

The Honor Court—UNC system of justice clarified by dean, student

All receive due process

By DOUGLAS S. COPPOLA

I am appalled by your "Comment" of Feb. 15, 1977. It proves, once again, that the DTH is not reluctant to express opinions in areas it knows nothing about. However, this time you have trod upon a professional domain, in conscious disregard of current legal precedent, to purport your erroneous observations and conclusions as fact. I cannot tolerate such an invasion. Your general comments regarding due process and our judicial structure are not just inaccurate; they evidence a total insensitivity to the feeling of those students, past and present, who are, or have been, charged with violating the honor code.

Had you properly and responsibly investigated the legal bases of our system, you could not have claimed "the honor court does not come close to meeting the standards of due process established by the U.S. Constitution and the U.S. Supreme Court."

An examination of the elements of due process, as it applies to disciplinary proceedings in public institutions of higher education, must begin in 1961 when the Fifth Circuit Court of Appeals rendered a landmark decision in *Dixon vs. Alabama State Board of Education*, 294 F. 2d 150. In *Dixon*, that court made the contention that a student must be given adequate notice and hearing. No court has repudiated that doctrine.

Ensuing decisions of the courts have gone beyond *Dixon* in specifying the requisites of due process. For example, the Courts have clarified adequate notice as requiring that the student know, in advance of proceedings, what he is being charged with, the grounds upon which the charges are based, the names of possible witnesses against him, and the possible punishment or sanction.

Additionally, the courts have also determined that the hearing must provide the accused with an opportunity to present his own case or defense against the charges, and be given the opportunity to present witnesses or testimony on his own behalf. Also, due process requires a written report of the results and findings of the hearing, and the availability of an appeal. Even a cursory reading of our University's "Instrument of Student Judicial Governance" would have revealed to you that these rights are guaranteed to all students (Item V. A. 2. b.), had you bothered to read it.

The courts have also taken steps to enumerate what is not essential to due process in campus hearings. To illustrate, there has been no requirement that the hearings be "public." The right to counsel has not been extended to disciplinary cases unless the university is represented by counsel. There is no general rule that a person subject to disciplinary proceedings in higher education can refuse to answer questions under any or all circumstances. The Fifth Amendment, which guarantees the right of protection against self-incrimination

has been held valid only in criminal cases with few exceptions. Please note that our judicial process assures that right. However, a defendant is free to waive such protection by any voluntary admission of guilt. Note further, that admissions of guilt made by a defendant in a civil or criminal case may be admissible in a court of law as an exception to the Hearsay Rule of Evidence, your statement to the contrary notwithstanding. Due process does not require precise rules of evidence to be followed in campus proceedings.

These decisions addressing the essentials and nonessentials of due process apply only to the more serious cases in which the gravest penalties—suspension or expulsion—were likely to be invoked. At this university, due process is extended to include the lesser infractions as well. Whatever the charge and possible sanction, all students are afforded the protection of due process.

This column is not offered as an exhaustive treatise in the area of due process; I can only hope that those unwitting readers of your "Comment" will realize that your accusations are not based on legal precedent or even ethical journalistic standards. You owe an apology to our students for the creation of needless anxiety about our system that careful investigative homework could have avoided.

Douglas S. Coppola is Assistant Dean of Student Affairs and Judicial Programs Officer.

By HILL CARROW

Your attempt to make something sensational out of the firing of Lee Chavis in your editorial of Feb. 15, 1977 succeeded in getting my temperature up long enough to write this reply. First, let me say that I have held positions on the Interfraternity Council Court, Student Supreme Court (in emergency capacity), the attorney general's staff (2 years) and as student attorney general. Therefore, I feel qualified enough to give a somewhat knowledgeable response to your editorial on the honor system which was, at best, less than knowledgeable.

Let me begin by pointing out some basic errors you made in describing how the attorney general's staff and the honor court operate. First, the attorney general's role as prosecutor needs clarifying. The attorney general's main function is to decide whether there is a quantum of evidence enough to support some charge against a defendant. If there is, the case is sent to the Student Honor Court. This is the attorney general's only function as prosecutor. You obviously have the attorney general confused with the investigator whose role is to investigate all aspects of the case and report his findings in undergraduate court (particularly from the plaintiff's point of view).

