

Reflections on the **40TH ANNIVERSARY** --- **OF THE LIACOURAS COMMITTEE**

By Judge Ricardo C. Jackson

In 2011 we celebrated the 40th anniversary of the Liacouras Committee, a five-member panel appointed in 1970 by then-Chancellor Robert M. Landis to investigate allegations of racial discrimination within the Pennsylvania Bar admission process.

The members of the Committee included Philadelphia Court of Common Pleas Judge Clifford Scott Green, Philadelphia Municipal Court Judge Paul A. Dandridge, W. Bourne Ruthrauff, Peter J. Liacouras and myself. Liacouras, then a law professor at Temple, was chair of the committee.

Before going into the investigations, findings and impact of the committee's findings on the revamping of the bar examination process in Pennsylvania, it is necessary to explain the impetus for its creation.

Before the creation of the committee, noted African-American judges and lawyers had complained repeatedly of the lack of African-Americans within the bar in Pennsylvania,

and pointed to the abysmal Pennsylvania bar passage rate for African-American law graduates no matter where those graduates attended law school or their law school performances. The most vociferous African-American judges and lawyers who repeatedly expressed concern about the number of black applicants passing the bar exam included, among others, Philadelphia Court of Common Pleas Judge Raymond

Pace Alexander, Austin Norris, Robert N. C. Nix Sr., Charles W. Bowser, Andre W. Dennis, A. Leon Higginbotham, Almanina Barbour, Philadelphia Court of Common Pleas Judge Thomas Reed, William T. Coleman and the members of the law firm of Moore, Lightfoot & Edley where I did my preceptorship.

Norris had charged as far back as 1953 that discrimination existed in the then County Board of Law Examiners and the State Board of Law Examiners. Norris' strident advocacy on this issue convinced then-Philadelphia Bar Association Chancellor Bernard G. Segal to appoint a four-member committee on Feb. 18, 1953 with a mandate "to investigate



Members of the Liacouras Committee included (from left) Judge Paul A. Dandridge, Ricardo C. Jackson, Peter J. Liacouras, Judge Clifford Scott Green and W. Bourne Ruthrauff. (photo courtesy of Special Collections Research Center, Temple University Libraries, Philadelphia)

alleged discrimination in the grading of bar examinations in Philadelphia County by the State Board of Law Examiners.”

That committee, known as the Hastie Committee, was chaired by U.S. Court of Appeals Judge William H. Hastie (who was African-American); and included Abraham L. Freedman, G. Ruhland Redman Jr., and Theodore G. Spaulding (another African-American). After its investigation, the Hastie Committee concluded that “There were no discriminatory practices,” within the bar exam grading.

Despite the report of the Hastie Committee, concerns continued unabated about the difficulty blacks were having in passing the bar exam. Those concerns crystallized in the appointment of the Special Committee on Pennsylvania Bar admission and procedures [the Liacouras Committee] on June 27, 1970 by Chancellor Landis to “investigate the claims of possible discrimination against black students in these procedures.” The Liacouras Committee had neither subpoena powers, nor a staff. The committee’s investigation began with the holding of its first meeting on Sept. 17, 1970, attended by more than 35 people. Three days later, Norris issued a statement to *The Philadelphia Inquirer* stating his belief that there was blatant racial discrimination against black applicants in the grading of the state bar exam. He pointed out to the newspaper that the scores of about 50 percent of the examinees were adjusted to ensure passage of the exam “on the basis of their law school records and other non-test criteria.” This adjustment, called a “second look,” was made by the chief examiner who examined the candidates’ background, his soon-to-be-firm, his undergraduate college record, and everything else, including talking to the County Board of Law Examiners.

On Dec. 19, 1970, our committee filed its report, which contained the following findings, and conclusions. The report of the Liacouras Committee can be found in Volume 44 of the *Temple Law Quarterly* 1971, Winter edition. First, although the grading of the bar exam was supposed to be anonymous, the graders were provided with the applicants’ pictures (which revealed their racial identity); the law schools attended, and other information that should not have been relevant to the exam. In addition, each time an applicant repeated the exam two additional pictures of that applicant were required in his or her file. For example, if an applicant had taken the exam three times, six pictures of that applicant would be in his or her file and available to the grader before the grading of the exam. When we questioned this practice, a spokesman for the board incredibly asserted,

Although the grading of the bar exam was supposed to be anonymous, the graders were provided with the applicants’ pictures (which revealed their racial identity).

