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Justinian

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WEDNESDAY, FEBRUARY 11, 1976

Page One

BLS v. Herrmann

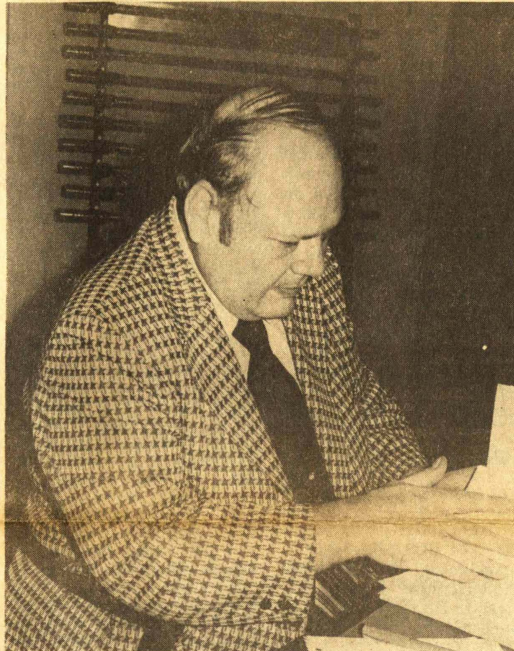
Complaint Filed With AALS

On October 7, 1975, the American Association of Law Schools (AALS) took jurisdiction over the Herrmann controversy. The AALS is a prestigious law school accrediting institution with very high standards. BLS has been accredited by the AALS only since 1973.

After Prof. Herrmann was dismissed, he filed a complaint with the AALS Committee on Academic Freedom and Tenure. Paul Oberst, Chairman of the Committee, after examining the documents supplied by Prof. Herrmann, referred it to a subcommittee comprised of Prof. Owen M. Fiss of Yale Law School as Chairman and Prof. Jan Vetter, who is a visiting professor at Harvard Law School. Under the AALS "Procedure for Academic Freedom and Tenure Cases" the subcommittee is to informally communicate with the parties involved. If the subcommittee concludes that Prof. Herrmann's complaint merits consideration, it will request BLS to send a response. If the subcommittee determines that there has been a

violation of the AALS rules concerning academic freedom and tenure, and the issue cannot be resolved on the basis of the complaint and response, the subcommittee will refer the matter to the Chairman of the Committee. The Chairman will then appoint a hearing examiner, who will conduct a regular hearing on the matter. Both oral and written evidence will be permitted. At the conclusion of the hearing, the hearing examiner will refer all his findings and a summary of the evidence to the full Committee. If the Committee concludes that a violation occurred, it will refer the matter, along with its recommendations for action, to the Executive Committee of the AALS. The Executive Committee can take any action from censure to deprivation of accreditation.

The Justinian contacted Prof. Fiss at Yale Law School. Though he refused to comment on what action the AALS has taken, he gave the impression that the complaint is still in his subcommittee.



Professor William Herrmann

"The only security of all is a free press. The force of public opinion cannot be resisted, when permitted freely to be expressed. The agitation it produces must be submitted to. It is necessary to keep the waters pure."

THOMAS JEFFERSON, 1823

Part I of this article (December 1, 1975) detailed the long period of conflict between BLS and Prof. William Shakespeare Herrmann. Faculty hearings were eventually held on the matter from August 18 through August 21, 1975. The result was a request that Prof. Herrmann be dismissed. On September 17, 1975, the BLS Board of Trustees complied.

Part II of this article examines the faculty hearings on Prof. Herrmann, including the available evidence on the major charges. Prof. Gershenson was selected as presiding officer and Prof. Holzer as counsel to the faculty. It was decided that all members of the faculty could take part in the proceedings, including the right to question witnesses.

The charges were drawn up by counsel to the faculty, Prof. Holzer, following the recommendations of the Board of Trustees. The major charges were that Prof. Herrmann wrote in bad faith a letter of complaint about a BLS student to the Committee on Character and Fitness of Applicants for Admission to the Bar of the Second Department; that he intimidated students; that in order to intimidate members of the faculty and the administration, Prof. Herrmann sued Dean Lisle. Prof.

(Continued on Page 2)

CHRONOLOGY

September 28, 1972 — Prof. Herrmann and a student, Mark Jaystein, have an altercation in class.

October 2, 1972 — Jaystein writes his first letter of complaint to Dean Lisle about Prof. Herrmann.

February 5, 1973 — The American Association of University Professors is formed at BLS.

February, 1973 — The faculty presents salary demands to Dean Lisle. Allegedly because the proposals would give Prof. Herrmann a large increase in salary, Dean Lisle rejects them.

March 2, 1973 — Jaystein writes a final letter to Dean Lisle, which reinstates his complaint against Prof. Herrmann. Between the first letter and the last, Jaystein claims that he wrote a complimentary letter about Prof. Herrmann to Dean Lisle.

March 20, 1973 — The faculty holds a meeting to discuss a compromise proposal drawn up by Prof. Crea and Prof. Trager. Prof. Herrmann, at the meeting expresses his opposition to the proposal because it would substantially cut his increase. Prof. Herrmann alleges that Prof. Crea, either at the meeting or soon thereafter, slanders him by saying, "You bought your public office. (Prof. Herrmann) Published by BrooklynWorks, 1976

man is a Commissioner of Human Rights in Conn.) I cannot afford to buy public office like you can. You bought your public office and you bought it with other people's money."

