

THE BENCH AND BAR OF GREENVILLE IN ANTE-BELLUM DAYS

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Even in pre-Revolutionary days, the "Back-country" of South Carolina had numerous white settlers, and what is now Greenville County had a few such settlers besides Richard Pearis. As these frontiersmen increased in numbers, they needed some sort of government if they were to have any measure of security. When, as a result of the campaigns against the Cherokees during the Revolutionary War, that part of the state now comprising Greenville, Anderson, Oconee, and Pickens counties was ceded to the state in 1772, the territory was made part of the Ninety-Six District until 1784. When the court located at Ninety-Six was unable to cope with problems of law enforcement in this wild country,¹ commissioners were appointed to divide the large district into counties.² In 1785 an act of the legislature established and delineated these new counties, providing that the justices in each county should erect a court house and gaol, together with a pillory, whipping post, and stocks.³

Some modifications followed, and Greenville County was established by act of March 22, 1786, which provided that it should be "entitled to County Courts, to be held on the third Monday in February, May, August and November; which courts shall hold, exercise, and enjoy the several powers and jurisdictions which are by law vested in the county courts heretofore established."⁴ This organization was short-lived and in the reorganization of 1791 Greenville and Pendleton counties became the District of Washington and had its seat with its courthouse and gaol at the village of Pickensville, near present Easley,⁵ and courts were held here for a few years. In 1798, the name "county" was changed to "district," and the many different types of courts which previously existed were reduced to two — Courts of General Sessions and Common

¹Richard Wright Simpson, *History of the Old Pendleton District* (Anderson, S. C., 1913), p. 10; J. M. Richardson, *History of Greenville County, South Carolina*, (Atlanta, 1930), p. 49.

²*IV Statutes at Large of South Carolina* (Columbia, 1838), p. 561.

³*Ibid.*, p. 661.

⁴*VII Statutes at Large*, p. 245.

⁵*Ibid.*, p. 282.

Pleas.⁶ The county courts, found unsatisfactory, were abolished in 1799 and replaced by a system of circuit courts.⁷

As is well known, the village of Greenville was first laid out in 1797 as "Pleasantburg" on the property of Lemuel J. Alston. Alston was a man of wealth and political influence and may have influenced the decision of the commissioners who had been appointed to select a court house site to locate it on the eastern side of Reedy River near the Richard Pearis mill site on the Alston property. The court house, a two story building of log construction, was erected in 1797 on the city square where Main and Court Streets now intersect; and the gaol, three stories high and also of logs, was a block to the east, in the middle of Court Street near the present intersection of Court and Falls.⁸

A Connecticut yankee, Edward Hooker, visited the village of Greenville Courthouse in 1806 and noted in his diary that the "courts sit but twice a year and often finish this session in two or three days," and that there was "Only one attorney, and law business dull."⁹ Who this one attorney was, Hooker does not say, but Alston himself was a lawyer and "commenced practice in Greenville."¹⁰ Alston was State Senator from Greenville, a member of the state convention which ratified the United States Constitution, and a signer for South Carolina of the ratification document. Alston defeated the incumbent Congressman, Col. Elias Earle, in the 1806 election, served two terms, but was defeated in 1810 by the same Elias Earle. Tradition has it that this defeat so disappointed Alston that he sold his estates to Vardry McBee and left Greenville.¹¹ Hooker's diary gives a vivid if unflattering picture of the congressional race of 1806:

This part of the State is just now in a state of some agitation on account of the approaching elections A stranger would be led to think the fate of the United States depended on the choice of which these people are about to make of Capt. Earle, or Col. Alston, or Dr. Hunter for Congressman. . . . Several hundred people came to-

⁶*Ibid.*, p. 283.

⁷*Ibid.*, p. 291.

⁸Richardson, pp. 60-61; S. S. Crittenden, *The Greenville Century Book* (Greenville, 1903), pp. 20-22; Lillian Adele Kibler, *Benjamin F. Perry, South Carolina Unionist*, (Duke Univ. Press, 1946), pp. 38-39.

⁹Richardson, p. 62.

¹⁰*Ibid.*, p. 60.

¹¹See Laura Smith Ebaugh, *A Social History*, published in *The Arts in Greenville, 1800-1960*, (Greenville, 1960), p. 10.

gether; the houses and streets were thronged. The three candidates were present electioneering with all their might — distributing whiskey, giving dinners, talking and haranguing It was a scene of noise, blab, and confusion Much drinking, swearing, cursing, and threatening—but I saw no fighting. The minds of uninformed people were much agitated — and many well-meaning people were made to believe the national welfare was at stake and would be determined by the issue of this backwoods election. Dr. Hunter conducted with most dignity, or rather with least indignity on this disgraceful occasion — confining himself to a room in the tavern, and not mixing with the multitude in the street — Alston fought for proselytes and adherents in the street, but took them into the bar-room to treat them, but Earle, who loved the people more than any of them had his grog bench in the middle of the street and presided over the whiskey jugs himself. Standing behind it like a shop boy behind his counter, and dealing out to anyone who would honor him so much as to come up and partake of his liberality¹²

Among those present on this "disgraceful occasion" was Chancellor Waddy Thompson, described by Hooker as a "sleek, beautiful man of about 30 — whose dress and general appearance as illy accorded with my notions of Judge's gravity as the active part which he was taking in the electioneering squabble accorded with my notions of a Judge's impartiality."¹³ A later contemporary, however, remembered Chancellor Thompson as a "noble . . . distinguished in appearance . . . tall and well-proportioned, with an uncommonly fine head and face . . . [who if he had properly] cultivated his talents he might have been one of the great men of America."¹⁴

A native of Virginia, Waddy Thompson moved first to Georgia and then to Pickensville to enter upon the practice of law when Pickensville was "the seat of justice for Pendleton and Greenville Counties." Thompson was a member of the legislature from Pendleton and was later elected Solicitor of the Western District of the State. This post he held until 1805, when he was elected Chancel-

¹²See Richardson, p. 69.

