot of personal questions you would not get at an institution which had a hundred students or more.”¹¹⁸

As black men entering a profession where black representation was scarce, life lessons in “survival skills” were needed. Faculty instructed students on the challenges they would encounter in the profession such as being limited to serving poor, rural black clients, facing racist judges in court, and having to become civil rights lawyers since corporate, tax, and real estate law were off limits to black attorneys. While the Law School did not offer any direct courses on civil rights, civil rights discussions were encouraged in seminars or classes dealing with First Amendment rights. In addition, the faculty encouraged older alumni, such as Matthew Perry, to mentor students on civil rights litigation and on building practices with limited funds and clients.¹¹⁹

Not only did the Law School’s low enrollment create opportunities for instructors to mentor students, it allowed them to challenge the emerging attorneys. In schools with large lecture halls containing fifty or more students, students were called on several times a semester. When there were only five to six students taking several classes, students

were called on five or six times a day. Students had no choice but to come prepared for each class session. The small class sizes made it impossible to have another student “bail you out” when you were unable to answer a question.

The Law School’s small enrollment made it impossible to hide.¹²⁰ According to the daughter of Zack Townsend, Ariel Townsend, who is also an attorney, one the foundations of a legal education is getting called on by a professor in class to defend or disprove a legal position, she stated, “in law school you learn how to argue against precedent.” Getting called on daily was a huge advantage for the students attending the Law School. They were better prepared for the courtroom because they were accustomed to thinking quickly on their feet.¹²¹ The graduates often practiced what was learned in class in moot court competitions or through the Ida B. Wells debating society, named after civil rights activist Ida B. Wells. The students often successfully participated in moot court competitions not only against their peers attending black law schools, but against historic law programs at Duke and Pittsburgh.¹²²

Due to a combination of intensive instructor involvement in the education of the students and high expectations, the students were adept in not only vocalizing legal principles, but in expressing their arguments on paper. The Law School supported a student led, academic editorial called the “Case Note Board” where students published written case briefs. While civil rights was not a course offered in the curriculum, the written brief revealed that students addressed some of the most pressing issues facing the black community such as illegal search and seizures by law enforcement and housing discrimination. Albert Kennedy, who graduated from the Law School’s first class in 1950, published a brief written in response to *Shelley v. Kraemer*, the landmark U.S.

Supreme Court case in which the enforcement of racially restrictive covenants by state courts violated the Fourteenth Amendment.¹²³ The writing abilities of the students also extended beyond the Law School. The students often assisted professors in other degree programs by reviewing scholarly works they intended for publication. During his tenure as a student, Ruben Gray was hired by a local, white law firm in Orangeburg to write legal briefs. According to Gray, one of his briefs was used by one of the lawyers in a case argued before the South Carolina Supreme Court.¹²⁴

The camaraderie in the Law School not only existed between faculty and students, but between peers. A school day in the life of a law student at State College consisted of getting up early with classmates to go to breakfast. Breakfast was followed by a routine visit to the law library. Students then went to class until noon. They ate lunch together in the cafeteria before attending their afternoon classes. Afternoon classes were followed by dinner, which students ate together, and then another visit to the library where they would stay until late into the night. Students could stay as late as they wanted since they had a library key. Students concluded their day by returning to the wing of the dorm in which law students were housed. During exams, students continued their studies in the form of lively debates in which they could speak candidly, often with colorful language, without the interference of the faculty.¹²⁵

In 1965 Jasper Cureton spent his first year at the USC School of Law in isolation. Much of this was attributed to the cold reception received from classmates and the faculty due to his race, but also the sheer size of the classroom, which lacked the intimacy of the Law School at State College. According to Cureton, you did not get any extra help from the faculty. Cureton was not alone in his class in feeling that he could not seek help from

some of his professors outside of class. During Cureton's second semester, the inaccessibility, aloof demeanor, and intimidation tactics of one tax professor resulted in his class going on strike to protest their mistreatment.¹²⁶

The advantages afforded to the students enrolled at the Law School at State College in the form of faculty accessibility, faculty support, high expectations, and close interactions with their peers created a cadre of lawyers who could compete against anyone. Robert Figg, the dean of the USC School of Law, tried to dissuade Cureton from transferring to USC by stating that blacks did not fare well in majority schools. However, after Figg received Cureton's LSAT scores and entrance reading examinations, he told Cureton "Damn, boy you did alright. You did better than many of my boys here. You just finish up your year there and I'll let you in next year."¹²⁷ While Cureton's white classmates ignored him during his first semester at the USC School of Law, by the second semester he was able to join several study groups. Cureton attributed the changing attitudes towards him not only to the bravery of a young white woman named Martha Garrison, who was the first classmate to sit beside him, but the preparation he received from his first year of law school at State College. The white boys soon learned that Cureton knew a few fine points of the law.¹²⁸

Zack Townsend recalled that in the 1950s and 60s it was quite uncommon for students to become trial lawyers fresh out of law school. However, there was a scarcity of black lawyers to represent black litigants or defendants in civil rights cases. The dearth of black lawyers, combined with the preparation the Law School offered students, created opportunities for the graduates to engage in trial cases immediately after passing

the bar.¹²⁹ One of Hemphill Pride II's comments on his experiences at the Law School really captures the essence of what it was like to attend the program:

My experiences there was that the students were very close. There was paternalism amongst us. When I was involved in Law School the total enrollment was eight people. Each class was a freshmen class. It had teachers down there who were educational surgeons. What do I mean by that. I mean if you were dumb and did not want to do, they could cut your head open and stuff that information in your head and then sew it back up. They let no one come by them that did not get it. If they had to go it over ten times. If they had to look for you in afternoon to see where were supposed to be, they went all over campus to get you. They were determined you were going to come out with a good education.¹³⁰

Ironically, the experiences of the students who attended the Law School at State College were built on a foundation of racism. Pursuing a legal education in South Carolina became an option for black students because white citizens did not want them to attend the law program established for whites. In terms of equal resources in the form of qualified faculty, new classrooms, a well-stocked library, and a new building, the General Assembly funded these developments not because it cared to produce top quality lawyers regardless of color, but to comply with Judge Waites Waring's ruling that the state create a separate but equal law school for blacks. Failure to meet the requirements of the court decision would entitle qualified blacks to attend the USC School of Law.¹³¹ Yet, as demonstrated in Chapter Five of this dissertation study which is focused on the legacy of the Law School, the students who attended the State College's law program argued cases that struck down the system that barred black students not only from enrolling into the USC School of Law, but public schools across South Carolina.¹³²

The Faculty and the Deans

Eleven faculty members including four deans provided legal instruction at the Law School from 1947 and 1966.

Table 3.3 Faculty of the Law School at South Carolina State College¹³³

Name	Tenure	Law School
Earl W. Coblyn	1961-66	Suffolk
LeMarquis DeJarmon	1948-55	Western Reserve
Theodis R. Gay	1950-61 (Dean, 1954-61)	Wayne State University
Blinzy L. Gore	1950-66	University of Iowa
Leo Kerford	1947-66 (Dean, 1961-66)	University of Kansas
Cassandra E. Maxwell	1947-50	Howard
Samuel C. Scott	1956-57	Fordham
Paul A. Simmons	1949-52	Harvard
Benner C. Turner	1947-50 (Dean, 1947-50)	Harvard
Charles E. Washington	1952-66	Howard
Peter H. Whittaker	1949-54 (Dean, 1950-54)	Wayne [State] University

It is highly improbable that any of these individuals are still alive.¹³⁴ Benner Turner, first dean of the Law School, died in 1988.¹³⁵ Dean Leo Kerford died in 1996.¹³⁶ Peter Whittaker, the second dean of the Law School, died in 1954.¹³⁷ Blinzy Gore died in 2000.¹³⁸ Cassandra Maxwell died in 1974.¹³⁹ LeMarquis Dejarmon died in 1981.¹⁴⁰ Possibly the only living faculty member is Paul Simmons who was featured in a Pittsburgh newspaper for his accomplishments in the legal profession in 2013. However, at the age of 91, Simmons was too ill to attend an event held in his honor by a Pennsylvania U.S. District Court¹⁴¹

Earl Coblyn left for Washington, D.C. after the Law School closed in 1966.¹⁴² Charles Washington is believed to be deceased.¹⁴³ The exact whereabouts of Theodis Gay, Samuel Scott, and Earl Coblyn are unknown.¹⁴⁴ However, at least for the faculty members referenced in the testimonies of the Law School students, courts cases, and various primary and source documents, it appears that some were trailblazers despite the racial limitations placed on African Americans in the 20th century.

Benner Turner came from a highly educated family in which his father was a doctor. Turner was awarded the Henry Van Duzen Scholarship, an honor granted to the high school junior with the highest grade point average for students planning to enter Harvard University.¹⁴⁵ This was a highly distinctive honor since the school he attended was Phillip Andover Academy, one of the nation's most prestigious and oldest boarding schools. Its inaugural class in 1778 consisted of Levi Hutchens who invented the alarm clock, Josiah Quincy III, a future Harvard University president, and John Lowell, Jr., who would later open Harvard Law School.¹⁴⁶ Turner later obtained his A.B. degree from Harvard University in 1927 and his LL.B. from Harvard Law School in 1930. When he assumed the position of dean of the Law School at State College in 1947, Turner brought more than a decade of legal experience to the new school. He began practicing at Raymond Pace Alexander, a premier black law firm in 1932. Prior to his hiring at the Law School at State College, he taught business law, equity and real property at North Carolina Central College Law School.¹⁴⁷

Paul Simmons, the son of a Pennsylvania city councilman, was a Harvard Law School alumnus who graduated in 1949. After leaving State College in 1952, Simmons became a law professor at North Carolina Central College of Law. He became a partner in a Pennsylvania law firm in 1970. In 1973 the governor of Pennsylvania appointed him to the Washington County Common Pleas Court. Appointed by President James Carter in 1978, Simmons became the first black person to serve as a judge of the U.S. District Court for the Western District of Pennsylvania.¹⁴⁸

Cassandra Maxwell was the daughter of a successful Orangeburg business man.¹⁴⁹ Maxwell graduated from Howard University School of Law, the oldest and most

prestigious black law school in the country. Not only was she the sole woman to teach at the Law School at State College, she was the first African American woman to pass the bar in South Carolina on November 3, 1938.¹⁵⁰ Yet, Attorney Maxwell did not limit her experiences in the legal profession to the Law School or the state. After leaving the Law School in 1950, she opened her own practice in Atlanta.¹⁵¹ During her tenure in Atlanta, Maxwell served as a secretary in the NAACP's Special Counsel division where she assisted Thurgood Marshall in segregation cases leading up to the *Brown v. Board* decision.¹⁵² She would later move to Philadelphia where she passed the Pennsylvania Bar, opened another practice, and provided counsel in major cases like *Howell v. Cataldi* in which her client was allegedly beaten by six police officers in a Philadelphia police station.¹⁵³ She also won a nomination in a Republican primary to obtain a judicial position in the Philadelphia Court of Common Pleas. Although Maxwell did not obtain the position, her campaign received a broad base of support across racial and party lines.¹⁵⁴

Earl Coblyn, who served the Law School at State College from 1961-1966, was the only faculty member significantly involved in civil rights activities and cases.¹⁵⁵ Coblyn was a graduate of Suffolk Law School, a Boston area institution that had the distinction of being one of the few law schools in the Jim Crow era with a mission of serving all students regardless of color.¹⁵⁶ When he was a faculty member at State College, he assisted Law School alumni in desegregating public facilities in South Carolina. On March 15, 1960 students from Claflin and South Carolina State College participated in marches and sit-ins against segregated lunch counters in downtown Orangeburg. After hundreds of students, including future famed photographer Cecil

Williams and Congressman James Clyburn were sprayed with water hoses and arrested, Earl Coblyn along with Law School graduates Matthew Perry and Zack Townsend bailed them from jail.¹⁵⁷ In 1965, Coblyn assisted Matthew Perry and Zack Townsend in representing several black men and women who were denied entry into Edisto and Carolina Theatres in Orangeburg.¹⁵⁸ The next year he assisted Perry and Townsend in representing Gloria Rackley, a black school teacher who was fired from an Orangeburg District 5 school for her involvement in the NAACP and other civil rights activities.¹⁵⁹ Along with Perry, Hemphill Pride II, and Ernest Finney, Jr., Coblyn represented several students who sued South Carolina State College for suspending them for engaging in an on-campus protest.¹⁶⁰

Leo Kerford served the Law School at State College in various capacities as a faculty member and dean during its entire nineteen-year existence.¹⁶¹ According to two obituaries for Dean Kerford, he graduated from the University of Kansas with a juris doctor rather than the bachelor of laws which was the standard degree offered within most law programs in the 1940s. Kerford is referred to as Dr. Kerford in both obituaries.¹⁶² If Kerford did obtain a juris doctorate, he had the distinction of possessing a degree that white students in South Carolina's more established law school did not begin receiving until 1967.¹⁶³ Dr. Kerford continued to serve the State College even after the demise of the Law School as the Director of Financial Aid from 1962-1985. He also was able to become a high ranking officer in the military, retiring as a Lieutenant Colonel in the U.S. Army.¹⁶⁴

Peter H. Whittaker was a graduate of Wayne State University's law program and the second dean of the Law School from 1950 until his death in 1954.¹⁶⁵ Whittaker came

from a proud military family. His grandfather, Johnson C. Whittaker, was one of the first African Americans appointed to West Point Academy. Whittaker's uncle, Miller Whittaker, was a commissioned officer in World War I.¹⁶⁶ Miller Whittaker later served State College as its the third president.¹⁶⁷ Peter H. Whittaker also served his country as an officer in the famed Tuskegee Airmen unit in World War II.¹⁶⁸

Little is known about the pre-faculty experiences of Samuel Scott, Charles Washington, Blinzy Gore, and LeMarquis Dejarmon. Samuel Scott, a graduate of Fordham School of Law, taught at the Law School at State College from 1956-1957. Washington, a graduate of Howard School of Law, taught at the Law School from 1952-1966.¹⁶⁹ Gore and Dejarmon had successful careers after the closing of the Law School. Gore, a highly educated man who earned a law degree from the University of Iowa and a PhD from New York University, later became the Vice President of Academic Affairs at Claflin University. Gore also wrote a book on the history of Claflin University titled, *On a Hilltop High*.¹⁷⁰ LeMarquis Dejarmon graduated from Western Reserve Law School and taught at the Law School at State College from 1948 to 1955.¹⁷¹ Dejarmon later became the dean of North Carolina Central University School of Law from 1969 to 1976.¹⁷²

Puppet Presidents

The presidencies of the men who led the Law School and State College were indicative of black college presidents as the Civil Rights Movement gained momentum in the post war years. Miller F. Whittaker, president of State College from 1932-1949, and Benner C. Turner, president from 1950-1967, were caught between a rock and a hard place.¹⁷³ The rock consisted of segments within the African American community,

including State College students, who demanded greater equality and integration in society. The hard place was comprised of the white power structure that wanted the complete subjection and separation of the black community.

This was especially true in public black colleges that were dependent on funds from state governments in the segregated South. Rufus Atwood's presidency over Kentucky State University from 1929 to 1962 was symbolic of the experiences of Whittaker and Turner. Selected by the white establishment as their version of the ideal black leader, Atwood capitalized on the support of Kentucky politicians to enhance academics and the prestige of the University. However, that support came at a price. During the Civil Rights Movement, he was caught in the middle of a protracted battle between members of the black community that expected him to become a spokesperson for racial equality and the white establishment that required him to avoid racial protest at all cost. For Atwood and other black presidents in that time period, accommodating the demands of either side opened them up to criticism and potential job loss.¹⁷⁴

President Miller F. Whittaker

Miller F. Whittaker was the son of Johnson C. Whittaker, one of the first black students to attend West Point Academy.¹⁷⁵ Whittaker earned his master's degree in architecture from Kansas State and became the only black licensed architect in South Carolina. Whittaker was a World War I officer who served in France. Prior to his presidency in 1932, he served State College as a physics professor and the head of Division of Mechanic Arts. Whittaker's pre-presidential contributions to State College included the building of structures that enlarged the size of the campus.¹⁷⁶ As demonstrated from the following statement made by Whitaker in a meeting with the

Board of Trustees, Whittaker was an astute administrator who understood that cooperation was the foundation of a black president caught between the black and white interests:

The duties of a president of an educational institution are many and varied and his success depends to a large degree on the cooperation which he gives to and receives from his associates. No president can last long as a dictator, neither, can he be successful unless he has very definite policies and ideas which must be acceptable to those who are associated with him.¹⁷⁷

As one of State College's more democratic presidents, Whittaker was able to appease both black and white constituents to increase enrollment and enhance the reputation of the college. During his presidency, the Southern Association of Colleges and Secondary Schools promoted State College from a Class B to Class A school listing in 1941. A ROTC program and several new degree programs in engineering, chemistry, and business administration were added, and in 1946 State College opened a graduate program.¹⁷⁸ During the first two years of Whittaker's presidency, enrollment at State College increased from 1,490 to 1,600 students.¹⁷⁹ While Whittaker bolstered the prestige of State College, his ability to appease community interests came a steep cost when the Law School was opened.

State and national leaders within the NAACP opposed plans to open the Law School. While they acknowledged the fact the state needed more black lawyers, the Law School was viewed as an extension of segregation. Thurgood Marshall tried to dissuade Whittaker from hiring a dean and faculty to direct the Law School. While Marshall acknowledged the fact that the state needed more black lawyers, he wrote to Frank DeCosta, the new dean of State College's graduate program that "I don't believe that a Negro lawyer should be interested in being dean of a of a Jim Crow law school. I, for

one, am opposed to the extension of segregation, and the setting up of these small law schools can only be labeled as an extension of segregation.”¹⁸⁰ There were local leaders within the NAACP, mainly in John Wrighten’s hometown of Charleston, South Carolina, who supported opening the Law School to provide opportunities for blacks to obtain professional degrees in the state.¹⁸¹ White politicians in Columbia demonstrated their support for the Law School by appropriating \$200,000 for a new building to house the school.¹⁸²

As the president of State College during this time period, Whittaker was undoubtedly influenced by the white power structure that controlled the institution. During a hearing focused on the establishment of the Law School, Whittaker testified as he was cross examined by Thurgood Marshall that State College was making preparations to open a new building, including a law library, faculty offices, and classrooms for the Law School.¹⁸³ For his involvement in the trial and in leading efforts to establish the Law School, the all-white Board of Trustees at State College increased his annual salary from \$4,500 to \$6,500. Even Thurgood Marshall who opposed to the creation of the Law School, praised Whittaker for his decorum on the witness stand. Yet, the praise and rewards Whittaker received as result of his involvement in the opening of the Law School were short lived. He died of a heart attack within two years after the first students were admitted in 1947. Perhaps the stress of trying to assuage entities that promoted social equality and others that promoted the racial status quo was too overwhelming for this president of a public black college in the segregated South.¹⁸⁴

Benner C. Turner

Benner C. Turner, the first dean of the Law School and the fourth president of State College from 1950 to 1967, built on the advancements of the Whittaker administration. The number of faculty with doctorate degrees increased from two to six.¹⁸⁵ Turner created new administrative positions that made the institution comparable to university-level schools such as the Director of Student Activities, Director of Public Relations, Vice President for Business and Finance, and the Vice President of Academic Affairs. These advancements and others led to the full accreditation of State College by the Southern Association of Colleges and Schools, the main accrediting body for Southeastern colleges. While the institution was commonly referred to as State College, its full name was the Colored, Normal, Industrial, Agricultural and Mechanical College. In 1954, the name of the institution was changed to South Carolina State College, a name that signified that the school was more than a training facility that prepared blacks for skilled jobs, but a full-fledged institution of higher education.¹⁸⁶

As the civil rights movement gained momentum in the 1950s and 1960s, Turner gained the reputation of being a strong-armed, almost dictatorial president. In a study comparing the administrations of President Turner to Mavis Gilmour, minister of education in Jamaica from 1980 to 1984, both educators were characterized as transactional. According to the study, a Transactional leader is an individual who:

rules from the top, down. Leaders with this style may rule selfishly, or they may lead with paternalistic concern. Paternalistic leaders may at times consult with their subordinates and listen to their concerns, but in the end, such leaders act based on what they think is best for their subordinates.¹⁸⁷

During the Whittaker administration, civil rights activities were limited to law suits like *Wrighten v. Board of Trustees of the University of South Carolina* or *Elmore v. Rice* in

which George Elmore sued Richland County, South Carolina for its refusal to allow blacks to vote in the primary Democratic Party.¹⁸⁸ Within six years of Turner's presidency, civil rights activities took on more of a direct, confrontational tone in the form of boycotts and marches against segregation. As the president of a black college during the Civil Rights Movement, Turner was in the middle of a tug of war between black activists, many of whom were State College students, and the white community for equal opportunity.