“Persons who grade [the exams] do not know the identity of persons who take the exams.” Second, black applicants were made to sit together in the exam hall – a form of segregating applicants based on race. When we questioned this practice of seating black applicants together, the board claimed that it was “by chance.”

Third, the board had no procedure in place for reviewing an examinee’s paper once the exam was over, thereby making it difficult to compare the quality of exam papers and grades awarded. This is because the exam papers were destroyed after the exam. There was no specified time period for safekeeping an exam paper in case of challenges to the grading.

Fourth, 98 percent of all white applicants passed the exam, while only 70 percent of blacks who took the exams passed.

Fifth, out of a population of 7,430 attorneys in Pennsylvania only 130 were black, and out of this 130, 111 were in Philadelphia whose population was 30 percent black. Only one large firm (Dilworth, Paxson, Kalish, Levy and Coleman) had a black partner – William T. Coleman. No large law firm had more than three black associates. Our committee also found that between 1955 and 1970, only 83 blacks had been admitted to the bar of the Commonwealth.

Sixth, Pennsylvania had only seven black judges in Common Pleas Court out of 56; one black judge within the appellate courts out of 21; and one black judge each within the federal district courts and the Third Circuit Court of Appeals.

Ultimately, our Committee concluded and charged that the bar exam “...as developed and administered is invalid and discriminatory, and circumstantial evidence leads to the strongest presumption that blacks are indeed discriminated against when they take the exam.”

Our report captured national attention with reactions being mixed. A few days after our report, then-District Attorney Arlen Specter held a news conference strongly endorsing our report and indicating his disapproval of the bar exam as then administered. Also, at the local level, then Assistant Prof. Robert J. Reinstein of Temple University Law School, who later became its dean, declared that the bar exam was violative of the 14th Amendment to the U.S. Constitution with respect to black applicants. However, many members of the bar strongly condemned our report. One prominent member of the bar went as far as calling on the Board of Governors of the Pennsylvania Bar Association to “censure every member of the Committee.” At the national level, *The Washington*



Who's Who from the Liacouras Committee

Hon. Paul A. Dandridge

- Judge, Philadelphia Municipal Court (retired)

Hon. Clifford Scott Green

- Judge, Philadelphia Court of Common Pleas and U.S. District Court for the Eastern District of Pennsylvania; partner at Norris, Schmidt, Green, Harris, Higginbotham, & Brown (deceased)

Hon. Ricardo C. Jackson

- Former president, Barristers' Association of Philadelphia; currently a senior judge on Philadelphia Court of Common Pleas

Peter Liacouras

- Former dean, Temple University School of Law and later president of Temple University

Bourne W. Ruthrauff

- Currently member of Bennett, Bricklin & Saltzburg, LLC

Post applauded our report. But Vice President Spiro Agnew, a graduate of an unaccredited law school who would not have been eligible to take the Pennsylvania bar exam, and who was later forced out of office in disgrace, lambasted our report on the front page of the same newspaper. With respect to our report, Vice President Agnew asserted "The result can be to lower standards of justice."

Following our report, Nolan N. Atkinson Jr. contemplated legal action challenging the bar exam as then administered. Soon thereafter, Atkinson and Prof. Paul Bender of the University of Pennsylvania School of Law successfully negotiated with the board for fundamental changes

to the administration of the bar exam in Pennsylvania. Our report and the successful negotiation thereafter with the board resulted in significant changes to the administration of the very next bar exam. In addition, many states which had similar bar exam procedures as Pennsylvania used the report as the impetus to change the procedures for their bar exams.

Changes in the way the bar exam was administered following our report, had a dramatic effect on the number of black applicants who began passing the exam and becoming members of the bar. Within two years, 82 blacks became members of the Pennsylvania bar, whereas between 1955 and 1970 only 83 blacks had been admitted to

the bar. According to Fleming Tucker, a senior member of the bar, between 1920 and 1969, only 180 blacks were admitted to the bar of Pennsylvania.

In conclusion, the report of the Liacouras Committee was instrumental in reforming and changing the discriminatory administration of the bar exam in Pennsylvania, and in many other jurisdictions. Those changes ensured equal opportunities to blacks in the taking of the bar exam, and led to significant increases in the number of blacks who became members of the bar. ■

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