April 2, 1973 — Prof. Herrmann sues Prof. Crea for defamation in Kings County Civil Court. Later, Prof. Crea counterclaims for defamation based on material in Jaystein's Oct. 2, 1972, letter to Dean Lisle.

April 22, 1974 — Student Mark Jaystein is subpoenaed by Prof. Herrmann to testify in an examination before trial (EBT) in *Herrmann v. Crea*.

April 25, 1974 — Professors Leitner and Trager according to Donald B. Sherer, allegedly discuss with Jaystein his subpoena to testify at the EBT. (At the summer dismissal hearings, both professors deny having such a conversation.)

May 6, 1974 — Jaystein testifies at the EBT. He states that he wrote a complimentary letter about Prof. Herrmann to Dean Lisle. Jaystein denies he had a conversation with Prof. Leitner about his subpoena.

September 24, 1974 — Dean Lisle testifies at an EBT for the *Herrmann v. Crea* suit.

September 30, 1974 — (During the spring of 1974, Prof. Yonge had written a report to Dean Lisle

complaining about Prof. Herrmann's work on the Faculty Appointment Committee, of which Prof. Yonge was Chairman. Prof. Yonge states in his report that he believed that Prof. Herrmann was not bearing his share of the workload on the Committee.) According to Prof. Yonge's testimony at the summer hearings, Prof. Herrmann comes into his office looking very angry. He complains that the report is inaccurate. (It seems that it had just been brought to his attention.) Finally, according to Prof. Yonge, "as he left my office, he said that I should notice how he had taken care of Joe Crea and silenced him, and that if I didn't lay off him, he would take care of me." (Prof. Herrmann denies the incident.)

November 6, 1974 — Prof. Crea testifies at an EBT in the *Herrmann v. Crea* suit.

December 2, 1974 — Prof. Herrmann writes a letter of complaint to the Character Committee concerning Mark Jaystein.

January 28, 1975 — Prof. Herrmann sues Dean Lisle and Professors Crea, Yonge and Trager in the U.S. District Court for the Eastern District of New York.

February 13, 1975 — The Board of Trustees sets up a Special Committee to determine whether the Faculty Hearing Com-

mittee should be petitioned to commence proceedings against Prof. Herrmann.

March 13, 1975 — The Special Committee sends a petition to Prof. Holzer, Chairman of the Faculty Hearing Committee, to determine whether allegations against Prof. Herrmann warrant proceedings for his removal.

March 25, 1975 — The Faculty Hearing Committee meets and votes that no further action should be taken against Prof. Herrmann. (Prior to the meeting, Prof. Herrmann, without authorization, receives a copy of the Special Committee's petition and a memo by Prof. Holzer to notify the Faculty Hearing Committee members of the meeting. He makes them part of the record of his federal court case.)

April 8, 1975 — At a regularly scheduled faculty meeting, on a motion by Prof. Schenk, the faculty appoints a confidential committee to investigate Prof. Herrmann's receipt of the confidential materials.

April 17, April 23, 1975 — The Confidential Committee writes letters to Prof. Herrmann requesting information as to how he received the confidential material. Prof. Herrmann doesn't respond.

May 14, 1975 — The faculty passes a resolution requesting that the

Special Committee of the Board of Trustees appeal the decision of the Faculty Hearing Committee to the full Board of Trustees. The faculty also requests that charges that Prof. Herrmann refused to cooperate with the Confidential Committee, and that Prof. Herrmann wrote a letter to the Character Committee about Jaystein be added to the original petition.

May 19, 1975 — The Board of Trustees requests that the full faculty conduct a hearing into the five listed charges, although BLS regulations provide only for the Faculty Hearing Committee to conduct the hearings. (BLS regulations permit the Board of Trustees to change the rules at any time).

June 16, 1975 — A memorandum is sent to the BLS faculty, including Prof. Herrmann, setting a date for the hearings.

August 8, 1975 — Prof. Herrmann's attorney requests an adjournment for the faculty hearings.

August 12, 1975 — Prof. Gershenson, as the Presiding Officer, denies the request for adjournment.

August 18-21, 1975 — Faculty hearings are held. The faculty recommends that Prof. Herrmann be dismissed. The Board of Trustees suspends Prof. Herrmann, with pay.

Justinian

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(Editorials express the views of the Editorial Board.)

Happy Birthday?

St. John's Law School recently celebrated its 50th anniversary with great fanfare, as twice noted by *The New York Times*. This year BLS celebrates its 75th anniversary. We will be lucky if the *Brooklyn Heights Press* takes notice. The only action has been the formation of an alumni committee on the 75th anniversary. Their plan is to hold a big banquet for alumni, not a very original or exciting idea. It is a shame that neither the Administration nor the SBA has done anything. This is an event that the whole BLS community should celebrate with pride, not with apathy.

We urge that a joint committee of students, alumni, and faculty be formed immediately to plan a decent celebration. Our anniversary should not be considered a one-day birthday party, but a year-long event. The committee might consider the following ideas:

- 1) Sponsoring seminars in celebration of our anniversary throughout the year.
- 2) Urging Mayor Beame to name our birthday Brooklyn Law School Day.
- 3) Sponsoring activities, such as legal debates or musical concerts, in front of Borough Hall.
- 4) Holding a reception for Brooklyn judges.
- 5) Authorizing an official history of BLS.
- 6) Setting up an exhibit on the history of BLS at the Brooklyn Museum or the Long Island Historical Society.
- 7) Establishing a "chair" in a certain field of law in honor of our anniversary from an alumni collection.
- 8) Holding a parents' day at BLS.
- 9) Notifying news media of all events.
- 10) Issuing new BLS catalogs.

