



Supreme Court of Pennsylvania



Be it known that George Boner Washburn
on motion of John P. Adams, Jr. Esq. and W. D. Kelly, Esq.
was on the date indicated hereon duly admitted by the Supreme
Court of Pennsylvania to the bar of the courts of the Commonwealth
of Pennsylvania as an Attorney and Counsellor at law.

In testimony whereof, I have set my hand and affixed
the official seal of the said Supreme Court on
the day of July 1876
Philadelphia



Righting An Ancient Wrong



By Nolan N. Atkinson Jr.

On a bright, brisk October morning in 2010, the Pennsylvania Supreme Court posthumously admitted my great-grandfather, George Vashon, to the practice of law. A journey that began in 1847 but was delayed 163 years because of *de jure* racial discrimination came to a proper and just conclusion by reason of the court's order, issuing George Boyer Vashon Certificate No. 1 to the practice of law in this commonwealth.

It was a glorious day. The proceeding had historical significance. All that we as lawyers admire in the solemnity of a judicial hearing could be felt. The justices of the Pennsylvania Supreme Court were present, and the stately courtroom in Pittsburgh was filled with a diverse mixture of lawyers, most of the robed judges of the Allegheny Court of Common Pleas, the descendants of George Vashon – down to his 7-year-old great-great-grandson – and interested friends and spectators. I sensed that everyone in the room thought the court made the right and courageous decision and recognized that the justices could have easily declined to hear the petition to admit for a variety of jurisdictional reasons. To the contrary, Chief Justice Ronald D. Castille announced in a bold statement:

“The 1838 Pennsylvania Constitution had been specifically amended to limit the voting franchise to white males, and that was an apparent response to the hot abolitionist disputes in Pennsylvania

during the relevant period and to make certain that black Pennsylvanians could not vote.

It appears that at the time of Mr. Vashon's initial application in 1847, the Allegheny County Bar relied upon this constitutional provision in rejecting his application.

While there is no question that this action was blatantly discriminatory, that stain on our Commonwealth history still remains, and as much as it may disturb our modern sensibilities, it appears that the Allegheny County Bar at that time relied upon this constitutional provision, which was obviously discriminatory, but was the law nonetheless.

....

But our action here today serves as notice of this Court's awareness of and sensitivity to the fact that those prior practices had a real effect on real people.”

Most trial lawyers like to reflect on their victories in the courtroom. I, too, have probably held such thoughts. But this was a victory of a different kind. It represented the combining of the scholarship of Paul Thornell, my nephew, who did voluminous research on George Vashon; the early efforts of attorney Wendell Freeland, a Pittsburgh



Paul N.D. Thornell (George Vashon's great-great grandson); Nolan N. Atkinson Jr.; Pennsylvania Supreme Court Chief Justice Ronald D. Castille; Wendell G. Freeland; Howard Schulberg, president-elect of the Allegheny County Bar Association; and David A. Blaner, executive director of the Allegheny County Bar Association.



Nolan N. Atkinson Jr. sits in the gallery at the Oct. 20, 2010 admission ceremony.

octogenarian; and the recognition by the Duane Morris law firm that a more diverse profession requires an investment of time, talent and treasure, all of which the firm put at my disposal. Perhaps most poignantly, the optimism of a younger generation for new opportunities in our profession – represented by George Vashon's great-great-grandson Nolan Thornell (Paul's son) – was present not only among the justices, but also throughout the courtroom. These efforts, along with the contributions of many others, resulted in what I have described to others as one of my high points of more than 40 years of professional life.

My journey in this epilogue began in December 2008, when I was awarded the first Chancellor's Diversity Award by the Philadelphia Bar Association. I was told to say something in three minutes. In trying to talk about something that would have meaning, I decided to dedicate the award to George Vashon. I told the audience who he was, what he had done, what he had been denied, and that but for his contributions and those of others, I would never have been a successful lawyer.

Since the previous summer, George Vashon had been on my mind. One July day, Cynthia Baldwin, a former Duane Morris partner and retired Pennsylvania Supreme Court justice, and I were returning from a prospective client visit. Somehow, we reached the topic of diversity efforts in Cynthia's home area of Allegheny County. Our discussion led to the efforts of Wendell Freeland to have George Vashon in some form admitted posthumously to practice law. When I told Cynthia that Vashon was my great-grandfather, she quickly put me in touch with Wendell. He and I immediately agreed to help

each other in submitting a petition before the Pennsylvania Supreme Court.

Since the state Supreme Court acted favorably, entering its order last May, much has been written about George Vashon. These stories have centered around his efforts to practice law in various jurisdictions and the fact that he was an African American who sought success in the law prior to the Civil War. Most articles mentioned that while Vashon was denied the right to practice in his native Allegheny County, he was successfully admitted to practice in New York and Mississippi – and that he qualified and was admitted to the bar of the United States Supreme Court.

