

Local attorneys see unconstitutionality in Honor Court proceedings

by Stan Ridgley
Staff Writer

Editor's note: The names of the local attorneys are fictitious.

A man is on trial in a small room, and no one can watch. The accused looks eye-to-eye with the five judges across the table. On his left is the prosecutor. To the right is his defense counsel. The court chairman reads aloud the charges against him.

The student is accused of breaking the UNC Honor Code. His fellow students—the judges before him—ask questions, listen to testimony, and finally, after some closed deliberation, decide on guilt or innocence. If guilty, the defendant is sentenced.

That's the way Carolina's Honor Court is run—by students and in private, and the chances of getting off the hook are slim. Since September, the court has heard about 25 cases and found 24 students guilty, a 96 per cent conviction rate. And the penalties can be harsh.

Expulsion, suspension, probation, censure, academic sanctions. No, honor court isn't just a formality; it's for real.

And the system isn't without its opponents. Several local attorneys think the honor court is unconstitutional the way it stands now, and they have a long list of reasons why they think so.

"It really is a sort of kangaroo court," a local attorney said. "The proceedings are conducted in a rather cavalier fashion compared to how important the outcome is to the individual."

However, Charles E. Lovelace, student attorney general, says the court is well within legal bounds.

"The chancellor has the final authority in matters dealing with student discipline," Lovelace said. "He has designated the student judicial system to handle that responsibility. We serve an administrative function for the chancellor and operate by the authority he has given us to perform that administrative function."

The function referred to by Lovelace is the

trial of students who are accused of breaking the UNC Honor Code. If a student is charged, he appears at a preliminary conference; then, at his trial, a panel of five students hears the presentation by the prosecution and the defense. The panel then deliberates alone and reaches a verdict.

What Chapel Hill lawyers don't like is that both the prosecutor and defense counsel are on the attorney general's staff.

"I think it is impossible to separate the interests of the attorney general from the interests of one of the staff members," Thomas Williams, another local attorney, said. "There needs to be a complete independence of at least the defense side. I think it is in the student's interest to have the best representation he can get, including a licensed attorney, because it's not an administrative hearing as they sometimes contend."

Williams complains that the student defense counsel's tie with the attorney general is similar to having a defense attorney in criminal court

is on the payroll of the district attorney. The defense attorney's intentions may be good, but the conflict of interest is still there.

"That's a legitimate complaint," Lovelace said. "However, this is not an adversary-type system. A separate office for the defense council would not only cause administrative problems, but create more of an adversary-type system. Since our staff has no professional legal training, a change to that system would be a detrimental move."

The attorney general's staff receives no legal training except that given to them as staff members. They attend a judicial conference where several law school professors talk to them on trial advocacy. They also view several cases. Lovelace says that in the present truth-finding system of honor court, the training of staff is sufficient.

"It all gets down to a question of what can be the fairest way of dealing with matters involving student discipline," said he. "In this case I think you're going to be hard pressed to find a better

system in dealing with these things."

Another beef the lawyers have against the honor court is what they call a lack of due process. Due process is a standard of fairness and justice set by the U.S. Supreme Court. The lawyers say that where one small, unfair aspect of the honor court might not deny the student due process, enough unfair things would, and that's a violation of the student's constitutional rights.

However, Lovelace says the Honor Court is conducted with due process.

"In the sense that due process is defined by the Instrument of Student Judicial Governance, we are not denying the student due process," Lovelace said. "We are giving him due process as recognized by the chancellor of the university. He gives us the authority to begin with."

Included in the lawyers' argument is the fact that it only takes three of the five court members to convict a student.

Williams said that in civil court, the burden of

Please turn to page 3.

Cold

It will be clear today with a high of 35. The low last night was about 15. There is no chance of precipitation today.

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The tell-tale skull
What is the "skull of doom"? Why are NASA and William Shatner interested? Valerie Van Arsdale explains on page 4.

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Please call us: 933-0245

UNC's lawsuit flurry is a sign of the times

by Tony Gunn
and Tom Watkins
Staff Writers

Editor's note: This is the first of a two-part series examining lawsuits against the University. This part deals with the reasons behind the increased number of suits. The second will look at several important suits and their implications.