If BLS does not act soon, a great opportunity to raise the status of our school will have passed.

Library Theft

There is one word to describe the book pilferage rate at the library-distressing. Regrettably the student who finds one book missing, might decide to pilfer another book that he needs. Improvement requires the assistance of all parties, and students can help by not "appropriating" books.

Since library security is non-existent, we hope that the appropriate administrators will act swiftly to implement the needed measures. We are distressed that the pilferage problem is uncovering an ugly facet of some students' behavior — larceny. We wonder if the petty larcenists of today will become white-collar criminals after graduation?

We also believe that outsiders who use the library should be charged a fee. Officially, non-BLS people are not allowed to use the library, but this rule is not observed. Possibly, some of the stolen books are taken by outsiders. After all, they pay nothing to use the library and might feel no responsibility toward it. A fee of \$25 per year (which is a practice used by other local schools), might encourage outsiders to act more responsibly, add some money to the library budget, and put the library into the realm where all of its users pay for their use.

Day Care

The Student-Faculty Relations Committee has been investigating the possibility of provided BLS students with low cost day care facilities somewhere in the neighborhood.

Their eventual involvement in

this project will be dependent upon student interest in day care. If you are interested please contact Phyllis Silver or Marcia Knigin. Both their telephone numbers are listed in the student directory.

The Justinian expresses its condolences to the family of Wade Bowman, the lobby guard, who passed away last week.

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Witchcraft is Dangerous

To the Editor:

In the December 1st issue of the Justinian, Lillian Gewirtz explores "The Warlock Shop" for the BLS reader. What she and other readers may not realize, however, is that it is extremely dangerous to even play around with, or express any curiosity in, any form of witchcraft or the occult. In the Bible, God, speaking through Moses, warned the nation of Israel to avoid any and all contacts with witchcraft, spiritism, mediums,

spells, sorcery, necromancy (contacting the dead), omens, and the like "... for whoever does these things is detestable to the Lord" (Deuteronomy 18:12). The reason for this stern warning stems from the fact that there are unseen evil forces led by the fallen angel known as Satan (The Adversary). Satan always seeks to subvert people's souls by spreading seeds of falsehood, disunity, and confusion. It is important that we not seek to satisfy the desires and needs of

our souls through succumbing to any of his counterfeitings of God's spiritual truths. Rather, God has made provision for the needs of each and every member of the human race, for now and for all eternity, through the Messiah of Israel, Jesus of Nazareth. All those who put their trust in Him will find that God has a perfect plan for their lives.

Respectfully,

Alan Jay Binger

HERRMANN

(Continued from Page 1)

Yonge, Prof. Trager, and Prof. Crea; that Prof. Herrmann refused to cooperate with a duly constituted faculty committee; and that he released secret faculty communications to the public by making them part of his federal court case. (For details of the last two charges, see "Chronology," March 13-May 14, 1975)

Prof. Hahl and Prof. Nightingale declined to participate. Prof. Nightingale, in a memo to Prof. Gershenson, stated, "I consider it, at least, inappropriate for a hearing to be held inquiring, in the main, into matters presently before the courts and upon the determination of which the recommendation to be made as a result of such hearing largely depends." Prof. Hahl withdrew for a similar reason. Neither Prof. Herrmann nor his counsel appeared at the summer dismissal hearing claiming they did not have time to prepare.

Mark Jaystein

Some of the charges dealt with Prof. Herrmann's relationship with BLS student Mark Jaystein (not his real name).

An incident involving Mark Jaystein occurred on September 28, 1972, in a class on Creditors' Rights taught by Prof. Herrmann. Jaystein was a second-year student, fourteenth in his class, and had been invited to write for the law review. He asked Prof. Herrmann a general question on the subject matter in the course. According to a letter of complaint to Dean Lisle from Mark Jaystein, dated October 2, 1972, Prof. Herrmann, instead of answering, began to "berate ... and throw scorn upon" both Jaystein and his question. Prof. Herrmann pointed to a student in the class and stated, "this student 'who says nothing' is likely to get an 'A' while my status could only suffer by this discussion."

Jaystein also claimed that Prof. Herrmann physically threatened him by stating, "If you continue to throw punches with me, you're going to end up a bloody mess." Jaystein's letter continued, "Sensing an actual physical threat, I remained silent; however, Prof. Herrmann chose to persist in his abuse. He declared that he would organize what I recall to be the 'Nitpickers' Society of America' and that I would be suggested for membership together with the

other 'fools' whose offices are on the eighth and ninth floors of the Brooklyn Law School building." (This last remark was the basis of a counterclaim for slander by Prof. Crea in the case of *Herrmann v. Crea*). "After several more minutes of insult and abuse, to which I cared not to respond, Prof. Herrmann ceased."

Prof. Herrmann denied that he threatened or intimidated Jaystein.