¹³*Ibid.*, p. 70.

¹⁴Benjamin Franklin Perry, *Reminiscences of Public Men* (Philadelphia, 1883), p. 236. The many published works of Perry, covering much of the nineteenth century and reflecting his close association with both political and business leaders of Greenville, constitute a major source of contemporary data and appreciation of many persons discussed in this paper.

lor, or more precisely Judge of the Court of Equity.¹⁵ Thompson served in the office until 1828, when he retired under some pressure from the legislature, which was involved in a temperance campaign directed principally at the judiciary.¹⁶

Contemporary with Chancellor Thompson and also a resident of Greenville in his later years was a law judge, Richard Gantt. Gantt was born in Maryland in 1767, studied law under William Pinkney, went to Georgia in 1792 or 1793, and removed to Edgefield, S. C., in 1794, being admitted in that year to the South Carolina Bar. He then "secluded himself in the woods of Greenville" and practiced until he was elected to the Circuit Court in 1818. In his early days as a lawyer, he was a very successful advocate and would have made a fortune "had it not been for his continued habit of change." As a judge, he was criticized as being too lenient with criminals and was once told that he made himself the "advocate of rascality."¹⁷ Judge Gantt seems to have been honest, witty, and eccentric. A contemporary said of him that "he was the most benevolent and kindhearted man I ever knew, but as fickle and whimsical as he was kind an benevolent."¹⁸ He disliked being bothered with small cases: in a controversy over \$16.00, he is said to have remarked that a judge should always carry some change with him so that he could pay off such cases and get rid of them. Judge Gantt resigned from the bench in December, 1841, and died October 18, 1850, at the age of 83.¹⁹

By the year 1823 when young Benjamin Franklin Perry arrived on the local scene, Greenville had grown to a rude frontier village of about five hundred souls. Perry wrote that when the young men of the village were not fighting in the streets, they, together with some of the old ones, spent their time playing cards and drinking on the streets and in the stores. During Court week and on Sales days, the country boys and girls all came to town and there was horse racing, fighting, carousing, and general pan-

¹⁵In South Carolina, courts of equity and law were separate in Thompson's day and remained so until the Constitution of 1868. In 1824, the legislature established a Court of Appeals to hear appeals from both law and equity courts. At this time Thompson was elected one of the two equity judges, who were called formally Chancellors.

¹⁶John Belton O'Neill, *Biographical Sketches of the Bench and Bar of South Carolina*, 2 vols. (Charleston, 1859), I, 241.

¹⁷*Ibid.*, I, 130.

¹⁸Perry, pp. 229-235.

¹⁹O'Neill, I, 129.

demonium through all the hours of the night. The village had only one sofa, one carriage, two pianos, and few silver spoons.²⁰ Soon, however, there were signs of change and growth. By 1824, according to Robert Mills' description of the town, there was a new court house (the Record Building), several handsome residences, and two notable hostleries — one, the famous Mansion House Hotel which Colonel William Toney had just built on the site where the Poinsett now stands and the other probably Crittenden's Hotel across the street.²¹ There were two physicians — Dr. Richard Harrison and Dr. William Robinson — and three lawyers — Tandy Walker, William Choice, and Baylis J. Earle.²²

Tandy Walker was admitted to practice of law in Columbia in 1819,²³ but soon became a "very early settler" in Greenville.²⁴ As a young bachelor attorney, he lived at Crittenden's Hotel in company with Dr. Robinson and Baylis Earle,²⁵ but later married the daughter of Colonel William Toney.²⁶ He apparently retired from law practice about 1830, when Perry purchased his library. This "pleasant, kind, and amiable . . . fluent speaker and popular in his manner"²⁷ was a trustee of the Female Academy,²⁸ and he served several terms in the South Carolina House of Representatives.²⁹

William Choice was born in Greenville District in 1796 and was probably, at the time of his death in 1877, the oldest native-born citizen of the District. Choice was educated "in the ordinary schools of the county," and at Pendleton Academy. He studied law under a Mr. Tillinghast and was admitted to the bar in 1819. Choice began practice and soon acquired a reputation as the "best and most prompt collecting lawyer in the Circuit." He formed a partnership with Baylis J. Earle, who was then Solicitor of the Western Circuit, and when Earle was elected to the circuit bench, he became a partner of David L. Wardlaw, of Abbeville. Subsequently, Choice was elected the first Commissioner in Equity for

²⁰Kibler, pp. 41-42.

²¹Crittenden, p. 32.

²²Perry, p. 214, *et seq.*; O'Neill, p. 185, *et. seq.*

²³O'Neill, I, 613.