In 1973, Mary Carroll Smith signed a three-year contract as an assistant professor in the UNC Department of Religion. In December 1974, she was notified that her



Mary Carroll Smith

contract would not be renewed upon expiration in 1976. She filed a \$1.75 million suit against the University.

On Saturday, assistant professor of geology David M. Stewart lost his appeal to the Faculty Hearings Committee in an effort to get his contract renewed and tenure granted. He also may file suit against UNC.

The number of lawsuits brought against the University, once negligible, is now approaching record proportions. Assistant to the President of the consolidated University Richard H. Robinson, counsel to the University system's General Administration, cited two reasons Wednesday for the nationwide interest in litigation.

"There's a great deal more law of a regulatory character applicable to University life," he said. "Employment,

admissions, you name it; there's been just an explosion in legal regulation of more and more instances in business of any kind. This is not limited to education.

"Second, I think it's a social dynamic that's again not limited to the education environment. It's fairly widespread that folks are less and less inclined to take lying down what's done to them by persons in authority, whether you're talking about employment, 'studenthood,' or whatever.

"We're more litigious, more inclined to sue. And I think that is true of the University environment as it is of most others you could point to." Assistant to the Chancellor Susan H. Ehringhaus, legal counsel for the Chapel Hill campus, voiced similar sentiments.

"People are coming to look to the courts to resolve things other institutions could resolve. In the past they looked to other kinds of arbiters of dispute, such as leading citizens and the clergy. There were probably not any fewer disputes, but they were resolved more informally.

"I don't think the trend is often good. I want everyone to have access to the courts, but putting every human dispute in the courts overestimates the ability of the courts to resolve things. The courts are not equipped financially or physically to cope with all these problems.

"We've become an over-legalized society and people have become overly litigious."

Robinson complained about the large number of what he called nuisance cases, those he described as frivolous or ill-founded. He said that while such cases are a waste of time, it is impossible to differentiate between valid and invalid claims in advance.

"You'll get a lot of this terribly time-consuming, insubstantial nuisance litigation along with some other cases which may have merit, where something wrong was, in fact, done and ought to be corrected."

He added that if one could differentiate between valid and invalid claims in advance, there would be no need for trials.

Because of the increase in litigation, the consolidated University and other university systems have been considering the acquisition of insurance.

"We've never had an award levied by a court against the University," Robinson said. "There's never been a judgment awarding damages. But that could change tomorrow or next week. I suppose."

Robinson said that UNC is in the process of obtaining insurance that would cover all

employees of the consolidated University, as well as all members of governing boards. The policy would cost between \$20,000 and \$30,000 yearly, providing protection of up to \$1 million per case.

"This insurance," Robinson said, "is being bought as protection against the contingency that some day a complaint might result in a damage or award, the requirement that either the University or some individual pay some money to a plaintiff."

He said that the desire for insurance stems from concern among public officials that they can be held personally liable for mistakes made in high risk jobs, including certain positions with the University.

"I think the concern is significantly exaggerated. In a sense we're buying some reassurance, but I would be very much surprised if there were many judgments of any substance recovered against individual employees, administrators, or board members.

"The need for that reassurance is a reality that has to be addressed, but the problem is not as severe as people have been led to believe."

They do their work at reduced rates Aspiring dentists are longing for your teeth

by Charlene Havnaer
Staff Writer

The high cost of dental work often causes students to ignore the need for dental care until it is too late. A sudden toothache or a reminder from home that one should see a dentist every six months often sends the student to the Yellow Pages in search of a local dentist.

Although the Chapel Hill area offers over 40 dentists to choose from, the money-conscious student may find it beneficial to look into the programs offered by the UNC School of Dentistry.

The School of Dentistry has two programs offering interested persons reduced rates on dental care performed by UNC dental students.

The undergraduate student clinic offers routine dental care at 25 per cent of private dental service. The work is performed by second, third and fourth year dental students under the supervision of a faculty member.

The graduate dental clinic offers specialized dental care such as orthodontic, periodontic (gum treatment)

and prosthodontic (replacement of teeth) work at 50 per cent of the average cost. The work is done by graduate students specializing in these areas under the supervision of a faculty member.