Second, you are in complete error when you make it sound as though the attorney general's staff made some sort of error when they did not assign the defendant any

counsel until after the preliminary conference. It is at the preliminary conference that the defendant is informed of his rights—including his right to counsel. Therefore, counsel must be assigned at or after the preliminary conference. (Code of Student Judicial Governance, section V.A.2.b.7.d.) Further, "prior to any discussion of the alleged offense between the accused and the student attorney general, or any University official investigating the matter, the accused shall be (and he was) informed of his right to refuse to give answers which might tend in any way to prove him guilty of the charge. He shall be (and he was) informed that all statements may be used in court" (Code of Student Judicial Governance, section V.A. 1. g.).

Whether you realize it or not, you and Lee Chavis are both guilty of the same thing—attempting to turn our present Honor Court system into an adversary system: one that involves getting the defendant off at all costs, where the investigator and the defense counsel, try to "out-Perry Mason" one another, even if this requires trickery and deceit. To this end, first you ask rhetorically why an independent pool of defense attorneys isn't established. Further on, you mention "very questionable practices engaged in by the court." Then you proceed to cite the fact that the investigator (once again, you incorrectly called him the prosecutor, which only serves to confuse the reader with the attorney general's role) mentioned that the defendant had changed his plea after talking to Mr. Chavis. This adversary system in accordance with

constitutional due process, which you (and apparently Mr. Chavis) advocate, can be harmful since it does not always seek to find the TRUTH—an intangible which is exactly what the current honor system is aimed at finding. Under our system now, the defendant NEVER "suffers" (unlike what you would have us believe) from a conflict of interest because the investigator and defense are aware of each others' witnesses and information in their common pursuit of truth.

Finally, the whole gist of your article is that some change is needed in the system. This is certainly the case and I will be the first to admit it. Yet, you as editor have had several opportunities to make suggestions and to help change the system. Various meetings have been held to discuss publishing information concerning honor court trials and changing the honor code. At some of those meetings you yourself were supposed to be one of the primary sources of input. Now, I realize that an editor encounters many conflicts in his daily schedule and must, therefore, omit certain functions. However, instead of sitting back from on high and clamoring for change in the system, why don't you attend such meetings and help effect concrete changes. It is true that our system now is a very idealistic one, but there it will remain until you and other "powerful individuals" can overcome your own inertia and make positive change in the system a reality.

Hill Carrow is the president of the Class of 1977.

letters to the editor

Radio Ethiopia

To the editor:
Dear Troops,
As you probably know, I'm out of action. Down for a while due to Olympic injuries. I'll be down for a couple months but I'll be back... the Patti Smith Group is not sixties residue but heralding the future... dedicated to the future...

Laying here reading your letters I feel great. You guys got guts... illuminated maniacs... waving the banner... holding the fort... no dear john letters here... your belief is keeping me strong.

I have little to say. I'm very happy. Your energy gives me courage and joy... not fragile neither. It's hard for me to write. But like Houdini promised, I'll be back.

Patti Smith
Field Marshall

"We must reach the front"
William Burroughs

Wake can raise hell

To the editor:
I would like to respond to George Howard's letter entitled "Tar Heel fans praised." Howard printed a letter written by so-called "concerned Deacon fans" that praised Carolina fans but at the expense of Wake Forest support. The memo which was distributed at one of Wake's home games told of Wake's nonsupport as compared to Carolina's great enthusiasm. Since I grew up watching the Deacs lose to superior Carolina and State teams season after losing season, I can honestly say that fan support for Wake has stayed strong through thick and thin. I attended the Wake-Clemson game in Winston-Salem that the memo mentioned and can honestly say that the reason the crowd wasn't more vocal was because the game was marred with sloppiness and bad play. A boring game doesn't stir up

anybody. I didn't see Carolina fans roaring when Wake visited Carmichael. Remember, too, that Carolina has twice as many student seats as Wake does, so naturally they can bring the house down easier than Winston-Salem Memorial can. Carolina is the greatest and I am not knocking the true blue one bit, but give Wake fans some credit. They can raise hell with the rest of the teams in the conference.

Beau Dancy
1104 Granville W.

Tip them, please

To the editor:
We waitresses were very pleased to see the letter you printed some weeks back addressing women who don't tip in restaurants. Unfortunately, women aren't the only ones who fail to tip.