Vashon represents more than these stories report. He was a scholar, an educator and an activist. These capabilities are ones that today's

generation of lawyers should seriously consider. Vashon graduated from Oberlin College on Aug. 28, 1844. He was learned in the classical languages – Greek and Latin. Moreover, he was a poet of recognized merit. Following his spurning by the Pennsylvania Bar in his native Allegheny County, Vashon traveled to Haiti with a goal of teaching. Later, he wrote the highly recognized poem, "Vincent Ogé," depicting a revolt by slaves during an earlier Haitian insurrection.

According to Catherine M. Hanchett's 1985 article, "George Boyer Vashon, 1824 – 1878: Black Educator, Poet, Fighter for Equal Rights," in *The Western Pennsylvania Historical Magazine*, Vashon decided that Haiti was too unstable and returned to New York to open a law practice in Syracuse. It was there that he became active in the antislavery movement,

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Duane Morris LLP and the Allegheny County Bar Association hosted a reception honoring Vashon's admission to the bar on Oct. 19, 2010 at the Rivers Club in Pittsburgh.

following passage of the Fugitive Slave Act in 1850. In a relatively short time, because of the inability to earn a living practicing law, Vashon began teaching at New York Central College, in McGrawville. Records indicate that he was an excellent teacher. Vashon later returned to Pittsburgh, where he taught in the city's black public schools. In later years, he was one of the first professors at Howard University in Washington, D.C.

Vashon was an activist. He grew up in a home where bringing freedom to African Americans was his father John's life's goal. Vashon's father actively supported antislavery positions and organizations and was friendly with such abolitionists as William Lloyd Garrison. George Vashon followed in his father's footsteps, taking leadership positions in similar organizations. Hanchett reports that one columnist for Frederick Douglass' newspaper wrote "George B. Vashon is making a speech – powerful, beautiful, eloquent – while his father. . . sits a monument of admiration and approval."

Why is all of this important for lawyers, and particularly African-American lawyers, in today's profession? While George Vashon was denied admission 163 years ago, the practice of scrutinizing and some would say screening the credentials of African-American candidates did

not disappear in 1847, or even 1947. The Philadelphia Bar Association was instrumental in bringing this issue to the attention of the legal profession

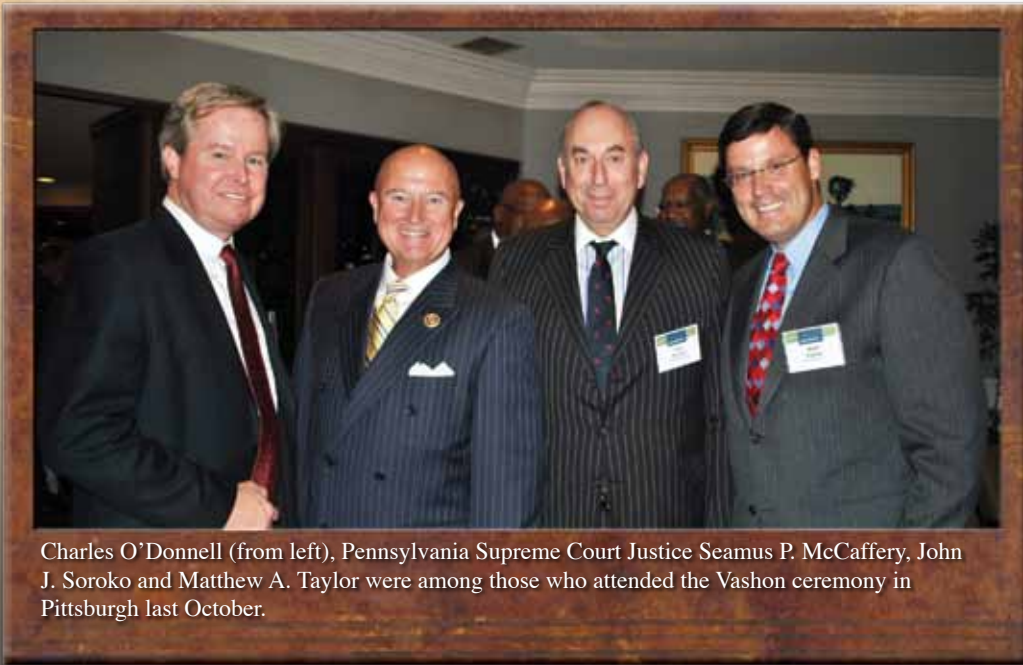
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with the publication of the Liacouras Report in 1971, where it was noted in a formal resolution "that the Chancellor of the Philadelphia Bar Association enter into immediate discussions and negotiations with the Pennsylvania State Board of Law Examiners so as to eliminate any possibility that there will be racial discrimination in connection with the bar admission procedures." The resolution was adopted after the Liacouras Committee reported that "[s]tatistical evidence demonstrates that a grossly disproportionate percentage of Blacks fail each examination and there

