



City of Cambridge

26.

IN CITY COUNCIL

June 9, 1997

COUNCILLOR SULLIVAN
COUNCILLOR TRIANTAFILLOU
VICE MAYOR BORN
COUNCILLOR DAVIS
COUNCILLOR DUEHAY
COUNCILLOR GALLUCCIO
COUNCILLOR REEVES
MAYOR RUSSELL
COUNCILLOR TOOMEY

WHEREAS: Appeals Court Judge Roderick L. Ireland has been nominated by Governor Weld to sit on the Massachusetts Supreme Judicial Court; and

WHEREAS: If confirmed by the Governor's Executive Council, Judge Ireland will be the first African American Justice in the 305 year history of the state's highest court; and

WHEREAS: Judge Ireland has had a dedicated and distinguished career as an attorney and a jurist, and will bring a wealth of experience to the Supreme Judicial Court; and

WHEREAS: Judge Ireland was a public defender in New York City and in Roxbury, where he managed the office, before his appointment to Juvenile Court in 1977, where he served for 13 years and was and still is considered as one of the state's leading authorities on juvenile law; and

WHEREAS: In 1990, Judge Ireland was appointed to his present position as Appeals Court Judge; now therefore be it

RESOLVED: That the Cambridge City Council go on record expressing congratulations and best wishes to **Judge Roderick L. Ireland** on the occasion of his nomination to the Supreme Judicial Court, and its hopes for a speedy confirmation; and be it further

RESOLVED: That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to **Judge Roderick L. Ireland** on behalf of the entire City Council.

In City Council June 9, 1997

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

D. Margaret Drury

ATTEST:-

D. Margaret Drury, City Clerk

26.

Councilman Sullivan
Councilman Triantafellow
Resolved

That this City Council go on record
extending its congratulations to Judge
^{Roderick}
Deland on his appointment to the
Supreme Judicial Court.

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Judy Ireland
Susan Jud Court

Barbara Caspman

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Resolved: SEC in behalf of entire EC-



GLOBE STAFF PHOTO / DOMINIC CHAVEZ

Judge Roderick L. Ireland speaks at the State House yesterday.

Weld picks appeals judge to be first black on SJC

By Adrian Walker and John Ellement
GLOBE STAFF

Declaring his debt to generations of black lawyers and judges who cleared the path for him, Appeals Court Judge Roderick L. Ireland yesterday accepted Governor William F. Weld's nomination as the first African-American justice in the 305-year history of the state's highest court.

Surrounded by family, friends, and eminent members of the city's black legal community — many of whom said they were drawn to the State House to witness history in the making — Ireland emotionally ac-

cepted the formal nomination to a seat on the Supreme Judicial Court.

Announcements of SJC nominations are often brief, low-key affairs, and rarely does anyone but invited guests attend.

But yesterday the room was filled with a host of prominent members of the legal community, including childhood friend Wayne Budd, a former US attorney; attorneys Fletcher Wiley and James Dilday, and state Senator Dianne Wilkerson.

They made it clear that they were giving witness, not out of a sense of obligation, but to share in the celebration of a quiet, dignified

IRELAND, Page B5

First black nominated by Weld for SJC

■ IRELAND

Continued from Page A1

man who had realized the dream of an entire community.

"This is such a great day," declared Wilkerson, a Roxbury Democrat. Like Ireland a Springfield native, she was urged to look to Ireland as a role model when she was growing up. "This isn't about quotas for me," said Wilkerson. "This is about having someone with the life experience of having grown up black in Springfield on the court."

"I think that diversity of experience is very important."

Ireland, a 20-year veteran of the Massachusetts bench, declared no greater ambition than to be a role model for youth.

"I want kids to look at me and know they can grow up to be anything they want to be," Ireland said. "Even a judge."

Surrounded on the podium by his wife, Alice Alexander, Lieutenant Governor Paul Cellucci, Weld, and Budd, Ireland made it clear he was well aware of the history of the moment.

"I am really humbled and honored to be the first African-American to be nominated for the Supreme Judicial Court," he said. "I just want to acknowledge the many, many qualified and competent African-American attorneys and judges who preceded me, who opened the door, who made it possible for me to be here today."

Asked why the appointment of a black justice has taken so long, Weld responded that Ireland has been close before, and that his qualifications had never been at issue.

"He was a finalist last time and a finalist this time," Weld said. "Of course it was a very small field."

For Weld, Ireland's nomination recalls the career of retired General Colin Powell, who spoke Saturday in Boston.