Prof. Holzer, as prosecutor, called eight students as witnesses at the summer hearings, who were in Prof. Herrmann's class during the altercation. After letting the students read Jaystein's letter to Dean Lisle of October 2, 1972, Prof. Holzer asked them if they remembered the incident. Though most of their memories were vague (it had been almost three years), the consensus was that Jaystein had asked a question which Prof. Herrmann felt wasn't important enough to answer. Instead, he made a joke about it. Jaystein was persistent in trying to get an answer. The situation got out of hand. Some of the student witnesses remembered that Prof. Herrmann made sarcastic remarks about Jaystein and used the term "bloody mess." Some of the witnesses contended that both parties were at fault. None of the witnesses thought that the use of the phrase "bloody mess" was a physical threat.

Alleged Conspiracy

On January 28, 1975, Prof. Herrmann named Dean Lisle, Prof. Crea, Prof. Yonge, and Prof. Trager in a suit filed in the Federal Court for the Eastern District of New York. It was charged at the summer hearings that, in commencing the suit, Prof. Herrmann "was proceeding not on reasonable grounds in the proper assertion of lawful rights," but rather that Prof. Herrmann intended to wrongfully intimidate and coerce members of the BLS faculty and administration. The charges alleged that Prof. Herrmann had two collateral goals in bringing the suit — to obtain an increase in salary and/or to "silence and punish persons who had been critical of his behavior."

In his complaint for the federal case, Prof. Herrmann alleged that sometime in September, 1972, Dean Lisle, Jaystein and others conspired and agreed to file false charges against Prof. Herrmann in order "to remove plaintiff from his employment at the school and to cause serious temporal harm and damage to plaintiff in his capacity as a professor of law and as an attorney at law and as a public servant." Prof. Herrmann is a Commissioner of Human Rights in Connecticut, where he resides. Prof. Herrmann's complaint alleged that in furtherance of the conspiracy, Dean Lisle and Jaystein agreed that Jaystein would submit a letter to Dean Lisle containing "false and injurious" allegations and that on October 2, 1972, Jaystein did file such a letter. Then, according to Prof. Herrmann's complaint, Dean



Professor Leiner

Lisle put the letter in a dossier that Dean Lisle kept on Prof. Herrmann and concealed from him the fact a letter had been filed against him. Herrmann contended in his complaint that Dean Lisle discussed the dossier and the letter with members of the Board of Trustees and members of the faculty and administration. According to Herrmann's complaint, Dean Lisle "overstated, distorted, and misrepresented the contents" of the dossier and the letter.

Prof. Crea was Chairman of the Faculty-Student Relations Committee in the fall semester of 1972. Professor Herrmann alleged in his federal complaint that, after Jaystein's letter was written, Prof. Crea, "upon instructions from defendant Lisle, in furtherance of the purposes of the conspiracy," started an investigation of Prof. Herrmann, "which investigation was conducted in such manner as to foment student unrest and to excite adverse, derogatory and unpleasant attitudes against plaintiff." Prof. Herrmann also contended that when he asked Prof. Crea if there were any charges pending against him before the Faculty-Student Relations Committee, Prof. Crea said no. Finally, Prof. Herrmann stated in his complaint that Dean Lisle invited Jaystein to write another letter of complaint against Prof. Herrmann on March 2, 1973.

Dean Lisle, Prof. Crea, and Mark Jaystein told a different version. Jaystein stated at the summer hearings that during the afternoon of the confrontation with Prof. Herrmann, he went to see Dean Lisle to report the incident. Dean Lisle told him to put his complaint in writing, and Jaystein testified that he did.

Dean Lisle testified that when Jaystein brought the letter to him on October 2, 1972, he tried to "appease" him by telling Jaystein that he might have misconstrued some of the things that Herrmann may have said. However, Dean Lisle had the impression that some students were going to bring the matter before the Faculty-Student Relations Committee, so Dean Lisle requested a meeting with Prof. Herrmann on October 4, 1972. At this meeting, Dean Lisle testified at the summer hearings that he told Prof. Herrmann that

(Continued on Page 4)



Prof. Gershenson, Pres. Officer.

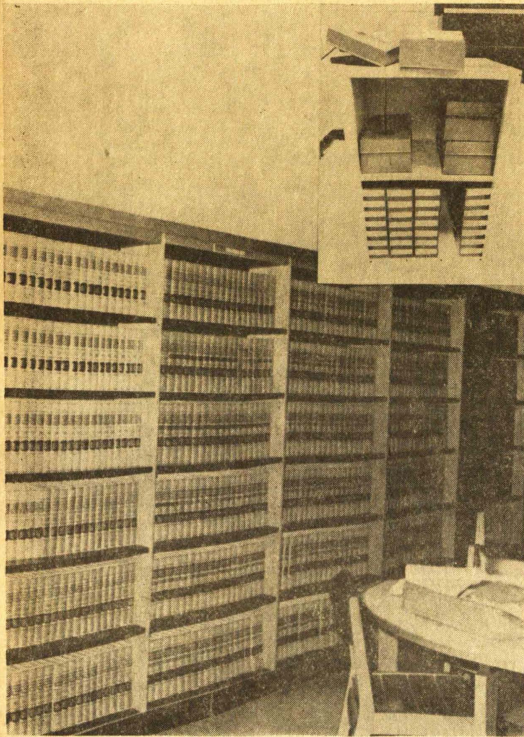


Photo by Marcia Knigin

The books on shelves will be reduced to size of insert.