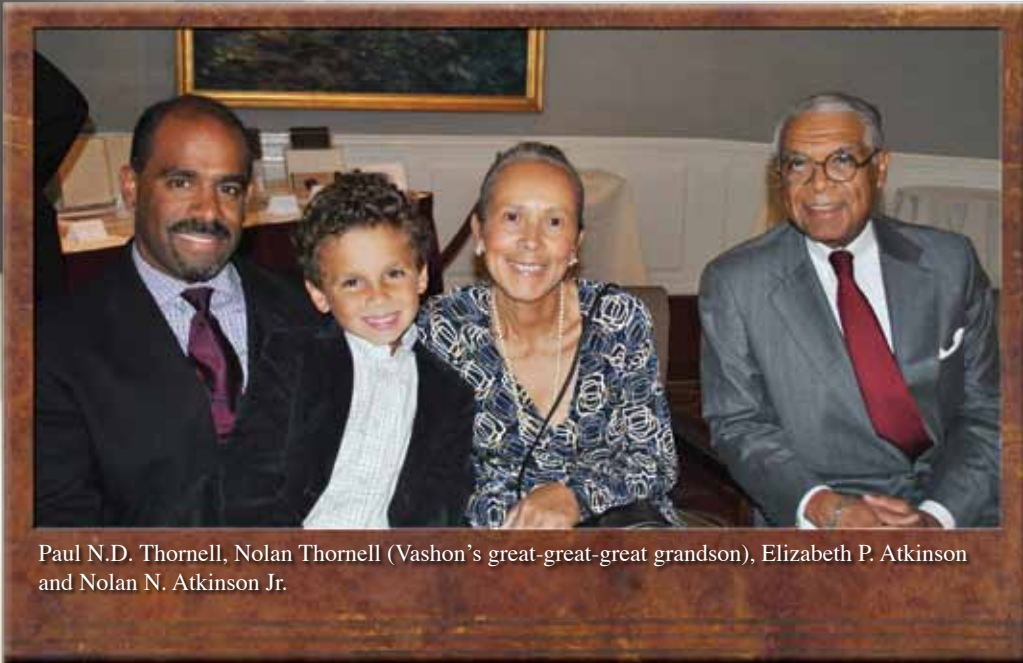
is lacking any available hypothesis other than race by which to explain these proportions."

In 1971, the year I was admitted to practice law in Pennsylvania, the Liacouras Report predicted that only seven blacks would be admitted statewide in that year. What is significant is not those who passed; but those who did not. The Report describes in Table 3 the results of 32 bar examinations between January 1955 and July 1970. Among all black candidates, 306 took the examination but only 85, or 27 percent, passed. This compares unfavorably with all candidates, where the percentage of papers passed was 67 percent.

The words of Chief Justice Castille ring true: "Those prior practices had a real effect on real people." How many of those African Americans who were among the 221 who did not pass had abilities similar to George Vashon's? Just as Jackie Robinson served as an inspiration for thousands of African-American youth who wanted to play major league baseball so too, might many aspiring bar applicants have tried again if they had known the inspiring story of my great-grandfather. Irrespective of what happened in Allegheny County, for Vashon, there was no failure. There were only new opportunities, such as practicing law in New York, practicing as a member



Charles O'Donnell (from left), Pennsylvania Supreme Court Justice Seamus P. McCaffery, John J. Soroko and Matthew A. Taylor were among those who attended the Vashon ceremony in Pittsburgh last October.



Paul N.D. Thornell, Nolan Thornell (Vashon's great-great-grandson), Elizabeth P. Atkinson and Nolan N. Atkinson Jr.

race or ethnic background, has a right to know the true history of the admission requirements to practice law in Pennsylvania and the history of at least some of those that proceeded. With that knowledge, African-American applicants, many of whom have struggled in gaining entry passing the bar and achieving success in the legal profession, will now have a greater inner confidence of possessing the intellect, the tenacity and the knowledge that history stands with them as they seek admittance and success in this profession.

The historical action taken by the Pennsylvania Supreme Court would have the greatest impact if we use George Vashon's story to inspire a more equitable system of justice. Not all of us have the willingness to leave one state for another when denied the right to practice our profession. Some of us do not have the perseverance to enter a new profession – education in Vashon's case – when denied certifications to be a lawyer. Many of us do not have the wisdom to battle for a more just nation when we ourselves have been denied justice.

To that end, Duane Morris will host an annual lecture series, at which legal scholars will offer their views on making our justice system work better. As Chief Justice Castille said, "While discrimination may still exist in our society, it is a far cry from those ancient practices that denied Mr. Vashon his rightful

place in our jurisprudential scheme." In that spirit, the George Boyer Vashon Lecture Series will provide scholars, stakeholders in business and government, and friends a unique opportunity to learn what more we should be doing to help others right ancient wrongs. ■

Nolan N. Atkinson Jr. (NNAtkinson@duanemorris.com) is a member of the trial practice group in the Philadelphia office of Duane Morris LLP and the firm's first chief diversity officer.

of the bar of the U.S. Supreme Court or educating students in New York, Pennsylvania or Washington, D.C. History is important, not because it tells us what happened in times past, but because it teaches us how to make better decisions in future times.

One of the best days of my professional life did not happen because my great-grandfather George Vashon was appropriately recognized by the highest court of this commonwealth. It was a great day because the teaching of the state Supreme Court's order is that every lawyer-to-be, regardless of



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