"He mentioned that he was the first black chairman of the Joint Chiefs of Staff, but not the first black who was qualified," Weld said. "He acknowledged that he's standing on the shoulders of others. It's high time this happened, and now it has."

Ireland was selected from a small field this time because most prominent black lawyers and judges — eager to see Weld name the first black justice to the court — rallied behind Ireland as a consensus choice and declined even to apply. Only one other candidate, New England Law professor Robert V. Ward Jr., who is also black, even bothered to apply. Ireland was chosen essentially by acclamation.

Ireland, 52, was tapped on his third try, just under a year after Weld endured heavy criticism for failing to nominate a black justice. He was a finalist as Weld chose Margaret H. Marshall and Charles Fried, the last two justices named to the court.

For Ireland, an Appeals Court judge since 1990, the appointment is the latest step in an odyssey that has taken him from managing a public defender's office in Roxbury, to a 13-year stint on the Juvenile Court, to

the oldest court in the United States. He was praised yesterday for his broad background, and as a judge who would bring a wealth of experience to the SJC.

Harvey Silverglate, a prominent Boston defense attorney, praised the nomination because Ireland has worked both as a private attorney and as a trial judge.

"It's refreshing to have somebody like that on the high court ... someone who understands what the real world is like," Silverglate said, speaking for trial lawyers who say appellate judges do not always understand the reality of everyday legal practice. Weld's two previous nominees, Fried and Marshall, both had limited courtroom experience, Silverglate said.

Ireland is a graduate of Lincoln University, and holds degrees from both Harvard and Columbia law schools. He is currently working toward a PhD in law, policy and society at Northeastern University.

He was a public defender in New York City and Roxbury before being

appointed to the juvenile court by Governor Michael S. Dukakis in 1977. Dukakis appointed him to the Appeals Court in 1990.

Still facing confirmation by the Governor's Council, Ireland was reluctant yesterday to discuss his judicial views in detail.

"I guess I'm a liberal on some issues and conservative on others," he said somewhat evasively, prompting Weld to quip: "A lot of us are like that."

But the portrait of Ireland that emerged from interviews with colleagues was that of a relatively liberal judge who has been a staunch defender of due process and personal liberties, and is considered perhaps the state's leading authority on juvenile law.

Boston City Councilor Francis "Mickey" Roache yesterday recalled how, as a police detective sergeant, he worked with Ireland in 1982 after a Dorchester home was firebombed by three white males because a black family had moved in. Two of the suspects were juveniles who ended up

before Ireland, then a judge in Boston Juvenile Court.

Roache said Ireland's race, and the fact that the black family was a victim of racism, did not affect Ireland's handling of the case. He said Ireland pushed police to dig up school records. That, Roache said, led to the discovery that the juveniles were special needs students who probably had been prodded by the adult into committing the crime.

"He goaded people along the way to ensure that due process" was followed during the investigation, Roache said. "I've never seen a judge respond more professionally than Judge Ireland at that time."

Confirmation hearings for Ireland have not been scheduled, but his nomination did not touch off the immediate opposition that Fried and Marshall faced. Some members of the council, which confirms judges, noted that Ireland has already been confirmed for two other posts, and said they saw little sign of controversy.