Since State College was dependent on state funds, Turner had to yield to the demands of the white power structure. On April 16, 1956, 1,100 State College students who were dissatisfied that State College purchased food from white citizens' council members that opposed desegregation, refused to attend class. Rather than support or consider their grievances, Turner reassured State College's all-white board of trustees in an emergency board meeting that the College did not support the actions of the students: "it has always been the position of the College Administration that a college is an educational institution and cannot expect long to survive if it is allowed to become a political, social or economic battleground." Turner's allegiance to the Board drew harsh criticism from State College students, including those enrolled in the Law School.¹⁸⁹

Beginning in 1955, blacks in Orangeburg including State College students boycotted the city's refusal to desegregate public schools after the *Brown v. Board* decision. As directed by the Board, Turner punished students who joined the protest. He rescinded the scholarship of famed photographer Cecil Williams for taking pictures of the boycotts which were published in Jet magazine.¹⁹⁰ In 1956 he expelled Fred Moore, president of the student council at State College and one of the boycott leaders.¹⁹¹ That

same year he banned twenty people including fifteen State College students, three professors, and two staff members from returning to the College the following year due to their involvement in boycotting Orangeburg businesses.¹⁹² Students responded to Turner's actions by staging a food strike and hanging effigies of the governor, a state lawmaker, and Turner on the president's lawn.¹⁹³

Several years later during the sit-ins of the early 1960s, Law School graduate George Anderson was nearly expelled from school due to his involvement in a civil rights demonstration.¹⁹⁴ The involvement of former Law School student, Hemphill Pride II, in civil rights protests resulted in his expulsion. Pride later earned his law degree at Florida A & M.¹⁹⁵ Ironically, students who attended the Law School joined a growing number of current State College students and alumni who desired a change in leadership. In 1967 during the case of *Hammond v. South Carolina State College*, Matthew Perry, Hemphill Pride II, and Ernest Finney represented three State College students who were to serve a three-year school suspension for leading a campus demonstration against the administration. Perry, Pride and Finney won the lawsuit and the suspensions of the three students were overturned.¹⁹⁶ By 1967, Turner could no longer control the institution he helped transform from an industrial school to a college. A month after the Hammond ruling Benner Turner, the first dean of the Law School and the fourth president of State College resigned on November 1, 1967.¹⁹⁷

The Real Power behind State College and the Law School

The Governor, Ex-Officio Member

State College presidents served the institution as the chief administrators, but the real power behind the school was its Board of Trustees. The Board was comprised of

seven people including six individuals selected by the General Assembly and the governor who served as the ex officio seventh member. The General Assembly granted the Board power to manage all facilities on campus, to select the president, hire faculty, approve the curriculum, and authorize decisions that impacted the development of the institution.¹⁹⁸ Five governors served full terms as ex-officio members of the Board including Strom Thurmond (1947-51), James Byrnes (1951-55), George Timmerman (1955-59), Ernest Hollings (1959-63), and David Russell (1963-65). These men, who held power over presidents Whittaker and Turner, were products of their times in the sense they wanted to maintain the social order of racial separation.¹⁹⁹

Thurmond began his term calling for changes that were progressive in the post-war years such as the employment of women in state boards and commissions and an increase in the funding of black schools.²⁰⁰ Yet, in response to precursors to the Civil Rights Movement such as Judge Waring's decision to allow blacks to vote in democratic primaries in the *Elmore v. Rice* case or President Harry Truman's "To Secure These Rights" report, a document that chronicled the abuses of blacks in the South, Thurmond became of the South's foremost champions of racial segregation. In his run for president in 1948, he proclaimed in a speech that:

I want to tell you that the progress of the Negro race has not been due to these so-called emancipators, but to the kindness of the southern people...I want to tell you that there's not enough troops in the army to force the southern people to break down segregation and admit the Negro race into our theatres, into our swimming pools, into our homes, and into our churches.²⁰¹

In March of 1956, he published the "Declaration of Southern Principles" which condemned the federal government's involvement in enforcing the *Brown v. Board*

decision and in 1957 participated in a record twenty-four hour filibuster in an unsuccessful attempt to block civil rights legislation.²⁰²

Governor Byrnes took a more moderate stance on racial segregation and did not engage in the same race baiting tactics as Thurmond. Byrnes was troubled more about the size of the federal government than its involvement in protecting civil rights.²⁰³ However, within a few weeks after his inauguration in 1951, he reassured members of the State Education Association in Columbia that South Carolina would never approve the “commingling” of white and blacks kids in public schools.²⁰⁴

George Zimmerman’s administration took a more provocative stance on race relations. Where Byrnes tried to avoid racial topics, Zimmerman was a more outspoken critic of any attempt to end segregation. Just two weeks prior to *Brown v. Board*, Zimmerman publicly announced that he would pursue “every means available to me to preserve segregation in schools, regardless of any decision by the Supreme Court.”²⁰⁵ As the civil rights movement moved from the courtrooms to the streets, Zimmerman took direct measures to thwart the actions of activists. In 1957 students at Allen University participated in demonstrations against segregated buses. That same year the school became the first desegregated school in the state when it enrolled a white Hungarian refugee. Governor Zimmerman responded by advising the administration to fire three professors who were openly opposed to segregation. When the University officials refused to comply, he ordered the South Carolina State Department of Education to withhold the certification of Allen’s teacher education graduates and branded the school as a safe haven for communists.²⁰⁶

In 1958 both Ernest Hollings and Donald Russell ran campaigns trying to convince the public which candidate was the staunchest defender of segregation. A friend of Hollings posted a newspaper ad with a story that in 1953 Russell stated that in two or three years blacks will be admitted to the University of South Carolina. Hollings responded by stating “do we have another socialistic do gooder in our midst?” Russell defended himself by stating “I repeat what I have said throughout South Carolina – there will be no mixing of the races in South Carolina while I am governor.”²⁰⁷ Not until 1962 when a federal court ordered Clemson University to begin admitting black students did South Carolina governors begin to curtail rhetoric that supported segregation.²⁰⁸

The Other Six

Little is known about the thirteen other white people who served State College as board members. Several remained in their elected positions for more than a decade at State College. W.C. Bethea served for twenty-five years beginning in 1925, Adam Moss twenty-four years beginning in 1926, and W. Mc. Hodge for fifteen years beginning in 1935. Hodges’ father, E.H. Hodge also served as a Board member. Two Board members, W.P. Mason and C.F. Brooks died in office.²⁰⁹ Several were quite prominent in the state. W.P. Mason was a state senator from Oconee County, South Carolina.²¹⁰ Adam H. Moss was already a state legislator from Orangeburg County, South Carolina prior to his Board position at State College.²¹¹ Thomas Babb from Laurens County, South Carolina was elected to the General Assembly in 1953.²¹² Bruce W. White, Board member from 1950 to 1968, was an attorney from Union County, South Carolina who was a state senator, member of the South Carolina Board of Public Welfare, and delegate to the Democratic National Convention.²¹³ Robert Beverly Herbert, Board member

beginning in 1956, had a distinguished career as an attorney who represented large corporations like the South Carolina National Bank and Columbia Coca-Cola Bottling Company. Hebert represented Richland County, South Carolina in the General Assembly beginning in 1928. While his stance on race relations was moderate by 21st century standards, it was quite progressive in the post-war years. He wrote letters to leaders of the NAACP including James H. Hinton, president of the South Carolina State Conference, and Walter White, national secretary of the NAACP, supporting peaceful solutions to racial injustice.²¹⁴ In a letter written to James Hinton he stated that “I am entirely in harmony with you on wishing that something more could be done in the matter of race relations and something especially to relieve against the injustices which I think are being done to your race.”²¹⁵

Regardless of the positions they took on race relations, the Board collectively condemned actions committed by State College students, faculty and staff for racial justice. After the General Assembly decided to launch an investigation to monitor the extent of NAACP participation on the State College campus in 1956, Governor Zimmerman ordered state police to maintain surveillance on the campus.²¹⁶ W.C. Bethea, chairman of the Board of Trustees at State College, was a member of the legislative probe against the NAACP. A photo taken by State College student, Cecil Williams, demonstrates the power the board and the state government held over State College. The NAACP probe is pictured meeting in President Turner’s office.²¹⁷ The intense scrutiny emanating from the state government and the Board of Trustees forced the State College administration to expel the student body president, to ban the fall

registration of another twenty-five student leaders, and fire five faculty and staff members suspected of participating in city boycotts.²¹⁸

In April 25, 1956, the Board passed a resolution to dismiss immediately any faculty member or student who engaged in strikes, boycotts, or any other form of civil disobedience on campus. The Board passed a similar resolution in 1960 in response to students who engaged in sit-ins.²¹⁹ Maceo Nance, who succeeded Turner as president in 1967, summed up the dominance of the Board when he stated in a 1995 interview “In that period of time, once the Board of Trustees made a decision, that was it...So once it was done, there was no recourse other than to pout.”²²⁰

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Chapter Four

From Two to One, the Law School Shuts Down

During the Law School at State College's nineteen-year history, fifty-one students graduated from the institution. Eleven faculty members, including four deans, provided instruction.¹ Two presidents, Miller F. Whittaker and Benner Turner, served as the administrative heads of the Law School.² Thirteen men comprised the membership of the Board of Trustees who dominated all decisions impacting the Law School and State College.³ Five board members were South Carolina governors.⁴ Despite all the individuals directly or indirectly involved with the Law School, it closed with little fanfare or protest. In 1966, *The State* published an article written about State College's last graduating class in May of 1966 titled, "State College's last three law degrees were given." State College elected to close after the conclusion of the commencement ceremony of May 1966. The publication reported that, "The school was opened in 1948 when a Negro sought to integrate the law school at the University of South Carolina."⁵ The article did not report any instances in which any of the hundreds or even thousands of persons represented by Law School alumni in jail-ins, boycotts, sit-ins, and school desegregation cases protested the closing of the law program.⁶

By the 1960s, other segregated law schools were also on the brink of closing. The North Carolina Board of Higher Education threatened to phase out its all-black law program--North Carolina Central University School of Law--if black enrollment at the University of North Carolina-Chapel Hill could match enrollment at North Carolina

Central University. Daniel Sampson, the dean of North Carolina Central University's School of Law responded by writing what became known as the "Sampson Report." In the report, Sampson defended the School of Law by emphasizing the negative impact its closing would have on the black community as black enrollment at Chapel Hill's law program remained extremely low. Sampson also enhanced recruitment efforts to attract more students. As a result of the commitment made by the School of Law administrators and faculty to keep the doors open, the School of Law survived.⁷

Like the Law School at State College, the College of Law at Florida Agricultural and Mechanical College (FAMU) closed after the state desegregated its public, all-white law program. Florida began admitting black students into the College of Law at the University of Florida in 1958.⁸ The FAMU College of Law closed after nineteen years of operation in 1968.⁹ However, representatives of FAMU did fight to keep it open. When top administrators within the Florida state college system agreed to open a new law school at Florida State University in 1965, they called for the discontinuance of the FAMU College of Law by 1970. George Gore, FAMU's president, pleaded with the institution's Board of Trustees to defend it from the actions of the state educational system. Charles F. Wilson, who was president of FAMU National Alumni Association from 1960 to 1965, sent a letter to the Florida governor and the chancellor of the Florida state college system citing the tremendous benefits the College of Law made to the state. Former College of Law graduates and faculty outside the law program, such as the former dean of the technology department, believed President Gore should have done more to protect the FAMU College of Law.¹⁰

Conversely, according to graduate Daniel Martin, there were no attempts made by President Benner Turner or Leo Kerford, dean of the Law School in the 1960s, to maintain South Carolina's all black law program.¹¹ There were no letters written by Law School alumni to the board or state legislators on the role the program played in serving the state and the black community. The State College alumni association did not galvanize graduates, including those represented by Law School alumni in civil rights cases, to protest the board's decision to discontinue the Law School in 1966.¹² The reactions to the closing of the Law School at State College were summarized in a letter written by President Benner Turner to Dean Leo Kerford regarding the Board's decision to close the Law School. In the letter Turner wrote, "With appreciation to you, the members of the faculty and staff for the service which you have rendered and for the conscientious work which you have done for the institution and the students during the time of operation of the program, I am, Sincerely yours."¹³

Neither Turner nor the Board acknowledged the Law School's role in providing the only opportunity for African Americans to obtain a legal education in South Carolina for nearly a twenty-year period. Neither the Board nor State College administrators recognize the impact the Law School made on the wider community through its graduates. In 1966, the volumes in its library were transferred to the USC School of Law. The building that once housed the Law School, Moss Hall, became a part of State College's Department of Business Administration.¹⁴

Four factors led to the closing of the Law School at State College: (a) for most of the 20th century the law profession was not popular in the black community, (b) the influence of local, state, and national level movements to desegregate public schools, (c)

the apathy politicians and State College administrators directed towards developing the Law School, and (d) low enrollment and the increasing costs to operate the Law School.

I Don't Want to be a Lawyer

In the November 1965 meeting in which the Board decided to discontinue the law program at the end of the academic year, low enrollment was cited as the primary reason to close the Law School.¹⁵ Several study participants, including students who attended Claflin University and State College, but not the Law School, stated that the law profession was not a career most black students sought when going to college. According to esteemed civil rights photographer, author, and Claflin University graduate Cecil Williams, for many blacks it was too expensive to attend law school after obtaining a baccalaureate degree. Given the low socioeconomic backgrounds of the families of most black college students in South Carolina, students pursued professions that did not require advanced degrees and those in which they could quickly enter the workforce.¹⁶ Of the number of black lawyers in the state, Jasper Cureton recalled that there were only five or six in the state when he graduated: “you could put them all in one room.” For black students aspiring to attend college, there were few black lawyers to serve as role models when choosing careers.¹⁷

In addition to the unpopularity of the law profession, black lawyers faced limited financial opportunities. Due to restrictions of segregation, black lawyers were limited to mostly black clientele. Black lawyers were at the mercy of the black community which could ill-afford to pay for legal services. Even for those attorneys involved in major civil rights cases, neither the clients they represented nor the civil rights organizations they served could afford to pay them substantially. Looking back over the his first several

years as an attorney, Law School graduate Zack Townsend stated that times were rough financially. Townsend recalled that his first paycheck was a ream of paper that Townsend used in a court case. Due to racism and discrimination during the Jim Crow era, blacks also feared becoming lawyers since they would be treated with hostility and disrespect by white lawyers and judges.¹⁸

There was evidence in the years leading up to the creation of the Law School and during its operation that supported claims made by the study participants on the scarcity of black lawyers and the unpopularity of the law profession as a career choice within the black community. Within the three years of the Law School's opening, only six black students were able to become state attorneys by passing the bar or through diploma privilege, a system by which law graduates were exempted from taking the bar exam. No more than two would become state attorneys in any given year between 1947 and 1950.¹⁹ To put that number in perspective, there were six new black lawyers to represent 814,164 African Americans in the state by 1950, a ratio of roughly 135, 694 to one.²⁰ From what can be gathered from the South Carolina Supreme Court and other resources like Carter Woodson's *The Negro Professional*, a grand total of twenty African Americans became state attorneys between 1901 and 1950.²¹ For blacks who lived in South Carolina during the first half of the 20th century, few had opportunities to obtain legal services from black lawyers. Many blacks, especially those living in rural, isolated areas were not acquainted with or had never heard of a black lawyer.

Studies conducted on the career motivations of black college students revealed that even in the 1960s and 1970s, few decided to pursue legal careers. In a study conducted from 1963 to 1964, the National Opinion Research Center surveyed 8,000

students enrolled at fifty historically black colleges.²² When surveyed about which occupations would take more time and money than they could afford, their responses supported comments made by the study participants that pursuing a law degree was too costly for most African Americans. The law profession was ranked as the second highest profession in which the career entry was too costly in terms of time and finances. Becoming a high school teacher on the other hand was perceived as being the most attainable profession when considering time and money.²³ The law profession was ranked the second highest profession in which respondents believed that they did not have a personality suitable for the occupation.²⁴ Even among male respondents at a time when men dominated the enrollment figures in law schools, law was selected as one of the least favored professions.²⁵

In a listing of professional occupations compiled just a couple of years after the Law School's closing, the law profession had the lowest percentage of African Americans employed compared to whites.

Table 4.1 Occupations of Employed Persons 1970 by Race²⁶

Professions	Whites (83.7%)	Blacks (11.1%)	Spanish Surnamed (4.6%)
Dentists	84,605 96.3%	1,983 2.3%	1,164 1.3%
Engineers	1,260,122 96.8%	18,596 1.4%	28,334 2.2%
Lawyers and Judges	255,812 98.4%	3,236 1.2%	3,783 1.4%
Life and Physical Scientists	192,929 93.9%	6,392 3.1%	4,711 2.3%
Physicians	240,409 94.0%	5,084 2.0%	9,362 3.7%
Teachers	4,083,372 91.5%	304,930 6.0%	92,662 2.0%

Between 1947 and 1966, State College's enrollment reflected the community's preference toward other career fields. State College's Graduate Studies Department consisted of the Master of Science degree in the teaching areas of English, Science, Social Sciences, and Mathematics-Physics.²⁷ Students seeking educational opportunities beyond four years of undergraduate coursework elected to try more traditional fields, such as teaching, as opposed to law. By October 1, 1947, nine students were enrolled in the Law School versus thirty in the Graduate School.²⁸ While the Law School increased its enrollment to fourteen, the Graduate School nearly tripled its enrollment to ninety-five students by 1950.²⁹ During the 1951-1952 school year, the Law School experienced its highest enrollment with eighteen men and two women, while the Graduate School had one hundred and thirty-seven enrolled.³⁰ There was a clear preference towards other degree programs in addition to those within the Graduate School. During the June 1953 commencement, four students graduated from the Law School versus sixty eight for the Bachelor of Science in Education, nineteen for the Bachelor of Arts, and fifteen for the Bachelor of Science in Agriculture.³¹ In 1962, just a couple of years before the Law School closed, only two students graduated from the Law School, while thirty-nine graduated with Bachelor of Science degrees, and seventeen graduated with Bachelor of Science degrees in Business Administration.³²

The March Towards Desegregation

Another factor that played a role in the closing of the Law School at State College was the movement to desegregate predominantly white higher education institutions. The interviewees were unable to pinpoint a piece of legislation, document, or meeting where the white power structure decided to close the Law School. However, it was their

impression that the movement to desegregate historically white schools impaired political and community support for schools historically reserved for blacks. The USC School of Law was desegregated when Paul Cash was admitted into the law program in 1964.

Although Mr. Cash did not graduate from the USC School of Law, Jasper Cureton, a Law School at State College student who transferred to the USC School of Law in 1965, graduated from the School of Law in 1967.³³ According to Jasper Cureton, it was too costly for the state to maintain two law schools. Once USC was desegregated in 1963, the mindset among white politicians and the black community was “that if they could come to USC, why have South Carolina State Law School.”³⁴ Fred Moore, a civil rights activist who attended State College in the 1950s, cited the desire of the black community to attend white institutions they perceived as superior to their own as one of the reasons why blacks did not protest the Law School’s closing.

According to Moore, “they thought integration was a thing to be relished. That argument was fallacious and regrettable. They thought it was the move that would solve all problems.”³⁵ The desire of the black community for desegregation was so strong that they blindly accepted the “false” principle that South Carolina did not need to maintain duplicate programs in black and white colleges. In the spirit of racial harmony and to eliminate the cost of maintaining segregated degree programs, the community accepted the state’s decision to close programs such as the Law School at State College to support similar programs at Clemson and USC. However, in the last few decades USC has expanded the number of duplicate programs in the state by opening campuses in Aiken, Spartanburg, Beaufort and Sumter.³⁶ The black community did not protest the expansion of schools and degree programs with white majority enrollments as programs at black

majority colleges were eliminated.³⁷ When asked whether there were any vocal objections from the black community on the Law School's closing, Ruben Gray replied, "It just closed, I don't think anybody raised any hell about it."³⁸

The Margold Strategy

Perhaps the reason behind the black community's tepid response towards the Law School's closing was due to the influence of a sustained--more than thirty-year effort--by civil rights activists to desegregate public schools. The movement to desegregate public schools began with the Margold Report, written by Nathan Margold, a former assistant U.S. attorney from New York who was commissioned by the NAACP to document the legal status of black Americans. A large section of the report dealt with unequal expenditures between black and white schools in the South. In response to the Margold Report, the NAACP adopted a strategy to abolish schools segregated by funding taxpayers' suits that would force local and state governments to fund black and white schools equally. Under the financial weight of equally funding a dual school system, the NAACP reasoned that states would find desegregation economically a better option. While the NAACP addressed issues such as anti-lynching legislation, disfranchisement, and employment discrimination, school desegregation became its primary charge.³⁹

Charles Hamilton Houston, former dean of the Howard University School of Law and the first special counsel to the NAACP, was assigned by the NAACP to carry out its strategy to end school desegregation.⁴⁰ Houston concluded that the most logical method to test this strategy was to provide legal counsel for African Americans who were denied entry into professional programs at state-supported public colleges and universities. Since states like South Carolina did not possess professional and graduate programs for

blacks, Houston used the Fourteenth Amendment and existing, state segregation policies to convince courts that states either had to integrate existing white schools or create post-graduate programs for blacks at state-supported, black colleges. The financial undertaking of maintaining dual programs at white and black colleges and universities would convince states that school desegregation was the logical option. In the 1930s and 40s, Houston and his protégé Thurgood Marshall tried this strategy, albeit with mixed results.⁴¹ *Murray v. Maryland*, which involved a lawsuit against the University of Maryland for refusing to admit Donald Gaines Murray on racial grounds, resulted in the integration of its law program and consequently the entire school.⁴² *Sipuel v. Oklahoma State Regents* and *Sweat v. Painter*, which also involved the refusal of public university law schools to admit black applicants, resulted in the integration of the law schools at the University of Oklahoma and Texas respectively.⁴³ However, in the case of *Gaines v. Canada*, Donald Gaines' suit against the University of Missouri resulted in the creation of a law school at Lincoln University, an all-black law school in the state.⁴⁴ In 1949, Virgil Darnell, a black school teacher, sued the University of Florida for refusing his admittance into its law school on racial grounds. The ruling resulted in the creation of a law school strictly for blacks at Florida Agricultural & Mechanical College in 1951.⁴⁵ *Wrighten v. Board of Trustees*, the court case referenced in Chapter Two of this study, created an all-black law program at State College in 1947.⁴⁶

Briggs v. Elliot

Ironically, it was in South Carolina that the NAACP's legal defense team won one of its first cases to fight racial inequality in grade schools. It was in South Carolina that the strategy to fight school desegregation evolved from pressuring states to provide

integrated or separate but equal educational opportunities for blacks to a full assault on the constitutionality and psychological impact of segregation. The case of *Briggs v. Elliot* was the first of five cases combined into the landmark *Brown v. Board* decision. The case involved inequalities in the education of black and white children in Clarendon County. Despite an enrollment of 6,531 blacks versus 2,375 white students in 1951, expenditures per pupil were 300 percent higher for white students. One school had two outdoor toilets for 600 black students and one of the high schools lacked science labs or an indoor gym. White teachers typically earned two-thirds more than their black counterparts.⁴⁷

