CONFERENCE EXPLORES DISABILITY RIGHTS AND SOCIAL JUSTICE

BETTY LYNNE LEARY

It was a perfect Stan Herr kind of day. It had the kind of atmosphere he would have relished: legal experts, professors and other disability rights experts all gathering in one of the nation’s most user-friendly buildings to discuss the latest issues and strategies in protecting the rights of the disabled. And even though Herr wasn’t physically there, his spirit was the guiding force behind the first academic conference held in the School of Law’s new quarters on West Baltimore Street.

“We wanted to make sure this was the first conference held in our new home because the building was designed with persons with disabilities in mind,” says Diane Hoffmann, professor of law and chair of The Stanley S. Herr Memorial Conference on Disability Rights and Social Justice. “Stan conceptualized this conference before he passed away, and he identified many of the speakers. It was his vision and I simply implemented it.”

One of the speakers, Beth Pepper ’83, an attorney who specializes in civil rights for people with disabilities, describes the day as a tribute to Herr and how he influenced the disability rights movement and the people dedicated to carrying on his life’s work.

“The day was devoted to ways in which Stan inspired the academic community:” —BETH PEPPER ’83

A significant portion of the conference was spent on international issues, which made up a large part of Stan’s work; what can we learn from other countries and what can they learn from us,” Hoffmann explains. After a welcome from Dean Karen Rothenberg, Harold Hongju Koh, professor at Yale Law School, spoke on the “International Human Rights of Persons with Mental Disabilities.” Koh was followed by Lawrence Gostin, professor at Georgetown and Johns Hopkins universities, who explored the synergies of human rights and mental health. Koh and Gostin worked with Herr for several years on the relationship of international human rights laws and disability and recently published a book on their findings.

The last segment of the day was devoted to current issues in teaching disability law and a discussion of the most beneficial educational approaches. The conference proceedings will be published in the Maryland Law Review.
EXONERATED BALTIMOREAN OFFERS THURGOOD MARSHALL LECTURE

In the wake of the wrongly imprisoned who have been exonerated due to new evidence and DNA testing, the School of Law welcomed former inmate Michael Austin as the guest lecturer at the annual Thurgood Marshall Lecture Series on Oct. 10.

The lecture was organized by the Student Bar Association (SBA) and was co-sponsored by the SBA, the Alumni and Development Office, the Black Law Student Association, Maryland Public Interest Law Project, Inc., the American Civil Liberties Union, the University Student Government Association, and the journal MARGINS. Approximately 100 people attended the lecture.

In 1975, 26-year-old Austin was charged with and found guilty of burglary and homicide in commission of a burglary at a Crown Food Market. Although Austin could prove that he was working at the time of the incident, he was nonetheless arrested and charged. Austin believes that because he had a history of petty crimes as a juvenile, the police presumed that he could be a suspect in the murder.

Jackie Robinson, the state's key witness and a clerk at the Crown Food Market, lied and identified Austin as the suspect even though he did not match the description of the perpetrator. According to a March 21, 2001, Associated Press article, Robinson's family came forward to say that Robinson was a drug dealer; his brother told a private investigator that Robinson confided to him several times that he had helped convict the wrong man. During the lecture, Austin attested, "The state did not have any evidence against me. The state did not have any fingerprints to establish that I was at the store. The state had nothing." However, a jury found Austin guilty and he was sentenced to life plus 15 years.

After several attempts at an appeal to overturn the conviction, Austin wrote to New Jersey-based Centurion Ministries, a non-profit group dedicated to helping those wrongfully convicted. The staff at Centurion asked Professor Doug Colbert, of the School of Law, for his advice. Colbert recommended Larry Nathans, of the Baltimore firm Bennett & Nathans, LLP. Centurion Ministries retained Nathans to be Austin's attorney. With former Baltimore Mayor Kurt Schmoke and many in the community on his side, Austin was finally freed after 27 years of imprisonment.

In 2002, Austin, along with his attorney, tried to introduce a bill to the Maryland General Assembly for compensation for his time in prison. The legislature rejected it for budgetary reasons. However, Bernard Webster, who was released on Nov. 7, after serving 20 years for a crime he did not commit, recently received $900,000 as compensation from the Maryland General Assembly. Austin plans to reintroduce his bill this year.

