

Never Mind the Bollocks

The hothouse world of Beltway journalism has been abuzz for weeks with the *contretemps* pitting two old friends against each other as a result of Bill Clinton's impeachment trial. In one corner: Christopher Hitchens, the investigative polemicist for *The Nation* and *Vanity Fair*, who unapologetically proclaims himself "a socialist, an atheist and a libertarian" and is the only radical of the left to make the roster of TV's talking heads with some regularity. In the other corner: Sidney Blumenthal, a notorious Clinton shill (and alleged White House spy) when he was a journalist at *The New Republic* and *The New Yorker*, who later joined Clinton's staff as a media strategist and spin doctor.

Just 24 hours before the Senate vote acquitting Clinton, Hitchens—at the request of the House managers—executed an affidavit making a perjurer out of his erstwhile chum Blumenthal (who, incidentally, was a Boston stringer for *In These Times* 20 years ago). In a videotaped deposition (parts of which were played for the Senate), Blumenthal denied serving as a conduit to reporters for Clinton's pretense that Monica Lewinsky was a "stalker"—a charge that, if proven, could have constituted witness intimidation and thus bolstered the obstruction of justice charges against Clinton. Hitchens' affidavit said that Blumenthal had indeed served up the "stalker" explanation at a March 1998 lunch with Hitchens and his wife.

As soon as Hitchens' affidavit became public, a firestorm of obloquy descended on the British expatriate's head. The *Washington Post* gave the story major play, with writer Christopher Buckley calling the feud "a Chambers-Hiss moment" and anonymous media figures proclaiming Hitchens *persona non grata* at dinner parties. Reams of over-ripe copy slugging Hitchens were churned out for a host of publications. However, given the Clinton camp's long history of trashing the women who've been the target of the Prevaricator-in-Chief's prapic attentions and Blumenthal's own reputation for journalist-bashing that

has earned him the sobriquet "Sid Vicious," few of Hitchens' attackers questioned the veracity of his affidavit. Instead, their ire focused on whether he should have given it at all.

Most of the criticisms maintained, as a *Nation* editorial put it, that there were "moral issues" like a "journalistic (and ethical) presumption against using pri-



vate conversations with friends for a public purpose without first obtaining permission."

Hitchens says that Blumenthal "never said our lunch was off the record; in fact, since at the time I'd been out teaching in California, he showed up with two thick file folders of briefing material [on the Clinton scandals] that he thought I should see, since he wanted to bring me up to date" on the latest White House spin. More importantly, Blumenthal's own lawyer issued a challenge to any reporters with knowledge of his client spreading the "stalker" story, releasing them from "any pledge of confidentiality." No moral issue there, I'd say.

The second major criticism of Hitchens is somewhat trickier. It claims, in essence, that since Clinton was a victim of "sexual McCarthyism," Hitchens should not have voluntarily cooperated with his prosecutors. Hitchens maintains: "I was asserting something *against* authority, in this case Clinton's shop and his use of state power to trash women. Clinton's is a world of soft-money corruption where women are the cherry on the cake. Of all the things said by the left apologists for Clinton, nothing is more despicable than the line that Clinton is a victim of a form of McCarthyism.

That's stupid and unprincipled, and defames the real victims of that inquisition, who were pretty nearly naked before the power of the state, which was engaged in an unconstitutional prosecution of their right to be revolutionaries. Neither is true for Clinton, Harold Ickes and the like." Quite right.

In any case, Hitchens argues that he already had written of the Monica-bashing lunch in the *London Independent* in September (albeit without identifying Blumenthal by name)—the story that provoked the call from the House managers. "I was asked to stick to a story I knew to be true, or dump it," Hitchens says. "I could call myself a liar or stick to the story." And, he adds, "I was a witness against Clinton, in my view, not against Sidney."

Now, I should say that I've been a friend of Hitchens since he first arrived on these shores, and I've written critically about Blumenthal (notably a *Nation* article on how he had tried to "out" the same-sex proclivities of a member of Ken Starr's staff to journalists). However, while I have no doubt that Hitchens thought giving his affidavit was an act of

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principle, it surely would have been more prudent for him—once he had been approached by the House's agents—instead to have quickly tapped out an op-ed piece revealing Blumenthal's perjury, which one of the dailies undoubtedly would have published. That was an error of political judgment. But it hardly merits the violent pummeling Hitchens has been taking lately.

Sadly, it is Hitchens who is being pilloried for telling the truth, while Blumenthal is elevated to martyrdom for trying to conceal it. As Hitchens notes ruefully, "Clintonism and its culture of lies poisons everything it touches, including this." ■

Death Penalty Death Watch?