²⁴Crittenden, p. 43.

²⁵Kibler, p. 46.

²⁶Crittenden, p. 43.

²⁷Kibler, pp. 64, 75.

²⁸Crittenden, p. 30.

²⁹*Ibid.*, p. 43.

Greenville District³⁰ and he held this office for many years. He was very faithful and capable in the performance of his duties, and the chancellors complimented him "for the neatness of his docket, the correctness of his reports, and the promptness which he paid over the funds in his hands." He accumulated a large fortune and left a substantial estate, even though he lost in excess of one hundred thousand dollars as a result of the Civil War.³¹

The third of the lawyers practicing in Greenville in 1824 was Baylis John Earle who was born on January 24, 1795, the eldest son of Congressman Samuel Earle of Pendleton and Harriet Harrison. After graduating from the South Carolina College in 1811 at the head of his class and reading law under Solicitor John Taylor, he was admitted to the bar in 1816 and began practice in Greenville as a partner of William Choice. He was elected a member of the State House of Representatives in 1820 and two years later was elected Solicitor of the Western Circuit. Earle was elected a Circuit Judge in 1830, and served until 1843, when he resigned following a paralytic stroke. He died in the spring of the following year, never having married.³²

As Solicitor, Baylis J. Earle sought a conviction only if the circumstances convinced him of the defendant's guilt, but if he believed the defendant guilty, he prosecuted with great zeal. As a judge, he served both at the trial and appellate levels. Judge Earle is described as having been endowed with a striking appearance and a calm and judicial temperament. On the other hand, Perry, who knew him intimately, wrote that Judge Earle was miserly, sensitive sometimes to the point of morbidity, and when on occasion he took to the bottle, he drank to excess.

Benjamin Franklin Perry, Greenville's best-known citizen of the nineteenth century, was born on November 20, 1805, at his family's homestead in what is now Oconee County. Perry's father and his brother had emigrated from Massachusetts to Charleston, South Carolina, shortly after the Revolutionary War to join a mercantile firm, which persuaded them to try storekeeping in the back country. After trying several locations they established themselves on Choestow Creek in Pendleton District. Perry lived on his fath-

³⁰An office similar to the present Master of Equity.

³¹From a tribute written on Choice's death. Choice family papers in the possession of Mrs. Hattie Choice Schröder.

³²Perry, p. 214, *et seq.*; O'Neill, p. 195, *et seq.*

er's farm until he was sixteen, and then went to Asheville, North Carolina, to study languages at the Asheville Academy. In his studies there he did well enough, but having heard of the high reputation then held by the Male Academy in the village of Greenville, he entered that institution and Greenville thereafter was his lifelong home.

Perry did not attend college, but in 1824 he entered the office of Baylis J. Earle to begin a three-year course in the study of law. During this period, he joined debating and oratorical societies, and began his career of political journalism by writing articles for the new weekly newspaper, the *Greenville Republican*. In the fall of 1826, he journeyed to Columbia to take his bar examination. He was examined twice, once in law and once in equity, and did not miss a question. He was admitted to the bar on January 10, 1827, and immediately "published his card" in the *Greenville Republican*. In a few years, Perry had the largest criminal practice in Greenville and Pickens counties. As his practice prospered he rode the circuit with such friends as Judge Earle and Judge Gantt, later bought a horse for the purpose, and wrote that the "life of a lawyer is an easy and indolent one."³³

By the time Perry began to practice law there were two more lawyers practicing in Greenville — William J. Gantt, son of Judge Richard Gantt, and Waddy Thompson, Jr., son of the Chancellor. Gantt was "a carefree village sport rather than a serious rival . . . but Waddy Thompson . . . was a very talented lawyer and a skillful politician as well."³⁴ He was born in Pickensville, South Carolina, on January 8, 1798, but his parents moved to Greenville while he was still an infant. He entered South Carolina College at the age of thirteen and graduated in 1814. After college, he studied law at Edgefield in the office of Judge Joseph Gist with his own schoolmate, George McDuffie. He was admitted to the bar in 1819 and practiced in Edgefield for five years before returning to Greenville to make his home. He was elected to the State Legislature from Greenville in 1826 and served until 1830, but refused to stand for re-election in that year because he felt that his nullification views were at variance with those of his constituents.³⁵

³³Kibler, p. 70.

³⁴*Ibid.*, p. 64.

³⁵Helen Kohn Henning, *Great South Carolinians of a Later Date* (U. of N. C. Press, 1949), pp. 159-161.