The case of *Briggs v. Elliot*, named after Harry and Eliza Briggs who were the first blacks to sign a NAACP inspired petition, and local superintendent R.M. Elliot, began in 1949. The plaintiffs sued Clarendon School District for failing to provide bus transportation and equal accommodations for black students. The case involved leaders who were the vanguard of civil rights activism including Thurgood Marshal, head of the NAACP's Legal Defense Fund, Harold Boulware, special counsel of the state branch of the NAACP, James Hinton, president of the state branch of the NAACP, and Modjeska Simkins, secretary for the state branch of the NAACP.⁴⁸

Two developments took place within *Briggs v. Elliot* that had a profound impact on the school desegregation movement. The first dealt with the psychological impact of segregation. During the case, Marshall relied heavily on the testimonies and research of Dr. Kenneth and Mamie Clark, two influential black psychologists known for comparing the self-esteem and cognitive abilities of black children attending segregated schools as compared to desegregated schools. During their landmark doll test study, which was

used in the *Briggs v. Elliot* case, elementary-aged black children were asked to choose between brown and white dolls. Kenneth and Mamie Clark discovered that black children attending segregated schools identified racial differences at a younger age than previously thought. The results of the test also revealed that the children had an inferiority complex as they held more favorable views towards the white dolls. Due to the testimonies of the Clarks, the aim of the *Briggs v. Elliot* case changed from addressing the inequitable educational resources between black and white students to questioning the morality of creating separate educational facilities based on race.⁴⁹

The second development would change the NAACP's legal focus during the *Briggs* case from seeking equal accommodations for black students under the law to attacking the constitutionality of segregation. Judge J. Waities Waring, who was the presiding judge in the *Wrighten v. Board of Trustees* case, was also a member of a three judge panel that decided the *Briggs v. Elliot* case in the U.S. Fourth Circuit Court of Appeals. Before the court decided the case, he advised Thurgood Marshall in November of 1950 to change his complaint from seeking equal facilities to challenging the constitutionality of maintaining segregated schools in South Carolina. Marshall, whose legal strategy began to evolve from supporting the Margold Strategy to a direct legal attack on the constitutionality of school segregation, changed tactics in response to Waring's legal advice.⁵⁰ In Waring's dissenting opinion after the ruling he wrote:

If segregation is wrong then the place to stop it is in the first grade and not in graduate colleges. From their testimony, it was clearly apparent, as it should be to any thoughtful person, irrespective of having such expert testimony, that segregation in education can never produce equality and that is an evil that must be eradicated. This case presents the matter clearly for adjudication and I am of opinion that all of the legal guideposts, expert testimony, common sense and reason point unerringly to the conclusion that the system of segregation in education

adopted and practiced in the State of South Carolina must go and must go now. Segregation is per se inequality.⁵¹

While two members of the judge panel decided to uphold segregation in South Carolina in their 1951 court decision, as result of *Briggs v. Elliot*, the NAACP's legal barometer would firmly change from seeking equal educational opportunities to ending the practice of legalized segregation in the United States.⁵²

One of the first documented protests following the *Brown v. Board of Education* decision took place in Orangeburg County, South Carolina in response to the county's refusal to integrate schools in response to the Supreme Court's decision that school segregation was unconstitutional. In 1955 the state branch of the NAACP sent letters to Orangeburg County and other local governments pressuring them to end the practice of segregation in their districts. White Orangeburg residents reacted by forming South Carolina's first White Citizens Council to resist school desegregation.⁵³

The Orangeburg Boycott and School Desegregation

The NAACP responded by initiating a petition signed by thirty-nine parents in Elloree, South Carolina and fifty parents in Orangeburg, South Carolina demanding Orangeburg County officials to desegregate the public schools immediately. W. Newton Pough, a Law School at State College graduate, both prepared and filed the petitions with the Orangeburg County School District Number Five, Orangeburg School District Number Seven, and Elloree School District.⁵⁴ The White Citizens Council retaliated by publishing the names of the petitioners in the local newspaper. The petitioners lost their jobs, homes, business, and their ability to purchase from local business. Determined to end school segregation despite the risks, black citizens participated in a NAACP inspired boycott of all white-owned stores. Blacks who participated in the boycott traveled as far

as Columbia and Charleston to shop. While the boycott did not result in black and white children attending the same county schools, the boycott signaled that the black community was increasingly in favor of desegregation.⁵⁵

Several years after the Orangeburg boycotts, the fight to desegregate public schools in South Carolina shifted from the parents to their children. In 1958 eleven black students from Allen University applied for admission into USC. Days later, four black students from nearby Benedict College submitted applications to the University. Unfortunately, the students did not receive legal support from organizations like the NAACP to sue USC for its race-based admissions practices. Inundated with hundreds of other segregation cases not only involving schools, but bus stops, restrooms, and restaurants, the organization did not have the resources to devote toward desegregating South Carolina's flagship institution.⁵⁶ However, that would change in the 1960s as early graduates of the Law School of State College became established attorneys.

Its most notable graduate, Matthew J. Perry, was the chief prosecutor in three definitive cases to desegregate public schools. In *Gantt v. Clemson Agricultural College of South Carolina*, Harvey Gantt sued South Carolina's second largest institution of higher education in 1962 for denying his application on three separate occasions. Perry, whom Gantt had met several years earlier during a sit-in demonstration, agreed to represent Gantt in the suit.⁵⁷ The result of Gantt's persistence and Perry's legal expertise was the first integration of a white college in South Carolina. In January 26, 1963, Harvey Gantt enrolled into Clemson University becoming the first African American to attend a white, higher educational institution in South Carolina since the end of Reconstruction. Several months later, Perry represented Henri Monteith in a lawsuit that

desegregated the University of South Carolina.⁵⁸ In the case of *Brown v. School District of Charleston*, Perry represented eleven black children who desegregated the first schools below the college level. On August 22, 1963, a district court ordered Charleston public schools to enroll black children into white schools.⁵⁹ Jasper Cureton, a student who did not graduate from the Law School at State College, but attended the law program for a year, in 1964 fulfilled John Wrighten's dream of integrating the USC School of Law by becoming the first African American to attend the institution's law program.⁶⁰

The Impact of Desegregation on Black Schools

What influence did the Margold Report, Charles Hamilton Houston, Thurgood Marshall, *Briggs v. Elliot*, *Brown v. Board*, the Orangeburg Boycott of 1955, and the integrations of Clemson University, the University of South Carolina, Charleston Public Schools, and the USC School of Law have on the closing of the Law School at State College? These events represent nearly three decades of concerted efforts by national, state, and local black activists to desegregate public schools. By the mid-1960s, why would the black community want to extend the operation of the Law School when it was symbolic of efforts to keep white and black students separate? When John Wrighten applied to USC, his original intention was not to create a segregated law school for blacks, but to enroll into USC's School of Law.⁶¹ Leaders in both the national and state offices of the NAACP condemned the creation of the Law School. State NAACP Chapter president, James Hinton, called it, "the make shift law school in Orangeburg."⁶² After interviewing eight people who attended the Law School and two who attended State College when the law program was open, none of the study participants or anyone they

knew staged any protests to maintain a program that for nearly twenty years was the only option for blacks seeking an in-state, legal education.⁶³

By the time of the Law School's closing in 1966, the black community began shifting its support of predominately black higher educational institutions to those dominated by white students. Before 1966, the vast majority of blacks who attended colleges were enrolled in historically black colleges and universities (HBCUs). By the dawn of the 21st century, only twenty percent of blacks enrolled in higher education institutions attended HBCUs.⁶⁴ In Charleston County, South Carolina, the first school district to desegregate in South Carolina, blacks with means left not only their schools, but their neighborhoods to attend white inner-city schools and schools in the suburbs. In some cases, schools that were once all-white became predominantly black as whites left the inner city for the suburbs. At James Simons Elementary, the percentage of black students increased from twenty-seven percent to sixty-two percent between 1966 and 1967 and at Rivers Elementary from twenty percent to fifty percent.⁶⁵

The influence of three decades of efforts to desegregate public schools heavily impacted State College. Perhaps it was no coincidence that the Law School's small enrollment declined sharply as USC and its law program were integrated respectively in 1963 and 1964. Between 1961 and 1965 enrollment for the first semester at the Law School dropped from fourteen to four.⁶⁶

As the number of black students attending Clemson, the University of South Carolina, Winthrop, and other predominantly white schools increased after 1966, Maceo Nance, who succeeded Benner Turner, worried about a "brain drain" as historically white institutions were able to lure high achieving black students and athletes with scholarships

that black schools were unable to provide.⁶⁷ Nance had good reason to be concerned. By 1979 there were nearly as many black students enrolled at USC as there was enrolled at State College. That year fall enrollment for black students at USC was 3,079.⁶⁸ First semester for all students at State College was 3,651.⁶⁹

Apathetic Leadership

As demonstrated in Chapter Three, the Board of Trustees at State College consisted of seven members, including six men elected by the General Assembly and the governor serving ex-officio as the seventh member.⁷⁰ As a black institution controlled by men who condoned segregation and were products of mid-20th century racism, State College received inadequate support to meet the needs of the state's black citizens.

In the years leading up to the opening of the Law School in 1947, State College was overcrowded as it experienced a sharp increase in enrollment due to the admission of World War Two veterans like John Wrighten. Between 1933 and 1945 enrollment at State College grew from 906 to 2,400 on a physical plant designed to accommodate eight hundred students. Voices on and off campus began to equate the living conditions on campus to housing found in slum areas. History professor Lewis K. McMillan called State College, "an excuse for public higher education for South Carolina Negroes." A survey conducted in 1945 of South Carolina's system of public colleges by Vanderbilt University determined that State College was "totally inadequate to provide all the necessary facilities for the higher education of Negro youth in the state."⁷¹

The General Assembly and Board of Trustees

Despite the pleas of Miller Whittaker, State College's third president, to the General Assembly for more faculty and staff, the level of funding appropriated by the

General Assembly failed to provide the necessary resources in faculty, building size, and facilities maintenance to keep pace with enrollment. Due to the pro-segregationist stance of the members of State College's Board of Trustees and the General Assembly, white citizens in South Carolina could choose from five, state supported colleges while black students had just State College. Despite having one the United States' highest ratios of blacks in the post-War years, the General Assembly provided State College the lowest rate of state appropriations in comparison to the other public five colleges: USC, Clemson, the College of Charleston, the Citadel, and Winthrop. Unfortunately for the Law School at State College, South Carolina's legacy of institutional neglect of the state's only public black college extended to the state's all-black law program.⁷²

As enrollment dropped within the Law School in the 1950s and 1960s, the men that governed the Law School did little to reverse it. By 1951, just several months after the Law School was provisionally accredited by the American Bar Association (ABA) in 1950, President Turner began reporting the need to raise faculty salaries. With regards to obtaining full accreditation, Turner stated, "our chief obstacle to full approval is the low salary scale." Turner requested an immediate faculty increase to upgrade the accreditation status of the Law School.⁷³ For more than a decade, Turner made repeated requests for salary increases that were ignored by the Board of Trustees. In 1954 Turner was still optimistic that the Law School would obtain full accreditation not only through the ABA, but the Association of American Law Schools. He promised the Board that State College would continue maintaining high faculty and student standards for the Law School despite the need to increase faculty salaries.⁷⁴

However, Turner's optimism dissipated within a year. The Board made no attempts to address the salary issue. The minimum ABA salary for a law professor in 1955 was \$6,000. At State College the salary for Dean Thoedis R. Gray was \$5,500 while the salary for the five Law School faculty members was \$5,000. Nationally the Law School at State College ranked 111 out of 119 law schools in terms of median salaries, and out of 45 state supported law programs, was ranked last.⁷⁵ Without meeting the minimum salary requirements to obtain full ABA approval, as early as 1954 the administration began to question the feasibility of operating a law program.⁷⁶ In 1957 Turner wrote in an institutional assessment that "we have reported on previous occasions that the matter of the continued operation of the school is one to be determined on a higher policy making level than the College administration."⁷⁷ Turner also informed the Board that since 1950 the Law School retained the status of a provisionally ABA accredited institution longer than any other law school in the country.

The administration included in its budget salary increases to meet the minimum salary requirements necessary for the Law School to become fully accredited.⁷⁸ Despite Turner's pleas for the Board to seriously address the accreditation issue, his requests were ignored. By 1959 Turner reported no changes either in enrollment or the program regarding the Law School.⁷⁹ By the 1963-1964 academic year, Turner reported to the Board for the tenth consecutive year the necessity of increasing faculty salaries to obtain full accreditation by the ABA.⁸⁰ By the last year of the Law School's operation in the 1964-1965 academic year, the Law School had retained its provisional accreditation for fourteen years.⁸¹ To put the Law School's provisional accreditation in perspective, the Law School's counterpart at the USC School of Law was fully accredited in 1925.⁸²

Perhaps as the USC School of Law was integrated in 1964, the Board did not want opportunities for blacks to obtain a legal education in two state schools. Maintaining the law program at State College in addition to the USC would potentially double the number of black lawyers in the state, including those engaged in civil rights law.⁸³ Hemphill Pride II, who transferred from State College's Law School to the law program at Florida A & M, stated in response to the closing of black law schools that:

During the throes of integration at our nation's public colleges and universities, many state legislatures made the determination that since blacks did not want separate but equal institutions, that legislatures would simply close the state supported black law schools and require blacks intending to attend law school to run the racial gauntlet of admission requirements and other obstacles placed to prevent the successful matriculation of blacks at predominantly white schools.⁸⁴

There is evidence, at least in South Carolina, that the closing of the Law School at State College limited the number of black students obtaining law degrees. After the Law School closed in 1966, only three black students including Jasper Cureton, Isaac Levy Johnson, and John Roy Harper II, graduated from the USC School of Law between 1966 and 1970.⁸⁵ Perhaps the legislature, motivated by white supremacy, saw the closing of State College's Law School and the integration of the USC School of Law as a method to limit the number of black lawyers in the state.⁸⁶

The Administration

Yet, President Turner and other State College administrators were equally culpable in the decline that eventually led to the Law School's closing. In addition to reporting on the impact of low faculty salaries on the Law School's provisionally accreditation, Turner referenced the Law School's low enrollment. Within seven years of the Law School's opening, low student enrollment made faculty teaching load "too light" and the cost to operate the Law School "unduly high."⁸⁷ From 1954 to the year the Law

School closed, low enrollment was a persistent issue Turner included in reports to the Board of Trustees. In 1958, Turner wrote to the Board that due to the Law School's low enrollment, its continued operation was in question. The following year he indicated that low enrollment was by far the Law School's "most serious problem."⁸⁸ A decade after Turner first notified the Board of low enrollment, in the beginning of the 1963-1964 school year Turner informed members that low enrollment still plagued the Law School.⁸⁹ Yet after a decade of alerting the Board of low enrollment, Turner who served as the first Law School's first dean and its president for most of the program's history, did little to increase the number of students attending the Law School.

During that time, Turner nor the administration took new measures such as visiting local high schools, other black colleges, or holding open houses to attract black students into the law profession. In 1953, Turner stated that low enrollment was a pressing issue, but he did not offer any solutions to the Board.⁹⁰ Ten years later, Turner informed the Board that low enrollment continued to be a problem, but still did not report any strategies to resolve the issue.⁹¹ The only concerted effort the administration made to alleviate low enrollment took place between 1955 and 1957 when the dean tried to enhance their communications with other colleges. Turner commended the Law School faculty and the dean for their efforts, but his report did not reference whether the faculty spoke to students, created articulation agreements with schools to enhance a student's chances for Law School admission, or that their actions yielded any new students.⁹²

In defense of President Turner, he spent the first thirteen years of the Law School's existence trying to obtain full accreditation for State College by the Southern Association of Colleges and Schools (SACS), a feat accomplished in 1960.⁹³ Yet if

Turner and the administration increased enrollment of the Law School, the Board could raise faculty salaries with the funds generated from the admission of more students. Thus State College could benefit from full accreditation of the overall college and its law program. Instead the president's reports Turner sent to the Board demonstrated he was content with notifying State College's governing body of the shortcoming of the Law School without taking any measures to make improvements.⁹⁴

None of the eight persons interviewed in this study, who attended the Law School, mentioned any major recruitment campaigns by the Law School to increase enrollment. Most decided to apply to the Law School by word of mouth, because they were inspired or it was convenient. Daniel Martin's inspiration for applying to the Law School was a speech given by Thurgood Marshall while he was an undergraduate at Allen University.⁹⁵ Jasper Cureton decided to attend the Law School in State College simply because in 1962, the year before the University of South Carolina was integrated, it was the only option for blacks to obtain a law degree in the state.⁹⁶ Hemphill Pride II was persuaded to enroll into the Law School not as a result of any interactions with any of the deans or faculty, but because a former graduate, Paul Webber, told him about State College's accelerated program where he could obtain degrees in business and law within six years.⁹⁷ The factors that impacted the reasons students decided to attend the Law School were the encouragement of alumni, the fact that it was the only option for blacks to attend Law School in South Carolina, and as indicated by Ruben Gray, it was the only feasible option for blacks who could not afford to attend out-of-state law schools. Recruitment efforts initiated by the deans or the faculty did not seemingly play a role.⁹⁸

Although the administration could have likely done more to increase enrollment, it was largely limited by the Board and consequently state officials who exercised complete authority over State College and its law program. Unless the Board decided to devote more resources toward marketing the Law School and recruiting more students, it was highly unlikely the administration was free to make major decisions regarding the future of the Law School.⁹⁹ As stated by President Turner in 1953, “whether the college should continue to maintain a law curriculum in view of the situation is a matter of policy which is to be determined on a higher level than that of the College administration.”¹⁰⁰ At the state level, the General Assembly not only approved State College’s recommendation to close the Law School, it tried to eradicate all traces of the law program by removing its extensive collection of volumes and transferring these resources to the USC School of Law.¹⁰¹ Regardless of the motivations of the General Assembly, the Board of Trustees, or State College administrators in relation to the Law School, it received little support from the men responsible for its welfare.

The Nail in the Coffin – Low Enrollment and High Cost

Enrollment Concerns

The unpopularity of the law profession, integration, and the lack of support from the Board and the State College administration all played major roles in the closing of the Law School. Yet, the factors that most decisively closed the Law School at State College were the exorbitant cost to operate the law program and low enrollment. While the Law School experienced its highest enrollment with twenty students during the 1951 to 1952 academic year, by the following year, enrollment dropped to just eleven students.¹⁰² Several years after the Law School opened, the “per capita” cost of each

student was high due to low enrollment in relation to the number of faculty employed by the Law School. As early as 1953, State College administrators began questioning whether to continue its law program due to its high cost.¹⁰³ The following year, President Benner Turner reported:

The quality of teaching remains high, and it may now be said that the Law School enjoys a competent and experienced faculty, but the program in this professional area is seriously handicapped by the lack of students. As a result of this lack the per capita cost per student is unduly high and the teaching load of the individual professors is too light.¹⁰⁴

By the late 1950s, low enrollment was by far the Law School's most pressing problem.¹⁰⁵ Between the 1951-1952 and 1956-1957 academic years, enrollment dropped from twenty to as low as six.¹⁰⁶ Between 1961 and 1965, total enrollment for both the fall and spring semesters dropped from fourteen to four.

Table 4.2 Law School Enrollment By Academic Year, 1947- 1966¹⁰⁷

Year	Male	Female	Total Enrollment
1947-1948	7	1	8
1948-1949	11	0	11
1949-1950	16	0	16
1950-1951	19	0	19
1951-1952	18	2	20*
1952-1953	8	3	11
1953-1954	8	2	10
1954-1955	5	0	5
1955-1956	6	0	6
1956-1957	6	0	6
1957-1958	8	0	8
1958-1959	-	-	9**
1959-1960	-	-	8
1960-1961	-	-	13
1961-1962	-	-	16
1962-1963	14	1	15
1963-1964	11	1	12
1964-1965	13	1	14
1965-1966	4	0	4
*Year of the Law School at South Carolina State College's highest enrollment			
** Gender data missing from Fall 1958 to Spring 1962			

Jasper Cureton, did not recall taking a single class at the Law School that had more than three or four students.¹⁰⁸ As a child working as a carrier at State College, Cecil Williams recalled seeing three or four students in lecture halls designed for thirty or forty persons.¹⁰⁹ According to several students who attended the Law School, there were just as many faculty employed at the Law School as there were students.¹¹⁰ The faculty seemed more like tutors than instructors.¹¹¹ An institutional report of the 1965 to 1966 school year indicated that by the fall semester, there were six persons employed by the Law School including three instructors, the dean, a secretary and a librarian for four law school students.¹¹²

Enrollment was not an issue in State College's other post-war segregated program, the Graduate School. Created just a year prior to the Law School's creation in 1946, between 1947 and 1955 enrollment grew from twenty one to three hundred and thirty-eight students.¹¹³ Total enrollment during the 1956-1957 school year within the Law School was six.¹¹⁴ Despite the fact that Clemson, USC, the Citadel, and Winthrop started admitting black students in the 1960s, enrollment in State College's Graduate School continued to far exceed the number of blacks in its law program.¹¹⁵ Between 1961 and 1965, enrollment in both the Law School and Graduate Schools declined, but in the fall of 1965 enrollment in the Graduate School was still 355 compared to just four in the Law School.¹¹⁶ Ironically, it cost more money for State College to teach several law students than several hundred graduate students.

The High Cost of Segregated Legal Facilities

During the 1962-1963 academic year, State College budgeted \$38,890 to pay the salaries of the Law School faculty versus \$32,933 for Graduate School faculty.¹¹⁷

Several months before the Board decided to close the Law School, in the summer of 1965, the projected cost to operate the Law School was higher than the Graduate School and Industrial Education which had far higher enrollments.

