Chapter XIV

The Student Judiciary under Fire

Editor's note. This chapter was written out of extensive research done by George Blackburn in the *Daily Tar Heel*, the *Carolina Magazine*, and other student and University records. He was a student on this campus and lived through the discontent of the latter 1960s and the early 1970s.

The Judiciary in the Written Constitution

Article II of the written constitution in 1946 had vested the judicial powers in five inferior courts: three for men—the Men's Council, Men's Dormitory Council, and Men's Interdormitory Council; and two for women—the Women's Council and the Women's House Council. The overall Student Council had final jurisdiction in all cases involving offenses against the student body. It also provided that "the Student Council, and the Men's and Women's Councils shall make and publish their own rules of procedure, but these rules shall not deny to any accused person the presumption of innocence until guilt is proven, the right to due notice and a fair hearing, the right of the accused to face his accuser in the Student Council, but not necessarily in the Men's and Women's Councils, and the privilege of assistance by a member of the Council, if requested. The Council shall inform each accused person of his rights guaranteed under this section at the time he is notified of the offense charged against him."

According to a student observer the procedure worked in this way:

The Problem of Appeals

> When a student is convicted and penalized in the Men's or Women's Council (the same is true for the Interdormitory Council and the Dance Committee), he is given an appeal form which he may fill out, basing it on one of the following grounds: 1) an unusual or unjust penalty, 2) denial of basic constitutional rights, 3) insufficiency of evidence to convict, 4) participation of a materially biased council member, or 5) refusal of permission to face accuser, or for some similar irregularity which the Student Council feels is enough to make a basis for appeal. If the appeal is granted, the Student Council is convened as quickly as possible for a hearing. No new facts are supposed to be introduced. The representative of the trial court states its reason for conviction, is dismissed, and the student offender states his case and is dismissed. The Student Council deliberates and reaches a decision for or against reversal of the other Council.
>
> This complicated system of appeals has resulted in much friction between the Councils, is unpopular with the administration and faculty, and all student body presidents who have served under it have sought to amend it in various ways.

The Problem of Jury Trials

The jury system was introduced into the trial procedure in the late 1950s and early 1960s, but the complications in its administration caused more trouble than it was worth, including the problem of getting jurors to serve, and the choice of requiring a jury trial in all cases or only when it was requested, and it was abandoned.

The Problem of Open Trials

Under student court procedure, the trial of accused persons was not open to the student body—only actual participants were admitted. Two students accused of cheating on examination protested that the closed trial procedure violated Article III, Section 6 of the student constitution guaranteeing students all rights secured by the United States Constitution. The Council ruled that closed student trials did not violate the sixth amendment of the United States Constitution for these reasons:

Student tribunals are not courts in a legal sense. They do not concern themselves with criminal prosecutions. Student judicial bodies can inflict no punishment, legally speaking, upon any student; for punishment constitutes some removal of the convicted person's life, liberty and/or property in accord with due process of law. The most severe punitive action which can be taken by the student tribunals is the denial to a student of the privilege of membership in the University's student body. This in and of itself does not constitute legal punishment, for no individual has a vested right of freedom to be a member of the student body of the University of North Carolina.

The student tribunals deal with no body of law in a legal system; their purpose is to try alleged violators of a moral and ethical code of honor regulating the academic and social conduct of the student body when each member has pledged to accept the obligations and responsibilities encumbent upon his living under such a system based not upon law but upon *Honor.* The fact of the matter is that our student judicial bodies are in reality committees of action established and existing at the pleasure of the faculty, administration and trustees.

The Double Standard

There was the question of the "double standard" in morals cases. A woman who stayed out all night with a man violated a long-standing rule and was punished accordingly. There was no rule prohibiting a man from staying out all night, and if he stayed out all night with a woman he had violated no law.