He then was elected Solicitor of the Western Circuit when Judge Earle was elevated to the bench.³⁶

In the 1820's a political storm was brewing in the state. South Carolina and the Southeast suffered a severe economic depression which was probably due largely to emigrations to the Southwest and the consequent overproduction of cotton, but which most of the people attributed to the protective tariff. Congress passed acts increasing the tariff in 1822, 1824, and 1828. The 1828 "Tariff of Abomination" aroused the state under its political leader and near-idol, John Caldwell Calhoun, to vigorous counter action. Calhoun propounded his famous theories of nullification and interposition. As a member of the State House of Representatives in 1828, Waddy Thompson introduced a resolution providing that if Congress at its next session did not repeal the tariff acts, South Carolina should call a convention to nullify them.³⁷ However, Greenville did not favor nullification, and soon after Calhoun's doctrines were made public, Benjamin F. Perry began writing editorials against them in the *Mountaineer*, which had superseded the *Republican* in 1829. Perry formally took over the editorial department of the *Mountaineer* in 1820, changing the name to the *Greenville Mountaineer*, and became the leader of the Unionist forces in the up-country.³⁸

The nullification controversy reached its height in the years from 1830 to 1832, and the nullifiers waged a strong campaign for a state convention to consider an ordinance of nullification. When the Greenville members of the state House of Representatives — Waddy Thompson, Tandy Walker, and Dr. William Butler proved to be sympathetic to nullification, they were replaced in 1830 by three strong Unionists. In 1832, the Union Party in Greenville, under Perry's leadership, won an even greater victory in the race for the assembly. However, the state as a whole elected a General Assembly that was two-thirds in favor of the nullification and the legislature quickly passed the call for a convention, to be held on the third Monday in November, 1832. In the contest for convention delegates, the Union Party of Greenville nominated Perry, Silas R. Whitten, Thomas P. Brockman, and Henry Middleton, of Charleston, a former summer resident. The Nullification party

³⁶*Ibid.*, p. 161; Kibler, p. 68.

³⁷Richardson, p. 79.

³⁸Kibler, pp. 69-92.

offered Judge Baylis J. Earle, Dr. William Butler, William Thurstont, and Colonel Benjamin Arnold. The Unionists won the Greenville race by about four to one and Perry headed the ticket, defeating Judge Earle, highest candidate of the Nullifiers, by 1055 votes to 381. But the nullifiers were in complete control of the convention and the Ordinance of Nullification, declaring the tariff acts of 1828 and 1832 null and void and requiring all civil and military officials of the State, except members of the legislature, to take an oath to enforce the ordinance, was enacted, to take effect on February 1, 1833. President Andrew Jackson promptly announced that the laws of the United States would be enforced by the United States Army, if necessary, and the South Carolina legislature in defiance authorized the Governor to enlist volunteers for the defense of the state. The state became an armed camp, and Waddy Thompson became a brigadier general in the militia. The nullifiers, however, received no support from other Southern states. When a compromise tariff of 1833 was passed by Congress, a second convention held in March, 1833, repealed the Ordinance of Nullification and for the moment the storm blew over.³⁹ Prophetically, Perry wrote in his Journal:

I sincerely believe that there is a disposition to dissolve the Union and form a Southern Confederacy. It will show itself more plainly in the course of a few years. The leading nullifiers have been induced to stop for the present because they saw that the other States would not go with them.⁴⁰

In the heat of the nullification controversy, Perry had several personal clashes with his political enemies, most of which he later regretted. As late as 1830, the code of honor still demanded the defense and vindication of a gentleman's honor should it be impugned in any way. Although Perry later admitted that he knew nothing about the etiquette of duellists and had scarcely fired a pistol in his life, he delivered challenges to Waddy Thompson and to Dr. Frederick W. Symmes, editor of the *Pendleton Messenger*, in answer to supposed attacks upon his veracity. As an aftermath of the Symmes affair, his schoolmate Henry H. Townes, of Calhoun Mills, sent Perry a challenge which he delayed answering because of injuries which he had suffered in a sulky accident. While none of these incipient duels were ever fought, for one

³⁹*Ibid.*, pp. 92-107 and 137-153; see Richardson, pp. 78-80.

⁴⁰Quoted in Kibler at page 156.

reason or another, the charge of cowardice in the Townes affair by William Choice resulted in a vicious altercation in which the weapons were chairs, walking sticks, bludgeons, and a dirk with which Choice was stabbed in the chest. But the most serious affair occurred when the Nullifiers sent to Greenville a bright young man, Turner Bynum, to start a Greenville newspaper in opposition to the *Mountaineer*. Bynum's *Southern Sentinel* on August 4, 1832, carried a scurrilous editorial which contained personal attacks on Perry. Perry challenged Bynum immediately, and it was arranged that the duel should be fought August 16 on an island in the Tugaloo River. Perry published his farewell to the people of Greenville, in which he said of the Nullifiers:

Too cowardly to meet me themselves in the field of honor they have procured Turner Bynum, a desperate adventurer without home or reputation, a Swiss who will fight for any one. Waddy Thompson, a false hearted demagogue, a man whose patriotism consists in noisy declamations, and whose chivalry has hitherto been wasted in words, is behind the curtain, principle [sic] actor in the Tragedy⁴¹

Perry and Bynum met at dawn on August 16, and Bynum fired first, nicking the frills in Perry's shirt but missing his flesh. Perry immediately returned the fire, hitting Bynum in the abdomen just above the hip. Bynum died the following day. This was to Perry the most painful experience of his life, but he placed the blame on public opinion which at that time sanctioned dueling.⁴²

In 1835, Perry as a Unionist and his fellow townsman, Waddy Thompson, as a Nullifier ran for Congress. Early in the campaign, Perry sustained a severe leg injury in a sulky accident, and was unable to do any active campaigning. On the other hand, Thompson campaigned vigorously but avoided party politics and any personal attacks on Perry, recommended peace and harmony, and

⁴¹Greenville *Mountaineer*, August 11, 1832.