In addition to a full-time job, Austin gives lectures on his ordeal and counsels former inmates who recently have been released from prison. Austin enjoys spending time with his family and girlfriend and playing in a band. While in prison, he learned to play the trumpet and write music from his cellmate, who has a degree in music.

MASHED POTATOES ANYONE?

The School of Law and its Alumni Association have planned a trip to the theater on Sept. 14, 2003 for a matinee showing of the Baltimore opening of the musical, "Hairspray."

"Hairspray" is based on the 1988 movie written and directed by Baltimore's John Waters, the cult celebrity/renaissance man who found success making movies about his hometown. Both the movie and play are about a teenager and her quick rise to fame when she becomes part of the teen dance show scene in Baltimore in the 1960s. Based on actual events, the play has a secondary theme about the teenage heroine's attempts to desegregate the dance show (while never missing a step of the Pony and the Mashed Potatoes.)

The alumni event, which sold out quickly, is dubbed "‘Hairspray’ in Context: Race, Rock ‘n’ Roll and Baltimore," and includes a presentation by Professor Taunya Banks, brunch and a matinee ticket.
Few issues have so deeply divided the American consciousness as reparations. The word conjures images of our country's haunting history of racial oppression. Its denotative meaning states simply that it is the "process of making amends." As part of that process, the Annual MARGINS Town Hall Meeting on Oct. 2 sought to uncover those raw places, still exposed by slavery's historic abrasion and to add to the growing dialogue on race relations in our country, as a type of balm to truly begin the healing process.

The panel included former Howard University Professor of Law Nkechi Taifa; Dr. Ron Walters, of the University of Maryland College Park; Craig Thompson, Esq. '95; University of Maryland Professors of Law Taunya Banks and Sherrilyn Ifill; Gilda Sherrod-Ali, Esq., of N'COBRA; Gregory Kane, of the Baltimore Sun; Sen. Lisa A. Gladden '91; and Keenan Keller, the senior democratic counsel for the House Judiciary. The meeting's organizers recognized the need for balance in approaching a topic as divisive as reparations, therefore, the panel embodied that measured dynamic with their range of ideas, opinions and scholarship.

The forum was intended to foster a greater sense of the intricacies of the legacy of slavery and how its vestiges are still reflected in our modern social interactions with each other and within ourselves. The ultimate goal in presenting this forum was to create a greater awareness of these dynamics, in the hope that it would lead to a continuation of the journey towards social healing. As Nkechi Taifa simply but powerfully stated, "Reparations is about making those repairs."

LEGISLATIVE PRACTICE WORKSHOP
COLLABORATES WITH THE U.S. CONGRESS

Since spring 2001, the School of Law has offered Legislative Practice Workshop, a course that introduces students to the Congressional legal world through Capitol Hill internships and classwork on legislative analysis, statutory drafting and House and Senate procedures. Students serve in offices of members of Congress and on committee staffs in both houses, learning to be legislative lawyers. They experience, firsthand, significant national debates such as campaign finance reform and the response to the Sept. 11 terrorist attacks.

Just as law schools in western states offer courses in oil and gas law or minerals development to prepare students for local practice, law schools in the Washington, D.C., area traditionally have offered courses geared to students who plan a national legislatively oriented practice, whether with law firms, public interest groups, trade associations, federal agencies or with Congress itself. The Legislative Practice Workshop, together with Legislation taught by Maryland Delegate Sandy Rosenberg and Statutory Interpretation taught by Robert Condlin, forms the core of Maryland's offerings in legislation, politics and public policy, which also includes opportunities for externships with federal agencies and interest groups.

The Legislative Practice Workshop exposes students to issues and techniques common to all of these varied fields, including drafting the basic documents of Congressional practice and analyzing the nuances of political negotiation. The class is kept small to encourage students to read and comment on each other's work and discuss common problems, such as ethics, procedures or research methods. Current legislative controversies often serve as a basis for assignments and new ones frequently are added or modified to take advantage of hot issues.