The Student Body President Complains

In the early 1950s the student body president told the Student Legislature in his "state of the campus" message as reported in the *Daily Tar Heel*:

> An unconstitutional "Honor Council" has been established by the Dental School.
> This illegal court is indicative of a destructive force now developing within student government here, a force born of the University's rapid expansion and specialization and a student apathy toward student control. . . .
> He warned that "before long we're going to have the law school, the medical school, and all of the other schools here establishing their own little student governments. If we don't solve this problem soon (we will) be just a liberal arts student government[.]"
> He indicated that this tendency of the campus to go "off in different directions" could easily wreck the forms of student government now practiced here.
> He could propose no certain solution to the problem, but suggested that the legislature consider as a possible alternative an "all campus student government" in which the students of each college or school elect representatives to a consolidated legislature.

The Dean of Students Complains

In the fall of 1955 Fred Weaver, dean of student affairs, had expressed concern about the effectiveness of the student judiciary. He noted that more appeals from student court decisions had been carried to faculty review in the past two or three years than in the preceeding twenty-five years. A *Daily Tar Heel* article gave the following analysis of the problem:

> The trend toward more faculty action and less student action has already developed in two concrete ways:
> 1. Several departments in the University have lost confidence in the processing of Honor System and Campus Code cases by students.
> 2. Most cases before student courts at present have been initiated by faculty or staff members of the University—not students.
> Growing concern in the Faculty Executive Committee, which hears appeals from student courts, has been evidenced recently. . . .
> Evidence of the decline of the student court watchdog function is seen in the numerous cases that student jurors pick up from local Recorder's Court, after offenders have been tried for civil offense. In the past, student courts intervened, taking over civil cases from local authorities—not waiting until after they have been tried.
> Another increasing problem is that of jurisdiction. Since there is a virtual galaxy of student courts, there is confusion about which court handles a case—and where initiative lies.

A Tar Heel *Columnist Complains*

In January of 1961 the *Daily Tar Heel* carried a series of editorials by Jonathan Yardley analyzing the Honor System and roundly pronouncing it a failure. Selections from Yardley's editorials follow:

> We assume that we are capable of governing ourselves, yet patently refuse to take part in the governing process; in past years as much as ninety-five percent of the infractions reported and acted upon have been turned in not by students but by members of the faculty and administration. There is a liaison between the Honor Council and the Office of Student Affairs which gives evidence that even the Council knows it cannot rely solely on student action and conscience.
> We are asked by this system to report the violations of our fellows; yet we, like all human beings, have an innate distaste for any system which requires that we "rat" on our friends or even on people we do not know. No precept is valid which goes against human nature, and this one certainly does. . . .
> It is really the system that is at fault, however, or those who perpetrated it. For the system is, in its present framework, totally incapable of meeting the extraordinary requirements of college life.
> It has placed the power of judgement in the hands of those who are least able to use this power: the students themselves. It has within itself a vague, uncertain description of what is and is not criminal that leaves the final judgement up to the student courts; if they do not even know the difference between *habeas corpus* and *ex post facto,* how

can they possibly be expected to decide what is and is not a criminal act? Quite simply, they cannot. . . .
Obviously the system is not commensurate with our capacities. We are not incapable of a degree of judgement; we are merely incapable of as much as we have delegated to ourselves. . . .

Administration and Faculty Actions

In May of 1961 Chancellor Aycock overruled the student court which failed to suspend or expel a student. The case was among the most controversial ever to arrive in student courts. The Men's Honor Council held that the student was not guilty of accepting a bribe to "shave points" in basketball games and was not guilty of failing to report the activities of another student in a gambling scandal. The chancellor suspended the student on an entirely different charge, that of lying to him concerning the investigated activities.

The following year several obscene or risqué floats appeared in the annual "Beat Dook" parade. Before student authorities had adequate time to take action in the matter, the University administration established a board to review all future displays before entry. In October of 1963 the chairman of the faculty committee on student discipline announced, without consultation with student leaders, that students would no longer be allowed to sit with faculty members on the board which heard appeals from the Men's and Women's Councils (until then called the Student-Faculty Review Board).