⁴²Kibler, pp. 108-136. Col. R. W. Simpson, in his *History of the Old Pendleton District*, at pages 35 and 36, gives the following account of Bynum's burial: "His body was buried at the 'Old Stone Church'. There had been a heavy rain. The streams were swollen, and much difficulty was experienced by those in charge of the body, and they did not reach the graveyard until about midnight, at which gloomy hour the mortal remains of this brilliant young man were lowered into a grave half filled with water Two pine poles . . . after the burial were stuck in the ground, the one at the head and the other at the foot of the grave to mark the same. These two pine poles grew and became large pine trees, standing as faithful sentinels to keep watch over the sacred spot."

had the active support of John C. Calhoun. When the returns came in, Thompson had won by more than 700 votes, although Greenville had supported Perry by an overwhelming margin.⁴³

Thompson served in Congress from 1835 until 1841, and during his tenure achieved fame for his speeches in favor of Texan independence from Mexico and the annexation of Texas to the United States. Before the expiration of his first term, however, he incurred the displeasure of John C. Calhoun, because Thompson would not follow his whim, during an argument on the Independent Treasury, to leave the Whig party and rejoin the Democratic. In the following election Calhoun actively took the stump against Thompson while Perry supported his former opponent. Thompson's personality and humor and ability as a stump speaker were more than a match for the dry logic of Senator Calhoun, and Thompson was re-elected by a large majority. After serving his second term, he was invited by President William Henry Harrison to become United States Ambassador to Mexico.⁴⁴

When Thompson was appointed Minister to Mexico in 1842, his potential usefulness in the position was hampered since he could not speak Spanish and he was known as a strong proponent of Texas independence and the annexation of Texas to the United States. He quickly learned Spanish, however, and delivered his first speech to the Mexican cabinet in that language. Despite this, he received a cool reception, but soon became friendly with Santa Anna, the head of the Mexican government. Thompson worked unsuccessfully to arrange that the United States would buy California from Mexico and to make peaceable arrangements with that country in regard to Texas. On the other hand he did succeed in persuading Santa Anna to release three hundred Texan prisoners, one of whom was a personal friend, Samuel A. Maverick, later a Senator from Texas. He also persuaded the Mexican leader not to exclude citizens of the United States from entering California. Thompson resigned his post in the spring of 1844 and returned to Greenville where he was honored by a spectacular dinner presided over by Perry as the master of ceremonies.⁴⁵

During the years 1835 to 1850, Perry's life was quiet, happy, and prosperous. In 1837, he married Elizabeth Frances McCall

⁴³Kibler, pp. 160-176; Richardson, p. 81.

⁴⁴Hennig, pp. 162-163; Perry, pp. 297-298.

⁴⁵Hennig, pp. 163-165; Kibler, p. 200.

of Charleston, and a year later they moved into a house he had built on Main Street between Court and Broad. They had twelve or thirteen slaves, and by 1847 their union was blessed with two sons and two daughters. His law practice grew and he was employed in most of the important civil and criminal cases on the western circuit. Having been elected to the state House of Representatives without opposition in 1836, he served as a member of that body until 1842, and subsequently served in the State Senate from 1844 until the eve of the Civil War. On the floor of the legislature he fought for changes in the structure of state government which would give more power to the people; he advocated election of the governor and presidential electors by the people rather than the legislature, and he fought against the parish system which gave undue representation in the State Senate to the lower part of the state. He also urged the establishment of a state penitentiary and the codification of the common law. While he was unable to accomplish these reforms during his legislative career, they were adopted when Perry was Provisional Governor of the state.⁴⁶

About the year 1834, William Lowndes Yancey came to Greenville to study law under Benjamin F. Perry and to assume the editorship of the *Mountaineer*. In the light of Yancey's later career as the leader of secessionist forces in Alabama and the South generally, it is remarkable that as a youth in Greenville he was a strong Unionist. Yancey's career in Greenville was brief but dramatic, for he was the central figure in one of Greenville's most famous trials. To properly set the stage, certain family connections must be explained. In 1835, Yancey married Sarah Caroline Earle, a daughter of George Washington Earle and his wife Elizabeth Robinson Earle, who was a daughter of Colonel Elias Earle, the ex-Congressman. Dr. Robinson M. Earle, a practicing physician in Greenville and a brother of Mrs. George Washington Earle, had married Eliza Thompson, a sister of Waddy Thompson, and their son Elias was a youth in his teens during the late 1830's. After his marriage, Yancey resigned from the *Mountaineer* and settled down on a farm inherited by his wife. He bought cotton lands in Alabama and spent his winters there but returned to Greenville in the summer. Early in September, 1838, Yancey rode out to a militia muster at which the candidates for Congress were speaking, and in conversing with a group of men he made some disparaging re-

⁴⁶Kibler, pp. 177-216.

mark about Candidate Waddy Thompson which was overheard and resented by young Elias Earle, Thompson's nephew. Young Earle called Yancey a liar, Yancey replied by boxing his ears, and young Earle then struck Yancey with his riding whip. Earle was restrained by some men in the crowd, and Yancey attempted to end the matter by telling Elias that he would rather give him his cherished saddle-horse, Salvador, than have a personal difficulty with him. All those present, including Waddy Thompson, were satisfied, and the next day Yancey went to Elias' father, Dr. Robinson Earle, to express his regret. Dr. Earle, however, renewed the quarrel on the porch of Crittenden's Hotel, and calling Yancey a liar, rushed at him with part of the handle of a grain cradle. Yancey retreated and warned Earle to guard himself, but reaching the edge of the porch with the ground three feet below him, he pulled out his pistol and fired, hitting Dr. Earle in the left side and mortally wounding him.