Table 4.3 South Carolina State College Enrollment and Faculty and Operational Costs¹¹⁸

July 1, 1963 – June 30, 1964			
School	Enrollment	Faculty Cost	Operational Cost
Law	12	\$45,200.00	\$53,785.00
Graduate	622	\$39,685.00	\$35,260.00
Education	228	-	\$18,820.00
Arts and Sciences	397	-	\$22,305.00
July 1, 1964-June 30, 1965			
Law	13	\$47,000.00	\$55,585.00
Graduate	439	\$38,300.00	\$42,725.00
Education	217	-	\$29,620.00
Arts and Sciences	424	-	\$22,305.00
July 1, 1965-June 30, 1966			
Law	4	\$48,090.00	\$59,725.00
Graduate	355	\$23,720.00	\$27,945.00
Education	243	-	\$19,470.00
Arts and Sciences	533	-	\$23,105.00

An examination of the line items in the budget of 1965 reveals that in comparison with the Graduate School, not only were faculty salaries higher, but also contractual services and educational equipment at the Law School. The cost to operate educational equipment in the Law School was \$8,750.00. The sum total of educational equipment budget for the Graduate School was \$900.00.¹¹⁹ While the reports organized by the President's Office did not indicate what equipment was used or why it was so costly, by the early 1960s the Law School not only had its own library, but a library with 20,000 volumes. To retain its American Association of Law Libraries (AALL) membership, the cost to maintain periodicals like the Southeastern and South Carolina Digest, to continually add volumes to meet AALL requirements, and to provide the infrastructure

needed to sustain offices, classrooms, a moot court, and a library was perhaps one of the reasons why equipment costs were so high.¹²⁰

By 1949 State College maintained the law program with its own library containing thousands of books, its own building, a moot court, a dean, several faculty members, a secretary, and librarian for a handful of students. The cost for the state to construct Moss Hall, the site of the Law School, was \$200,000.00. Tuition for in-state resident students, who comprised the vast majority of students who attended the Law School, was \$120.00 a year. When adding room and board, total cost for a student to attend was approximately \$152.00.¹²¹ Assuming that students completed six semesters of law school to obtain their degree and stayed on campus, State College would have had to admit over 200 students in order for the state to recoup the cost of building Moss Hall. Only fifty-one students graduated during its nearly twenty year history.¹²² The Law School did not generate anywhere near enough funds to pay off \$200,000 of in-state appropriations to build the site of the program. Assuming that Law School graduates were in-state residents, paid full tuition, and attended law school for three years, by the summer of 1965, the sum total of tuition paid by every person who graduated from Law School was less than the projected salary of its personnel.¹²³ Thus from a fiscal standpoint it had to close. In the memorandum the administration sent to faculty and staff regarding the Board's decision to close the Law School, it was "unjustifiable" to keep it open due its high cost of operation.¹²⁴

Despite being the provisionally accredited and the fact that the Law School was a money-pit for both South Carolina and State College, South Carolina had to comply with Judge Waites Waring's 1947 ruling that the state maintain a segregated law program for

blacks. As long as prospective black students were denied admission into the USC School of Law, the state legislature had to continue funding the Law School at State College and State College administrators had to continue managing the law program.¹²⁵ That changed when the USC School of Law was desegregated in 1964.¹²⁶ According to President Turner, the Board's November of 1965 decision to close the Law School was influenced by the desegregation of the formerly all-white law program: "in view of the availability of legal training at another of the State's institutions of higher learning, the Board felt that further continuation of the law program at South Carolina State College was justified financially and academically."¹²⁷

Perhaps what was most tragic about the closing of the Law School as a result of the Board's failure to resolve its accreditation issues, the missed opportunities for the administration to increase enrollment, and the abandonment of the Law School for the USC School of Law, was a lack of vision. If a coalition of Law School alumni, the plaintiffs they represented in civil rights cases, and State College faculty and staff rallied against the closing of the Law School, maybe South Carolina would have had two law schools that provided a legal education to South Carolinians.

North Carolina Central University School of Law Escapes Desegregation

South Carolina's northern neighbor managed to repeal attempts to close its black law school. In the first few decades of its existence, North Carolina Central University School of Law was plagued by low enrollment and financial neglect from the state legislature. North Carolina Central University, formerly the North Carolina College for Negroes, received a charter from the state legislature to create a law program to bar blacks from attending the University of North Carolina-Chapel Hill School of Law. It

opened in 1940 with just four students. By the time its first graduate, Robert Bond, earned his degree in 1943, only six students were enrolled.¹²⁸ It was not until 1950 did the School of Law have its own building and law library.¹²⁹

Enrollment in the postwar years did reach thirty students as the GI Bill afforded returning veterans the means to obtain professional degrees.¹³⁰ However, enrollment dipped below twenty students in the 1950s.¹³¹ On top of declining enrollment, the state legislature was notorious in underfunding the School of Law. When fifteen students from the School of Law picketed at the State Capital to increase the funding of the Central's law program, the legislature appropriated \$20,000 in emergency funding. That amount was a fraction of the \$638,000 the North Carolina state legislature appropriated to increase the size of the University of North Carolina-Chapel Hill School of Law.¹³²

In the late 1960s, the North Carolina Board of Higher Education recommended phasing out North Carolina Central University School of Law. With Central's small law student enrollment, the legislature thought it was a financial drain on the state to maintain two, state-supported law schools.¹³³ While this study did not uncover any evidence through primary source documents, interviews with students who attended the Law School at State College, or the students they assisted in civil rights cases of attempts to prevent State College's law program from closing, the black community in North Carolina mounted a campaign to save the North Carolina Central University School of Law.

William G. Pearson, president of the George H. White Bar Association, named in honor of a late 19th century black congressman in North Carolina, drafted a resolution in 1967 that was sent to the legislature to block the closing. In the resolution, Pearson

emphasized the necessity for the legislature to continue the operation of Central's School of Law due to its role addressing the scarcity of black lawyers in the state. In 1967, there was one white lawyer for every 768 white residents while there was one black lawyer for every 16,910 black residents in the state. Daniel Sampson, dean of the School of Law, wrote the "Sampson Report" documenting the negative impact closing the School of Law would have on North Carolina. North Carolina Central University also took action to increase enrollment by creating a professional admissions committee for the School of Law and by becoming more diverse by increasing the enrollment of white students, Native Americans, Asians, and international students.¹³⁴

The efforts to keep the doors of North Carolina Central's School of Law open coincided with a dramatic increase in the number of black students in law school in the late 1960s and early 1970s. Between 1968 and 1972, black enrollment in law schools increased from 1,254 to 4,423 students. Law increased in popularity as the victories of the civil rights movement made professional school more accessible to blacks.¹³⁵ As a result of the actions of North Carolina Central University administrators, the wider University community, and rising black enrollment in law schools nationwide, the number of black students attending the School of Law exploded. By 1969 enrollment at North Carolina Central's law program was seventy students in comparison to just one black student enrolled in the University of North Carolina-Chapel Hill School of Law that same year. Between 1971 and 1976, the number of students graduating each year increased from eighteen to 110. By 1969 North Carolina Central University managed to decrease its per-student cost to operate the School of Law. With increased enrollment and a firm financial foundation, the state did not have a justifiable reason to close the

School of Law.¹³⁶

Unfortunately, that was not the case in South Carolina. If students who attended the Law School, the Board members and administrators that governed it, and the black community that benefitted from the civil rights litigation of its graduates protested the closing of the Law School, would it still be around today? If the Law School managed to stay open for several years longer, would its enrollment have increased as the number of black attending law schools nationwide tripled between the late 1960s and 70s?¹³⁷ If the black community was able to persuade the state legislature to continue funding the Law School, would there be two state supported law programs today? After all, South Carolina has supported graduate level programs in business at Francis Marion, South Carolina State University, College of Charleston, Clemson, and the University of South Carolina. South Carolina has professional nursing programs at the University of South Carolina-Upstate, Clemson, the University of South Carolina, and the Medical University of South Carolina. The state contains two public medical schools and two public schools of pharmacy at the University of South Carolina and the Medical University of South Carolina.¹³⁸

While citizens in South Carolina have the option of attending the Charleston School of Law, financial difficulties and declining enrollment has threatened its existence. In addition, the Charleston School of Law is not a state-supported institution.¹³⁹ Perhaps as stated by former Law School at State College student, Hemphill Pride, racist factions of the legislature did not want to double the number by black lawyers in the state by supporting two law schools. Especially since the Law School at State College graduated civil rights attorneys like Matthew Perry who were “kicking ass”

and “wearing them out in court.”¹⁴⁰ Regardless of the reasons behind the Law School at State College’s closing, if a South Carolinian in the 21st century wants to attend a public law school in the state, that person will have to attend the one that once rejected the applications of prospective black students on racial grounds....The USC School of Law.

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Chapter Five

The Legacy of the Segregated Law School

Thurgood Marshall, who was the lead counsel in the *Wrighten v. Board of Trustees University of South Carolina* case and an advocate for the desegregation of the USC School of Law, called State College's segregated law program, a "Jim Crow dump in South Carolina."¹ State NAACP Chapter president, James Hinton, called it "the make shift law school in Orangeburg" as state officials and administrators at State College made preparations to hire staff and accept applications for the new law program.² Modjeska Simkins, civil rights activist and secretary for the State Chapter of the NAACP, believed state officials extended professional and graduate degrees at State College to deceive black students into supporting inferior education programs:

As long as administrative officials at the college consort with legislative and education department officials in hoodwinking the few shortsighted Negroes who will fall victim to this asinine scheme, they are being bought for a cheap and inglorious price. The only persons who could become even more pronounced objects of derision would be the persons who, knowing the score, deliberately walk into these chump courses.³

Marshall, Hinton, and Simkins were justified in labeling the Law School as an extension of segregation. The leadership of the Law School blocked efforts made by the State College community to promote desegregation and civil rights. In 1956 State College's Board of Trustees, which exercised complete control over State College and the law program, participated in an investigative probe to blacklist students, faculty and staff who

participated in a local boycott of segregated food vendors that stocked the College cafeteria.⁴ President Benner Turner, who served as the Law School's first dean, expelled Fred Moore, the student body president, placed a registration ban on fifteen students, and fired five faculty and staff members for their involvement in the NAACP and the 1956 boycott.⁵

Students also encountered State College's resistance towards civil rights activism within the Law School. Although Civil Rights topics were discussed outside of class in the dormitories, cafeterias, the gym and other informal settings, Ruben Gray did not recall any civil rights courses in the curriculum.⁶ While the Law School added courses like Personal Rights and Social Legislation that focused on Due Process and Equal Protection Clauses by 1964, the Law School never had a course with the words "civil rights" in its title.⁷ Some Law School students were discouraged from civil activism. After George Anderson was released from jail due to his involvement in a civil rights demonstration to desegregate lunch counters, he met with Dean Leo Keford in a disciplinary meeting. Keford told Anderson that "he was scurrilous and not worth the family he came from." Anderson was nearly expelled for his involvement in civil rights activities.⁸

Due to the opposition displayed by the creators, administrators, and leaders of the Law School at State College towards ending segregation and promoting civil rights, post-racial America (i.e. America after the legal victories of the Civil Rights Movement) may view the law program simply as an all-black law school. The Law School at State College is a reminder of time period in U.S. history when racism prevented African Americans from equal opportunity to attend their school of choice, including the USC

School of Law. When asked about the legacy of the Law School, Harvey Gantt who was represented by Matthew Perry in his case against Clemson University stated, “the Law School came into existence because they wanted a place to train black lawyers. It came out of a design to keep the system separate. That is not a part of the legacy I like to remember.” However, Gantt also stated, “but I remember it did train a needed group of black lawyers.”⁹ In Gantt’s response lies the true legacy of the Law School.

As an institution that offered a Bachelor of Laws program and contained classrooms, offices, and a library, it was a segregated law school that served black students. Yet, as a training ground for lawyers, its influence extended beyond Moss Hall, the location of the Law School. The legacy of the Law School is synonymous with the contributions of its alumni. Like a high school that is measured through the academic, career, artistic, and athletic achievements of its graduates, the legacy of the Law School at State College is measured through the accomplishments of its alumni.

The distinguished alumni handled civil rights cases that desegregated public higher educational institutions and grade schools in South Carolina, became county, state, and federal level judges, and bailed thousands of students out of jail for staging civil rights demonstrations.¹⁰ The students who attended the Law School at State College obtained state and federal judiciary positions in a state that once prohibited them from drinking out of “whites only” water fountains.¹¹ This chapter will focus on the Law School at State College’s legacy in relation to the involvement of the alumni in civil rights litigation, the cases they presided over as judges, and their accomplishments outside the courtroom.

The Law School's Civil Rights Attorneys

Boycotts and Sit-ins

To study the contributions made by students who attended the Law School at State College to civil rights is to cover the modern civil rights movement in South Carolina. As the battlegrounds of civil rights activism moved beyond the courtroom to the streets after *Brown v. Board*, Law School students were active participants from the earliest stages.¹² Ironically, the first known boycott in South Carolina occurred a few blocks outside the Law School in the town of Orangeburg, South Carolina. The involvement of a graduate of the Law School helped initiate this early campaign in the Civil Rights Movement.

In 1955 just a few months after the *Brown v. Board* decision, a coalition of NAACP leaders, preachers, and teachers organized a petition to persuade the school board to integrate district schools.¹³ To file the petition, the coalition turned to one of the graduates of the Law School at State College, W. Newton Pough, who had a practice in Orangeburg, South Carolina. Pough both prepared and filed the petition with the Orangeburg County School District Number Five, Orangeburg School District Number Seven, and Elloree School District.¹⁴ In response to the petition, the white community in Orangeburg formed South Carolina's first White Citizens Council. Designed as a country club version of the Ku Klux Klan focused on economic and political intimidation, the Council fired petitioners from their jobs, evicted them from their homes, withdrew their credit, denied their loan applications, and opened the petitioners to physical attack by publishing their names in the local newspaper.¹⁵

Despite the threats made against the petitioners and attorney Pough who filed the petition, the black community responded by staging one of the first boycotts of the Civil Rights Movement. Organized several months before the Montgomery Bus Boycott in the fall of 1955, the NAACP decided to boycott a list of twenty-three, white-owned businesses in Orangeburg. Blacks traveled as far as Columbia and Charleston to buy groceries and other goods.¹⁶ Inspired by a speech given by Thurgood Marshall at Claflin College and investigations initiated by local and state officials to suppress NAACP activities on black colleges, black college students in Orangeburg organized their own boycott. In 1956 Fred Moore, President of the Student Government Association, presented a list of grievances to President Benner Turner. The grievances included demands to sever ties with food vendors that served the school cafeteria, but refused to serve black people in local stores. When Turner turned down the resolution, 1,200 students refused to attend their classes.¹⁷ As a result of the petition filed by Law School at State College graduate, W. Newton Pough, there was a domino effect in the city of Orangeburg, South Carolina where the black community increased its involvement in civil rights activism.¹⁸

The civil rights activities in Orangeburg would soon spread to other cities in the state. The graduates of the Law School at State College provided legal representation in many of these engagements. The sit-in phase of the Civil Rights Movement began on February 1, 1960 when four black college students in Greensboro, North Carolina sat down in a “whites only” Woolworth and refused to give up their seats.¹⁹ Less than two weeks after the Greensboro Sit-In on February 12, 1960, nearly 100 black students in Rock Hill, South Carolina participated in the first sit-in in South Carolina. Between

February and March of 1960, the sit-ins at lunch counters and bus stations resulted in arrests in which students were fined and released.²⁰

The most famous episode of the Rock Hill sit-ins took place on January 31, 1961 when ten black college students were arrested at McCory's department store. Rather than pay their fines, nine out of the ten men elected to serve their sentence. Ernest Finney, one of the graduates of the Law School, represented the men. Although the trial did not result in the immediate desegregation of public lunch counters, the nine men famously known as the "Friendship Nine" brought greater attention to the Civil Rights Movement. The attention the men garnered for their bravery in serving thirty days hard labor compelled more people to join the Movement as sit-ins were staged in cities throughout the state. The actions of the Friendship Nine initiated the "Jail No Bail" movement across the South. Activists employed this strategy to increase news coverage of civil rights demonstrations by electing to serve their full jail sentences rather than pay bail after an arrest. Fifty-four years later, Ernest Finney reconnected with the Friendship Nine. On January 28, 2015, Finney stood alongside the men as a white judge dropped their trespassing charges from 1961 and apologized on behalf of the state for their mistreatment.²¹

On August 9, 1960, the police arrested ten black teenagers from Sterling High School, a black high school located in Greenville, South Carolina, for staging a sit-in at a local S.H. Kress chain store.²² The black community turned to the NAACP for legal assistance. Fortunately for the black teens, the NAACP had a special counsel to provide them legal representation. Since 1957, Matthew Perry served the NAACP in that position. From 1957 until the early 1970s, Matthew Perry provided legal services for

hundreds of civil rights activists on behalf of the NAACP.²³ Fellow Law School at State College graduate Willie T. Smith assisted Matthew Perry in defending the ten black teens.²⁴ *Peterson v. Greenville* was argued in a municipal court and the South Carolina Supreme Court. In 1962, Perry and his team filed a petition to have the case argued in the U.S. Supreme Court as the lower courts upheld Greenville's policy of segregated public facilities. The U.S. Supreme Court combined the case with four others in November of 1962.²⁵

The petitioners asserted that the decision by Kress management and the city of Greenville to exclude them from the lunch counter on racial grounds, to prevent them from exercising free speech, and the arrest violated their Fourteenth Amendment rights. State officials argued that since segregated seating was a Kress store policy, the arrest was a private matter that did not involve any state violations of the defendants' constitutional rights. However, Perry informed the court that since the police operated in the capacity of state officials, the state violated the petitioner's constitutional rights through authorizing the arrest. On May 20, 1963, the Supreme Court ruled in favor of the petitioners. Since South Carolina required that its cities maintain segregated public facilities and enforced this policy through the arrest, the state violated the Fourteenth Amendment.²⁶ The *Peterson v. City of Greenville* decision scored a major victory for the NAACP, Perry, and the Civil Rights Movement in South Carolina. Two weeks after the Peterson decision, lunch counters were desegregated in Greenville, South Carolina.²⁷

Several months prior to the Greenville Sit-In, on February 25, 1960 forty students from Claflin and State College marched to an Orangeburg Kress store to conduct a sit-in. It is unclear whether the white community heard about the sit-in in advance. What is

clear is that the lunch counter was closed and the stools were removed when the students arrived. Unsuccessful in their initial attempt, students from Claflin and State College prepared for a much larger demonstration on March 15, 1960. A group of students known as the “Orangeburg Seven,” which included future U.S. Congressman James Clyburn, organized more than 1,000 students who assembled to march downtown. The protestors met stiff resistance as they were beaten by nightsticks and sprayed by water hoses. Out of 1,000 students who began the protest, 388 were arrested for resisting an order from the police to disband the march. Due to the large number of students arrested, they were forced to spend the night in a stockade where the only heat came from burning piles of garbage.²⁸

Matthew Perry along with State College graduates Zack Townsend, Willie T. Smith, and W. Newton Pough solicited funds from the local black community to get the students out of jail. The team of black lawyers raised enough bonds to release the students. The city ordered the student protestors to appear in court the following day on March 16.²⁹ State chapter president of the NAACP, I. DeQuincy Newman, directed Perry to select James Clyburn to take the stand. Newman picked Clyburn due to his familiarity with his family and the fact that their relative economic autonomy made the Clyburns less susceptible to white influence. Perry’s sessions with Clyburn to prepare him for the witness stand was the start of a lifelong friendship that only ended with Perry’s death. Perry asked about the protestors’ families, how they would prepare for cross examination, and the potential repercussions if the names of their families were published in the local paper.³⁰ Although the students were convicted on charges of disturbing the peace and were fined, Perry and his fellow Law School graduates appealed

the fines and the convictions. Perry and his legal team combined the Orangeburg trial with the trial convictions of student protestors in Sumter and Rock Hill. Within a year after 388 students were arrested for staging a march in Orangeburg, South Carolina, the convictions of the protestors in these three cities were dismissed. In addition to the dismissed charges, another outcome of these cases was the emergence of Matthew Perry's well-respected reputation in the legal community. These cases cemented his stature as the state's preeminent civil rights lawyer.³¹

The Law School Alumni Eradicate Segregated Schools

In addition to representing student protestors, the graduates of the Law School at State College participated in some of the most influential school desegregation cases in state history. Two of these cases involved South Carolina's largest public universities. On December 24, 1960, Harvey Gantt, a native of Charleston applied for admission into Clemson University to pursue architecture. Since few black colleges and none in the state offered architectural programs for blacks, he sought to become an architect by enrolling into Clemson. Once the registrar learned of Gantt's race through his attendance at a black high school, his application was immediately rejected. After three attempts between 1961 and 1962 to be admitted into Clemson University, Gantt turned to a graduate of the Law School, Matthew Perry, for legal assistance.³²

Gantt first met Perry in April 1960 during a sit-in demonstration initiated by students at Burke High School, a black high school in Charleston, South Carolina. Perry filed a lawsuit on behalf of the sit-in demonstrators in May of 1960. Perry's reputation as a civil rights attorney emerged in 1960. As the legal counsel of the NAACP and one of only a few only black lawyers Gantt had met at the time, it made logical sense for Gantt

to seek Perry's legal representation in suing Clemson University. When Gantt met Perry in the summer 1961, he was "impressed by Perry's optimism and secondly how smart he was. We thought of him back in those days as being fearless."³³ In July 1962, Perry filed a suit and requested that the U.S. District Court enjoin Clemson to admit Gantt.