Library Attacks Theft Problems

By Dick Grayson

By the time you read this article, the cost of using the photocopy machines in the Henry L. Ughetta Memorial Library might be rolled back to a nickel per page. This is one of the more obvious improvements that Librarian and Professor Dusan Djonovich has been working on to "make the library self-sufficient, so that students don't have to go anywhere else."

The photocopy machines have been a problem for all concerned. Djonovich didn't like the photocopy concessionaire reneging on part of the contract to install a bond copier and to keep the machines operating, and the concessionaire didn't like the decrease in business when the price was raised last year. Students disliked paying ten cents per page.

The current concession contract expires in August, at which time Djonovich plans to get the best machines at the least cost. He knows what he doesn't want, based on the current company's performance: "I am very much dissatisfied with the quality of the copies, their unwillingness to keep all the machines always operational and to give us a bond copier that works." Djonovich notes that BLS was the last New York City law school to raise the photocopy price to 10 cents, and the school appears to be the first to attack the inflation.

The problems with the photocopy equipment tie in with the increase of vandalism and pilferage of books. According to Djonovich, one reason the photocopy machines were installed was to cut down on pilferage and vandalism. However, where students used to make copies at five cents per page, they now feel it's easier and cheaper to rip out pages or walk off with the books. The price increase "put us back where

we were before, because some of the students got mad at the increase," says Djonovich.

Although a pilferage rate of two percent of a library's annual acquisitions is considered "normal," BLS suffers a much higher rate—five percent. The current total of approximately 112,000 volumes is augmented by 10,000 new volumes yearly, but the pilferage rate means that the equivalent of 500 of these new volumes aren't reaching the shelves.

Djonovich is distressed by the situation: "With fierce competition, students have a tendency, while doing their jobs, to prevent others from doing theirs. People don't respect anything but their own interests."

He hopes to reduce the vandalism and pilferage with new security measures. Djonovich plans to close all the library exits except those on the first floor, where a check-out point will be established. He notes, "The *sine qua non* of any improvement is installing emergency exit locks leading

from the study carrels and on the basement emergency doors." These "panic locks" can be broken in an emergency and Djonovich hopes they will reduce the abnormally high pilferage rate. Present plans are to have these locks installed early this semester.

Another library problem is a future lack of space. At the present rate of growth, the library has only another two or three years' worth of empty shelves. Without a major expansion, the only available area for future expansion is the basement. "We're fixing the basement for a studying and stock area, and we will put our International and Comparative Law collections into an independent research center there. Dean Lisle is receptive to the idea and we hope there'll be an alumnus to donate the money in exchange for naming the room after him. I want it fully carpeted, with modern furniture and stacks — as utilitarian as possible and aesthetically rewarding."

The basement will also house the micro-reduction center. The aim in adding electronic gear to the library is to provide modern means (film, fiche, cassettes) for retrospective material that the library lacks. Much of this equipment has already been purchased and will be in use this semester, including a 3M reader-printer for microfilm and microfiche, one micro-card reader and one ultra fiche reader-printer. The 3M model will let students read the New York Law Journal, without struggling with the large volumes. Supreme Court briefs are on micro-cards, while the ultra fiche and the 3M machines will handle the National Reporter System. The library already owns the Atlantic first series, which fits into one box, 6" x 6" x 4". This entire first series cost \$1200, while one volume of the printed National Reporter System runs between \$16-\$18. Djonovich views the savings as more than dollars. "The library spends about \$1 per square foot of shelving. Add up the number of square feet of shelves we'll save by eliminating some of the printed National Reporter System books and you can see that there will be enormous savings and better services."

Additional audio-visual equipment will be ordered and Djonovich hopes all the equipment will be ready by August. The unbought equipment includes a videotape machine and tape recorders. The library already receives cassettes from some ABA sections, including the probate section, and there are plans to permit students to videotape themselves for trial practice.

Djonovich sums up the library improvements with the hope of all librarians: to better serve his public — in this case — the students of Brooklyn Law School.

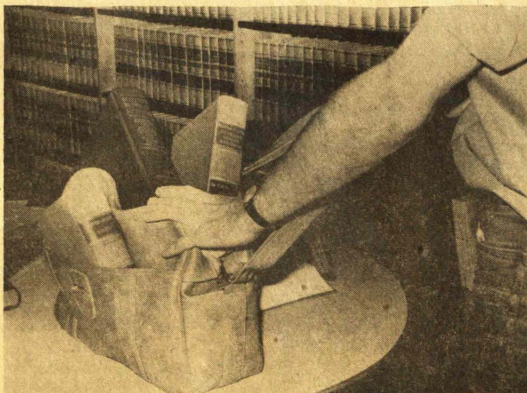


Photo by Marcia Knigin

The Docket

Can the Criminal Justice System and the Bill of Rights peacefully coexist? This is the question which will be considered at a Criminal Law Symposium to be held Saturday, February 28, 1976 at St. John's University Law School. Senate Bill #1 and the New York State Drug Law, subjects very much in the news, will be debated by experts in these fields.

The Symposium will commence with a keynote speech by Congresswoman Elizabeth Holtzman. Afterwards, the morning session will be devoted to a panel discussion of the controversial Senate Bill #1, which is a proposed codification of Federal Criminal Law. Many contend that parts of the bill conflict with the Bill of Rights. Chairing the panel will be

Prof. Livingston Hall who was a former professor at Harvard Law School and is Chairman of the ABA Committee on Reform of Federal Criminals Laws.