Many people don't seem to be aware that waiters and waitresses are not paid minimum wage. Most restaurants in the Chapel Hill area pay their waitresses about a dollar an hour. Tips are therefore the major source of a waitress's income. The standard tip is 12 to 15 per cent of the total bill—more if your waitress has worked especially hard for you. Failure to tip or leaving a very small tip is supposed to indicate unsatisfactory service.

Waitressing is hard and complicated work and unappreciative customers don't make it any easier. Please show a little consideration for the person who waits on your table next time you're dining out, and please tip—it's not just a matter of etiquette.

Peter's Waitress Friends

Stroh's prices wrong

To the editor:
After being advised by the DTH article that we could cruise to Durham to buy Stroh's beer, we did. Alas, we found some discrepancies with the DTH article (so what else is new?). In order to warn other connoisseurs of fine beer who might assume that the DTH must at least be correct about their beverage of malt and hops, the sacrament of UNC, we have found that beer selling for "cost" at Jim's Party Store runs 20 cents a case more than that selling at Lakewood Party Store. We are led to believe by the DTH that Lakewood is taking a 20 cent loss. Hmm. But, then again, we have made the perhaps deadly assumption that the price quoted for the Lakewood beer was accurate. Hmm!

In any event, we did make the trip to Jim's Party Store to ascertain their price for Stroh's. That's more than we can say for the DTH. Perhaps someone else will find out for the students of UNC if Lakewood's quoted price is correct.

Anyway, we do thank you, DTH, for telling us where we could obtain the famous Stroh's beer. The stores must thank you, too.

Peter W. Wright
Bill E. Faggart, Jr.
Wm. Marshall Ballew, Jr.
G-10 Colony Apts.

Honor that professor today

Over the past months, faculty tenure, the firing of professors (and resulting court cases) and other such controversies have occupied the headlines of this paper. Behind all the stirrings, though, is the problem of faculty incentive.

Instructors are here to teach. And their performance should be the best it can, which requires a level of input and suggestion from students which we have been altogether reluctant to give.

The annual Tanner, Salgo and AMOCO awards, which carry with them cash honorariums, are the only opportunities afforded students to offer incentive and honor, rather than indict and pan, the instructors they believe warrant more than attention and attendance. And the list of past winners is indicative of the high levels of scholarship and ability which the awards seek. Doctors Bart Sobel, Earle Wallace, Thomas Stumpf, Isaac Reynolds and Joel Schwartz are just a few of those cited for excellence by their students and peers.

Unfortunately, we students, while finding no trouble in haggling over two points on a weekly quiz, are too lazy to stand up and cheer. This has been evident in our lack of participation in selecting past award winners.

But we can vote, and we can comment. Ballots for the awards are available in dorms, the undergraduate library, the Y-Court and various other sites on campus. Be sure to state your reasons for endorsing your choice—it can make a difference in the final selection.

Take the opportunity to recommend and honor the instructor who deserves more than your attention and attendance.

The campaign trail

Fear and loathing at UNC

When Hunter S. Thompson, the famed Doctor of Gonzo Journalism and senior editor of *Rolling Stone*, wrote about fear and loathing on the campaign trail, he was talking about real national politics. He never dreamed of fear and loathing in campus politics—but then he's never run for office at UNC.

Fear and loathing is the best way to describe the door-to-door experience of the Carolina campaigner. Hundreds of students knocked on thousands of doors this semester. They represented dozens of different candidates for numerous offices, but almost everyone of them was greeted again and again with loathing. For instance: "If I see one more godde%*e politico, I'll..."

There's no doubt that a great deal of the loathing is deserved, that students are unfairly harassed for weeks by vote-seekers who will forget them at the drop of a ballot. But the serious campaigner also suffers some interesting experiences, some of which I chronicle below—just to give the other side of the story:

The cold stare. For the campaigner who gets his foot in the door, this is the next worst thing that can happen. This is the stony look that could sink ships. The picture worth a thousand words—most of them four letters long.

