

Gerry Cohen

## A new experience, county jury duty

Last week was my first confrontation with a jury, but it wasn't as a lawyer or defendant. In late December, I had received a notice to report for jury duty for the week of January eighth.

I arrived in Hillsborough Tuesday morning for "civil term" (court will sit for a week at a time hearing criminal cases, then in other weeks "civil," or private, cases will be heard) so no murder cases were in store for my jury.

I hadn't really thought that they would call a law student or an elected official, but my notice said in big letters, "THERE WILL BE NO OCCUPATIONAL DEFERMENTS." So I went, and sat in the courtroom with the other 63 jurors for the week.

Tuesday was quite boring. The only case for the day was postponed, because of the illness of one of the attorneys, and the judge announced only one case remained, a commitment to Umstead Hospital in Butner. He let 32 of the jurors go, and the other 31 of us were to return Wednesday. Since my

whole week was already ruined, I chose to come back Wednesday.

Wednesday, my name was called, and I nervously sat in the jury box, with a motley selection of Orange Countians. There was one student from Louisburg College on the jury with me, but the plaintiff sent him away (each side gets to challenge a certain number of jurors it doesn't like, without any cause.)

There were a lot of young people at the beginning of the week. Of the 63 original jurors, there were six UNC students and one from Louisburg. There were eleven blacks, but only 22 women. Our jury had a white woman, and three black men.

The case seemed simple. Should a 29 year old be required to be committed for psychiatric treatment at Butner? Unfortunately, the defendant was a real person. (The State of North Carolina was the plaintiff in this civil case at the request of the defendant's brother.)

The defendant had a long history of mental problems beginning with

hallucinations at the age of 16 that he was a rock and roll singer (doesn't every 16 year old?? I had seen "American Grafitti" two nights before).

After four subsequent involuntary commitments, his life was in a mess, and his wife had left him. We heard three hours of testimony from the brother, a psychiatrist, and the defendant. It was a muddle. The brother, it was alleged, had also been in the hospital, and defendant denied his brother's claims that he had threatened to both commit suicide and kill most of his family.

The psychiatrist told us that the defendant would not accept voluntary treatment, and not to believe defendant's promise.

At three o'clock, the judge, an elder gray haired scholar, informed us exactly what role we were to play. The legislature in 1973 had determined that juries must henceforth rule on all of these cases. The prosecutor told us we were the first such case in this county, and apparently only the second in the state.

We were to decide if defendant was

"gravely disabled." Not guilty. Not innocent. Not if the man was sick. But only if he was so "gravely disabled by mental illness as to be unable to take care of his welfare." Sounds simple? It isn't. The judge conveniently left a blank for the foreman to write in a "yes" or a "no" verdict.

We trooped up the stairs to the jury room, for what was to be eventually 90 minutes of wrangling. The foreman announced we had an easy job just decide yes or no. I decided he was being facetious.

There were obviously three factions. Five jurors seemed to feel he needed to be committed (the verdict had to be unanimous). Four more were undecided, and three, including myself, said the man was sick, but was not "gravely disabled," since he apparently could hold a job, and his only conflicts were with his family. Yet they were serious conflicts. I suggested we buy him a bus ticket.

We voted. Nine voted "yes" and the three of us still voted "no." The three of us began talking to the four jurors who were listening closest. Earlier, several jurors said that since I was a law student, I must know what to do. I told them I knew nothing more than they did, since the judge had explained the law on this point to them in his "charge" to the jury. We were to find the facts, not the law.

The four evolved the theory which was to decide the case. It was obviously in the man's best interest that he submit to hospitalization, and he apparently would not take voluntary treatment (he had checked out the day after he got the previous commitment changed from involuntary to voluntary).

But if he did not realize that his primary need was to have psychiatric treatment, he obviously was not able to provide for his welfare. I swallowed hard when I heard this. The man obviously needed help, away from his own impulses. Yet we were told by the judge to obey the law. What is welfare? The judge had given the illustrations of food, clothing, and shelter. The jury in this borderline case had decided to amend the law. After thirty minutes of discussion on this point, the three of us gave in, convinced.

A sad case. But it is good that a man or woman is protected. To be committed, a jury of twelve of his peers must unanimously agree.

Now that the law lowering jury age to 18 has taken full effect, many UNC students will be serving on juries this semester.

I hope all students called will avail themselves to the accommodations on making up class work that the administration is going to make. I would like to urge students not to try to evade jury duty and take advantage of a most unique experience with the law.