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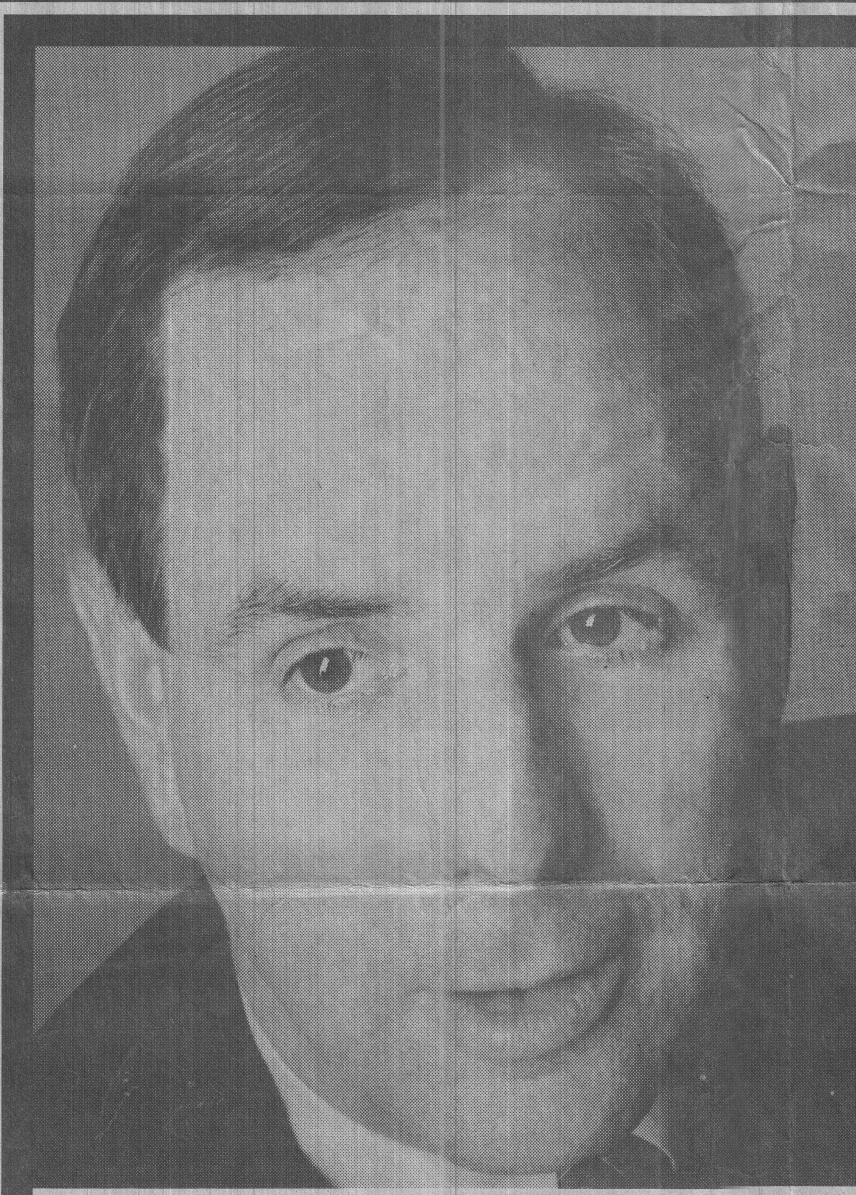
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*Michael E. Collins, M.D.
President, Caritas Christi Health Care System*

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MASSACHUSETTS SUPREME JUDICIAL COURT NOMINEE

Roderick L. Ireland, 52

■ **Current position:** Associate Justice, Massachusetts Appeals Court, since 1990.

■ **Education:** BA, Lincoln University, 1966; JD Columbia Law School, 1969; LL.M. Harvard Law School, 1975; currently PhD candidate Northeastern University, degree expected 1997 (Law, Policy and Society).

■ **Professional:** 1977-1990 Associate justice, Juvenile Court Division, Massachusetts Trial Court; 1974-1977, Legal counsel, Roxbury District Court clinic; 1975-1977, General counsel/Assistant secretary, Executive Office of Administration and Finance; 1975, Associate, Burnham, Stern and Shapiro; 1974, Teaching fellow, Harvard Law School; 1971-1973, Roxbury Defenders Committee; 1970-1971, Staff attorney, Harvard Center for Law and Education; 1969-1970, staff attorney, Neighborhood Legal Services, New York City.

■ **Teaching:** Has lectured at Harvard Law School, Northeastern University School of Law, and Northeastern University College of Criminal Justice.

■ **Personal:** Married, Alice Alexander.

SOURCE: Commonwealth of Massachusetts

GLOBE STAFF PHOTO

Horse Salve Eases Arthritis Pain

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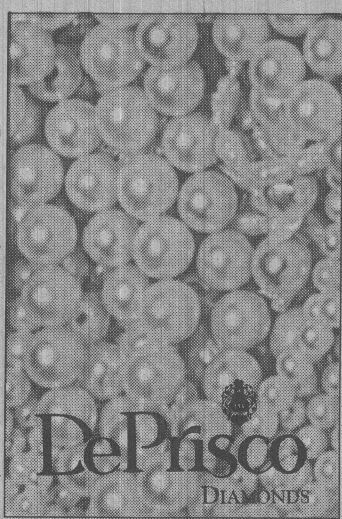
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Legal advocate faults BHA in race case

■ MULLEN

Continued from Page B1

case and obtained the affidavits, felt the BHA had not taken his reports of conflicting evidence seriously. The affidavits were signed March 14 — only hours before Mullen hanged himself in a stairwell at the West Broadway project.

Three days after Mullen's death, the BHA dropped its eviction proceeding against his mother and five other children in the household. Cranley said that he does not believe the case played a role in Mullen's death, but that he approached the Globe with his findings because the case had been "extraordinarily troubling."

Eviction proceedings against Mullen's family had begun shortly after Dec. 23, when four white youths used a baseball bat to smash the door to an apartment used by a

minority family. Before the assault, the youths allegedly shouted racial epithets at the family.