Student Reactions

In reaction to these decisions, a bill was introduced in the Student Legislature to close the student judicial system. That action was not seriously contemplated, but the bill provided occasion for the Legislature's judicial committee to hold hearings on the state of the campus Judiciary in light of recent administrative and faculty actions. An *ad hoc* student committee for constitutional integrity reporting to the judiciary committee cited disturbing instances of administrative action dating back to 1961 and more recently in 1963. These incidents had bred a distrust among student officials and generated an attitude of disrespect for student institutions. A resolution asking for abolition of the Student Judiciary had not been reintroduced in this session of the Legislature. Had it been introduced, the committee, being firmly committed to the principles of student self-government and the Honor System, said it would have recommended that it be defeated. The committee wondered, however, if the faculty and administration were as committed to these principles as the committee was.

The Honor System and the Campus Code

The controversy over student presence on the Faculty Review Board in 1963 brought to surface the growing questions about the success and utility of the student judicial system. There was basic agreement among faculty, administrators, and students that the system was not operating successfully. There was further agreement that the Honor Code was necessary to the University's function, but from 1963 onward an ever-widening gap appears between opinions of the student body and opinions of the faculty on administration and enforcement of the Campus Code, particularly with respect to cases involving personal morals.

The report of the judicial committee in 1963 cited the following recent history of morals cases:

> The Judicial Committee heard testimony from student leaders and the Dean of Men in regard to the handling of so-called "morals" offenses. It was established that, prior to 1961, "morals" offenses were generally handled by the student judiciary. In the fall of 1961 the situation was changed so that cases which before had been heard by the students were then handled by the administration. Testimony before this committee has not established the exact nature of this agreement or the process by which it was reached. . . .
> Several reasons were given by student witnesses before the judicial committee in favor of relinquishing responsibility for "moral" cases. Among the reasons were: 1) a university student does not possess the degree of maturity necessary to judge fellow students in cases involving personal morals; 2) it is often difficult to convince non-student witnesses to appear before student councils in connection with "moral" offenses. . .and 3) "moral cases" have been offered to student judicial officials only with the assurance by these officials that there would be a conviction.
> It should be emphasized that student officials were by no means in agreement on the question of whether student judicial bodies should hear "moral" cases--some being very strongly committed to the exercise of responsibility by students in this area. . . .The Dean of Men stated that he did not see why students should not be able to handle "straight-forward" moral cases; however, he added that most "moral" cases were not "straight-forward" since they involved psychiatric or other considerations which the student councils were not equipped to handle. . . .
> By and large, student government officials testifying in judicial committee asserted that there is a genuine and significant difference of opinion between the student judiciary and the faculty and administration over the manner in which the campus code should be enforced. The faculty and administration are generally committed to a more strict enforcement policy. Examples given in judicial committee would serve to cor-

roborate this testimony. Clearly, therefore, the question of whether morals cases are to be tried by the faculty is more than academic.

The Problem of Drugs

During the summer session of 1966 several students were arrested by Chapel Hill authorities on drug charges. Student Attorney General Frank Hodges was approached concerning disciplinary action by student courts but contended that the incidents were not offenses under either of the codes. The students involved were, therefore, tried by a council of faculty and administrators and were suspended from the University. This was the beginning of the controversy over student use of drugs. At the outset, there was agreement that a policy in opposition to such use should be adopted but student leaders objected to the manner in which the administration handled the situation.

A *Daily Tar Heel* editorial noted:

> It is generally acknowledged that the use of stimulant drugs had been widespread. Members of the student judicial bodies had known about it, but had made no attempt to educate users of the drugs of potential dangers or discourage their use.
>
> Then, all of a sudden, a half dozen kids were snapped up and kicked out of school for doing what had been an accepted practice since the first day they came to the University.
>
> Why were they suspended?
>
> We can find two factors which might have prompted the administration's actions. First the students had broken a civil law, thereby falling short of University standards of conduct.
>
> But students break civil laws when they cruise down the highways at 80 m.p.h., when they take a snort of booze at a football game. How many students have been suspended for speeding or even reckless driving? How many have been suspended for getting intoxicated in Kenan Stadium and having to be borne out on the shoulders of their buddies? . . .We believe the determining factor. . .was public opinion within the state.