The purpose of the programs is to provide the dental students with practical clinical experience, according to F. William McCracken, assistant dean of the UNC School of Dentistry and Doctor of Dental Surgery. Only persons with dental problems on which the dental students need practice are eligible to participate in the programs, McCracken said.

Persons interested in participating in the program are screened by dental school faculty members, and an X-ray is taken of their mouths to determine the type and amount of treatment needed, McCracken said. This information is put into a computer which matches the needs of the patients with the needs of the dental students. It may take from two weeks to 90 days for the computer to match a patient with a student. Patients who are eligible to participate are notified by the student who will be working on them. Patients who are

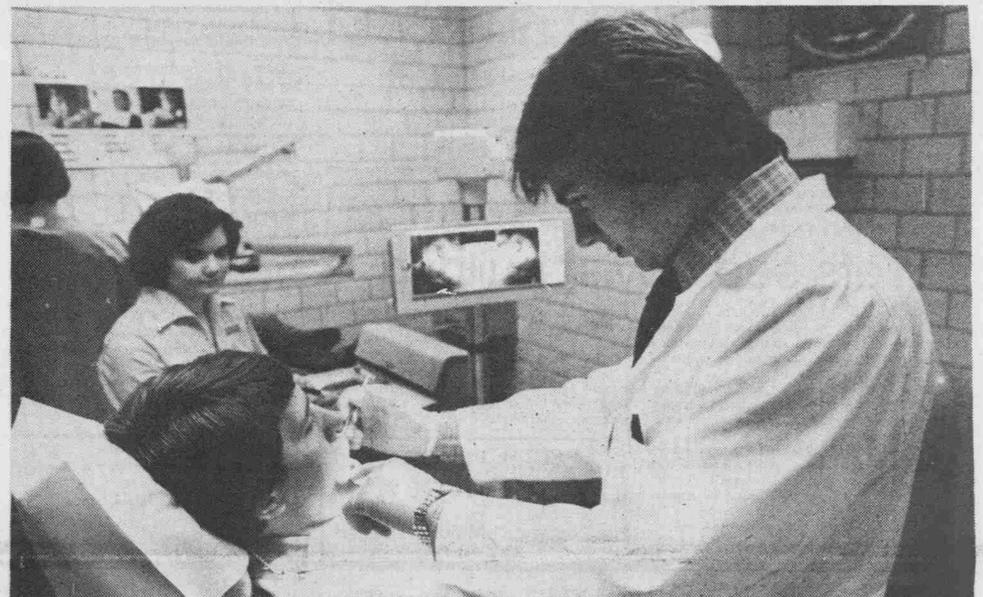
not matched with a student within 90 days are notified that assignment is unlikely.

McCracken said that last year approximately 50 per cent of the persons screened had dental problems that could be worked on in the program. Only 80 per cent of these could be assigned to a dental student.

If a patient is accepted for one of the programs, he is given a complete diagnostic checkup and a treatment program is developed according to his needs, McCracken said. The patient must agree to allow the School of Dentistry to complete this treatment.

McCracken said that one drawback of the programs is the amount of time involved. It takes a dental student approximately three times as long to complete the work as a private dentist, he said. To be accepted, the prospective student must be able to be available once or twice a week for three-hour clinic periods.

Another time factor is the length of time it takes to get an appointment. Appointments must be made with the School of Dentistry several months in advance.



Staff photo by Charles Hardy

Everyone in this situation is happy. UNC offers a special program giving dental students the opportunity to work on live patients, and student patients are able to get their dental work

done at reduced costs. Although the inconvenience of signing up far in advance for appointments may deter some, most are willing to put with the long wait.

DTH may obtain stabilized funding

by Karen Millers
Staff Writer

In a special meeting Sunday night, the Campus Governing Council (CGC) voted unanimously to hold a referendum in the spring elections on a constitutional amendment that would give the *Daily Tar Heel* partial financial independence from the CGC.

If the students approve the amendment, the *Daily Tar Heel* would receive at least 16 per cent of yearly student fees.

The amendment would also create a board of directors for the *Daily Tar Heel* that would serve as a publisher. This job is now a responsibility of the Media Board.