Last week, Cranley blasted BHA staff for declining to interview the witnesses.

"To see something like this really depresses me," said Cranley.

BHA attorney Michael Malamut confirmed last week that Cranley informed him about the contrary evidence. But, he added, the project site manager is responsible for deciding whether to continue eviction proceedings.

West Broadway site manager Wanda Roldan said last week that Malamut never told her about the new reports.

In the affidavit, the witness stated that "I saw the four boys clearly, and Tommy Mullen was not one of them." After naming the alleged perpetrators, she said, "The police officer told me that they were going to write down Tommy Mullen's name, even though I didn't mention him, because they had previously seen Tommy with the boys mentioned earlier in the day."

Deputy Police Chief Stephen Melia, who supervises the BHA officers, said he was unable to comment. The officer who wrote the report is no longer with the BHA, he said.

Cranley said he does not believe that the allegations against Mullen played a role in his death, but that his client knew that "despite overwhelming evidence in his favor ... the BHA had no intention of dropping the case against himself and, by extension, his family."

Mullen felt besieged by the BHA, according to Joseph Fahey, a federal agent who works in South Boston and volunteered to mentor Mullen.

"I think the BHA had a bad opinion of Tom, which was very unwarranted, and which they could use to write off a lot of ugly incidents around the projects instead of taking action to find out who did it," said Fahey, a felony investigator for the Department of the Navy.



THOMAS MULLEN
Hanged himself during probe

Mullen had been branded by authorities as a troublesome gang leader, his family said. His movements were often monitored by housing police, they added.

"In many ways, he was a typical kid in the projects," Fahey said. "Was he a gang leader? Absolutely not. Was he a kid with serious criminal problems? Absolutely not."

However, Mullen had been suspended from South Boston High School at the time of his death because of another racial incident for which he denied guilt.

After the December 23 assault, Fahey said, "I didn't get any feeling whatsoever that there was any type of aggressive investigative process going on here. I think the BHA, to their own advantage, made Tommy out to be some type of villain. It's just not the case at all."

Cranley, who worked for Harvard's Tenant Advocacy Project, argued that the BHA's eviction process does not give tenants the means for an adequate defense.

For example, he said, BHA guidelines stipulate that tenants have the right in grievance hearings to "controvert evidence relied on by the BHA" and "to confront and cross-examine all witnesses on whose testimony or information the BHA relies."

But when Cranley requested the BHA police report about the assault, the names and addresses of the witnesses had been obscured, as well as the site of the attack. Only through luck and time-consuming investiga-

tive work, Cranley said, was he able to discover the names of the two witnesses and obtain the affidavits that removed Mullen from the scene.

Cranley said that Malamut told him he planned to rely only on the BHA police report and Roldan's testimony at a grievance hearing to determine whether the case would go to court for possible eviction. "How do you cross-examine a police report?" Cranley asked.

Roldan, he added, would have been repeating what others had told her. Mullen died before the scheduled date for the grievance hearing.

Malamut said the BHA was complying with state privacy law when it withheld the names of the witnesses. In any event, he said, Cranley would have been able to use the grievance hearing to introduce the affidavits, as well as a movie stub that purportedly placed Mullen in the Back Bay at the time of the attack.

"We felt that, in this particular case, we handled it appropriately," said Malamut, who is BHA attorney for the three developments in South Boston.

If the grievance panel determined that the case should proceed to Housing Court, Malamut said, Cranley would have been able to subpoena the witnesses.

That option may not have heartened the family, Cranley said. The law students who volunteer for the Tenant Advocacy Project cannot represent clients in court, he said, and most public-housing tenants cannot afford lawyers to represent them before a judge.

Malamut said that the BHA's goal is to settle most grievances before eviction. And even if a grievance panel had decided a court hearing was warranted, he added, Mullen's family could have appealed.

Cranley, however, said the system unfairly places the burden of proof upon the tenants, most of whom are poor, lacking in education and uncertain of their legal rights.

"I consider myself someone who believes the government should be working for integration," Cranley said. "But if you shift the burden of proof," he added, the result in racial-harassment cases may be to create "more differences between white and black."

Colleges called biased in sports scholarships

■ TITLE IX

Continued from Page B1

Greenberger said the list is not a ranking of the worst violators, but it is a starting point.

"Boston University is giving the average female athlete \$3,754 less during one year alone than the average male athlete," Greenberger said.

While females constitute about 55 percent of the university's student body and about 45 percent of its varsity athletes, only about 32 percent of athletic scholarship dollars go to women athletes, according to the complaint.