Perry appealed to the Fourth Circuit Court of Appeals after District Court Judge C.C. Wyche denied an injunction. The Fourth Circuit Court ruled that Gantt must be admitted to Clemson. The University immediately appealed to the U.S. Supreme Court on January 21, 1963. Fortunately for the future architect, the U.S. Supreme Court ruled in favor of Gantt. On January 28, 1963, Perry drove Gantt to Clemson to register for classes. Perry, a product of a Law School created on a foundation of segregation, helped Gantt in becoming the first black student since Reconstruction to attend an all-white higher education institution in South Carolina.³⁴ However, the influence of the Law School in Gantt's life did not cease with his integration of Clemson University. After graduating from Clemson with a degree in architecture, he obtained a graduate degree in city planning from MIT, opened a successful architecture firm, and later became the first black mayor of Charlotte, North Carolina.³⁵

In May of 1962, Henrie Dobbins Monteith applied for admission into the University of South Carolina. The University immediately rejected her application when administrators learned she was black.³⁶ In the mid-1940s, Monteith's mother was one of the plaintiffs who sued Richland County School District for inequitable pay between black and white teachers. Monteith's aunt was famed civil rights activist Modjeska Simkins, who was a co-founder of the state conference of the NAACP and became a high ranking officer in the organization. Monteith's mother and aunt knew exactly who to

contact to get her admitted into the University. They contacted Matthew Perry.³⁷ In October of 1962, Perry filed a suit against the University for blocking Monteith's application. On July 10, 1963, U.S. District Court Judge J. Robert Martin ordered USC to admit black students by the fall of 1963.³⁸ Two other black students, Robert Anderson and James L. Solomon joined Monteith in applying to the University of South Carolina. Perry and Donald James Sampson, a black attorney and colleague from Greenville, South Carolina, represented the three students.³⁹ On September 11, 1963, Monteith, Anderson, and Solomon desegregated the University. The persons that drove them to campus to register for classes were their attorneys Sampson and Perry.⁴⁰ Monteith later graduated from USC with a degree in Biochemistry, a feat that was rare for a black person or a woman in the 1960s. She later earned master's and doctoral degrees in science. Anderson became a social worker serving Cuban refugees, the Bureau of Child Welfare, and the Veterans Affairs administration. Solomon would later serve as one of the directors for the Commission on Higher Education, the commissioner for the Department of Social Services, and the first African American to serve on the Sumter District 17 school board since Reconstruction.⁴¹

As the graduates of the Law School at State College counseled black plaintiffs in their attempts to attend segregated state colleges, they simultaneously counseled black communities in desegregating grade schools. The most important case, *Brown v. School District No. 20*, integrated the first public school below the college level in South Carolina.⁴² In August of 1963, thirteen black children and their parents sued School District Number 20 in Charleston County, South Carolina to dissolve its dual school system. They sought the immediate transfer of black children from all-black to white

schools.⁴³ The namesake for the case was J. Arthur Brown, civil rights activist and NAACP leader, and his eldest daughter Minerva Brown. In response to the *Brown v. Board of Education* case, beginning in the late 1950s Brown attempted to transfer his daughter Minerva from all black Burke High to all white Rivers High School. Perry, a family friend, was contacted by Brown to file transfers for families seeking to send their children to segregated schools within the District.

For several years the Charleston School District routinely accepted transfers from the Browns and other black families with no intention of desegregating schools. Due to deliberate delays in the transfers, the baton of attending desegregated Charleston public schools passed from Minerva to younger sister Millicent as the elder sister passed the legal age for transfer. In a consultation session with Perry, the attorney told Brown and his daughter “to seek every legal remedy before seeking suit.” During a petition of the School Board in which Brown and Perry were present, the Board asked Millicent whether she would miss her black teachers and friends if she attended one of the white schools. Millicent, influenced by her interactions with Perry responded, “but I make friends with other kids and my teachers everywhere I go.”⁴⁴

Despite the determination of Millicent to break the color barrier in Charleston County, the Board continued to stall on the transfer. Finally, Perry assisted the Browns and twelve other black families in suing the Charleston School District.⁴⁵ Fortunately for the plaintiffs, District Judge Robert Martin saw the Board’s refusal to admit black students as infringing on their constitutional rights. On September 2, 1963, eleven black children enrolled into four Charleston County schools that were formerly closed to them. The suit scored another victory not only for the black community and the NAACP, but

for the Law School at State College as one of its graduates, Matthew Perry represented black families in integrating South Carolina's first school district.⁴⁶ Millicent Brown later obtained undergraduate and post graduate degrees in history and education from the College of Charleston, the Citadel, and Florida State University.⁴⁷

Opening Movie Theatres, Hospitals, and Libraries to Black Citizens

In addition to desegregating public schools and getting protestors out of jail, the graduates of the Law School at State College represented members of the black community who tried to desegregate public parks, movie theatres, hospitals, court juries, election commissions, and hospitals. They also represented protestors in a landmark case that had national implications for civil rights demonstrations.⁴⁸ Perhaps the first civil case that was argued by a graduate of the Law School at State College involved the man responsible for its creation, John Wrighten. In May of 1955, four black youths requested use of the facilities at Edisto State Park, but were refused access by the park Superintendent. On behalf of the young men, John Wrighten along with fellow Law School graduate W. Newton Pough, filed suit against the state park. The case of *Clark v. Flory*, named after Etta Clark, mother of one of the plaintiffs, and State Forester C.H. Flory, was decided in the United States Eastern District Court on April 19, 1956. Although the U.S. Supreme Court supported the plaintiffs due to its ruling in a similar case that integrated Baltimore State Parks, the Forestry Commission closed the park to all visitors. Since the state closed the park, the District Court threw out the case since it was moot due to the park's closing.⁴⁹ Although the state did not fully desegregate Edisto State Park until July 1, 1966, Matthew Perry played a major role in that decision by filing a lawsuit in 1963 to integrate state parks throughout the state.⁵⁰

In 1964 Ernest Finney and Matthew Perry represented three plaintiffs by filing a class action suit against Carnegie Public Library in Sumter, South Carolina. The case was dismissed by the United States District Court on November 17, 1964 because the library was in compliance with granting full membership to citizens regardless of race. Despite the dismissal, the case was a sign that the black community no longer tolerated tactics used by former white establishments to delay blacks usage of facilities. Blacks used the power of federal courts to force local and state officials to comply with the Fourteenth Amendment in regards to their rights.⁵¹ On July 21, 1964, several black people in Orangeburg, including famed civil rights activist Gloria Rackley, attempted to gain admission into the white sections of the Edisto and Carolina Theatres. They were denied entry into both locations. Later that summer Law School graduates Zack Townsend, Matthew Perry, and faculty member Earl Coblyn filed suit against both theatres. Perhaps as a result of the tenacity of the Law School graduates in protecting the civil liberties of African Americans, on August 19, 1964 ticket agents were instructed to cease requiring that blacks and whites sit in separate sections of the theatres. The case was dismissed on May 5, 1965.⁵²

The case of *Thomas v. Orangeburg Theatres, Incorporated* was not Gloria Rackley's first attempt to resist South Carolina's segregationist policies. The graduates of the Law School at State College provided her legal representation in her efforts to promote civil rights. On October 12, 1961, Rackley took her daughter Jamelle Rackley to Orangeburg Hospital when she was hurt in a playground accident. The physician told Rackley that the hospital would give her anesthesia and take her to the surgery room for treatment. At first she was taken to one waiting room, but was escorted to another

waiting room for blacks. However, Rackley decided not to leave the whites only waiting room and was asked by a physician to leave or face arrest. The authorities arrested Rackley for refusing the doctor's request to sit in the colored waiting room. Matthew Perry defended Rackley to get Orangeburg County to drop the charges. Perry argued so vigorously on her behalf that he was arrested for contempt of court, Perry's only arrest during his lengthy career as a trial lawyer.⁵³ Perry filed suit in behalf of Rackley and her daughter in 1962. The case of *Rackley v. Board of Trustees of Orangeburg Regional Hospital* was argued in September of 1962. Not only were her charges dropped as a result of the case, but the hospital was integrated.⁵⁴ Despite Rackley's victory, the white community delivered swift retribution for her activism.

Due to the lawsuit, Rackley was seen as an agitator within the white community in Orangeburg. Rackley's involvement in the local branch of the NAACP exasperated the hatred whites had towards her. On October 15, 1963, the Board of Trustees for Orangeburg District Number 5 decided to terminate her position as a third grade teacher due to Rackley's involvement in three civil rights demonstrations and her arrest record stemming from her civil rights activism. Rackley once again sought the assistance of Matthew Perry, Zack Townsend, and instructor Earl Coblyn to bring suit against Orangeburg County. Although the District court considered the Board's right to consider the conduct of teachers outside the classroom when assessing their competency as educators, the court determined that it did not have the right to infringe on Rackley's civil liberties as secured by the U.S. Constitution. The district court ruled in favor of the plaintiff. The court ordered Orangeburg District 5 to pay Rackley's remaining salary for

the school year of 1963-1964. The court also ruled that the Board reinstate her as a third grade teacher if the position was open or to a similar position once a vacancy was available.⁵⁵

Opening the Doors for Aspiring Black Politicians

As the aims of the Civil Rights Movements changed from the desegregation of public facilities to voter's rights and political power after the passage of the Civil Rights Act of 1964, the graduates of the Law School continued to provide legal assistance to the black community.⁵⁶ In 1970 Matthew Perry and Ernest Finney represented the United Citizens Party in a lawsuit against the South Carolina State Election Commission. Two year earlier in 1968, John Roy Harper III co-founded the United Citizens Party as a result of the belief amongst the black community that neither the Republicans nor Democrats parties represented their interests. According to code section 23-296 of the State Election Commission, only the Democratic Party could hold primaries to nominate candidates for statewide office. For other political parties to conduct primaries to nominate candidates for the General Election, they had to file no later than two weeks after the Democratic Convention convened. The United Citizens Party sued the state election commission claiming that code section 23-296 was unconstitutional because it only allowed established political parties to set deadlines by which candidates must be nominated and announced. The case of *United Citizens Party v. South Carolina State Election Commission* was heard in the United States District Court of South Carolina from October 26-28 in 1970. The United States District Court sided with the plaintiffs. Through the litigation of Matthew Perry and Ernest Finney, the court enjoined the South

Carolina State Election Commission to place the names of United Citizens Party candidates on the ballots for the November 3, 1970 General Election.⁵⁷

Stevenson v. West, a case argued by Perry in 1973, had a considerable and lasting impact on the political landscape in South Carolina. Prior to 1973, South Carolina had multi-member legislative districts. Many counties in South Carolina had several representatives. For example, Richland County had an astounding eleven representatives. In an election for the South Carolina House of Representatives or other offices, if a candidate failed to obtain at least fifty percent of the electorate in a county, that person was not elected. In these multi-member districts where candidates were elected at large, voters were required to cast a ballot for all candidates running for office. Multi-member district and at-large voting restricted blacks from political office since the white population in these counties refused to cast a majority of their votes for black candidates. Requiring voters to cast ballots for all candidates running for office prevented minority populations or parties to consolidate support behind one or two candidates. Thus multi-member districts denied blacks the possibility of at least electing one black candidate to political office. Due to these political measures, it was not until 1970 that any black person was elected to the General Assembly.⁵⁸

Perry argued in front of the U.S. Supreme Court that to run at-large in counties that elected multiple legislative members prevented the election of black officials and denied blacks equal protection under the law. The *Stevenson v. West* case resulted in the reapportionment of state House of Representatives into single member districts. According to Matthew Perry, the number of black elected officials grew from three to at least a dozen after the case. Critics of *Stevenson v. West* cite that the case led to the

perpetual election of white candidates in adjacent white majority districts and the rise of the Republican Party, a political party that became predominantly white as the composition of the Democratic Party became increasingly black in the 1970s and 80s. However, single member districts ensured not only the election of black candidates, but the repeated election of black officials in areas that remained predominately black.⁵⁹

Edwards v. South Carolina

One of the most important cases involving the graduates of the Law School at State College, *Edwards v. South Carolina*, had national implications. On March 2, 1961, 187 protestors comprised mostly of students from local high schools, Benedict College, and Allen University met at Zion Baptist Church in Columbia, South Carolina. They intended to march from the church to the State House to peacefully express their grievances regarding the treatment of Africans Americans in the state. In separate groups of fifteen, they walked towards the State House grounds where they were met by thirty or more policemen. They were told by the police that they had the right as citizens to march peacefully around the State House grounds. As the protestors marched around the State House with signs with the messages “I am proud to be a Negro,” and “Down with segregation,” 200 to 300 bystanders congregated as they marched. There was no evidence that the marchers or the onlookers used hostile gestures, offensive language, or intentionally blocked pedestrians or traffic. When the police asked the crowd and the marchers to move back to allow a person or vehicle to pass, they were compliant.

However, according to court testimony from the city manager and the chief of police, after about forty-five minutes of marching they were told to disperse. According to the manager and the police chief, the crowd became “boisterous,” “loud,” and

“flamboyant” as they began singing the Star Spangled Banner and religious songs.⁶⁰ The city of Columbia tried the protestors in separate groups beginning on March 7, 1963. As civil rights activists did time and time again in South Carolina, they turned to the NAACP and Law School at State College graduate Matthew Perry for legal representation. Despite Perry obtaining testimony from witnesses that supported the argument that the protestors were peaceful, the city judge declared all defendants guilty. They were sentenced for \$100 fine or a month in jail. Perry, appealed to the Supreme Court of South Carolina, but it supported the opinion of a Columbia magistrate court that the arrests preserved the public peace and prevented the blocking of traffic and pedestrians. Perry working with the national office of the NAACP Legal Defense Fund, appealed to the U.S. Supreme Court.⁶¹

The NAACP Legal Defense Fund argued the case of *Edwards v. South Carolina* on behalf of the 187 petitioners between December 13, 1962 and February 25, 1963. The U.S. Supreme Court held the position that the arrest and conviction of the petitioners violated their rights of free speech and assembly to voice their grievances. South Carolina’s attempt to “make criminal the peaceful expression of unpopular views” in the state violated the Fourteenth Amendment and their First Amendment rights. The Supreme Court ruled in favor of the petitioners and reversed the charges.⁶² The significance of *Edwards v. South Carolina* was that it was used in other cases throughout South Carolina and the South to reverse the convictions of activists involved in peaceful street demonstrations.⁶³ According to the predictions of Anthony Lewis, an analyst for the *New York Times*, the U.S Supreme Court’s decision in the case would serve “to encourage Negro protest demonstrations in the South and give them added

legal protection.⁶⁴

Overall, twelve of the twenty-seven graduates of the Law School at State College represented litigants in civil rights cases. The federal and appellant cases known as “reported cases” impacted federal law. Willie T. Smith Jr. and W. Newton Pough each handled more than ten reported cases. Ernest Finney handled more than twenty reported cases. Matthew Perry handled fifty-seven. While they attended a Law School built on a foundation of racial segregation, their contributions in the court dismantled the legal separation of state citizens based on race.⁶⁵ The graduates of the Law School endured threats to their safety, often with inadequate compensation. Perry once had a cross burned in his yard.⁶⁶ His wife often received threatening letters and phone calls.⁶⁷ Despite taking cases they knew they would lose and the enduring insults of court judges who referred to them as “boy” in the courtroom, they handled these indignities with grace and dignity.⁶⁸ One piece of advice Matthew Perry gave James Clyburn when it came to insults and injustices “was to keep your emotions in the bedroom” and to “never display them in public.”⁶⁹

When it came to compensation, Zack Townsend’s first paycheck was a ream of paper. While Townsend was honored to advance the black community through civil rights law, there was no money in it.⁷⁰ According to Perry, some of the greatest court victories for him and fellow Law School graduates resulted in little or no compensation. In the case of *Stevenson v. West*, which created single member districts that allowed majority black counties to elect black officials, Perry paid the court fees out of pocket. The NAACP at times provided funds to the lawyers, but those funds were scarce due to the national office’s involvement in civil rights cases across the country.⁷¹

The “Non”-Civil Rights Lawyer

Murder and Rape Trials

According to Law School at State College graduate Daniel Martin, “State graduates had no other choice other than to become involved in the Civil Rights Movement. Due to the lack of resources in the black community, there were few career options for black lawyers.”⁷² Before Jasper Cureton enrolled at the Law School, his impression of State College’s law program was that it “pumped out” civil rights attorneys.⁷³ If the efforts of the Law School graduates did not involve bailing civil rights demonstrators out of jail, the public perceived that they only drew up wills or contracts.⁷⁴ However, the graduates of the Law School at State College provided legal assistance beyond drawing up wills or desegregating schools. They defended black people charged with major crimes such as theft, rape, and murder.

One of the first involved not a male graduate of the Law School, but its only female faculty member, Cassandra Maxwell. In the case of *State v. Jamison*, a black man with the last name Jamison was given a life sentence for murder in March of 1952. Maxwell appealed for a new trial on grounds that it was not a murder, but rather an accidental killing in which the appellant acted in self-defense of his home. Jamison was involved in a scuffle with William Berry, also black, who assaulted Jamison’s mother and attacked him over a financial dispute. The appellant grabbed a gun after he was struck by Berry. As the two men fought for the gun, Jamison claimed that the gun went off. At that time he did know the bullet struck and killed Berry. Jamison left the scene of the shooting to confront Andrew Berry, brother of the deceased, as to why his brother assaulted him and his mother. The South Carolina Supreme Court decided the case on

April 7, 1952. Although the Court dismissed the appeal as the justices did not find any errors in the conviction, *State v. Jamison* initiated the involvement of members of the Law School in representing blacks convicted in major crimes. It was also significant in that a former faculty member of the Law School was involved in a case that many in the 1950s considered above the abilities of a black lawyer, notwithstanding one who was a woman.⁷⁵

One of the first non-civil cases to include a graduate of the Law School, took place in September of 1954.⁷⁶ Harold Boulware, who represented John Wrighten in the case that created the Law School, provided legal counsel for Arthur Waites, a black man convicted of murder.⁷⁷ Vernoid Bunch, a Law School graduate, served as co-counsel. Although the Supreme Court of South Carolina upheld a lower court's decision to convict Waites for murder, the tenacity of Boulware and Bunch brought the case to the highest court in South Carolina.⁷⁸

One of the most contentious cases tried by graduates of the Law School at State College was *State v. Richburg*. In that case, graduates Matthew Perry, W. Newton Pugh, and Zack Townsend took on what many would consider an insurmountable task by representing a black man convicted of the murder of a white deputy. In September of 1965, Edward Richburg was indicted for murder by an Orangeburg Grand Jury for the killing of J. Leroy Myers, a white deputy sheriff. The incident occurred during an exchange of gun fire in a car chase. Richburg was wounded in the head by the deputy in the incident. In 1966, the defense petitioned to remove the case from the Court of General Session in Orangeburg, South Carolina to the United States District Court for the District of South Carolina.

Since the jury was comprised solely of whites from the area, the defense believed Richburg would get a fair trial in federal court. Unfortunately for the defense, the petition was denied by the United States District Court.⁷⁹ The Orangeburg Court subsequently sentenced Richburg to death without mercy. The defense appealed the decision which was eventually heard and decided in the Supreme Court of South Carolina in January of 1968. The State contended that the deputy made a lawful arrest and the appellant “maliciously killed” the deputy. The appellant asserted that the deputy used unnecessary force during the traffic stop by shoving him and shooting Richburg in the head. The team of Perry, Pough, and Townsend also contended that there were errors in the original trial.

The appellant argued that black persons were systematically excluded from the grand and petit juries in the original trial. The error that won the case for the appellant was the trial court’s failure to follow a new amendment in the state constitution that prohibited the exclusion of women from petit and grand juries. Due to the legal arguments of Perry, Pough, and Townsend, the Supreme Court of South Carolina sided with the appellant and overturned the lower court’s decision of the death penalty.

Richburg was convicted of manslaughter and was to serve eighteen years in prison.⁸⁰ Although Richburg was given a nearly twenty-year sentence in a self-defense case, the life of a black man charged with killing a white deputy was spared in a Southern state, a seemingly unachievable result. Following the *State v. Richburg* trial, Matthew Perry handled many of the South Carolina Supreme Court cases where race played a factor in the administration of the death penalty.⁸¹

Two cases litigated by the graduates of the Law School at State College involved one of the most incendiary outrages in the South, the rape of a white woman by a black

man. In *State v. Johnson*, Robert Johnson, Jr. was indicted on three counts of raping of a white woman. Law School graduate W. Newton Pough represented him. In 1959, Johnson allegedly raped the woman during a robbery. According to Johnson, he came to the victim's house to ask for some eggs. The victim in fear of her life grabbed Johnson. Johnson struck her to get away, but according to him, he did not sexually assault her. While Pough appealed to the Supreme Court of South Carolina, the Court overruled the appeal and affirmed the lower court's ruling to sentence Johnson with rape.⁸²

In the case of *Moorer v. the State of South Carolina*, Matthew Perry not only appealed the defendant's rape conviction, but the exclusion of blacks from the Grand Jury. Louis Moorer was convicted to death for the rape of a white woman on April, 4, 1962. Perry petitioned the General Sessions Court of Dorchester County on grounds that Moorer's constitutional rights were violated because black jurors were "systematically" excluded in this trial and others where black men were convicted of raping white women. The case was heard in the Supreme Court of South Carolina in March of 1964. On March 30, 1964, the Supreme Court affirmed the lower court's ruling of the death sentence.⁸³

However, Perry and his legal team did not give up on their client. The case was appealed to the United States District Court for the District of South Carolina in 1965. Perry and co-counsel, Frank Heffron, asked Judge Robert Hemphill for a sixty day extension to review 355 rape schedules in South Carolina from 1945 to 1965. The rationale behind the review was to assess whether the death sentence in these cases was applied in a racially discriminatory manner. Judge Hemphill refused to admit the documents. Perry and other members of Moorer's team, including attorneys for Jack Greenburg and James Nabrit III from the national NAACP Legal Defense Fund,

successfully appealed to the United States Court of Appeals for the Fourth Circuit to have the documents released in October of 1965.⁸⁴ Just a few days before Moorer's scheduled execution, Perry managed to get a stay of execution from the Chief Judge Clement Haynesworth.⁸⁵

A Corporate Lawsuit and Same Sex Couple Trial

Graduates of the Law School at State College represented plaintiffs who sued large corporations. In 1970, Ralph Banks and black co-workers employed at Lockheed-Georgia, a division of the national aerospace company Lockheed, sued their employer for its refusal to reveal its findings in an internal study of equal employment opportunities and racial bias in the company. The company launched its internal investigation to comply with the Civil Rights Act of 1964. The suit filed by Banks and his co-workers was the third since 1968. The plaintiffs were represented by Matthew Perry. The court ruled in favor of the company. The court denied the plaintiff's motion on grounds that to allow employees access to the written opinions, notes, and conclusions of the study would discourage transparency in company reports aimed at improving equal employment opportunities. However, the court ordered Lockheed to provide the plaintiff the same statistical and factual reports issued to Lockheed's research team at the onset of their study.⁸⁶

Graduates of the Law School engaged in cases that focused on social constructs of identity beyond the confines of race. Perhaps the most famous was *Stroman v. Williams*, which dealt with custody rights for same-sex couples. In 1986, Thomas Stroman sought full custody of his minor daughter from Joanne T. Williams, the child's mother and his ex-wife. The parties separated in 1981. Williams, along with their two children moved

in with another woman and her daughter. Williams admitted to having a homosexual relationship with the woman. Stroman and Williams eventually divorced in 1984. The father filed for full custody alleging that William's homosexual relationship rendered her "an unfit mother as a matter of law." Law School graduate Zack Townsend represented Stroman, the appellant in the case.⁸⁷ Given that it was the 1980s, there was a perception in the conservative South that homosexual couples were susceptible to sexually deviant acts like child molestation.⁸⁸ The Court of Appeals of South Carolina did not find any evidence of sexually deviant behavior committed by Williams or her partner towards the daughter. The court did not uncover any evidence that Williams was an unfit mother. The court ruled in favor of Williams and allowed her to retain custody. It was the court's opinion that her homosexual lifestyle had no bearing on her abilities as a parent. Although Townsend represented the conservative aka "status quo" party in the case, *Stroman v. Williams* demonstrated that the graduates of the Law School at State College achieved enough distinction to litigate in civil rights cases beyond race.⁸⁹

Overall, the graduates of the Law School at State College probably lost more cases than they won. One of the many character traits Congressman James Clyburn admired in Matthew Perry was the dignity he displayed in cases that due to racist juries, judges, and systems were impossible to win.⁹⁰ To defend black clients accused of the rape or murder of white persons in segregated South was certainly brave. To take on a major company like Lockheed was bold. If the graduates of the Law School at State College did not represent them, it was highly improbable these parties would receive the same level of commitment from white lawyers. Regardless of the win or loss records of

the graduates of the Law School at State College, they most certainly did not limit themselves to drawing wills, reviewing contracts, or litigating cases focused on racial segregation.