Assignments, lectures and discussions track the process of how bills become laws, from identifying subjects for new legislation to drafting bills and amendments and preparing for committee and floor action. Along the way, students learn to write hearing questions, analyze legislative strategies, compose speeches and deal with competing interest groups. Students in the program have been paid the highest compliments for their work: their speeches, hearing questions and other assignments have been used by members of Congress along with the work of regular staff members.

Students from the program have formed the University of Maryland Association for Legislative Law (UMALL) in order to supplement the course offerings. UMALL has sponsored visits by Congressmen Benjamin L. Cardin '67 and Elijah Cummings '76 and lobbyists from national interest groups and has hosted a variety of politically oriented social events. The group also has participated in programs of the School of Law's Office of Career Development.
In November, the hot debate over human cloning was brought to a standing-room-only audience in the School of Law’s Ceremonial Courtroom. The event featured two members of the Hertog Fellow at the American Enterprise Institute, and Rebecca S. Dresser, JD, MS, the Daniel Noyes Kirby Professor of Law, Washington University School of Law, and a professor of ethics in medicine, Washington University School of Medicine, offered their opinions and fielded questions from the audience. In addition, Professor John Gearhart, MD, of Johns Hopkins University, offered his perspective on the issue as a member of the scientific community.

The possibility of human cloning has produced sharp moral debate around the world. The U.S. Congress has debated the issue twice, in 1998 and 2001. As Kass pointed out, human cloning raises serious issues of science and social policy and the differences between procreation and manufacturing. The result of the Council’s report was a moratorium on federal funding for research on cloning. In their report, however, the Council made it clear that the issue needs to be further debated on moral, scientific and legal grounds. Although Kass opposes human reproductive cloning on a personal level, he offered these remarks: “It behooves us as human beings to continue to ponder the issue and to urge our representatives, whatever side of the debate they may take, to at least do something about this subject before we are overtaken by events.” Kass was referring to recent unsubstantiated claims that private companies have successfully cloned human beings.

While Kass discussed the moral issues surrounding human cloning, Dresser and Gearhart addressed the scientific ramifications of cloning and related research. Dresser is particularly interested in the “special respect” given to embryos used for this type of research. She described cloning as “destructive research. We need to decide whether it is possible to show special respect to an organism and at the same time allow it to be created and used in destructive research for the benefit of others.” Although Dresser’s reasons for doing so are different, like Kass, she supports a moratorium.

Gearhart, on the other hand, outlined the importance of cloning embryos in order to further understand the mechanisms of nuclear reprogramming. He pointed out that only one cell in the body can reprogram and it is vital to understand the mechanism behind this reprogramming. He explained that the lack of federal funds available for the research has forced the private money to dry up as well. In his opinion, the Council’s report has forced private investors in cloning research to send their money overseas.

Dean Karen Rothenberg is “very happy that the Council was eager to bring this discussion to a public venue. I’m proud that the School of Law was able to participate because I believe that the issue of human cloning is important to the legal community as well as the scientific community.” When the human cloning debate was heating up, Rothenberg published an article, “Being Human: Cloning and the Challenges for Public Policy” (Hofstra Law Review, Spring 1999, Vol. 27, No. 3), that outlines 10 crucial public policy issues related to the debate over human cloning. Among them are prenatal genetic testing, differences in the way cloning affects men and women, surrogacy, federal funding issues and constitutional issues. Prior to that, Rothenberg testified before Congress in 1998 during the ongoing debates on human cloning.
CONFERENCE EXPLORES ACCESS TO GENETIC INFORMATION

Maria Shea

Less than two years after the public got its first look at the results of the Human Genome Project, the School of Law gathered scientists, business leaders, medical ethicists, and lawyers for a conference to discuss the implications of regulating access to genetic information.

The interdisciplinary group gathered on Oct. 21, in Rockville, Md., for "At the Crossroads—Public/Private Priorities Concerning Access to Genetic Information." The conference was sponsored by the School of Law, and its Intellectual Property and Law and Health Care programs. The conference provided a forum for exploring ways to balance unrestricted access to genomics information and protection for investment-backed research.