At Boston College, Greenberger noted that women make up about 53 percent of the student body and 37 percent of varsity athletes, while receiving 31 percent of total athletic scholarship money. The yearly difference between male and female scholarships, on average, is \$1,792, the complaint stated.

At Northeastern University, women are 44 percent of the student body and 38 percent of varsity athletes, but receive only about 31 percent of athletic scholarship money, the complaint states. The scholarship gap at Northeastern is about \$1,970 per year.

At the University of New Hampshire, women make up 57 percent of the student body and 50 percent of varsity athletes, while receiving approximately 41 percent of athletic scholarship dollars, according to the complaint. The annual difference between average male and female scholarships is \$1,148.

At the University of Maine at Orono, where 47 percent of the student body and 40 percent of varsity athletes are female, women receive only 26 percent of athletic scholarship dollars, the complaint states. The scholarship gap comes to about \$1,991 per year for the average female student.

Both Boston and Northeastern universities said that because the complaints are based on 2-year-old data they are not valid. Boston University said it has increased female sports participation to 49 percent and its scholarship lev-

el for female athletes to 36 percent. Scholarship funding will increase to 43.5 percent by the 1998-1999 academic year, the school said.

Northeastern University is in the middle of a 5-year NCAA-approved plan to comply with Title IX, said spokeswoman Mary Breslauer. The plan includes an extra \$300,000 in next year's budget to fund women's programs and scholarships, which currently show a 43 percent participation level, she said.

According to Breslauer, female athletes at Northeastern currently receive 36 percent, not 31 percent, of total athletic scholarship dollars.

Boston College had no comment. Attempts to reach the University of New Hampshire were not successful.

Joe Carr, public affairs spokesman for the University of Maine, said that the school had no comment about the complaint, but he did say that women's athletic scholarship money had risen from 26 percent to nearly 33 percent. The school also instituted a long-term gender equity program in 1995, but Carr said results have been slow because the program is partially dependent on private finances.

Most colleges and universities included in the complaint showed a scholarship gap of between \$1,000 and \$3,000 per year.

In response to challenges that increasing scholarships for female athletes would reduce opportunities for male athletes, Greenberger offered an analogy.

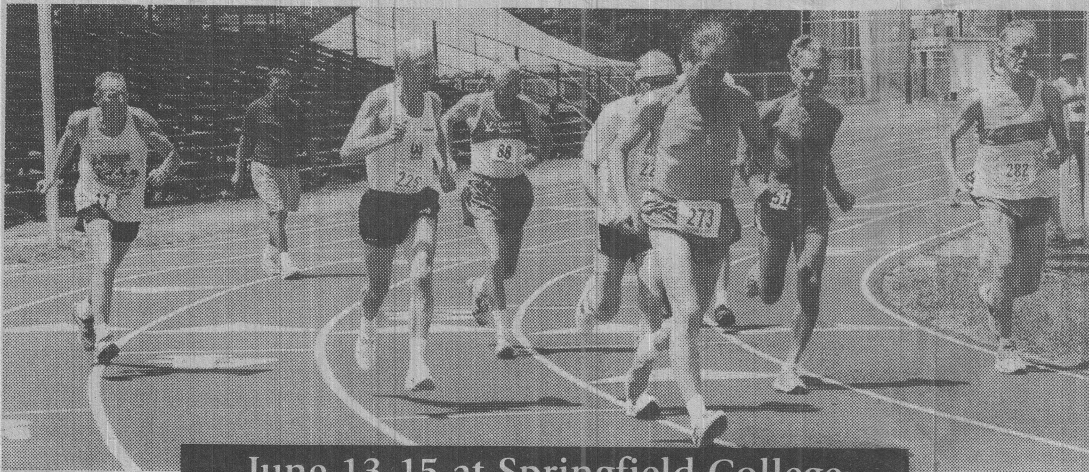
"When women are paid less, compared to a male worker, the answer is not to lower the wage of the male worker. The answer is to raise the female worker's wage. We see it as the same thing here," she said. "The schools on this list have not exhausted the scholarships that they can give to women."

Greenberger said the complaints are a first step intended to give the colleges and universities "a chance to get their houses in order" before further legal action is taken.

Globe correspondent Josh Trudell also contributed to this report.

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COUNCILLOR TRIANTAFILLOU

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Born, Davis, Galluccio, Reeves, Russell
Consent Order #26 Toomey, 2-881

Councillors Sullivan and Triantafillou
re: Congratulations to Judge Roderick
Ireland on his appointment to the
Supreme Judicial Court.

In City Council June 9, 1997

ORDER ADOPTED