Judges, Legislators, and Buildings

The Presiding Judges

In the years following the civil rights battles, murder cases, and rape cases of 1950s and 1960s, the graduates of the Law School at State College did not fade into obscurity or rest on their laurels. The students who attended the Law School at State College succeeded in arenas beyond their experiences as trial lawyers. Despite only graduating fifty one students in its nineteen year history, six became judges. The number of judges rises to seven if Jasper Cureton who graduated from USC, but attended the Law School at State College for a year, is added.

Matthew Perry served on the Military Court of Appeals from 1975 to 1979 becoming the first African American in the Deep South appointed to the federal judiciary. He was appointed by President Jimmy Carter in 1979 as the judge for the United States District Court for the District of South Carolina becoming the state's first African American federal level judge.⁹¹ Ernest Finney became a circuit court judge and in 1985 made history by becoming the first African American elected to the Supreme Court of South Carolina since Reconstruction. In 1994 he became South Carolina's first black Chief Justice of the South Carolina Supreme Court.⁹²

Daniel E. Martin became a judge for South Carolina's Ninth Circuit Court and Ruben L. Gray became a family court judge for the Third Circuit Court. Jasper Cureton served the state as a judge for the South Carolina Court of Appeals.⁹³ Paul R. Webber III

became a superior court judge for the District of Columbia.⁹⁴ Ned Felder not only became a colonel in the U.S. Army, but also a military judge. Willie T. Smith was appointed as a family judge in Greenville, South Carolina.⁹⁵

As judges the graduates presided over a wide range of cases. The case of *Plyler v. U.S.* dealt with a medical practice lawsuit against the U.S. government. William and Debra Plyler filed suit in a South Carolina state court on June 8, 1983 against physicians Allen Jones and David Keel, who were employed by the United States Public Service. The United States moved to dismiss for lack of jurisdiction based on Plyler's failure to exhaust all administrative remedies. However, Judge Perry denied the motion for dismissal. The plaintiff's suit was later dismissed upon appeal by the United States in the United States Court of Appeals, Fourth Circuit.⁹⁶

In 1994 Perry presided over a lawsuit against the U.S military for racial discrimination. The plaintiff, a white woman named Grace Scott, sued the Department of the Army at Fort Jackson, South Carolina for reprisals against a promotion she sought in 1986. Scott claimed that her non-selection for promotion was a result of her failure to act as an informant for her employer in secretly monitoring black employees. Scott also claimed that the Army retaliated against her for testifying on behalf of a black coworker in a racial discrimination grievance. Her suit against John Marsh, who as the Secretary of the Army held jurisdiction over personnel matters, was heard by Judge Perry on April 15, 1994. Despite the plaintiff's claims, Perry ruled in favor of the defendant due to a ten-year gap in time between the retaliatory acts and the trial. In addition, the person on the promotion committee who was accused of retaliating against the plaintiff, was transferred

to another post. The Court granted the defendant's request for summary judgment, thus preventing the case from going to full trial.⁹⁷

Other cases presided by Judge Perry *included Hazardous Waste Treatment Council v. State of South Carolina*, which involved a suit from the Treatment Council against South Carolina for imposing certain restrictions against the waste disposal facility.⁹⁸ The case of *Cromer v. State* involved a suit in which James Cromer, a candidate for state government, brought action against the constitutionality of a South Carolina law restricting the ballot access of independent candidates to the S.C. House of Representatives.⁹⁹ The case of *Condon v. Reno* involved a suit led by South Carolina Attorney General, Charles Condon, on behalf of South Carolina against the United States, represented by Attorney General Janet Reno. The case was part of a consolidation of cases in which state officials sought to prohibit the enforcement of the National Voter Registration Act of 1992. The Act was passed to remedy registration obstacles that resulted in low voter turnout. In the presidential election of 1992, South Carolina ranked 49th in voter turnout. The plaintiff's request for an injunction against federal enforcement of the Registration Act was denied. Due to the constitutionality of the Act, it did not violate the Tenth Amendment. The Court gave the state thirty days from the court filing date to comply with provisions of the Registration Act.¹⁰⁰

Before the case of *State v. Luckabaugh* went to the Supreme Court of South Carolina, in 1997 Judge Daniel E. Martin, Sr., convened a commitment (i.e. mental institution) hearing for Clair Luckabaugh. A circuit court judge sentenced Luckabaugh to the max sentence of ten years for criminal sexual misconduct in the third degree. Judge Martin presided over the commitment hearing to determine if Luckabaugh would serve

his sentence in a mental institution or prison based on his mental competency. On May 17, 1994, the Medical University of South Carolina admitted Mina Thompson as a patient. She suffered severe brain damage as a result of a beating during a robbery. Thompson was in and out of consciousness. On June 17, 1994, physician Kris Stegman caught Luckabaugh, a male nurse, standing at Thompson's bed with his hips aligned with Thompson's buttocks which were exposed. Luckabaugh wore no gloves, a precaution when cleaning patients, his pants were unzipped, and he appeared to have an erection.¹⁰¹

During Judge Martin's hearing, clinical professionals evaluated Luckabaugh's propensity as a sexual violent predator. Even though Luckabaugh was declared a sexual sadist through two clinical evaluations, the Supreme Court of South Carolina overturned the evaluation. It was the Court's opinion that the State failed to prove beyond a shadow of a doubt that Luckabaugh was a sexually violent predator who would engage in future acts of sexual violence if not confined to a facility for long term control, care and treatment. The Supreme Court ordered his immediate release from a Charleston County Detention Center.¹⁰²

Paul Webber III also presided over a sexual molestation case as the Superior Court Judge for the District of Columbia. Webber convicted Jose Guzman for the November 1996 sexual assault of his ten-year old daughter.¹⁰³ He also ruled in murder cases. In 1996 Webber convicted Nathaniel Resper of second-degree murder in the 1994 shooting of Everett Turner.¹⁰⁴ Webber also ruled in cases involving major corporations. The case of *Atlantic Petroleum Corporation v. Jackson Oil Company* was heard by Judge Webber on April 15, 1987.¹⁰⁵ Atlantic Petroleum Corporation was a former oil company headquartered outside of Philadelphia, Pennsylvania. Founded in 1866, it was the oldest

existing oil company in the United States in 1987.¹⁰⁷ Founded in 1980, Jackson Oil Company was a wholesale and transportation agency that delivered petroleum based products for various oil companies.¹⁰⁸ The case, which involved a suit from an employee of Atlantic against Jackson, was dismissed by Judge Webber for failure to prosecute. The plaintiff was unable to secure counsel to proceed with the trial on the following day. The plaintiff appealed Judge Webber's decision. It was reversed in District of Columbia Court of Appeals on April 5, 1990.¹⁰⁹

During his tenure as Chief Justice of the Supreme Court of South Carolina from 1994 to 2000, Ernest Finney presided over a case that for the first time in the history of South Carolina required that the General Assembly to set minimum educational standards for school children.¹¹⁰ In 1993 forty rural school districts that represented nearly half of the school districts in South Carolina sued the state due to inadequate funding.¹¹¹ The plaintiff claimed that the state's formula for appropriating educational funds was unfair to poor, rural districts that typically had high minority populations. While provisions like the South Carolina Education Finance Act of 1972 increased funding to rural school districts, children living in poor, rural areas received the same per pupil spending as their peers living in the cities and suburbs. As the General Assembly began shifting the full cost of financing employee fringe benefits for educators to local school districts, it became increasingly difficult for rural governmental entities to finance public education.¹¹²

For several years the case of *Abbeville County School District v. South Carolina* moved through state courts due to change of venues, jurisdiction concerns, and dismissals. There were delays in the case coming to trial as the state pushed to dismiss

the case on grounds that there was no constitutional basis for the suit and that school districts had no legal standing to sue. Not until July of 1995 was there a court hearing for the case. However, it was dismissed by Thomas Cooper, a Circuit Court Judge in Clarendon County, in September of 1996 because the state constitution did not require the state to provide the same educational opportunities in each district.¹¹³ A clause in the South Carolina Constitution stated the following in regards to education: “The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning as may be desirable.”¹¹⁴ The state constitution guaranteed a free public education for children, but not one equally funded across school districts.

Refusing to give up, attorneys of the plaintiff filed an appeal with the South Carolina Supreme Court. The South Carolina Supreme Court scheduled a hearing on October of 1997 and eighteen months later issued an opinion. On April 22, 1999, Chief Justice Ernest Finney Jr. issued an opinion requiring the General Assembly for the first time in state history to have minimum standards in support of public education.¹¹⁵ Chief Justice Finney on behalf of a 4-1 majority for the South Carolina Supreme Court defined a “minimally adequate education” as one where students have the ability “to read, write, and speak the English language, knowledge of mathematics and physical sciences,” and a “fundamental knowledge of economics, social and political systems, and of history and governmental process.”¹¹⁶ Prior to the Court’s opinion, local districts were responsible for financing schools facilities through bonds approved by voters. The Court’s decision would shift this responsibility to the state. To ensure that children in poor school

districts had the same opportunities to meet these minimally adequate standards as their peers in wealthier school districts, the General Assembly would have to provide more state funding for public education.¹¹⁷ The South Carolina Supreme Court remanded the case back to the lower court for trial. Although the trial did not begin until 2003, several years after Justice Finney retired, he provided leadership over a judicial branch that pressured the legislative branch to do more for education than simply requiring it to be free.¹¹⁸

For those students who became judges after attending the Law School at State College, they presided in cases involving lawyers, defendants, plaintiffs, and juries of various racial and socioeconomic backgrounds. They decided in cases involving voter's rights, racial discrimination, murder, sex crimes, lawsuits against major corporations, and suits involving the quality of education in South Carolina. This is ironic considering that as law students they were barred from attending an all-white law school. Sitting beside a white person during a course lecture on constitutional law was against the social conventions and laws of the state of South Carolina.¹¹⁹ In addition to their influence as lawyers and judges, the achievements of the students who attended the Law School at State College extended beyond the courtroom.

Political Appointments, Honors and Awards

In 1972 Ernest Finney became one of the first black persons to be elected to the South Carolina House of Representatives. He was later appointed to the House Judiciary Committee.¹²⁰ Finney helped organize the S.C. Legislative Black Caucus in 1975 and served as its first chairman. Some of the accomplishments of the Caucus while Finney was chairman included persuading the state government to protect the rights of its

citizens by reauthorizing the Voter Rights Act of 1965, the authorization of a portrait of civil rights leader, Mary McLeod Bethune, to be hung in the state house, and an official recognition of Martin Luther King's birthday in the state. In 2002, Finney became the interim president of South Carolina State University.¹²¹ Albeit it was an unsuccessful run, fellow Law School graduate Matthew Perry ran for U.S. Congress in 1974.¹²²

The students who attended the Law School also obtained memberships in various boards and clubs once prohibited to blacks. Daniel Martin was a former member of the Trident Chamber of Commerce in Charleston (1971-1975), the Vice President of the Democratic Party for Charleston County (1968-1976), and a member of the Board of Directors of the Greater Charleston YMCA and the Low Country Chapter of the American National Red Cross.¹²³ Ruben Gray has served on the State Election Commission, the Sumter School District 17 Board, the Sumter Chamber of Commerce, and the Sumter Technical Education Foundation.¹²⁴ Willie Smith served on the boards of the Greenville Urban League, the Community Council of Greenville, and the Greenville Chamber of Commerce.¹²⁵

Although Hemphill P. Pride II graduated from Florida A & M College of Law in 1962, he attended the Law School at State College for a year. In 1968, he became the first African-American to hold an office in the South Carolina Young Democrats organization. In 1972 Pride was appointed by John West to serve as a member of the South Carolina Housing Authority. In 1999 he became the first African American to serve as the attorney for Richland County School District One.¹²⁶

The graduates of the Law School at State College also engaged in scholarly pursuits. Paul Webber III not only taught at Howard University School of

Communications, but George Washington University School of Law, a predominantly white institution. In May of 2003, he published the book, *Enjoy the Journey: One Lawyer's Memoir*, concerning his experiences growing up in the segregated South and in the courtroom.¹²⁷ In a periodical called *the Army Lawyer*, Ned Felder wrote an article titled "A Long Way Since Houston: The Treatment of Blacks in the United States Justice System." The article addressed the participation of blacks in the military including their involvement in protecting the Massachusetts Bay Colony from an Indian attack in 1643 to their exploits in Vietnam. The article also chronicled the mistreatment of black soldiers in the U.S. military, including a racial uprising in Houston, Texas in 1917 in which thirteen black soldiers were sentenced to death.¹²⁸ Along with three other military lawyers, in 1968 Felder published an article in the American Bar Association Journal called "A Lawyer's Day in Vietnam." Felder was a Major in the U.S. Army and member of the Office of the Staff Judge Advocate in Vietnam. The main purpose of the Staff Judge Advocate was to provide total legal services to the commanding general, his subordinate commanders, and all other members of the command. The article was written to enlighten stateside lawyers on the necessity of having lawyers in the Vietnam War.¹²⁹

Two graduates of the Law School at State College overcame not only racial limitations, but physical handicaps to become success stories. Ernest Simmons contracted polio at age eight leaving him nearly paralyzed in both arms and legs. As a young teen, he was told by an occupational health advisor that he was incapable of going to college. Not only did Simmons attend college, he graduated from the Law School at State College with honors, represented the Law School at a national moot court

competition, and won an award his senior year for the student who exhibited the most academic progress. After graduation, Simmons passed the South Carolina Bar and became an attorney dealing with domestic and accident cases in Beaufort County, South Carolina.¹³⁰

In 1958 George Crawford suffered a spinal injury during a car accident. The accident rendered him wheel-chair bound for the remainder of his life. Despite his injuries, Crawford held positions such as a member of the Student Council and he was on the Dean's list throughout his collegiate experience at State College. Crawford was admitted to the South Carolina Bar in 1967. Crawford became a practicing attorney with his own office in Orangeburg, South Carolina¹³¹

The students who attended the Law School at State College won numerous awards. Paul Webber was named the Trial Judge of the Year for 1985-1986. He was recognized by the Trial Lawyers Association and Defense Bar Association in 1993 as the presiding judge of the Superior Court's Civil Rights Division. In 1996 Webber was named by *the Washingtonian*, a publication focused on local businesses, real estate, and politics, as the best trial justice in the Washington area.¹³² Willie Smith won a humanitarian award from the Greenville County Human Relations Commission and was elected to the South Carolina Black Hall of Fame in 1984.¹³³

Hemphill Pride II received an award from the University of South Carolina Chapter of the Black American Law Student Association in 1977. He was honored with an appointment by State Board of Education Superintendent, Barbara Nelson, to a state level education committee in 1991.¹³⁴ In 2007 Colonel Ned Felder won the National Association for Equal Opportunity in Higher Education (NAFEO) award for alumni of

historically black colleges who excelled in professional excellence, innovation, and entrepreneurship. Felder received the Freedom Foundation at Valley Forge award which was presented by U.S. Supreme Court Justice William Rehnquist. Felder received the National Bar Association Outstanding Jurist Award and was the featured speaker for a program sponsored by the Judge Advocate General's School and the National Ground Intelligence Center at the University of Virginia.¹³⁵

In 1994 Ernest Finney received the South Carolina Order of the Palmetto, the highest civilian honor in the State.¹³⁶ Finney was also inducted into the National Black College of Hall of Fame in 1998. On Friday, October 1, 1999, representatives of the South Carolina Supreme Court met to unveil a life-sized portrait of Finney that was hung in the Supreme Court and commissioned by the South Carolina Bar and the South Carolina Bar Foundation .¹³⁷

Fellow law school graduate, Matthew Perry, also received the Order of the Palmetto, the state's highest civilian honor. He won honorary doctorate degrees not only from black colleges such as Voorhees College and South Carolina State University, but from institution's he could not attend as a youth such as the University of South Carolina and Francis Marion University. In 1977 he was named "South Carolinian of the Year." Perry was awarded the Distinguished Native Son Award via the South Carolina Conference of Branches of the NAACP. In 2007 Perry received the ABA Section of Individual Rights and Responsibilities Thurgood Marshall award. The following year he was awarded the Liberty Achievement Award by the American Bar Association for promoting diversity in the law profession.¹³⁸ Perry's influence in legal circles was such

that fellow students who attended the Law School at State College received awards named in his honor.

In 1994, Willie T. Smith received the Columbia Lawyers Association Matthew J. Perry Medallion, which was awarded to individuals who improved the quality of legal services to citizens in South Carolina.¹³⁹ Hemphill Pride II won the Medallion in 2002.¹⁴⁰ The most visible recognition awarded to Matthew Perry came in 2004. That year a federal courthouse located near the Governor's Mansion in Columbia, SC was named in his honor. The \$30.1 million dollar building marked a first in South Carolina. According to USC law professor, Lewis Burke, it was the only courthouse in South Carolina named after an individual.¹⁴¹

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Chapter Six

Significance of the Thorn

Counter-Story Telling

The story of the Law School's origins, operation, closing, and legacy is an example of "counter-story telling." Counter-story telling emerged from the social movements of the 1950s, 60s, and 70s as oppressed groups (i.e. women, Latinos, African Americans, Asians, homosexuals, Native Americans, the rural poor, etc.) told stories as a form of resistance against the master narrative views of white, male, Christian, heterosexual, and middle class Americans.¹ According to psychologist Carmen Montecinos,

The use of master narrative to represent a group is bound to provide a very narrow depiction of what it means to be Mexican-American, African-American, White, and so on... A master narrative essentializes and wipes out the complexities and richness of a group's cultural life... A monovocal account will engender not only stereotyping but also curricular choices that result in representations in which fellow members of a group represented cannot recognize themselves.²

Recently, printed, audio, and visual media has extended postwar (i.e. World War II) depictions of African American oppression, black activism, and black achievement beyond Martin Luther King, the March on Washington, and Jim Crow. Daniel Strong's *The Butler*, a 2009 screenplay director Lee Daniel adapted into a film in 2013, was loosely based on the life of Eugene Allen. Allen, who was born on a Virginia plantation, served for thirty-four years as a butler in the White House for eight presidents. Although he was born black, poor, and spent his entire career as a domestic worker, the screen play

and film dignified the lives of men whose hard work, sacrifice, and contributions have largely gone unnoticed.³ *The Help*, the black female counterpart to *The Butler*, was written in 2009 by Kathryn Stockett and adapted into a film in 2011. Although the book is fictional and the main protagonist is a white female, the book provided a glimpse into lives and the indignities faced by black maids in the segregated South.⁴

If a white or black American has any familiarity of the desegregation of professional sports, that person is probably aware of Jackie Robinson becoming the first African American to play professional baseball in the major leagues. However, few Americans know about the “Forgotten Four.” In 1946, a year before Robinson integrated professional baseball when he was drafted by the Brooklyn Dodgers, Woody Strode (Los Angeles Rams), Kenny Washington (Los Angeles Rams), Marion Motley (Cleveland Browns), and Bill Willis (Cleveland Browns) became the first African Americans to play professional football. EPIX, a premium cable channel aired a special on these men in September 2014.⁵ Books like Michelle Alexander’s *The New Jim Crow* demonstrated that stories of the legalized subjection of blacks did not end with the Civil Rights Movement. While there are Americans in the post-Civil Rights era who believe that the legal denial of African American constitutional rights ended in the 1960s, Alexander postulated that the power structure simply redesigned America’s racial caste system. Through the mass incarceration of African Americans, the United States has discovered a new mechanism to strip generations of black convicts of voting rights, education, housing, and public benefits.⁶

Gangsta Rap conjures images of misogyny, violence, and profane lyrics in the minds of not only white Americans, but older, religiously conservative black Americans.