In 2001, after 10 years of research, the Human Genome Project, an international, publicly funded effort, released its findings—a draft of the human genome sequence, a "blueprint" of human DNA. Celera Genomics, a rival private company based in Rockville, worked concurrently on the same project and presented its findings at the same time.

"Private companies changed the dynamic by asking themselves, 'Is there money in this?'" says Lawrence M. Sung, PhD. Sung is an assistant professor at the School of Law and is affiliated with the School's Maryland Intellectual Property Legal Resource Center.

Francis S. Collins, director of the National Human Genome Research Institute in Bethesda, Md., (an arm of the National Institutes of Health) presented the benefits of unrestricted access. Because of the time and effort needed to assess the data, he is worried about handing out legal rights early on and suggests that there should be more access now. "We have lots of data and don't know what it means," Sung explains. Members of the conference's ethics panel also believe proprietary protection in these early stages is not in the public's best interest.

The argument for limited access, Sung counters, is that without hope of exclusivity, no company will want to invest in the research. Limited access, in the form of intellectual property protection, is important to business survival, he adds.

"That's because of the ultimate pay-off," like a marketable new drug, Sung explains. "It's a bit of a lottery."

The conference presenters also addressed technology transfer, in which academic research institutions develop and sell technology to private corporations, which in turn market it to the public.

Many of these institutions have offices and staff, frameworks for making this happen. Alan Paau, director of the University of California San Diego Technology Transfer and Intellectual Property Services, spoke on how technology transfer brings millions of dollars to these universities. These universities also make money from royalties on their technology, Sung adds.

The conference was attended by approximately 100 people. "We were very excited to be a host for all of these disciplines to come together," Sung attests.

A FOUNTAIN FOR FRIENDS

(From left) Patty Goldberg, Raquel Herr and Alice Brumbaugh stand by the courtyard fountain given by the School of Law faculty in memory of the faculty's late colleagues. The fountain, which was dedicated in the fall, is located in the Piper Rudnick Courtyard.

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IS MEDICARE SUFFERING FROM A MID-LIFE CRISIS?

JENN I ANDERSON

Nancy-Ann DeParle, health care consultant and senior advisor to JP Morgan Partners, LLC, and adjunct professor of health care systems at the Wharton School, University of Pennsylvania, spoke on the past and future of the Medicare system at the School of Law’s annual Stuart Rome Lecture last October.

DeParle, who has been involved with Medicare and Medicaid reform since the mid-1980s, is a board member of the Medicare Payment Advisory Commission, which advises Congress on health policy issues. She also was the administrator of the Health Care Financing Administration as well as a health policy advisor to President Clinton.

Since Medicare was established in 1965, it has provided affordable health insurance for more than 95 million elderly and disabled Americans. However, many people are concerned that there will be a Medicare crisis as members of the baby boom generation reach the age of eligibility to receive benefits.

DeParle outlined a history of the Medicare system and explained how it has improved the lives of the nation’s senior citizens. “Before Medicare, many senior citizens were poverty-stricken. If they were ill, they would have to choose between getting treatment and being able to eat. Medicare has lifted them out of poverty and helped to increase their life spans.”

DeParle also addressed the concerns about whether Medicare benefits will be available when the baby boomers need it. She believes that the current benefits package should be moderately adjusted in order to remain viable well into the 21st century.

In DeParle’s opinion, adding a prescription drug benefit would greatly improve the Medicare package and would alleviate some of the burden of increasingly expensive prescription drug costs.

Another way to strengthen Medicare, according to DeParle, would be to modernize the cost-sharing aspects. “For example, hospital visits are very high-cost, while physician’s visits are low. Seniors tend to have more hospital visits than regular physician visits, and this has made the system inefficient. More funds need to be allocated for hospital visits.” DeParle explains.

A move from administered prices to market-based competitive prices is another change DeParle believes would improve the Medicare system. Currently, prices for services are set by a formula constructed by Congress and the central Medicare office in Baltimore. This formula does not work for all areas of the country, DeParle notes. “We need to implement private-sector pricing for different areas and improve its administration.”