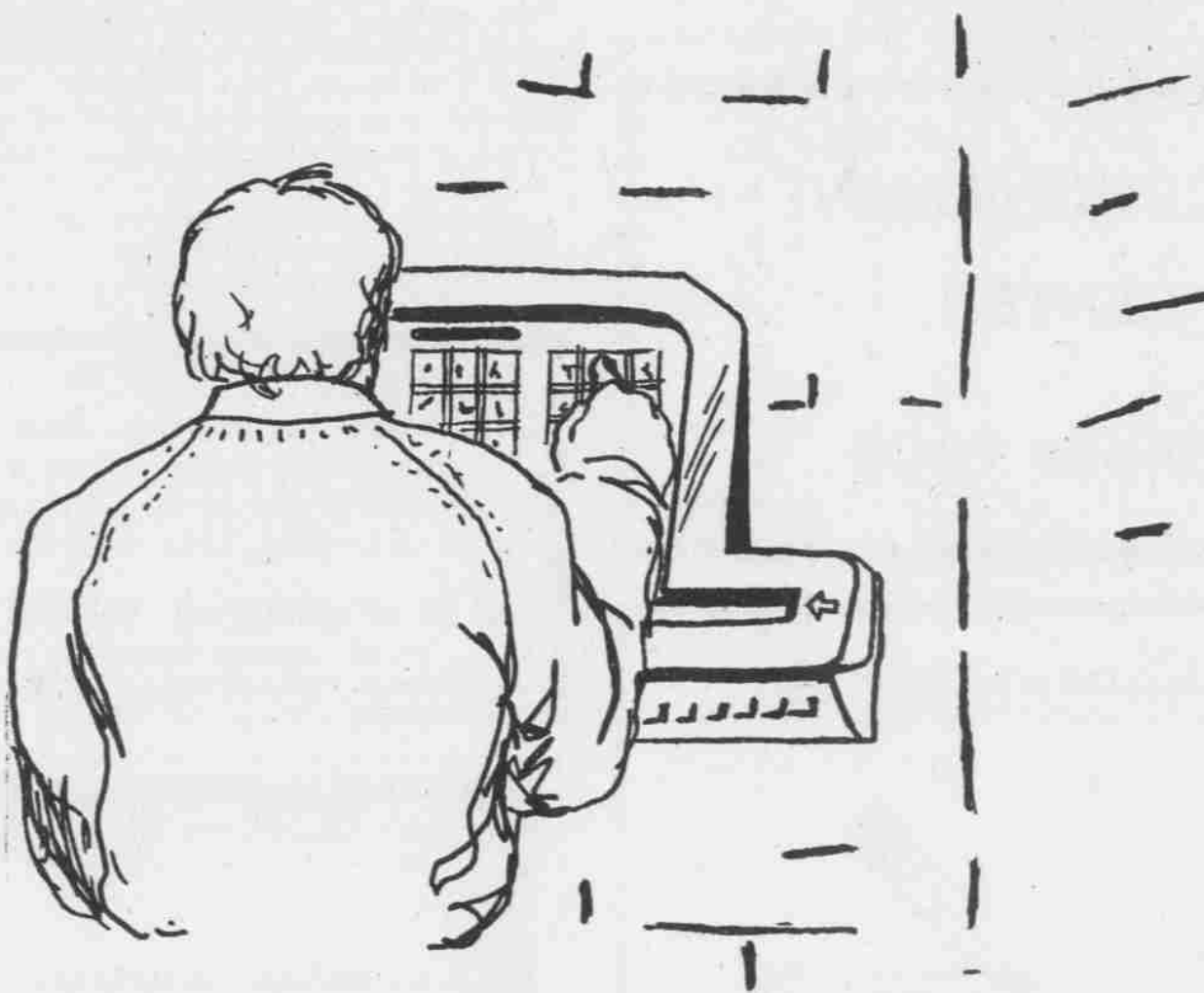
The blank stare. This is the campaigner with the expressiveness of a dead fish. Big eyes that stare right through you. Questions don't work with these people—a mild grunt is the most response you can ever hope for.

Interrupted lovers. The most embarrassing faux pas on the campaign trail. The door opens to reveal a fast-breather with tousled hair and a red face. Sometimes, if you're lucky, they'll take your handout and promise to vote for you if you'll just get the hell out. Sometimes they're not so polite.

The know-it-all. The best thing to do in this situation is run. These people have an answer for everything you have to say—and they don't care about facts or rules of logic. They can go on all night—and probably will if given half the chance. Agree with them and leave.

In the long run, what separates the non-politico from the politico is a simple matter of memory. The non-politico remembers that there are some good people out there. The politico only remembers the loathing and the vote totals.