Yet, the movie *Straight Outta Compton*, demonstrated that rappers can be socially conscious by telling graphic stories of police brutality.⁷ Recently, historians, activists, and community leaders have begun to chronicle South Carolina's contributions to the Civil Rights Movement. According to historians Winfred Moore and Orville Burton, the white leadership in the state took a more moderate stance on the advance of desegregation in comparison to their counterparts in Alabama and Mississippi. The peaceful enrollment of Harvey Gantt into Clemson University was a stark contrast to the more violent confrontations that took place during the desegregation of the Universities of Alabama and Mississippi. By avoiding the negative press of other Southern states, civil rights activism received little attention in the Palmetto State.⁸

The Law School at State College played a significant role in the lesser-known story of the Civil Rights Movement in South Carolina. To study the Law School in many regards is to study the development of the Civil Rights Movement in the state. Columbia SC 63 is an initiative created in 2012 that consists of a coalition of community leaders, educators, and students. Through panel discussions, exhibitions, and articles, its purpose is to preserve the memory of civil rights activism in Columbia between 1962 and 1963, considered the high point of the Civil Rights Movement using a Civil Rights Timeline.⁹ A significant portion of the events on the organization's Timeline, which includes civil rights activities before 1962, involved the Law School at State College and its alumni.

The Timeline references the attempt made by John WRIGHTEN to desegregate the USC School of Law which resulted in the Law School's creation.¹⁰ The Timeline includes the arrest of several hundred students for engaging in a civil rights demonstration on March 15, 1960 in Orangeburg, South Carolina. Law School alumni

Matthew Perry, Zack Townsend, Willie T. Smith, and W. Pough Newton raised funds to get them out of jail.¹¹ When 187 students from Benedict College, Allen University, and local high schools were arrested on March 2, 1961 for leading a peaceful march to the state house, it was Matthew Perry who defended the protestors and convinced the justice system to drop their charges and to protect their constitutional right of peaceful assembly.¹² A demonstration not included on the Timeline, but one that launched a protest strategy copied throughout the South, was the “Jail, No Bail” tactic initiated by the Friendship Nine to increase press coverage of the sit-ins and other forms of civil rights protest. When the Friendship Nine, consisting of nine college students, refused to post bail after they were arrested on January 31, 1961 for launching a sit-in in Rock Hill, South Carolina, it was Ernest Finney who represented them in their preliminary trial. Over fifty years later Finney represented them in the reversal of their charges.¹³

Another movement not covered in the Timeline took place in Orangeburg, South Carolina from 1955 to 1956. Organized several months before the highly publicized Montgomery Bus Boycott in the fall 1955, the NAACP decided to boycott a list of twenty-three, white-owned businesses in the area.¹⁴ Nearly four years before four North Carolina Agricultural & Mechanical College students in Greensboro, North Carolina participated in the first, and most well-known sit-in of the Civil Rights Movement, in 1956 students from Claflin University and State College initiated their own student-led protest. They refused to eat cafeteria food purchased from stores owned by members of the White Citizens Council, an anti-integration club that refused to serve blacks. The students were inspired by the efforts of the black community to boycott Orangeburg businesses for refusing to desegregate local schools.¹⁵ The catalyst for the boycotts was a

community petition against three local school districts for refusing to accept black students after the *Brown v. Board* case. The person who filed the petition on behalf of the community was Law School graduate W. Newton Pough.¹⁶

Two desegregation victories featured on the Timeline included the January 16, 1963 ruling to admit black students to Clemson University and the admission of three black students to the University of South Carolina on September 11, 1963.¹⁷ Another major victory in the desegregation of public schools occurred on August 22, 1963 when a federal court ordered Charleston Country School District to begin enrolling black students by the fall of that year. In all three cases, the plaintiffs were represented by Matthew Perry, a Law School at State College alumnus.¹⁸

The Downside of *Brown v. Board of Education*

The Law School at State College is indicative of one of the negative by-products of desegregation, the diminishing role of black educators and institutions in shaping the education of black Americans. According to Millicent Brown, who along with eleven other black students desegregated four Charleston schools in September of 1963, it was not the goal of the Civil Rights Movement to help black students abandon black grade schools, educators, and colleges to attend traditionally white schools. According to her father, Charleston NAACP chapter president, J. Arthur Brown, who was acquainted with other civil rights leaders such as Matthew Perry, Thurgood Marshall, Modjeska Simpkins, and I. DeQuincy Newman, activists simply wanted to change laws that prevented blacks from attending their school of choice.¹⁹ Despite their intentions, the *Brown v. Board* decision severely impacted black educators and institutions.

Between 1954 and 1964, 38,000 black teachers were dismissed from their positions in seventeen states throughout the border states and the South.²⁰ Between 1955 and 1957, Oklahoma displaced 317 teachers and West Virginia twenty-five black teachers and administrators.²¹ In a survey of educators taken from ten southern states between 1980 and 1984, the number of black teachers declined by 6.4% despite the fact that the number of black students increased by 3,300 in those same states.²² From 1967 to 1970 the number of black principals in North Carolina declined from 670 to 170, in Alabama from 250 to forty, and Mississippi from 250 to nearly zero.²³ From 1954 to 1965, in the states of Oklahoma, Missouri, Kentucky, West Virginia, Maryland, and Delaware closed the majority of their all-black schools and fifty percent of the black principals in these states were fired.²⁴ According to data compiled by the American Association of School Administrators, the percentage of all teachers who were black grew slightly from 7.7% to 8.7% between 1974 and 1979, but dropped back to 7.7% by 1991.²⁵ According to a report from the National Center for Education Statistics created fifty years after the *Brown v. Board* decision, black principals represented 9.8% percent of all principals nationwide despite African Americans consisting of more than twelve percent of the U. S. population.²⁶

Historically Black Colleges and Universities (HBCUs), predominantly black higher education institutions that existed before 1964 as defined by the Title III of the Higher Education Act of 1965, also lost ground after integration. In 1954 over ninety percent of black students attending college were enrolled in an HBCU. By 1987 that number fell to less than twenty percent.²⁷ The declines in enrollment were immediate as

predominantly white schools throughout the South, where most of the U.S. black population still lived after the *Brown* decision, were desegregated.

In the early 1960s, nearly seventy percent of all black students entering college attended HBCUs.²⁸ Black students began enrolling into the University of Georgia in 1961, the University of Mississippi in 1962, and the University of Alabama in 1963.²⁹ Clemson University and the University of South Carolina began admitting black students in 1962 and 1963 respectively.³⁰ Within five to seven years of the desegregation of these universities, black enrollment at HBCUs dropped to thirty-six percent.³¹

Due to severity in the decline in black enrollment at HBCUs, the Office for Civil Rights (OCR) drafted the “Revised Criteria for the Desegregation of State Systems of Higher Education.” One of the provisions in the document was that states must enhance the quality of the HBCUs within their borders to stay in compliance with desegregation requirements. The OCR requested that states increase the number of “high demand” academic programs (i.e. graduate programs, engineering, business) at HBCUs to increase the number of students enrolling into black colleges and universities.³² More than fifty years after the *Brown v. Board* decision in 2006, approximately twenty percent of all black students attending four-year institutions were enrolled in HBCUs, the same percentage that had stagnated since 1986.³³

Black law schools, which were created in the 1930s and 1940s as civil rights attorneys Charles Hamilton Houston and Thurgood Marshall represented clients who sued traditionally white professional schools for refusing to admit black applicants, were not immune to the adverse effects of desegregation.³⁴ Lincoln University Law School, located in St. Louis, Missouri, opened in September 1939 due to the state’s refusal to

admit Lloyd Gaines to the University of Missouri School of Law. It closed in 1955 after the integration of the University of Missouri.³⁵ As demonstrated in Chapter Four of this study, the Law School at State College closed soon after the desegregation of the USC School of Law. The law program desegregated when Jasper Cureton, who began his legal studies at State College, transferred to the USC School of Law in 1965.³⁶ The Law School at State College closed a year later in 1966.³⁷

As of 2015, there were 205 ABA approved law schools in the United States.³⁸ Only six of those law schools are considered historically black institutions (i.e. law programs associated with an HBCU) including: Howard University School of Law in Washington, D.C., the Thurgood Marshall School of Law (formally Texas Southern University School of Law) in Houston, Texas, Southern University Law Center in Baton Rouge, Louisiana, Florida Agricultural & Mechanical University (FAMU) College of Law in Tallahassee, Florida, North Carolina Central University School of Law in Durham, North Carolina, and University of the District of Columbia School of Law in Washington, D.C. Three of these law programs were created during attempts made by black students to desegregate white law programs in the 1930s and 1940s: Southern University Law Center ('46), Thurgood Marshall School of Law ('46), and Florida A & M College of Law ('49).³⁹ These law programs nearly closed or actually closed following the desegregation of traditionally white law schools.

Enrollment at North Carolina Central School of Law in the 1940s rose to thirty students. In 1950 the University of North Carolina-Chapel Hill desegregated its law program by accepting six black students.⁴⁰ Enrollment at North Carolina Central School of Law dipped below twenty students by the 1950s.⁴¹ With Central School of Law's

dwindling student enrollment, the North Carolina legislature reasoned that it was a financial drain on the state to maintain two, state-supported law schools.⁴² By the late 1960s, the North Carolina Board of Higher Education made plans to phase out Central's law program if the UNC-Chapel Hill School of Law could match Central School of Law's enrollment. Fortunately for North Carolina's only historically black law school, through the efforts of its dean, Daniel Sampson, the support of alumni, and new admissions practices, the law program survived.⁴³

Florida A & M College of Law closed due to desegregation. Several years after the University of Florida began admitting black students in 1958, top administrators within the Florida state college system agreed to open a new law school at Florida State University in 1965. One of the provisions in their plan was to close Florida A & M College of Law by 1970. The Florida state college system backed by state legislature and FAMU's Board of Trustees ordered George Gore, president of Florida A & M, not to admit new law students in 1966. Florida A & M ceased operation after its final class graduated on June 29, 1968.⁴⁴ However, through the efforts of alumni, community leaders, and Florida A & M's eighth president, Dr. Stephen Humphries who made reopening the College of Law one of his long-term university goals, the College of Law reopened in 2000.⁴⁵

The impact of declining enrollments in the post-*Brown* era limited the ability of black higher educational institutions, including law schools, to attract top black students, to remain fiscally solvent, and to maintain their accreditation. Black students at HBCUs tend to have lower high school GPAs, SAT scores, and come from less affluent families than their counterparts at traditionally white schools. In a study of 401 black students

attending HBCUs and 540 attending historically white colleges and universities (HWCUs) conducted forty years after *Brown*, the SAT scores for the HBCU respondents was 736 as compared to 925 in 1994.⁴⁶ Since most HBCUs serve a high percentage of low income, academically unprepared students who may struggle in college as a result, their graduation rates are lower than their counterparts at HWCUs. In 2005, only seven out of the 103 HBCUs had graduation rates above 50%. The graduation for blacks at the all of the nation's top ranked HWCUs that year was 65% or higher.⁴⁷

By the 21st century, fifteen percent of the 103 HBCUs were on warning status with accreditation agencies due to the financial shortfalls and shrinking enrollments. Barber-Scotia College, a women's HBCU in North Carolina, lost its accreditation in 2004. LeMoyne-Owen College, a HBCU in Memphis, Tennessee, was placed on one-year probation in 2006 due to rising debt and unpaid bills.⁴⁸ Bennett College was placed on probation by the Southern Association of Colleges and Schools (SACS), the main accrediting body for Southern schools in which most HBCUs are located, due to a \$3.8 million deficit. Between 2007 and 2009, SACS placed eight HBCUs on probation due to debt and fiscal mismanagement.⁴⁹ Morris Brown College, a HBCU in Atlanta, Georgia, lost its accreditation due to finances.⁵⁰ The loss of an institution's accreditation is significant as these schools are prohibited from receiving federal aid. Given that in the 2006 to 2007 school year, ninety percent of all students enrolled at HBCUs received financial aid, a loss in accreditation was crucial.⁵¹

Currently, no HBCU law school is ranked in the top tier. Most are considered third or fourth four-tier law schools below the top 100 law schools.⁵² In 2007 the accreditation committee for the ABA proposed a minimum pass rate of seventy percent

for ABA approved schools. The new proposal, a provision in Interpretation 301-6, was particularly problematic for the five predominantly black law schools which accepted a higher percentage of students with lower LSAT scores and GPAs than their white counterparts. None of these institutions met the seventy percent benchmark in 2007. FAMU College of Law, which was provisionally approved at that time, was unlikely to meet the seventy percent requirement.⁵³ In 2012, FAMU College of Law, with an average incoming student GPA of 3.106 as compared to 3.64 and 3.47 respectively for the University of Florida and Florida State University, had the lowest bar pass rates out of eleven law schools in Florida.⁵⁴ Even the oldest and most prestigious black law school in the United States, Howard University School of Law, has struggled to keep pace nationally with the nation's top law programs. Based on the American Bar Association Standard 509 Information Report, in 2014 the first-time bar pass at the School of Law was less than fifty percent verses ninety-six percent, ninety-five percent, and ninety-two percent respectively for Harvard, Columbia, and Cornell University.⁵⁵

Improving the Reputations of HBCUs

A more pragmatic need for studies that examine the legacies of programs like the Law School at State College is to extend the reputations of HBCUs beyond the limited, often negative depictions of predominately black institutions in the media. In August 15, 2015, the Washington Monthly published an article titled "Bad HBCUs Should Close." The article referenced some of the common problems facing HBCUs including low graduation rates, financial mismanagement, and declining enrollment.⁵⁶ That same year on March 30, 2015, the *Business Insider* published an article titled "There's an unprecedented crisis facing America's historically black colleges." The articles

categorized HBCUs into schools with strong enrollment, schools that were in the middle, and those “that are really having a difficult time.” Unfortunately, the article included South Carolina State University in the last category.⁵⁷ Various South Carolina publications paint a dismal picture of the state’s only public HBCU. On February 10, 2015, WYFF news, a Columbia, South Carolina area news station, ran a story titled “Efforts to shut down SC State University for one year move forward,” on February 11, 2015 U.S. News & World Report published, “South Carolina State University May Temporarily Close,” and The State newspaper on February 12, 2015 published “House Panel: Close S.C. State for 2 years.”

To increase enrollment, improve their reputations, and to raise money, HBCUs have looked into their past for inspiration. In 1999 North Carolina Central University School Law published, “So far 60th Anniversary.” The publication celebrated its origins, leadership, involvement in civil rights, commitment to increasing the number of black lawyers both nationally and within North Carolina, and the creation of new academic program like the J.D/M.B.A. The publication also highlighted the accomplishments of alumni such as Maynard Jackson (’63), Clifton Johnson (’67), and Eleanor Kinnaird (’92) who respectively became the first African American mayor of Atlanta, North Carolina’s first chief district court judge, and a North Carolina state senator. Ten years later North Carolina Central University’s School of Law’s published, “So far 70th Anniversary,” a document that marketed to the public its historical legacy and recent innovations.⁵⁸

Howard University School of Law, was the home of Charles Hamilton Houston, considered the father of civil rights law, James Nabrit who started the nation’s first civil rights course at Howard University, and Thurgood Marshall who was the NAACP chief

counsel during the landmark *Brown v. Board of Education* case. Despite the gloom and doom news of financially strapped law schools and low bar pass rates, the leadership at Howard draws on the institution's civil rights pass to shape its future. In 2001, Alice Bullock, Dean of the School of Law implemented measures such as tailoring the program's admissions message to attract students interested in social change, creating civil rights clinics, and linking the School of Law's civil rights courses to established, civil rights organizations. In response to the efforts of Dean Bullock, long-time Howard law professor Isaiah Leggett stated:

She's reaffirmed our mission. In the past, we moved away from the public eye and the impact cases we took. We drifted from our traditional contacts, and she's done a great job of re-establishing lines of communication with those involved in the legal issues affecting the minority community.⁵⁹

In effort to celebrate its origins, commitment to educating blacks as well as women, and preparing graduates for careers in civil rights and other social causes, the School of Law published "A Legacy of Defending the Constitution: Howard University School of Law: 1969-2009."

In the 2013-2014 academic year, Xavier University of Louisiana, the only Catholic HBCU in the United States was first in the nation in the number of African American students earning life and physical sciences degrees, third in the nation in the number of African American students graduating with pharmacy degrees, and number one as a source of African American undergraduates who enrolled into medical school.⁶⁰ Xavier has created a brand as an institution known for providing social mobility for low academic achievement and low income students. While it lacks the resources, endowments, and the privileges of its traditional white counterparts in admitting students who come from the nation's top high schools, Xavier prepares students for entry into

highly selective professional programs despite the humble origins of admitted students. Pierre Johnson, a 1998 graduate is a prime example of the transformative education available at the institution. Johnson grew up in a single parent household on the South Side of Chicago. Despite the fact Johnson attended a high school that did not offer advanced placement courses or taught the periodic table, the level of support he received at Xavier prepared him in later becoming an obstetrician.⁶¹

The Law School at State College was a segregated, underfunded law program that lacked the big city attraction and historical prestige of Howard University School, was never fully accredited, and was constantly on the brink of closing due to low enrollment. Despite the institution's limitations, its graduates represented plaintiffs that desegregated the colleges and grades schools, participated in civil rights protests, and became state and federal level judges.⁶² Perhaps if the public was more aware of the role the Law School played in the Civil Rights Movement in South Carolina and in providing opportunities for blacks to practice law, that awareness would garner positive press for South Carolina State University. Administrators, admissions staff, and alumni may find usage in this study by drawing upon South Carolina State University's history via the Law School to enhance its reputation and legacy in the state.

Reestablishing State College's Law Program

South Carolina State College, affectionately known as State College, became South Carolina State University (SCSU) in 1992.⁶³ To acknowledge the institution's new status as a university, attempts were made in the years following the name change to enhance the degree offerings at SCSU, including the Juris Doctor (J.D). Between 2004 and 2006, several attempts were made to reestablish the law program at SCSU. In 2004

the state legislature voted to create a committee to assess the feasibility of establishing a law school at SCSU. The estimated cost to open a law school was \$ \$8 million to build a facility, \$500,000 a year for faculty salaries, and \$125,000 a year for administrative salaries. The South Carolina Supreme Court threw out this measure because the legislature illegally added it to a life sciences bill.⁶⁴ The General Assembly passed the South Carolina Life Sciences Act in 2004 to create a “life science facility” engaged in “pharmaceutical, medicine, and related laboratory instrument manufacturing, processing, or research and development.”⁶⁵ Since life sciences facilities are based in drug, medical, and laboratory research and manufacturing, the Supreme Court reasoned that a law school and life science facility were unrelated.

In 2005, Senator Robert Ford, a black state senator who represented a district in Charleston, South Carolina, introduced legislation to open a law school and engineering program at SCSU. There was a simultaneous effort led by Porter Bankhead, a business consultant who graduated from SCSU when it was S.C. State College, and several graduates of the Law School at State College to start a law program. Their efforts were stalled by SCSU as the board decided not to take a strong position on a law school and Dr. Andrew Hugine, the president of SCSU at the time, stated “that is not to say that long-term there might not be an interest in a law school, but that’s not one of the priorities that the board has identified at this juncture.”⁶⁶ After 2006, attempts to reinstate a law school ceased. According to Daniel Martin, who has of several decades of legal experience in South Carolina and was one of the last students to graduate from the Law School, SCSU administrators, faculty, students, or the general public has not made any documented efforts to open a law program at SCSU since 2006.⁶⁷

Perhaps the reason why attempts to reestablish a law program dissipated after 2006 was the dire budget shortfalls SCSU encountered over the next decade. As the economic recession of 2008 reduced state appropriations to public universities in South Carolina, continued operation of the University took precedent over the establishment of costly professional programs such as a law school. South Carolina's only public HBCU continues to suffer from governmental neglect. During the 2013-14 academic year, SCSU received \$11 million dollars less than it did in 2007. Between 2007 and 2015, the SCSU experienced a forty-six percent reduction in funding from the state. While other four-year public, higher educational institutions in South Carolina experienced surges in enrollment amid dwindling state appropriations during the recession, SCSU's enrollment numbers fell from nearly 5,000 to less than 3,000 between 2007 and 2015. In addition, SCSU historically has served a student population with greater financial need than students at Clemson and the University of South Carolina. As a result, alumni at SCSU give far less than their peers at other public higher educational institutions as financial aid debt and the challenges of becoming established leave little disposable income for alumni giving.

Consequently, the other public higher educational institutions were better equipped to absorb a decline in state funding.⁶⁸ Rather than work with SCSU administrators to develop measures to increase enrollment and generate other streams of revenue, members of the General Assembly have continually called to shut down the University. In the February of 2015 SCSU narrowly averted a measure initiated by the House Ways and Means Committee to close the institution.⁶⁹

A Forgotten Legacy and What If?

One of the questions I asked when interviewing the students who attended the Law School at State College was “do you believe it is forgotten.” Daniel Martin believed that the goal of desegregation was so strong in the black community that once USC and other white institutions started accepting black students, no one noticed that the Law School closed.⁷⁰ Ruben Gray believed the Law School has failed to garner the attention it deserves because of the lackluster support granted to the program by the state legislature, the board of trustees, the administration, and regrettably even the alumni in its final years.⁷¹ Jasper Cureton, who attended the Law School before desegregating the USC School of Law, provided some additional insight into the public’s apathy towards preserving the Law School’s memory in recent years: “There has been no effort to help remember black institutions that have fallen by the way side because younger generations have forgotten about the sacrifices made in the Civil Rights Movement.” As the generations become increasingly removed from the events of the Civil Rights Movement with each passing year, the Law School along with other black institutions are fading from public memory.⁷² As referenced in Chapter One of this study, today the only distinguishable markers of the Law School are a one-sentence statement on the institution’s online history page, a square metal placard referencing the law building, and a neglected carving depicting the scales of justice.

Whether the lack of recognition or concern for the Law School is attributed to desegregation, uncommitted board members and administrators, or historical amnesia concerning the Law School’s role in the Civil Rights Movement, evidence suggests that integration did not level the playing field in terms of legal careers for blacks. In 1970,

30.5% of the population in South Carolina was comprised of African Americans.⁷³

However, after the Law School closed in 1966, only three black students including Jasper Cureton, Isaac Levy Johnson, and John Roy Harper II, graduated from the USC School of Law by 1970.⁷⁴ By 2010, 28.8% of the population in South Carolina was black.⁷⁵ Yet by that same year, black students comprised just 7.5% of the incoming class for the USC School of Law. The five-year average of black admitted students between 2010 and 2015 was 9.5%.⁷⁶

In hindsight, one of the questions I wished I asked during the interviews not only with the students who attended the Law School, but the study participants who were acquainted with the Law School and the participants who received legal representation from the alumni, was what if the state decided to continue the Law School or what if it was never created? As referenced in the end of Chapter Four, between 1968 and 1972, black enrollment in law schools increased from 1,254 to 4,423 students as the Civil Rights Movement not only led to gains in education, housing, politics, and economics for blacks, but also in the law profession.