DeParle insists that Medicare is not in the midst of a mid-life crisis, and if a few moderate changes were to be implemented, the program would continue to be beneficial to those who need it for years to come.

THE BUSINESS LAWYER PLANS FOR SECOND SYMPOSIUM TO FOLLOW SUCCESS OF FIRST

BRAD DWIN

Is it a corporation or a partnership? That used to be an easy question to answer when determining the status of an organization and the laws and regulations governing it. Now, the business world is far more complex and the emergence of the limited liability corporation (LLC), the limited liability partnership (LLP) and similar entities has made something of a puzzle of existing statutes and regulations and created confusion for attorneys attempting to sort through the extra paperwork. The question whether there should be one set of laws encompassing all business organizations—entity rationalization—has become a major topic of debate in the business community.

Entity rationalization was the issue addressed at The Business Lawyer’s First Annual Symposium held in November 2002 at the School of Law. The event was sponsored by several committees within the American Bar Association Section of Business Law and was supported financially by Baltimore firms Ballard Spahr Andrews & Ingersoll, LLP, Saul Ewing, LLP and Whiteford, Taylor & Preston, LLP. The event, spearheaded by Professor Richard Booth, of the School of Law, brought together a select group of practicing attorneys, academics and judges whose special interest is entity rationalization.

Some of the issues raised at the symposium included the costs and benefits of the current system versus those of a unitary system, the reasons firms choose one form of organization over another, the continued on next page
As more people are confronted with the problem of unaffordable health care coverage, it is more urgent to find a suitable solution. It is possible to reduce the number of those in need by expanding existing programs or by tax credit pro-

posals? Are other approaches more effective? The state's role in this process was the subject of "State Efforts to Expand Health Care Coverage: Current Realities, Future Possibilities?" hosted by the School of Law's Health and Health Care Program and The Department of Health Policy and Management at the Johns Hopkins Bloomberg School of Public Health on Nov. 18, 2002.

Diane Hoffmann, associate dean and director of the Law and Health Care Program, and Thomas Oliver, PhD, associate professor at JHU Bloomberg School of Public Health, were the conference chairs as well as speakers. The 90 attendees included health policy experts, advocates for the uninsured, health care providers and consultants.

Although the conference was national in scope, several Maryland speakers discussed significant issues on the state level. Oliver explains, "We tried to address whether significant progress toward universal coverage can be achieved through state action alone. The record on that is very clear and quite discouraging." Only a handful of states have made efforts to achieve universal coverage, and Oliver believes they have fallen short in important ways. "I tend to think that the federal government is an essential partner in the enterprise, even if a number of states take the lead with bold initiatives of their own," he notes.

Another local speaker, Peter Beilenson, MD, MPH, Baltimore's commissioner of health and president of the Board of Directors of the Maryland Citizens' Health Initiative, spoke about a proposal to implement universal health care coverage in Maryland. A bill based on the plan will be introduced in the Maryland legislature this year.

The conference structure facilitated discussions on expanding health insurance coverage, including Medicaid, the State Children's Health Insurance Program waivers and tax credits, among others.

Attendees agreed on several key issues. First, most states have made significant advances in health care coverage during the last 10 to 15 years. Oliver warns, however, that, "...These advances may represent a 'high-water mark' during a period of economic boom and federal encouragement of state coverage efforts." Today, Oliver continues, the lack of eligibility for low-income adults in public programs impedes further progress toward universal coverage. In addition, he notes, "that advances in eligibility far exceed the actual coverage realized across the states."

Second, attendees agreed that state-based reform is unlikely unless there is significant financial help from the federal government. With today's federal budget deficits, the focus on national security, a Republican-controlled White House and Congress, and the health policy priority of prescription drug benefits for Medicare, it seems that federal expansions of insurance coverage are unlikely.

Finally, advocates for the expansion of health care coverage need to work to create new initiatives, but also must promote a more effective implementation of existing policies, correct the cross-state inequities in federal funding, make states accountable for results, and protect Medicare, Social Security and other programs that Americans depend on for health and economic security.

Hoffmann observes, "This was a very informative conference on a timely topic, and we all need to think more about it if we are going to be able to address and solve the problem of providing health insurance to the uninsured."