In the afternoon the topic will be the Mandatory Sentences mandated by New York State's Drug Laws. Moderator of the discussion will be Commissioner Frank J. Rogers, former NYS Special Narcotics Prosecutor who is now Commissioner of the NYS Division of Criminal Justice Services.

The Symposium is jointly sponsored by the Law Student Division of the ABA and the Criminal Law Institute of St. John's University School of Law. St. John's University is located at Grand Central and Utopia Parkways in Jamaica, Queens.

BLS-Hunter Offer Degree Twofer

By Anne Hunter

A new Dual Degree Program has been set up by BLS and the Hunter School of Urban Affairs. The Dual Degree Program motivated by BLS by Professor George Johnson, offers a J.D. degree and a Masters in Urban Planning (M.U.P.) in four years. The M.U.P. is ordinarily a two-year (60 credit) program. Applicants must apply separately and be accepted by both institutions. Hunter will accept LSAT scores to satisfy their admission requirements, but BLS will not accept the GRE scores.

Students spend the entire first year at either BLS or Hunter and the second full year at the other institution. The third year is spent jointly at Hunter and BLS. After the third year the student is awarded the M.U.P. degree and returns to BLS for the fourth year. Each school extends credit for some courses in the other school's curriculum. Dual Degree candidates receive fifteen credits from Hunter for specified courses taken at BLS, e.g., Land Use, Taxation, Urban Law, and Property II. Credit is given by BLS for up to nine credits, taken at Hunter in certain courses, e.g., Planning Methods and Elements of Land Use. This provision was made possible through a special request made to the New York Court of Appeals. Law schools affiliated with universities are allowed to give up to twelve credits for courses taken at other parts of the university.

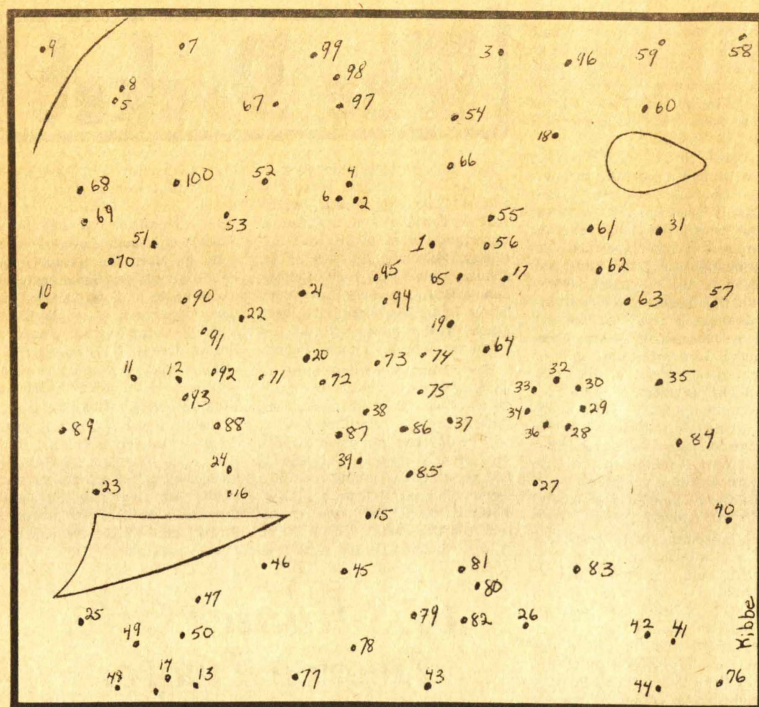
Although the program was only finalized late spring semester, three BLS students are already participating in the program. Bob Wolf and Greg Lubow are finishing their last year at BLS and taking either two or three courses at Hunter. They will receive their J.D. degrees this June and attend Hunter full time next year. Michael White finished his first year at BLS last June and is spending this year entirely at Hunter. He is the first student to participate in the program as it was designed. White does not feel that a year away from law school will hinder him, although he does plan to attend BLS summer school. Professor Johnson thinks it is preferable for students to spend their first year at BLS, as Mike White is doing, rather than at Hunter.

He feels that exposure to a non-legal discipline will help cure the reluctance in most law students to consider other than legal issues; they will not be as resistant to the introduction of economic, political and other theories into the discussion of law school cases. Professor Johnson hopes the program will benefit lawyers, who tend to have a myopic view of what and how things can be done. He sees the need for attorneys to be more sensitive to the planners' approach. Lawyers on the other hand, will be better able to evaluate expert testimony and legal skills will enable planners to better implement their ideas.

Both third-year students have received job interviews with law firms through the urban planning program at Hunter. Professor Johnson feels there will be a great demand for those with the Dual Degree, especially if the Land Use Policy Act is eventually passed. Hunter boasts that all of last year's graduates with an M.U.P. had been placed by August.

Greg Lubow feels he is gaining a valuable area of specialization. He enjoys the Hunter student body, which he characterizes as interested in changing things. Bob Wolf likes the small (less than forty students), warm nature of the Hunter program. The professors, staff and students all call each other by their first names. In contrast, he finds BLS lacking in teaching social consciousness. Mike White feels that he has not been challenged in his Hunter courses and admits that his best course is taught by a lawyer. They all admit that the eclectic nature of the program makes it difficult to do library research. They must go to several libraries to find materials. BLS librarian Dusan Djonovich is attempting to alleviate some of the problem. The library has recently acquired the Urban Planning League Journal for the past ten years. When BLS becomes a Federal Depository, the census and other materials should prove to be valuable research tools. Over all, the students are pleased with the caliber of the Dual Degree Program.