Yancey was tried in the circuit court at Greenville and was defended by Perry, who was assisted by Armistead Burt and David L. Wardlaw, both of Abbeville. Perry attempted to show that although Yancey was in the habit of carrying a gun, he had drawn his pistol only after Earle's attack, and that the gun went off accidentally. It was shown that Yancey was a gentleman with a high sense of personal honor who had never before been in difficulty and was not prone to violence. In spite of this defense the jury convicted Yancey of manslaughter, and he was sentenced to a fine of fifteen hundred dollars and twelve months in jail. He had served only three months, however, when Governor Patrick Noble remitted the imprisonment and two-thirds of the fine. Perry said it was the most painful criminal case he ever had, for he was fond of Yancey during the days of their association.⁴⁷

George F. Townes, born in 1809, was a contemporary of Perry, but he did not begin law practice in Greenville until about 1834. He had a long and active career, however, not only in law, but in journalism and politics as well. In the 1840's and 1850's he was senior editor of the *Mountaineer*. After the war, he was the editor of the *Greenville Enterprise* from 1866 to 1871. His legislative career began as a member of the State House of

⁴⁷Kibler, pp. 198-199; Joseph Hergeshewer, *Swords and Roses* (Knopf, 1929), pp. 43-47. This is the same Yancey who, as a citizen of Alabama, later became the "Fire-Brand of Secession."

Representatives in 1849-1851, and he was a member of the first State Senate to convene after the war. He was the father of several important provisions of the State Constitution of 1868, among them the homestead provision, the right of married women to hold property, and the abolition of imprisonment for debt. In addition to his other talents, Townes was an accomplished classical scholar, and it is said that just before his death, at the age of 81, he read Virgil, Horace, Homer, Plato, and other ancient writers in their own tongue.⁴⁸

In 1854 Townes and Perry opposed one another in a controversy involving the establishment of the Greenville Female College. They were both trustees of the Greenville Academies, which by the 1850's had been allowed apparently to decline into a dilapidated state. Furman University had already been located in Greenville, and when Perry learned that the Baptist Convention was considering the establishment of a woman's college in the up-country, he urged the transfer of the academies' property to the Baptist Convention or to Furman University as a site for the new college. Townes opposed the action on the ground that under the terms of the trust established by Vardry McBee when he donated the property to the community in 1820, the trustees had no authority to convey the property to the Baptist Convention or to the Furman Trustees. However, a test case was brought and Chancellor David L. Wardlaw upheld the transfer, his decision being affirmed by the Court of Errors. The Female College was thus secured for Greenville.⁴⁹

In the late 1840's and early 1850's the issue was no longer the tariff and nullification but the abolition of slavery. From the introduction of the Wilmot Proviso in 1847 to Henry Clay's Compromise of 1850 secessionism spread in the South, particularly in South Carolina. In October, 1850, every district in the State elected secessionists to the General Assembly except Greenville, which elected Perry and his Unionists colleagues, Thomas P. Brockman and Perry Emory Duncan. The legislative session which followed was a stormy one, with most of the members favoring immediate secession. On December 11, Perry made a bold pro-union speech which created a sensation and marked the first check to disunion

⁴⁸The Greenville Daily News, April 12, 1891; The Greenville Mountaineer, April . . . 1890; Enterprise and Mountaineer, April 15, 1891.

⁴⁹Kibler, pp. 300-312.

in the state. He returned to Greenville, resolved to establish a Unionist newspaper in that city, and at some risk to his life and property he began publication of the *Southern Patriot*. One of his backers in the project was Waddy Thompson, whose sentiments were now Unionist and his co-editor was Charles James Elford, a young lawyer who had recently begun practice in Greenville. The *Southern Patriot* eventually circulated among many influential people over the South and became an important factor in stemming the tide of secessionism at the time. At the secession convention which convened in 1852 at the call of the legislature, Perry and his Greenville colleagues were the only Unionist delegates. A Committee of Twenty-one, appointed to prepare business, reported that the State had both the right to secede and ample justification for secession, but that the time was not opportune. Perry was a member of the Committee and in the minority report he observed, among other things, that the "deep-rooted regard for the Union makes it right and proper . . . that we should suffer while evils are sufferable."⁵⁰

The crisis passed and it appeared that South Carolina and the South were safe for the union. But the growth of anti-slavery sentiment in the North, the constant republication of *Uncle Tom's Cabin*, the effect of the Dred Scott Decision on Northern feeling, and the activities of Robert Barnwell Rhett of South Carolina, William Lowndes Yancey of Alabama, and Edmund Ruffin of Virginia fanned the flames of disunion. In the spring of 1860, the National Democratic Convention met in Charleston, and when the Convention rejected Yancey's "Alabama Platform," pledging Congressional protection of slavery in the territories, the Alabama delegation walked out, followed by those of Mississippi and Louisiana and a majority of those from South Carolina, Florida, Texas, and Arkansas. All but two of the South Carolina delegation walked out in spite of the fact that the South Carolina state Democratic convention had rejected the Alabama platform. One delegate who did not walk out was Benjamin F. Perry of Greenville, who arose to address the Convention, amid loud catcalls from the gallery, and pled with all his power for the unity of the Democratic party, contending that upon the unity of the party depended the perpetuity of the Union. When the Charleston Convention was unable to nominate a candidate the party subsequently split and nominated