## Court ignores personal rights

The Supreme Court has changed from a stronghold of personal right versus the government's to a more casual and weak stance on these civil liberties.

One of the most significant Bill of Rights is the Fourth Amendment protecting citizens from unreasonable search and seizure without probable cause. It is the Fourth Amendment that is the basis for basic rights of privacy, including wiretapping.

Court rules against wiretapping, particularly the 1972 ruling that outlawed bugging in more severe terms than before, have generally given the government less freedom to wiretap than before.

Yet Tuesday the Supreme Court ruled that grand juries may use illegally obtained evidence as a basis for questioning witnesses—without violating their constitutional rights.

The court wrote a significant exception into the "exclusionary rule," the principle that the courts will not admit in a criminal trial evidence that the prosecution obtained by a warrantless search or some other illegal method. The effect of the ruling is to allow evidence that cannot be used in court to be the basis for indictment.

One of the reasons for the exclusionary rule in the first place was to discourage improper searches by law enforcement officers. Yet somehow, as appropriately pointed out by the dissenting judges, the

majority judges didn't see or want to see that allowing grand juries to use such evidence would encourage, not discourage, use by police of illegal search and seizure, not to mention arrest.

In the most severe case of rationalizing in court decisions of recent years, the majority ruled that once the illegal search is over, grand jury use of such evidence does not involve government invasion of privacy.

Certainly to allow the grand jury to use illegally obtained evidence will encourage police to break the law through unreasonable search and seizure, because it will have a use—in the grand jury. To say, as the majority did, "Questions based on illegally obtained evidence are only a derivative use of the product of a past unlawful search and seizure" so they work no new Fourth Amendment wrong is senseless and illogical.

In fact, if this is the basis of this ruling, the court might as well claim the Fourth Amendment is there not to be abided by but to be worked around. It is in essence condoning the illegal actions that provide the evidence.

It appears that the Supreme Court has taken a wrong turn—towards ignoring the rights of the individual and increasing the rights of the government over the individual, contrary to the aims of the Constitution.



### Letters to the editor

## Reader claims Tar Heel's rape editorial misinformed

To the editor:

A well written story contains information on ALL basic facts relating to the story.

WHO: Coed

WHAT: Attack

WHERE: Kenan Stadium

WHEN: Friday Night, 14 December, between 1:00 and 2:00 A.M.

WHY: Alone

HOW MUCH: Raped.

The Daily Tar Heel did not carry this story, having ceased publication in early December with resumption of publication on January 9th coincident with beginning of Spring Semester.

Very few students were still on campus on

15 December, to have received news of the attack via any other news media. However, this issue of DTH will be read by many students, concerned parents, University employees, trustees, etc., and the Editor does a grave disservice to create in the minds of DTH readers a simplistic approach to control of crime via lighting and low shrubbery, when the highly complex human mind must be considered.

Anyone—female or male—walking alone at 1:30 A.M. on an almost deserted campus (comparable to a ghost town) has to have rejected as invalid the urgings by University administrators and student leaders. There is no way an individual can be protected from

her/his willful optimism or willful obstinacy.

The DTH can make a more positive contribution by printing the full story on Page 1 and, thus, provide readers of the Editorial Page with very necessary information.

Sylvia King  
Route 3, Box 285  
Chapel Hill

(Editor's note: The editorial of Jan. 9 did not pretend to claim that low shrubbery and better lighting will end rapes on campus, but that such measures will improve the situation.)

### University now upholds contract

To the editor:

This letter concerns the refund of room rent deposit.

If you cancelled your reservation for a room before December 14, 1973 you are entitled to a full refund of your deposit. University housing was previously refunding only \$10 of the \$25 deposit. This was in violation of the room deposit contract which stated that the full amount of deposit would be refunded.

The University has henceforth made amends and you are now supposed to get the full deposit, if you cancelled before Dec. 14, 1973.

David W. Flagler  
321 W. Cameron Ave.

### GOPs shall stay in White House

To the editor:

Four years and eleven months ago the Republican Party brought forth upon this continent a new administration dedicated to the proposition that all men should be Republican. Now we are engaged in a great court hearing testing whether this administration or any administration so conceived and elected can long endure. We are meeting in a great courtroom for this hearing.