Visiting Privileges

In October 1968, 3900 students signed a petition which would allow each residence hall to determine when visitation would be allowed. Commenting on the petition, on October 18, 1968, a *Daily Tar Heel* editorial stated:

"What the petition asks for is that each men's dorm be given the right to decide if it wants a visitation plan and what days and times it wants visitation. It doesn't ask for an Administration imposed agreement; it wants students to have the right to work out their own agreements. Any offer of less from the Administration is unacceptable."

A subsequent *Daily Tar Heel* editorial commented on coed visitation rights: "UNC coeds are treated with maximum suspicion and minimum respect. The allowance of self-limiting hours or individual responsibility, as it is sometimes known, would provide students with the convenience they desire and the responsibility they deserve."

A Question of Jurisdiction

The Campus Code was considered to be in force from the beginning of a student's University career until its close and applied no matter where he might be. The logic of this broad application was strongest with regard to pranks. When Carolina students visited another campus during football weekends and defaced campus buildings or destroyed property of the opposing University, the logical agent for disciplinary action was the offending student's own University. The only other recourse of the University in which the offenses were committed, if the offender's own University would not punish him, would be to bring criminal charges against the offending Carolina student in local courts. Such incidents did frequently occur and the broad application of the Campus Code enabled student courts to take charge of disciplinary action that would preserve the University's good name and also dissuade the offended University from bringing criminal charges.

Student opponents of the broad Campus Code raised the specter of a student on holiday in Europe arrested for a drunken prank and then expelled from the University. The *Daily Tar Heel* commented in 1962 that "the whole ridiculous idea of a campus code so vague and indefinite as this one is bad enough in itself without having its effects extended around the world and in effect '365 days a year.' "

In 1968 the editor of the *Daily Tar Heel* charged a student legislator with drunken and disorderly conduct while at home in Nicaragua during the summer. This fictional charge was made to dramatize the scope of the Campus Code. The next day the student attorney general and student body president called for revision of the Campus Code.

Early in the year the *Daily Tar Heel* had reported that a survey of 2,000 students revealed that 1,109 wanted the Honor Code limited to Chapel Hill, and at all times when a student was representing the University; 102 wanted the code limited exclusively to the Chapel Hill community; 668 wanted it limited exclusively to the campus; 1,452 wanted it limited to academic misdeeds alone; and 525 wanted it to include lying, cheating and stealing of any nature.

In a lead editorial following the survey, the *Daily Tar Heel* criticized administrative authority over student life:

> The modern university is too much of a busy-body. . . .the main thing wrong with universities is "an over-extension of the authority of the university into student life." . . .over-extension has became a cornerstone of its philosophy of higher education.
> That is what South Building is talking about when it says that the University has a responsibility not only to teach its students but also to shape them up into good, solid citizens.
> The main hang-up with this is that the denizens of South Building normally possess rather archaic conceptions of what good, solid citizenry is all about. It seems often that they have derived their concept of it from a careful reading of Sinclair Lewis' *Babbitt*.
> For example, it wasn't long ago that a male graduate student was found to be living with a female graduate student, to whom he was not properly wed.
> "Lord," one of the administrators exclaimed, "what are we going to do about these bohemians!"
> Now there are quite a few people around who would suggest to the [dean] that he simply bug off, and permit young love—and/or lust—to run its normal course. . . .
> . . .a lot of people just think that other people should mind their own business when what's happening is a very private thing that is going to neither harm nor help the rest of the community.
> Further, these same people define the University's business as that of being an academic institution, not a police system.
> And students are more and more asking that the University cease acting like it was a police force. . . .