⁵⁰*Ibid.*, pp. 239-301 and 314-346.

two candidates, Stephen Arnold Douglas and John Cabell Breckinridge, insuring the election of Abraham Lincoln. Although Perry disagreed, it was generally conceded in the state that the inevitable result of Lincoln's election would be secession, and in Greenville even Perry's moderate friends of earlier days, such as C. J. Elford and Perry E. Duncan, were caught up in the prevailing hysteria. The legislature called a convention to consider secession, and on November 17, 1860, at a meeting held in Greenville, a resolution in favor of secession was adopted, and Dr. James Clement Furman, General William King Easley, Perry Emory Duncan, William Hans Campbell and Dr. James Harrison were elected as Greenville delegates to the Convention defeating the "cooperation ticket" consisting of Perry, Chief Justice John Belton O'Neill (who declined to run), Dr. W. A. Mooney, T. C. Bolling, and James P. Boyce, and Perry was defeated in his own district for the first time in his career. After the convention, which assembled at Columbia in December of 1860, had adopted the Ordinance of Secession, Perry is reported to have remarked to a group of secessionist friends, "You are all going to the devil and I will go with you."⁵¹

Perry's co-editor of the *Southern Patriot*, Charles James Elford, was born in Charleston on May 11, 1820, the son of a British sea-captain, Capt. James Maud Elford. Both of Elford's parents died when he was a boy, but he was able to study law and was admitted to the bar in 1843. For approximately twenty years, he was Superintendent of the Sunday School at the First Baptist Church, and he was probably a member of the committee which erected the present church structure. During the Civil War, he was the organizer of the 16th South Carolina Regiment, C. S. A., and served as its Colonel from December, 1861, to April 28, 1862. His home was located on North Main Street near Elford Street, which was named for him, and tradition has it that he furnished the land for Springwood Cemetery.⁵² After the War, he was a member of a mission — which also included Perry and James L. Orr — to petition President Andrew Johnson for the restoration of civil government, and he also acted as agent for pardons of ex-Confederates.⁵³

⁵¹*Ibid.*, p. 348.

⁵²Except for the date of Elford's admission to the bar, which appears in O'Neill, this information is derived from John S. Taylor, *The 16th South Carolina Regiment, C.S.A.* (Greenville, 1964), pp. 16 and 17.

⁵³Kibler, pp. 384 and 396.

General William King Easley, mentioned above as one of the delegates to the Columbia convention, was born in Pickens about 1825, the son of Colonel John Easley, and was admitted to the bar in 1850. He practiced law in New Orleans for a short time, but was forced to leave by a yellow fever epidemic, returned to Pickens, and some years later he was elected a member of the legislature from Pickens, although by this time he maintained his law office in Greenville. While in the legislature, he was the sponsor of a bill, drawn by Perry, to make the parties in a criminal case competent witnesses at the trial. During the war he raised a company of cavalry in Pickens and Greenville Districts, entered the Confederate Army and became a major before ill health forced his return home. In 1865, he was mouthpiece for Provisional Governor Perry. He became interested in railroad promotion and, through his influence with the authorities, secured the location through Greenville of the Piedmont Air-Line Railroad (later the Richmond and Danville Air Line Railroad and now the Southern Railway).⁶⁴

The name of Justice John Belton O'Neill has been mentioned several times. Although he was a native and permanent resident of Newberry County, he belongs to the story of the Greenville bench and bar, for he purchased a farm on the South Tyger River, fourteen or fifteen miles north of Greenville near Milford Church, and spent his summers there over a period of years. O'Neill was born on April 10, 1793, and in 1812 was graduated from the South Carolina College with second honor. He served in the War of 1812 and was admitted to the bar in 1814. In 1825, he was elected a major general of the militia. At intervals from 1816 to 1828, he was a member of the State House of Representatives and in 1826 was elected speaker. He was chosen an associate judge in 1828 and a judge of the Court of Appeals two years later. In 1847 he was elected president of Greenville and Columbia Railroad and succeeded in completing the construction of the railroad into Greenville. In 1850, he became President of the Court of Law Appeals and the Court of Errors. He was a crusader for temperance, making speeches and writing articles on the subject. He also wrote articles on education, religion, and history, and he was the author of *Annals of Newberry* and *Biographical Sketches of Bench and*

⁶⁴Crittenden, p. 64; See also Perry, *Reminiscences*, 2d Series (Greenville, 1889), p. 72.