I have come to dedicate a portion of my tapes, as a final concession for those constituents who gave their public lives that this administration might live. It is altogether fitting and proper that we do this. But in a larger sense, I cannot concede to, I

cannot give in to, I cannot abide by the Watergate Committee. Mr. Dean, who struggled had conceded far more than we can add or detract. The world will long note and long remember what he said there, but it can never forget what I say perfectly clear here.

It is for my new prosecutor rather than Mr. Cox to be dedicated to the unfinished work of solving this case that Sam Ervin and Howard Baker have so thoroughly and expensively fought to solve. It is rather for us to solve the great task lying before us, that Haldeman and Ehrlichman had not died in vain. That this nation under God shall have a new era of peace with honor, and that government of Republicans, by Republicans, and for Republicans shall not be ousted from the White House.

Kurt Nelson  
630 Ehringhaus  
David Strickland  
628 Ehringhaus

### Reston really wants shortages

To the editor:

James Reston stared over his typewriter, looking out the window of his elegant apartment at the lights on the Potomac. In an hour, he must be at a cocktail party with the rest of the beautiful people. But now he has another assignment from the New York Times News Service. Write an article dealing with the energy crisis.

Reston could convince Eskimos that the North Pole had become a tropical paradise. He could convince Raquel Welch that she had become anemic. If he could sell his latest idea, he could sell anything.

As he shoved a piece of paper into his I.B.M. Selectric, he felt a slight chill. He turned the thermostat up to a toasty seventy-five degrees and then began to type:

"Washington. The craziest notion that has hit this country in a long while—and we've had quite a few nutty notions lately—is that shortages of gas, beef and a lot of other things are bad for the American people.

"What America really needs is more shortages. It is not our shortages but our surpluses that are hurting us. Too much gas, too much booze, too much money, talk, noise and—fire me tomorrow!—too much newsprint are our problem . . ."

That's right, you read it correctly. James Reston of the New York Times says that what we need are more shortages. That is the new line of the Establishment in 1974. Of course, all the Restons are living well. And they intend to do so, thank you. But they

expect you to take a meat cleaver to your own budget.

What caused the current shortages; the shortages that worry James Reston so much? Well, let's look again at the Establishment for the answer. In August of 1971, President Richard the Millstone Nixon imposed on our economy "Wage and Price controls." Prices were frozen on fuel oil when its price was at a seasonal low. During the winter of 1971-1972, fuel oil prices were still frozen. Producers could not raise their prices to keep up with the increased cost of refining transporting their fuel oil on the world markets where the prices were thirty-three per cent higher. The result, no oil for Americans except those industrious enough to find a place still selling the stuff.

Wage and price controls have been tried all through history and have failed. They have always created shortages. When prices are frozen, the economy stagnates. People find that their dollars will buy more so they begin hoarding food, gas, clothes and other commodities. As the supply is used up and those producing these items lose their incentive to produce (the "evil" profit motive) shortages are the inevitable end-product.

That's a very old lesson of economics that I think everyone should keep in mind as the '74 elections approach. When the demand is up, you must allow the prices to go up or the supply will go down.

Douglas Joy  
213 Everett Dorm

### Tar Heel dorm delivery blasted

To the editor:

Whereas I believe that the Daily Tar Heel as a student function and benefit should be funded by student fees, as it is under student influence (i.e. election of the editor), I do not feel that students should have to support a decrepit institution. By this I mean that if the Tar Heel says that it delivers to the dorms, it should do so with a minimum of faultiness. Last year, delivery was almost always prompt and never missed, but this year there has been an average of one to two errors a week. Either it does not arrive at Granville until very late in the day, like 10:30 or so, or it does not come at all. I have been patient because you have stated that you have had problems with student graphics and delivery personnel, but you did say the problems would be ironed out shortly. If an

entire semester is not enough, something is terribly wrong.

If you cannot make deliveries to the dorms, at least tell us so, so we can expect to have to go to the union to pick up a paper, and so that you will not have to live a lie and lose student faith and your credibility.

We have not received a Tar Heel in the last two days that I am aware of, and it is not here yet today, now at 9:30 a.m.

Bill Strickland  
President  
Granville West

### Plant struggling for life in sink

To the editor:

The will to survive is the unifying factor of all living things. Since the formation of the first protoplasm 3 billion years ago life has been struggling for its existence. Recently my fellow suitmates and I have been rooting the plant fighting for life in the overflow drain of our bathroom sink.

Best of luck, plant!

William Lee Bell  
213 Morrison

## The Daily Tar Heel

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