Any BLS students interested in participating should contact Professor Johnson for more information.



"By God, I said, it was right at the back of my mind. I was groping for it. I almost had it when you spoke..." — Raymond Chandler *The Big Sleep*.

HERRMANN

(Continued from Page 2)

there was a specific complaint against him, without mentioning the student's name, and that some student members of the Faculty-Student Relations Committee might attempt to press the matter at their October 5 meeting. He suggested that Prof. Herrmann should contact Prof. Crea about it.

Prof. Crea testified that some student members wanted to bring the Jaystein incident before the October 5 meeting. Prof. Crea told the students at the meeting that the Committee's job was not to discuss grievances against faculty members and that grievances, by regulations, were to be submitted to the Dean.

Before the next meeting of the Committee, scheduled for October 19, 1972, Prof. Crea had a conversation with Dean Lisle. According to Prof. Crea, Dean Lisle thought that Prof. Crea would handle the complaint in his Committee. Prof. Crea said he would not. However, Prof. Crea testified that he met with some students, including Jaystein and Prof. Herrmann, and tried to calm things down. That was the extent, according to Prof. Crea, of his investigation.

More Conspiracy Alleged

Prof. Herrmann, in his federal case, also accused the defendants of conspiring to deprive him of his rightful salary and to have him discharged from BLS. A major charge against Prof. Herrmann was that he brought this action in bad faith.

On February 5, 1973, a chapter of the American Association of University Professors was formed at BLS. One of their first actions was to submit a salary proposal to Dean Lisle. Prof. Trager was appointed to a committee that the faculty established to press their demands on Dean Lisle. Prof. Trager testified at the summer hearings that:

"According to our initial proposal Herrmann would have gotten something like \$10,000, may-

be even more. Most of the other members of the faculty would have gotten between \$1,500 and \$3,000, somewhere in that range.

"I recall the Dean taking the position that not only was Professor Herrmann not entitled to \$10,000, in his view he wasn't entitled to anything.

"And the truth of the matter was that I and a few other members of the committee agreed with that.

"We had a number of sessions. I can't recall the specific sessions, but at some point either I or Professor Crea made the proposal that a cut off point be made as a form of compromise . . . why should the rest of the faculty be punished because of what the Dean thought Professor Herrmann was doing?"

Dean Lisle testified at the summer hearings that he "had no desire to deprive plaintiff (Herrmann) of his proper emolument as a professor of law. There may be some difference of opinion as to what his proper emolument was." Later in his testimony Dean Lisle elaborated, "It was obvious that Herrmann spent as little time in the building as he could, that he was not accessible to students outside the classroom, that he had never contributed anything to legal scholarship, except an alleged contribution to some book by Weyrauch and an unrecognized, and I don't know, it has been denied by the one who should know, a contribution to one of the many editions of *Richardson on Evidence*."

Prof. Herrmann, in an interview with the *Justinian*, stated that he had spent much time in BLS and that he had been accessible to students. The *Justinian* has seen a copy of *Richardson* with an inscription signed by Dean Prince thanking Prof. Herrmann for his contribution to the book.

The compromise proposal would have cut Prof. Herrmann's increase substantially. There is not enough information as to whether the clause in the compromise proposal only affected Prof. Herrmann. When Prof. Schwartz start-

ed to question Dean Lisle on this point, Prof. Holzer objected on the ground that the question was irrelevant. The objection was sustained by Prof. Gershenson. However, Prof. Schwartz had previously asked Prof. Trager if he had ever heard the compromise clause referred to as the "Herrmann clause". Prof. Trager responded that both he and Prof. Crea may have used that term.

Character Committee Complaint

Prof. Herrmann was charged with writing in bad faith a letter of complaint against Mark Jaystein to the Committee on Character and Fitness for the Second Department. Prof. Herrmann had sued Prof. Crea for slander and Prof. Crea had counterclaimed on the same basis. One of the slanderous remarks that Prof. Crea claimed that Prof. Herrmann made was reported in the October 2, 1972 letter Jaystein wrote to Dean Lisle. On this basis, Prof. Herrmann's attorneys subpoenaed Jaystein to testify in an examination before trial (EBT).

Jaystein testified on May 6, 1974, without counsel. Prof. Herrmann

Beginning immediately Prof. Djonovich, will allow students to take books and materials out of the library and bring them to local copying centers, where photocopies cost five cents per page. If students keep material for longer than one hour fines will be charged; if students constantly take material for too long, the program will terminate.

The latest news on the supposed decrease to five cents for the library's photocopy machines is that the concessionaire has sent a letter to BLS proposing that the price be rolled back and a bond copier installed only if the school extends the current contract for several more years. The contract expires this August.

concluded that Jaystein perjured himself during the EBT. On December 2, 1974 he wrote a letter so advising the Character Committee. Jaystein stated during the EBT that sometime after his October 2, 1972, letter he wrote a second letter to Dean Lisle which was complimentary of Prof. Herrmann. However, neither Jaystein nor Dean Lisle can find the letter or a copy of it. Dean Lisle doesn't remember receiving it. There was testimony during the summer hearings by many fellow classmates of Jaystein that Jaystein and Prof. Herrmann, after their altercation, became somewhat reconciled.