Bar. He was a strong Unionist and gave active support to Perry's efforts to avoid secession.⁵⁵

There were, of course, other lawyers practicing in Greenville prior to the Civil War. George Washington Earle, an early Greenville Clerk of Court, is among those listed by Colonel R. W. Simpson as advocates who practiced in the old Pendleton District.⁵⁶ Some Greenville names which appear in O'Neill's *Bench and Bar*, together with their dates of enrollment, are Elias D. Earle, 1829; Samuel A. Townes, 1829; John Watson, 1835; L. M. McBee, 1838; John W. Stokes, 1843; W. H. Campbell, 1849; Spartan D. Goodlett, 1854; T. C. Donaldson, 1855, and M. C. Butler, 1857. Some of these gentlemen may never have practiced in Greenville, and some of them had successful careers after the War for Southern Independence. Elias D. Earle (1803-1853) was the son of George Washington Earle and the father of a later Greenville lawyer, U. S. Senator Joseph H. Earle. Townes, a brother of George F. Townes, was Commissioner of Equity in the 1850's.⁵⁷ Watson may have been the same John Watson who served Greenville County for many years as ordinary or probate judge.⁵⁸ Stokes was elected to the House of Representatives in 1859.⁵⁹ Spartan D. Goodlett, born in 1831 and the son of another Spartan D. Goodlett who was also ordinary of Greenville County, studied law under Perry and was associated with T. Q. Donaldson in the editorial management of the *Mountaineer*.⁶⁰ Donaldson was born at Fork Shoals in 1836, studied law under Waddy Thompson, and became associated with J. C. Elford.⁶¹ Goodlett and Donaldson both served in the Confederate Army, and Matthew C. Butler, who practiced law at Edgefield but claimed Greenville as his home, became a Major General of Cavalry — Greenville's highest ranking officer of the war.⁶² Perry's oldest son, Willie Hayne Perry, having graduated from Harvard with honors in 1859, joined his father in law practice just before the war, but soon had to fight against the Union which his father had tried so hard to preserve.⁶³ Greenville fur-

⁵⁵Perry, p. 202; O'Neill, I, xiii-xxv.

⁵⁶*History of the Old Pendleton District*, p. 15.

⁵⁷Records of Greenville County.

⁵⁸Crittenden, p. 51.

⁵⁹Kibler, p. 331.

⁶⁰Records in possession of the Goodlett family.

⁶¹Frank Barnes, *The Greenville Story*, (Greenville, 1956), p. 218.

⁶²Richardson, p. 85.

⁶³Kibler, p. 348.

nished a number of volunteer companies to the Confederate Army⁶⁴ and it is apparent that most, if not all, of Greenville's young lawyers answered the call to arms; Perry and Waddy Thompson and George F. Townes were too old for military service, but Perry served the Confederacy as district attorney, state representative, Confederate commissioner, and district judge.⁶⁵

The war broke Waddy Thompson, and his mansion on Paris Mountain was destroyed, so that after the war he withdrew to a plantation he still owned at Madison, Fla., and lived out his few remaining years. He died November 23, 1886, and was buried in Tallahassee.⁶⁶ Perry, on the other hand, lived many more fruitful years. In 1865, President Andrew Johnson appointed him Provisional Governor of South Carolina, and his administration was one of the most progressive in the history of the state. He considered the state constitution of 1865, embodying many of his earlier proposed reforms, to be the crowning achievement of his career. Elected U. S. Senator by the legislature, he was refused his seat along with the other Southern senators; but during the Reconstruction era, he waged constant war against the carpetbagger governors and radical legislatures and was an enthusiastic supporter of Wade Hampton in 1876. He lived out his remaining days at his handsome new estate, "Sans Souci." When Perry died on December 3, 1886, memorial services of the Greenville Bar were presided over by George F. Townes, for many years his close friend despite their earlier differences. Tributes were paid by Greenville lawyers of a later day — Julius Heyward, Perry's younger partner; C. M. Furman; Martin F. Ansel, later Governor and Greenville County Judge; and J. Allender Mooney.⁶⁷ Perhaps the most proper appreciation is that of Professor Allen Nevins who later wrote:

Of all these Unionists of the Lower South, none is more attractive than Benjamin F. Perry; none had nobler qualities of mind and heart. In no sense a genius, and denied by his unpopular opinions the opportunity to hold high office, he displayed through a remarkably long career a well-rounded array of qualities backed by nerve, persistence, and keen consciousness of duty. "There was something about Governor Perry that drew him to my heart,"

⁶⁴Miss Kibler mentions six, but John S. Taylor, in *The 16th South Carolina Regiment, C.S.A.*, says there were seventeen companies composed wholly or partially of Greenville men.

⁶⁵Kibler, pp. 347-370.

⁶⁶Hennig, p. 167.

⁶⁷Kibler, pp. 371-522.

wrote a contemporary after his death. "The State owes him a debt of gratitude that it can never repay." So it does. South Carolina had in his time half a dozen men who were and have remained more famous. But none loved South Carolina more warmly, and none did more for her intellectual, social, moral, and political advancement.⁶⁶

The careers of the gentlemen who paid tribute to Perry on that day and their contemporaries are beyond the scope of this paper, but in their time Greenville was entering a period of growth and industrialization. With the growth and expansion of a community, for better or for worse, comes specialization in the practice of professions such as the law; and it is a rare lawyer nowadays who is at once attorney, politician, journalist, and philosopher. As Colonel Crittenden said of the men he knew and wrote about, "there were many strong men in those days" — and not a few of them were members of the bench and bar.

⁶⁶Kibler, vii-viii. Nevins wrote the "Foreword" to Miss Kibler's work.