There are many reasons for opposing capital punishment, but perhaps the most compelling one is the inability to correct a mistaken execution. Death is irrevocable, yet humans are fallible.

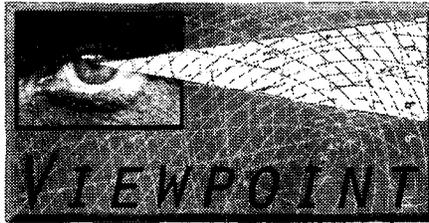
This was vividly illustrated by the recent case of Anthony Porter, a 16-year veteran of Illinois' Death Row who was released on Feb. 5 as a result of exonerating evidence uncovered by Northwestern University professor David Protess and a group of his students. Porter had been convicted of a 1982 double murder, and he came just 48 hours away from execution last year before doubts about his mental capacity convinced the Illinois Supreme Court to delay his killing. In the meantime, the main witness against him recanted her testimony. And then, in early February, another man confessed to the murder for which Porter had been convicted.

Porter's case, though dramatic, is hardly unique. He is the tenth innocent man released from Illinois' death row since 1987. Porter adds one more count to the compelling "indictment against the death penalty" that Craig Aaron wrote about in the Dec. 27 issue of this magazine. Across the country, in the 23 years since the death penalty was reinstated, more than 500 people have been executed, while 76 have been freed because of innocence.

Barry Scheck, the respected law professor known best for his defense of O.J. Simpson, has noted in a widely quoted calculation that there is one exoneration for about every seven executions. "It's an intolerable level of error, regardless of your views on the death penalty," he says.

Although more than 100 countries have now abolished capital punishment in law or practice, the United States is relentlessly bucking that trend. With nearly 3,600 inmates awaiting execution, the United States has the highest recorded Death Row population on earth. But this dubious distinction seldom provokes much serious national discussion on the issue of capital punishment.

As it is, death penalty issues have been swept into the swamp of electoral calculus in American politics. Any aspiring politician who questions the efficacy of the death penalty for any reason is instantly vulnerable to "soft on crime" charges. Thus, politically ambitious prosecutors are encouraged to



use the death penalty as a stepladder to higher office.

In Illinois, the DuPage County prosecutors of Rolando Cruz and Alejandro Hernandez—who were freed in 1995 after 10 years on Death Row—will soon go to trial on charges that they conspired to frame them in the kidnapping, rape and murder of 10-year-old Jeanine Nicarico. Although such a trial is unusual, it comes on the heels of a *Chicago Tribune* series that exposed a routine acceptance of prosecutorial excesses in Illinois and nationwide. "With impunity, prosecutors across the country have violated their oaths and the law, committing the worst kinds of deception in the most serious of cases," the paper concluded. "They do it to win. They do it because they won't get punished."

Porter's release has provoked the city's two leading newspapers and some major politicians to call for a moratorium on the death penalty until questions about how it is applied can be resolved. But when push comes to shove, it's doubtful whether enough politicians would risk the public disapproval such a measure would provoke. Support for state-sanctioned murder remains high among Americans.

Still, this issue has given death penalty opponents one of their few

moments of optimism in nearly a quarter century of increasing dread. Porter's release shines a bright light on the issue of capital punishment and offers a rare opportunity to place the system's injustice in sharper relief. Ten of Illinois' 160 Death Row inmates have filed requests for new trials based on credible claims that their confessions were extracted by police torture. On a national level, this pumps hope into the ever-growing effort to force a new trial for celebrated Pennsylvania Death Row inmate Mumia Abu-Jamal, whose cause has become a symbol of the larger struggle against the racist nature of the death penalty.

Although some death penalty supporters argue that the release of 76 innocent Death Row inmates proves the system works, the cases of the wrongfully convicted pose a serious challenge to the Supreme Court's 1976 ruling, in *Gregg v. Georgia*, which resumed capital punishment. In that decision, the Court ruled that death penalty statutes must contain "objec-

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tive standards to guide, regularize, and make rationally reviewable the process for imposing the sentence of death." It's very difficult to conclude that one exoneration for every seven executions indicates an "objective standard" or a "rationally reviewable" process. This wretched ratio exemplifies the arbitrary quality that led the Court to halt capital punishment in the first place.

The ethical and practical arguments against capital punishment may have to take a back seat to an emphasis on its insult to the Constitution. Some anti-death penalty purists see this tactic as a cop-out or a capitulation to crass contingency—and they're right. But we have to do whatever works. ■