As opportunities in the law opened for blacks in corporate law, taxation, labor law, in large law firms, and in state and federal agencies, the law profession increased in popularity in the black community.⁷⁷ If the Law School remained for several more years, perhaps more black students in South Carolina would have chosen to enroll into the law program. If the administrators at State College marketed the law program not only to black students, but whites, Asians, Native Americans, and women, would the Law School have experienced the same enrollment growth at the North Carolina Central University School of Law?⁷⁸ If the Law School at State College continued to operate beyond the

1960s, perhaps there would be greater diversity in the law profession in South Carolina as students would have an option beyond the USC School of Law to pursue a legal degree in the state.

If the Law School did not exist, would the Law School alumni benefit from the same level of preparation if they attended other law programs? As demonstrated in the comments of the alumni in Chapter Three, the small class sizes and intense faculty-student interaction gave them extensive preparation for the legal profession. In comparison to larger law schools where students are called several times a semester by professors to defend various points of law, the alumni were called several times a day. In the Law School, alumni had to come to class every day ready to engage in legal discourse.⁷⁹ Despite the fact the Law School did not receive the same level of support as the USC School of Law, the alumni won desegregation cases involving schools, parks, hospitals, libraries against and white lawyers who graduated from the larger, more established law programs.⁸⁰

Not only did the Law School challenge the alumni, it prepared them for the realities of practicing in a predominantly white profession. As black men entering a profession where black representation was scarce, life lessons in “survival skills” were needed. Faculty instructed students on the challenges they would encounter in the profession such as being limited to serving poor, rural black clients, facing racist judges in court, and having to become civil rights lawyers since corporate, tax, and real estate law were off limits to black attorneys. In addition, the faculty encouraged older alumni like Matthew Perry, to mentor students on civil rights litigation and building practices

with limited funds and clients.⁸¹ It is doubtful the alumni would have received such “real world” advice if they attended predominantly white schools that accepted black students.

If the Law School at State College did not exist, would the alumni have achieved so many successes in the legal profession? For most of the years the Law School was in operation, it provided the only opportunity for blacks to obtain legal degrees. As opportunities opened in the law profession for blacks in the years following the Civil Rights Movement, often they were the only blacks in a position to take advantage of these opportunities. A year after Daniel Martin graduated from the Law School in 1966, Charleston County established a neighborhood legal assistance program through President Lyndon B. Johnson’s War on Poverty initiative. One of the requirements for the program was that either its director or assistant director must be black. Since Martin was one of a handful of black lawyers living in Charleston County, he was the logical candidate to help run the program. He became assistant director and later the director of the neighborhood legal assistance program. The position paved the way for Martin to become a state legislator and circuit court judge later in his career.⁸² Martin and other Law School alumni were beneficiaries of a scarcity of local black lawyers. If they enrolled into law programs in states and cities where there were more black lawyers, they would have encountered more competition for legal positions.

Perhaps the most significant what if concerning the Law School involves civil rights. If the Law School at State College did not exist, would the African American community in the 1950s, 60s, and 70s have had access to a group of local, black attorneys in the middle of a Southern state who were dedicated to civil rights litigation? There is the possibility that if the Law School was never created, the alumni who attended the law

program would still have the option of attending other black law schools. If they enrolled into Thurgood Marshall's alma mater, Howard University School of Law, the alumni would receive legal training in an institution that developed the nation's first civil rights course and was at the forefront of civil rights litigation.⁸³ Yet, if the alumni graduated from out-of-state black schools to engage in civil rights litigation, would they have returned to South Carolina? Other states would benefit from their pursuit of racial equality in the courtrooms, but not the black populace in the Palmetto State.

If the Law School did not exist, would Thurgood Marshall and later Jack Greenberg as directors of the NAACP Legal Defense Fund have been as accessible as the Law School alumni in handling South Carolina school desegregation cases and cases involving the arrest of civil rights demonstrators? Marshall and Greenberg were involved in civil rights cases not only in South Carolina, but throughout the United States. If the Law School did not exist, blacks seeking legal representation for civil rights activism would have had to compete with black communities throughout the nation in obtaining the legal services as from the NAACP.⁸⁴ Fortunately for the black community in South Carolina, there was a local representative of the NAACP Legal Defense Fund; Law School graduate Matthew Perry, Jr.⁸⁵ Fortunately for the black populace in South Carolina, they had access to a cadre of lawyers who graduated from the Law School at State College who defended their constitutional rights.

Despite the racist forces that formed the Law School, the alumni contributed to civil rights through the desegregation of colleges, grades school, and public facilities. They bailed civil rights protestors out of jail and protected their constitutional right of free assembly. The alumni represented blacks accused of crimes that no local white

lawyer would vigorously defend such as the killing of a white deputy sheriff and the rape of a white woman. With regard to advances in the political and legal arenas for blacks, the students who attended the Law School became state legislators, sat on school boards that previously denied blacks students entry into their classrooms, and became circuit, family, military, South Carolina Supreme Court, and federal judges. They presided as judges over cases involving lawsuits against aerospace and oil companies, sex offenders, and the education of poor and minority children in rural school districts. The students who attended the Law School at State College earned South Carolina's highest civilian award and had their portraits and names placed on court houses in the state.⁸⁶

Perhaps the most significant contribution of the Law School at State College was its role in providing opportunities for African Americans to obtain a legal education in South Carolina. Beginning in 1951, South Carolina required that all persons seeking to practice law in the state had to pass a written bar exam. Between 1951 and 1968 when the last Law School at State College alumnus took the exam, twenty-nine out of the fifty African Americans admitted to the South Carolina Bar graduated from the Law School.⁸⁵ Without the Law School or other segregated Law Schools throughout the South, the options for African Americans seeking to obtain law degrees either graduated from Howard or the more progressive, predominantly white law schools in the North and the Midwest.⁸⁸

As indicated by Cecil Williams, a Claflin graduate who was acquainted with the Law School and its alumni, few blacks in South Carolina had the resources to send their children to out-of-state schools.⁸⁹ If the Law School did not exist, would individuals like Ernest Finney and Matthew Perry have become lawyers? Even if they decided to earn

law degrees outside South Carolina, would they have returned to South Carolina to establish their careers? In the final few minutes of my interview with 1963 alumnus, Ruben Gray, we discussed the legacy of the Law School. In my last interview question I asked Gray if he had any parting comments regarding the Law School at State College. Gray provided what I considered a poignant response in regards to the Law School's relevance in promoting racial equality in South Carolina:

If you look at the 50s and 60s, who represented all the 1000s of kids for equal accommodations? Was it somebody from the big law schools or was it the black lawyers and for the most part graduates from the Law School? As important as our efforts were in using the courts to reduce mob violence, people like me did not need to ring a bell. I know who represented the people in Horry, Sumter, Columbia, Orangeburg, and St. George. And kids came up from North said where we are going to help you.

But they needed a damn lawyer because they went to jail. It was always us. There was no Santa Claus paying the bills. The CNN finished a series on the 1960s. South Carolina was very active in equal accommodations and lunch counter efforts. Even though ninety percent of the time we were not getting paid to represent the people, we did it.

Who was paying for it? Kids from Hillcrest or Lincoln? Those kids did not have any money. Sometimes the NAACP and CORE kicked in some money. SNCC had a dollar or two to help out. But most of us as lawyers simply did it. Maybe history will make some note of it.⁹⁰

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Appendix A

Methods

Secondary Sources

There are few secondary sources that address the Law School at State College. In *Lesene's A History of the University of South Carolina* (2001), Martin, Berry, and Hine's *South Carolina State University* (2000), Baker's *Paradoxes of Desegregation* (2006), Pott's *A History of South Carolina State College* (1978), and Burke and Gergel's *Matthew Perry: The Man, His Times, and His Legacy* (2004), the Law School provides context for a social movement, historical figure, or another institution. In *A History of the University of South Carolina*, the formation of the Law School is used to address post-Second War changes taking place within the University of South Carolina (USC), including attempts to desegregate the institution.¹ In *A History of South Carolina State College*, the creation of the Law School and the Graduate School at State College marked the College's expansion in academic offerings beyond education and the industrial arts.² In *South Carolina State University*, the formation of the Law School marked one the achievements of the administrative Miller F. Whittaker, State College's third president.³

The Law School at State College is included in *Paradoxes of Desegregation* to mark the time period between the end of World War II and the *Brown v. Board* decision of 1954 that documented attempts to integrate higher education institutions and grade schools in South Carolina. A chapter is devoted to the Law School in *Matthew Perry*:

The Man, His Times, and His Legacy to honor its influence in launching the careers of such legal luminaries as Matthew Perry, Jr. and Ernest Finney, Jr.⁴ The only secondary source written exclusively on the Law School is DeWitt's *Law School: South Carolina State College* (1998). This book consists of a collection of newspaper clippings, graduation photos, and obituaries compiled in the yearbook in remembrance of the Law School and its graduates.⁵

These secondary sources informed this study in relation to events and people that influenced the creation and operation of the Law School. Through *A History of South Carolina State College*, Chapter Two of this study examined how the South Carolina Constitution of 1895 provided the legal framework to create segregated institutions like the Colored Normal Industrial Agricultural and Mechanical College (i.e. State College) and later the Law School at State College.⁶ Through referencing *Paradoxes of Desegregation*, Chapter Two underscored how *John Wrighten's* activist upbringing influenced his decision to apply to the USC School of Law.⁷ *Matthew Perry: The Man, His Times, and His Legacy* provided greater context in terms of people who led the Law School as outline in Chapter Three. The book also included the dates State College employed the deans and faculty of the Law School.⁸

Primary Sources

In addition to secondary sources, data collected in this study included primary source artifacts such as annual, president, and departmental reports from State College, annual reports from the South Carolina legislature, studies on the demographics of black colleges, court cases litigated by the Law School graduates, and the rulings of graduates who became judges. The study is based on interviews with three categories of

participants including eight former students who attended the Law School, two individuals who did not attend the Law School, but were acquainted with Law School alumni and faculty, and four people represented by Law School graduates due to their involvement in civil rights demonstrations and school desegregation cases.

Five of the former Law School students interviewed including Daniel Martin, Sr., Paul Rainey Webber III, Ruben L. Gray, Jasper Cureton, and Ernest Finney, Jr. are former judges. Martin served as a circuit court judge in Charleston County, South Carolina, Webber a superior court judge in Washington, D.C., Gray a family court judge for Sumter County, South Carolina, Cureton a judge with the South Carolina Court of Appeals, and Finney as a former chief justice of the State Supreme Court of South Carolina. George A. Anderson, Hemphill Pride II, and Zack E. Townsend currently own reputable law practices in Aiken, Columbia, and Orangeburg, South Carolina. Pride and Cureton graduated from Florida A & M University's College of Law and the USC School of Law respectively; however, both attended the Law School for one year before transferring from State College.⁹

Fred Moore, one of the two interviewees in the second category of participants, was acquainted with the graduates during his years as a student and activist at State College in the mid-1950s.¹⁰ Famed photographer Cecil J. Williams, who graduated from Claflin University in 1960, was familiar with the Law School through pictures he took of the facilities, the faculty, the students, and the alumni during the years the program was in operation. These photos are featured in State College publications such as *The Bulldog* and his personal works such as *Freedom and Justice: Four Decades of Civil Rights Struggle as Seen by a Black Photographer in the Deep South*.¹¹

The third category of study participants includes Congressman James E. Clyburn, Dr. Millicent Brown, Dr. Henrie Monteith Treadwell, and Harvey B. Gantt. Law School alumni represented Clyburn, Brown, Treadwell, and Gantt respectively for their participation in a civil rights demonstration and the desegregation of Charleston County public schools, the University of South Carolina, and Clemson University.¹²

Table A.1 Interview Participants

Name of Interviewee	Date of Interview	Year Graduated from Law School
Daniel Martin, Sr.	August 11, 2014	1966
George A. Anderson	August 12, 2014	1965
*Jasper Cureton	August 13, 2014	
Ruben L. Gray	August 14, 2014	1963
**Paul Rainey Webber III	August 29, 2014	1957
*Hemphill Pride II	October 17, 2014	
***Cecil J. Williams	November 11, 2014	
***Fred Moore	November 24, 2014	
***James E. Clyburn	January 14, 2015	
Zack E. Townsend	January 18, 2015	1963
Ernest A. Finney, Jr.	April 15, 2015	1954
***Harvey B. Gantt	August 10, 2015	
***Millicent Brown	August 23, 2015	
***Henrie Monteith Treadwell	September 28, 2014	
*Attended the Law School at South Carolina State College, but graduated from another law program **Communicated via email ***Did not attend the Law School at South Carolina State College		

I interviewed all participants except Paul Webber III who emailed his responses regarding the Law School. The interviews ranged in length from thirty minutes to three hours depending on the availability of the participant. This study utilized the “episodic” approach to interviewing. Through episodic interviewing “we can learn about the places we have not been and could not go and about settings in which we have not lived.”¹³

Since the law school closed nearly fifty years ago and there are few accounts of its

existence, the experiences of study participants in relation to the Law School provided descriptive information on its formation, its operation, closing, and legacy.¹⁴ Through the recollections of 1963 Law School graduate, Ruben Gray, he described for him and his classmates who lived on campus what was a typical class day. A weekday consisted of breakfast in the morning, a visit to the library, morning classes, lunch with classmates, afternoon classes, another visit to the library, and debates in the residence halls where students could use “colorful” language without the interference of faculty.¹⁵

The combination of secondary resources, primary artifacts, and interviews enhanced the validity of the study. Multiple data sources reduced the risk that the conclusions were influenced by the biases of one data source.¹⁶ Congressman James Clyburn, who was represented by Matthew Perry after his arrest in a civil rights demonstration, stated in response to an interview question that the legacy of the Law School “is embodied in the life of Matthew Perry.”¹⁷ Although *Matthew Perry: The Man, His Times, and His Legacy* contains a chapter on the Law School, the book is devoted to one of its graduates, Matthew Perry, Jr. Perry emerged as the preeminent civil attorney in South Carolina during the Civil Rights Movement. He is perhaps the most famous attorney to graduate from the Law School.¹⁸ However, the subject of this study is the Law School, not Matthew Perry. Through other interviews and documents, this study addressed not only the formation, organization, and closing of the Law School, but its legacy through the contributions of other students who attended the law program in addition to Matthew Perry.

In addition to reducing bias, the usage of multiple source material created “complementarity” and “expansion” in the data. These two terms refer to the utilization

of various methods to “broaden the range of aspects or phenomenon that you address, rather than simply strengthen particular conclusions about some phenomenon.”¹⁹ The utilization of statistical data taken from the demographics of college attending students demonstrated the gender imbalance on black colleges and universities in the 1960s. Chapter Three included a compilation of surveys from 1964 that highlighted another phenomenon taking place on black colleges. In a random survey of 3,543 black college students and 5,282 white college students, 64% of the black survey participants were female while 60.6% of the white survey participants were male.²⁰ In a study of private black colleges in the 1960s, 60 to 70 percent of the populations at these colleges were female.²¹ By the late 1955-56 academic year, the number of women in graduate school was twice that of the men at State College.²² Based on this data, the trend at historically black colleges and universities in which there is a gender imbalance in favor of female students is not a recent phenomenon.²³

Endnotes

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6. John F. Potts, Sr, John F. *A History of South Carolina State College: 1896-1978* (Orangeburg: South Carolina State College, 1978), 74-75.
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Appendix B

Limitations

Primary Document Limitations

There were some limitations in this study on the Law School at State College that stemmed mainly from the primary documents and the interviews. A major source of the primary artifacts compiled in this study included annual reviews South Carolina State College published on student demographics across campus, departmental information, and the fiscal status of the institution. These sources provided factual information on the Law School curriculum, admissions standards, enrollment, cost, and the number of faculty employed within the law program. The School of Law Announcements of 1954 provided course descriptions and outlined not only for the Bachelor of Laws curriculum, but the six year Bachelor of Science or Arts dual degree programs State College combined with the law degree.¹ Yet, these sources are written in a report format without the testimonials or observations of students, faculty or the Law School deans.

When President Benner Turner affirmed that the high operational cost threatened the existence of the Law School, these warnings were intended for the Board of Trustees, not the individuals who managed the Law School on a day to day basis.² Dewitt's *Law School: South Carolina State College* contains yearbook pages with images of law students studying, the Thomas E. Miller student organization, and mock trial practices, but the written descriptions were produced by State College's alumni office rather than the subjects in the photos.³

Consequently, documentation published by State College is void of anecdotal or insider accounts of the Law School during its operation.

These source limitations extended to the closing of the Law School. In a November 17, 1965 meeting, the Board of Trustees at State College decided to discontinue operation of the Law School effective May 15, 1966. The first official announcement of the closing was made the following day in a three paragraph letter to Leo Kerford, the dean of the Law School, on November 18, 1965.⁴ The first announcement to the College was made the following week with two sentences.⁵ While these sources referenced the reasons behind the decision to close the law program such as declining enrollment, declining student caliber, and high operational costs, these documents do not reveal the “story behind the story” or discussions that led to the closing. Did members of the Board have spirited debates on whether to maintain the law program? Did it take nearly the entire meeting session or a few minutes for the Board to close a nearly twenty year-old program? Did President Turner, the first dean of the Law School, plead with Board members to support new recruitment measures to improve enrollment or calmly accept their decision?⁶

Other primary sources used in this study also lacked nuance and context in regards to closing the Law School. The South Carolina General Assembly included the closing of the Law School in its 1965 to 1966 annual report of state colleges and universities. The report included the factors behind the Board’s decision to close the Law School such as declining student caliber, low enrollment, and cost.⁷ Given that the General Assembly and Board of Trustees was comprised solely of white men in 1966, it can be assumed that racism influenced the decisions of these men to close the Law

School.⁸ With the recent integration of the USC School of Law, did these men believe that by keeping two law schools open, South Carolina would double the number of black lawyers? As the state opened more professional jobs to blacks as a result of integration, did these men fear that two law schools would create greater job competition between blacks and whites? Was the closing of the Law School retaliation for the involvement of the graduates in civil rights cases? Unfortunately, written notes from the November 17, 1965 board meeting to close the Law School are lost. Unlike the annual reports which were submitted to the state legislature, the state did not require State College to maintain minutes from board meetings.⁹ General Assembly reports on the statuses of state colleges and universities did not contain commentary from processional meetings.¹⁰ Consequently, a large portion of the primary source documentation published by State College and the state government about the Law School consisted solely of fact-based, non-descriptive reports.

Interview Limitations

If the primary source documentation in this study lacked opinion, perception, emotion, and argument in regards to the Law School's closing, there was a paucity of factual references in the interviews. Graduate Daniel Martin blamed the Law School's closing on the desegregation the USC School of Law and the unwillingness of the state to finance two law programs.¹¹ Ruben Gray, a 1963 graduate, did not know why the Law School closed, but believed it closed due to "inept trustees," and the failure of the black community and even the Law School graduates to "stand up" for the law program.¹² Fellow 1963 graduate, Zack Townsend recalled during the institution's final years hearing a rumor that Professor Blinzy Gore caught Dean Kerford with hundreds of

applications in his drawer. This finding was quite ironic given the claims by President Turner and the Board that State College that the Law School closed due to low enrollment.¹³ No one “explicitly” told Jasper Cureton, who transferred to the University of South Carolina, why the Law School was closing. However, he was encouraged by one the Law School professors and 1952 alumnus Matthew Perry to transfer the USC School of Law due to rumors that State College planned to discontinue its law program.¹⁴

Despite the opinions or beliefs of the students who attended the Law School, the interviewees failed to cite a newspaper article, report, legislative meeting, or written excerpt from a board member or state official, or other documentation that referenced the Law School’s closing. Perhaps, due to the fact the Law School closed nearly fifty years ago, the passing of time made it difficult for these men to recall any specifics concerning the closing. The response of Zack Townsend’s wife and daughter, were quite useful when he expressed some difficulty reflecting on his experiences with his classmates and the faculty.¹⁵ Francis Finney, wife of 1954 graduate Ernest Finney, provided assistance when needed in recalling the names of his acquaintances or his involvement in civil rights cases.¹⁶ On several occasions throughout an interview with 1965 alumnus George Anderson, he responded with the answer, “I don’t know, I cannot remember, it was long time ago.”¹⁷

When the alumni were enrolled in the Law School, obligations outside the classroom potentially made it difficult for them to stay informed about developments impacting the future of the law program. George Anderson stated that most of the Law School graduates were older men with previous work experience and families. Chapter Three of this study under the heading “The Students” supports the comments of George

Anderson concerning Law School students who were older and had families.¹⁸ As men with the added time and economic pressures of a wife and children, perhaps they did not have time to focus intently on the discussions, politics, and reports concerning the closing. After all, they were in Law School to get a degree. Missing in this study were interviews with Law School faculty and administrators who likely knew more about the internal and external forces that influenced the creation, operation, and closing of the Law School. These individuals died prior to the study.

Perhaps the most unfortunate limitation of the primary source material in this study was the dearth of information on the fate of the Law School's only female graduate, Laura Ponds, who earned her degree in 1965.¹⁹ According to Jasper Cureton, she left South Carolina after graduation to take the New York bar.²⁰ According to Cecil Williams, Ponds was a close friend of George Crawford, a fellow 1965 graduate who was wheel chair-bound.²¹ Classmate George Anderson claimed she came from a prominent Northern family and had no intention of remaining in the South after graduation.²² The only record of Laura Pond after graduation was her employment with the U.S. Department of Housing and Urban Development in Philadelphia.²³ Without interviewing Ms. Ponds or obtaining documents on her achievements, a nuanced reflective on the Law School from a woman's perspective is missing in this study.

Endnotes

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