

self-regard just a tiny bit smaller than it is, she would realize that her performance at Harvard was just that: a star turn. Were her ego really under control, she'd understand that Harvard was using her every bit as much as she was using Harvard, that each, in permitting its gaudy light to be shed upon the other, was merely engaging in an act of reflective self-regard. This being her stock in trade, it must have seemed like just another day at the office.

Paragraphs like that keep one mumbling to the missus through a mouthful of Corn Toasties: *Hehhun, yagoddareddis!* [Trans: "Hey, honey, you've got to read this!"] This particular one appeared in February of 1995, and you know, it holds up pretty well, not bad at all for deadline newspaper stuff.

I said I'd try to mention things that Yardley likes,

rather than deplores, but I seem to be running out of space. There are some lovely pieces on baseball and his beloved Baltimore Orioles, though since the publication of this book, he appears to have fallen out of love there, repelled finally by what big-money and TV have wrought on his once-treasured pastime. The section entitled "Ave Atque Vale" contains some genuinely lovely and moving tributes to dead friends and acquaintances, among them Walker Percy and Frederick Exley, about whom Yardley has written a superb biography. In the pages of this section we get glimpses of the warm heart that beats beneath the chain mail. Or whatever, as Bob Dole would say. Perhaps that same affection—for country, culture, old-fashioned standards of honor, honesty, and decency—is implicit in all his writing: Only someone who cares this deeply for the pageant could be moved to such gorgeous indignation by its continuing failures. ●

# The Hidden Wound

*The story of a black lawyer who tried and failed to ignore his race*

By David J. Garrow

**P**AUL BARRETT'S POWERFUL AND POIGNANT book about the life and legal career of his one-time Harvard Law School roommate has lessons aplenty for anyone interested in affirmative action, employment litigation, or judicial racism.

Lawrence Mungin made it from a single-parent household in a Queens, New York, public housing project to Harvard College and then Harvard Law School before finally having to acknowledge the inescapability of race after joining the all-white Washington office of a Chicago-based law firm.

Mungin's reluctant acceptance of his own racial identity is the unifying theme of Barrett's sensitive but not uncritical portrait. But lurking just behind

that theme is the fact that Mungin's decision to escape as completely as possible from the world in which he grew up left him a fundamentally isolated and lonely person. Barrett recognizes the "rootlessness" that characterized Mungin's early adult life, but Mungin's reserved nature, and Barrett's obvious respect for his friend, seems to have kept Barrett from asking many potentially intrusive questions.

Barrett is explicitly willing to question the wisdom of Mungin's decision to move to Katten Muchin & Zavis in 1992 after several unremarkable years of early law practice at the two well-known firms of Weil, Gotshal & Manges and Powell, Goldstein, Frazer & Murphy. Barrett suggests that notwithstanding all the energy and drive Mungin had demonstrated earlier in life (including four years of very successful Navy service), by the time Mungin graduated from law school he was "coasting" professionally as well as personally drifting. Barrett believes that an attentive and savvy

**THE GOOD BLACK:  
A Story of Race  
in America**

by Paul M. Barrett  
Dutton, \$23.95

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young lawyer should have recognized just how potentially troubled the Washington office of Katten Muchin was before taking a job there, but even in retrospect Mungin resolutely disagrees.

The centerpiece of *The Good Black* is Larry Mungin's experience at Katten Muchin. Barrett's narrative implicitly emphasizes two distinct but not inconsistent themes: (1) many if not most large law firms often behave thoughtlessly and callously toward young lawyers, and (2) the ways in which Mungin was sometimes ignored and at other times demeaned at Katten Muchin can but need not necessarily be viewed or explained through a racial prism.

Barrett underscores both how Mungin's unhappy experience at Katten Muchin did not feature any "racist insults or overtly hostile acts" and the ways in which other lawyers—white lawyers—not directly acquainted with Larry Mungin automatically questioned his professional competence once he filed suit against Katten Muchin in 1994. In fact, no one with whom Mungin had worked, either at Katten Muchin or at his previous firms, appears to have ever doubted his professional abilities. Yet one former Katten Muchin partner who had never met Mungin told Barrett just what the problem was: "Anyone who spends any time in the profession would know that there are lots of minorities, African-Americans especially, who are running around with Harvard and Yale degrees who are not qualified in any sense. They have been solicited and tutored and polished up and sent out to the profession and they're not up to grade, for whatever reason."

Barrett observes that "[t]his is not an unusual opinion among white lawyers at Katten Muchin and other elite firms, merely one that is rarely articulated," especially to journalists. That same usually unspoken attitude can also be seen in many other forums—law school faculty hiring decisions, for example—but Barrett accurately notes that the erroneous assumption that a black man such as Mungin "was a Harvard affirmative action phony" was nothing more than "an example of raw stereotyping."

Mungin's performance as the first witness before a D.C. federal district court trial jury in March, 1996 was highly compelling. True, seven of the eight jurors were black, and Mungin's lead counsel, Abbey Hairston, consistently outperformed her opposite number, but both the lawyers and Barrett—the trial's only consistent spectator—were surprised when the jury deliberated for hardly two hours before returning with a remarkable verdict in Mungin's favor: \$1 million dollars in compensatory damages and an additional

\$1.5 million dollars in punitive damages.