Now that the campaign season is over, all those who gained public office are on trial. The politics will prove themselves when they go underground until next election. The non-politicos will take their heads out of the sand and do something with their new-found powers.



Don't let 'tellers' fool you

Editor's note: This column was prepared under the direction of the Student Legal Aid program, which maintains an office in Suite C, Carolina Union.

The new 24-hour "robot" bank tellers are a form of electronic funds transfer system. The National Consumer Law Center has noted that because these transactions are not within the scope of traditional law, many important consumer safeguards presently available may be lost.

These paperless money transfers are unprotected by the negotiable instrument laws and recent federal consumer legislation. For example, the \$50 limit on liability to the consumer for unauthorized use is a

protection not available in "robot teller" transfers. If a thief steals your wallet with your teller card and gets your access code number to boot, he is able to withdraw money from your account. The bank may refuse to reimburse your account and you, the innocent consumer, have little, if any protection from the loss. Problems also arise with erroneous debits and moneysless envelopes which are difficult to trace and prove.

Advice: 1) memorize your access code and destroy any record of it; 2) take a friend to witness your transaction with the "robot teller," which just might spit out an empty envelope.

Weird items from the rubbish bin

By ROBIN McWILLIAM

The 75th anniversary issue of the *Times Literary Supplement* contained comments from 43 writers, scholars and artists on the books or writers they consider underrated or overrated. I asked three faculty members here for their choices. Dr. John Seelye of the English department thinks William Gaddis, author of two novels, and John Dos Passos, an experimenter in form, underrated, and Robert Penn Warren overrated. Dr. Robert Wilson, who teaches a course in literature and society, considers Ezra Pound and Saul Bellow overrated, and Conrad Aiken and Thornton Wilder underrated. Aiken, with Ford Madox Ford, was also Anthony Burgess' choice for an underrated writer, with Andre Gide, Hermann Hesse, and E.M. Forster overrated. One of the UNC creative writing instructors thinks William Faulkner is overrated, "because of the tyranny he exerts over writing." This same instructor considers Winston Churchill underrated as a writer. Typically, Bob Dylan's choice is the strangest—and most thought-provoking in the *TLS*: the one book most overrated and underrated—the Bible.

The Chinese Triad secret societies conduct a major heroin trade in Europe, and the narcotics branch of Scotland Yard fears that London will be the next drug target. That certainly seems to be the Triad's intention. When 14 defendants were convicted of drug charges and received sentences ranging from 3 to 14 years, the Chinese Triad began to make threats to Detective Superintendent Fred Luff and his family. He's the officer leading the narcotics team. Enough has been written about the effects of narcotics that anything I wrote would be superfluous. Perhaps the real danger is not necessarily in the use of the drugs, but rather in the lifestyle which accompanies the need for a regular supply, and which suppliers follow to ensure an overwhelming profit.

Every year a popularity poll is conducted

at Madame Tussaud's, the famous waxwork museum in London. A surprising result this year is Jimmy Carter's replacing Richard Nixon in the Hate and Fear section of the poll. He now ties with Dracula behind Hitler and Idi Amin.

I came across a fascinating journal in the Periodicals Room of Wilson Library the other day. The dust on the cover testified to its popularity. It seemed strange to me that the copies of this journal weren't kept behind the periodicals desk, with other off-in-demand material. The title: *Omega—The Journal of Death and Dying*.

The symbolism in the Greek end is profound. Inside the drab cover of the issue in which I was thoroughly engrossed were two representatives of the lively material to be encountered in *Omega*: "Death, Funeral and Bereavement Practices in Appalachian and Non-Appalachian Kentucky," and "Death and Ancient Finnish Culture."

Ballpoint pens are ruining handwriting. Where is the copperplate script that filled Carolina notebooks of yesterday? I call for a return to the fountainpen. Better still, the dip-pen. Why miss the joys of selecting different nibs and inks? Laziness may be the answer. If it is, when will I be able to buy letters in aerosol cans? Have ready a fresh piece of paper, press the nozzle, and spray on your letter home. Student Stores must once again sell goose quills, sealing wax and sand for blotting.

Constable J.C.H. Keller told the court that on June 30 David Craig Douglas had said to him: "I'll kill you." "Did he kill you?" asked the prosecutor. (*Rand Daily Mail*)

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