However, Jaystein, at the summer hearings, testified that he wrote a third letter to Dean Lisle dated March 2, 1973. The letter states, "At our discussion of even date you indicated that you thought that I had withdrawn my complaint against Professor Herrmann. However you may have reached this conclusion, I avail myself of this opportunity to inform you that it is totally unwarranted and that in fact, my complaint exists now, as forcefully as it existed in the past. Similarly, I have never requested . . . that the entire matter be dropped."

Prof. Herrmann also accused Jaystein of lying when he testified at the EBT that he had never discussed his subpoena with Prof. Leitner. Donald B. Sherer, a former unpaid research assistant to Prof. Herrmann, submitted a sworn written statement to the Character Committee stating that he overheard Jaystein, Prof. Leitner and Prof. Trager discussing Jaystein's subpoena in detail. At the summer hearings, both Prof. Leitner and Prof. Trager denied having had such a conversation.

Prof. Herrmann's complaint to the Character Committee, alleging that Jaystein had perjured himself, was made before the Committee had made a decision on Jaystein. His admission to the bar was delayed a year.

Hearings Wrap-up

Before Prof. Holzer summed up his case against Prof. Herrmann, Dean Lisle and Professors Crea and Yonge withdrew from the proceedings because of conflicts of interest. Prof. Trager, who was then and still is on leave from the faculty serving as United States Attorney for the Eastern District of New York, did not participate in the hearings from the beginning, except to testify.

The vote, by both tenured and non-tenured faculty members, was secret. Considering each charge separately, each of which Prof. Herrmann denies, the faculty decided by a majority vote that:

1. Prof. Herrmann brought his federal suit against Dean Lisle and Professors Crea, Trager and Yonge in bad faith without reasonable grounds.

2. Prof. Herrmann "used and spread on the public record a confidential memorandum addressed by a Special Committee of the Board of Trustees to the Chairman of the Faculty Hearing Committee, and by the Chairman to the members of said committee."

3. Prof. Herrmann "refused to cooperate with a duly constituted faculty committee charged with investigating the breach of confidentiality referred to in (2) above, such refusal constituting contempt of that Committee."

4. Prof. Herrmann wrote a letter to the Character Committee in reference to Mark Jaystein in bad faith.

5. He had substantially failed to discharge important obligations

toward BLS and the faculty thereof, to wit:

a) "Prof. Herrmann improperly retaliated against [Mark Jaystein] for pursuing a complaint against Prof. Herrmann." (It was originally charged that "Prof. Herrmann caused to be made and/or acquiesced in making . . . threats against" Mark Jaystein.)

b) He sued Prof. Crea for defamation for collateral ends, i.e., to silence Prof. Crea and others' criticism of Prof. Herrmann and to coerce a salary increase from BLS. (See "Chronology", March 20, 1973.)

c) He threatened Prof. Yonge with unspecified harm. (See "Chronology", Sept. 30, 1974.)

d) He made a misleading audit of Prof. Schenk's class (Professors are audited before reappointment. Prof. Herrmann submitted a highly unfavorable report on Prof. Schenk's teaching abilities. Prof. Schenk testified that Prof. Herrmann only came into her class for about 5-10 minutes.)

e) While testifying before the Character Committee in reference to Mr. Jaystein, Prof. Herrmann falsely denied allegations that Mr. Jaystein made in his October 2, 1972 letter of complaint to Dean Lisle.

f) Prof. Herrmann substantially failed to perform certain duties, to wit:

1) Prof. Herrmann intimidated, ridiculed and humiliated students during classes.

2) On one occasion, outside of class, "he made it apparent to [a] student in a menacing manner that he was then armed with a pistol." (Wade Bowman, the guard on duty, told the *Justinian* that he was with Prof. Herrmann "substantially" all of the time during the above mentioned incident. He stated that Prof. Herrmann never showed or pulled a gun or made any threats. He was not called as a witness at the dismissal hearings.)

3) He "insulted, ridiculed and humiliated" members of the faculty and the administration.

4) He substantially abdicated administrative duties to which he had been assigned.

The faculty requested of the Board of Trustees of BLS "that Professor William S. Herrmann, Jr., be immediately suspended from all duties and functions, that his tenure at Brooklyn Law School be revoked, and that he be dismissed from the faculty of Brooklyn Law School."

On September 17, 1975, the Board of Trustees unanimously voted to dismiss Prof. Herrmann from the faculty of BLS.

Current Status

Herrmann v. Crea in the Kings County Supreme Court and **Herrmann v. Lisle et al.** in the U.S. District Court for the Eastern District of New York are still pending. Neither has been scheduled for trial. On October 7, 1975, the American Association of Law Schools took jurisdiction over the controversy (see separate article).

On December 23, 1975, Prof. Herrmann sued BLS in an Article 78 proceeding in the U.S. District Court for the Eastern District (File No. 75C2159). Prof. Herrmann's complaint contended that the action by BLS to dismiss him was "arbitrary and capricious, was made in violation of lawful procedure, was affected by errors of law, was an abuse of discretion, and on the entire record, was not supported by substantial evidence." As relief, he requested reinstatement as a faculty member and one million dollars damages.