One of Barrett's most striking observations concerns how the case "transformed Mungin" from someone who previously had done his utmost to minimize and ignore racial or possibly racial slights into someone who for the first time in his life was comfortable expressing racial anger. "When this law firm wronged him, in his eyes," Barrett told an NBC "Today Show" interviewer this January, "the fury of thirty-five years came pouring out, not just the reaction to what had happened over a couple of years in a law firm." Mungin himself readily credited Barrett, more than his own willingness to go to court, with bringing about the change: "Paul forced me to take the blinders off, to acknowledge race is an issue," he told the *National Law Journal*.

Mungin admitted in a National Public Radio interview that "my awakening came...rather late in the game," but Barrett does a superb job of detailing how the terminal illness and eventual death of Mungin's long-absent father, with whom he previously had never had any meaningful contact, reconnected Mungin to his familial and racial roots in an unprecedented way. Mungin's father had lived most of his life in the Sea Islands of South Carolina, and for his son the realization that his father was widely respected in his native haunts where the Mungin family had multi-generation roots came as a life-changing corrective to his prior conclusion that his father was a no 'count loser.

Both in Barrett's book and in Mungin's life, that reconnection with his father and his extended family looms far larger than the reversal of his trial court victory by a three-judge panel of the D.C. Circuit Court of Appeals in July, 1997. The law firm representing Mungin had gone through tremendous turmoil in the months and weeks just before the Circuit panel heard argument on Katten Muchin's appeal, but it was the composition of the three-judge panel—and particularly the presence of Circuit Judge A. Raymond Randolph, not the quality of counsel's advocacy—that predetermined the outcome.

At oral argument, Judge Randolph asked Katten Muchin's visibly surprised lawyer how well Mungin had done as a student at Harvard Law School—a subject on which the case record was understandably silent—and then followed up by gratuitously asking Mungin's counsel whether Mungin had been fired from either of his previous law firm jobs. Barrett asks with considerable understatement whether Randolph had "come to the oral argument assuming that the plaintiff was unqualified, a black lawyer carried along

by affirmative action,” and Barrett expresses no surprise at the eventual outcome, a two-to-one total reversal of Mungin’s jury verdict in which Judge Stephen Williams joined with Randolph to out-vote black D.C. Circuit Chief Judge Harry Edwards.

Barrett observes that that particular judicial panel “probably would have reached the same result if Thurgood Marshall in his NAACP prime had made Mungin’s case.” To Mungin himself, the appellate majority’s conclusion that the trial evidence “was insufficient for a reasonable jury to have reached the challenged verdict” represented “judicial nullification.” Different from but similar to the widely-debated concept of “jury nullification” whereby racially-sympathetic jurors refuse to convict a same-race defendant, Mungin defined “judicial nullification” as “the reaction of white appellate judges to the verdict of a predominantly black jury that has found in favor of a black party.”

After the trial, the presiding judge had affirmed

that “the evidence supports a finding of racial discrimination.” Barrett’s verdict is much the same: “it is more likely than not—the legal standard in civil cases—that Mungin’s race played an important part in the particularly callous way he was handled.” But Barrett’s conclusion that the D.C. Circuit majority was wrong and “should have left the jury’s discrimination verdict undisturbed” looms less large than his far more powerful but largely implicit judgment that the most important result of *Mungin v. Katten Muchin & Zavis* was not the judgment that the plaintiff lost but the identity he unexpectedly found. *The Good Black* leaves a reader—or at least this reader—sharing Barrett’s regret that Mungin’s \$2.5 million dollar windfall disappeared. But the more subtle message of this memorable book is that Larry Mungin, like thousands before him, discovered an inner self he previously hadn’t known once he embraced a struggle that he finally realized he could not avoid. ●

# The Glamour Trap

*Are “entertainment values” blinding us to what really matters?*

By Joshua Wolf Shenk

**A** FEW MONTHS AGO, I ATTENDED WITH A friend a 150th anniversary reading of the Communist Manifesto. This was my first time inside the Cooper Union, a stately old building in lower Manhattan that was, in February 1860, the site of a speech by Abraham Lincoln that set the Eastern intelligentsia buzzing and played a major role in his subsequent nomination. “Let us have faith,” Lincoln concluded, “that right makes might. And in that faith, let us, to the end, dare to do our duty as we understand it.”

On this night in 1998, a large crowd had assembled in that spirit. But it was a gray-haired crowd. I wondered why. Did it reflect ideological shifts over generations, or the fact that igniting a revolution or

even joining a movement—whatever its ideas—is simply out of step with the values of people my age?

For my part, I attended the reading not as a participant, but as an audience member. I had come because the Manifesto reading featured the playwrights Wallace Shawn and Tony Kushner. I had come in search of provocative ideas. But also for entertainment.

In *Life the Movie*, Neal Gabler argues that entertainment has “conquered reality.” He insists his book contains no “high dudgeon.” But his idea does have obvious moral implications, which is why it deserves to be taken seriously. My dictionary defines entertainment as “that which holds the attention by amusing or diverting.” If we are “diverting” ourselves, it raises the question of what from? If our relationships—even our internal identity—is constructed around entertainment, then what happens to the more sober demands of reality?

**LIFE THE MOVIE:**  
How Entertainment  
Conquered Reality  
By Neal Gabler  
Knopf, \$25

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