The fee allocation to the *Daily Tar Heel* is now determined each year by the CGC. *Daily Tar Heel* editor Alan Murray told the Rules and Judiciary Committee before the CGC meeting that the set percentage would end the danger of CGC exerting de facto

control over the paper by lowering appropriations. He said the change is necessary to insure editorial freedom.

"I think there's a real, basic philosophical problem in having the accountability (of the paper to the students) be by way of the Student Government (SG)," Murray said, "since part of the function of the *Tar Heel* has got to be to cover SG."

Murray said the primary way that the paper stays accountable to the students is through the election of the editor.

Under the amendment, *Daily Tar Heel* funds would be exempt from SG Treasury Laws but would still be subject to the regulations of the Student Activities Funds Office (SAFO).

"The monies will be handled by SAFO," Murray said. "SAFO will determine the accounting procedures.

SAFO will make sure that our money is accountable." He added that the Carolina Union is also regulated by SAFO but exempt from SG Treasury Laws.

One concern CGC members expressed about the bill is the 16 per cent appropriations guarantee. The percentage based on this year's budget is \$51,200; the *Daily Tar Heel* actually received \$53,534 this year, representing less than 25 per cent of its total budget. This appropriation allows for a price of less than two cents per copy per student. Murray said the average price of a college paper is between three and five cents.

"We will try to survive on this as long as we can," Murray said, countering the argument that the *Daily Tar Heel* might ask for more funds in the future.

"I don't have a lot of faith in the CGC as an institution," said committee member Bruce Tindall. "I don't think it should have a lot of power over the great institutions of our University. So, I'm all for anything that will give the *Tar Heel* more independence."

The seven-member board of directors specified by the amendment would govern the operation of the *Daily Tar Heel*. It would include:

- one student appointed by the student body president to serve during the term of that president;
- one student appointed by the elected editor of the *Daily Tar Heel* to serve during the term of that editor;
- one student appointed by the Media Board to serve for one year;
- one student appointed by the board of directors to serve at least one year;
- one individual to be chosen at large by the board of directors to serve two years;
- one faculty member from the School of Journalism; and
- one faculty member for the School of Business Administration.

The two faculty members would be chosen by the board of directors to serve staggered three-year terms. The editor and business manager of the *Daily Tar Heel* would serve as non-voting members of the board. The Media Board would make initial appointments to the four board-appointed positions.

Spring Exam Schedule

Quizzes are not to be given in this semester on or after Friday, April 22, 1977.

All 9:30 A.M. Classes on TTh	Mon. May 2 8:30 A.M.
All 11:00 A.M. Classes on MWF	Mon. May 2 2:00 P.M.
All Fren. Germ. Span & Port 1,2,3 & 4 Russ 1 & 2, and * Educ 41	Tues. May 3 8:30 A.M.
All 4:00 P.M. Classes on MWF, *Econ 61 & *Math 31	Tues. May 3 2:00 P.M.
All 10:00 A.M. Classes on MWF, *Phil 21	Wed. May 4 8:30 A.M.
All 8:00 A.M. Classes on TTh	Wed. May 4 2:00 P.M.
All 5:00 P.M. Classes on TTh, and all classes not otherwise provided for in this schedule	Thur. May 5 8:30 A.M.
All 8:00 A.M. Classes on MWF	Thur. May 5 2:00 P.M.
All 12:30 P.M. Classes on TTh, *Chem 171L	Fri. May 6 8:30 A.M.
All 2:00 P.M. Classes on MWF	Fri. May 6 2:00 P.M.
All 12:00 Noon Classes on MWF, *Chem 170L	Sat. May 7 8:30 A.M.
All 3:30 P.M. Classes on TTh, *Busi 71,72,73	Sat. May 7 2:00 P.M.
All 9:00 A.M. Classes on MWF	Mon. May 9 8:30 A.M.
All 11:00 A.M. Classes on TTh	Mon. May 9 2:00 P.M.
All 2:00 P.M. Classes on TTh	Tues. May 10 8:30 A.M.
All 1:00 P.M. Classes on MWF	Tues. May 10 2:00 P.M.
All 3:00 P.M. Classes on MWF	Wed. May 11 8:30 A.M.
All 5:00 P.M. Classes on MWF	Wed. May 11 2:00 P.M.