Double Jeopardy

This movement was prompted by student distaste for the drug and visitation policies and by a very curious theory that the Campus Code subjected students to "double jeopardy." "A student for example can be arrested in town for some violation or other, be tried and convicted in regular court, pay his fine, and then have to face the same charges before the Honor Council," said the *Daily Tar Heel* in November 1967.

In December 1968 the "double jeopardy" theory was refuted in detail in an article by Michael Almond in the *Daily Tar Heel*:

. . . .

> There is no such thing as legal double-jeopardy at UNC. The situation in question does not deserve the name; it is a misnomer. For just as both the State and the AMA reserve the right to limit the conduct of doctors, so do the state and the university in regard to students. . . .
> We place obligations and qualifications upon our membership, and those who fail to meet these obligations must cease to be members of the university community. And, at last, this leads us directly to the question of so-called "Double-Jeopardy" on this campus.
> For if we and the State of North Carolina are indeed two distinct communities, we must admit that a person can commit offenses against both. A student is responsible both to the university and the state, and in certain very rare cases (I will give an example later), a student may, by the same act, commit an offense against both communities. And this is why those who preach double-jeopardy on this campus distort the true situation. . . .
> So, therefore, civil courts and student courts are two distinct legal systems deriving their legitimacy from two entirely different publics. And, for this university to continue to function as a selective community, we must accept two basic facts: 1) that the university must be allowed to set standards of membership and enforce them, and 2) that sometimes when a student violates his contract with the university, he may also, by the same offense, violate civil law. In such situations, his case is subject to review by both civil and student courts. . . .
> But now you rightfully ask, "Why isn't civil action enough? Why is it ever necessary to prosecute a student in student courts if he was convicted in civil courts? Hasn't he been punished enough?. . .Consider the following hypothetical case:
>
> *A week before exams a student steals a filing cabinet from a professor's office. In the cabinet is a copy of the exam to be given the next week. The student is caught and arrested by a Chapel Hill policeman.*
>
> Now whether we like it or not, this student will probably be tried in Chapel Hill Recorder's Court for the theft of state property. But is this enough? No, because the student has clearly committed an offense against the student body. Possession of the final exam gives him an unfair advantage over his fellow classmates and students, but yet some people argue that just because he was tried in civil court, he is immune from action by the University. Even if civil court made him return the exam, he may already have had time to study it enough to make the test unfair to the other students in the class.
> And now I ask you to consider the alternatives. Right now, the civil courts realize that student courts are best able to handle student affairs, and thus when they prosecute a student, the court is often quite lenient with him. Many times the charges are reduced. But if the student courts refuse to consider cases tried downtown, the civil courts will have no alternative but to take a harder line with students. And stiffer prosecution means more comprehensive investigation of cases by Chapel

Hill Police. Are you willing to accept even more police intrusion and interference into student affairs?
And finally, under some proposals, we, the university community, would lose the right to set the standards of membership in this university. Now, when a student commits an offense serious enough, we have the right to declare him unfit to be a member of this community and remove his status as a Carolina student. . . . Ask yourself whether being a student at Carolina means more than just attending classes here.

Interference

In the eyes of the *Daily Tar Heel*, student opinion no longer supported and should no longer support interference by the University in the private, non-academic conduct of students. Early on, a January 1968 editorial had commented:

> If it [the University] is to be defined as a place where one comes to learn, to pursue, academic studies, then this definition is incompatible with attempts by administrators and faculty members to achieve sway over students extra-curricular life.
> Of course, there are rules which must be made if any society is to maintain order. An example of such a rule, applicable to the case of drug use, would be a prohibition of students using certain drugs in University residence halls, since the effects of such drug use could prove distracting to other students trying to study. . . .
> This question boils down to whether this is a University or a prep school[.]
> If it is a University, then its concern for its students should be confined to their academic pursuits. There should be only tangential concern with students' moral and social activities as they directly relate to the academic side of life.

And even more explicitly, a February editorial argued that

> . . . no one is asking the University to either tolerate or not to tolerate the illicit and improper use of drugs. . . .
> In fact, all anybody is asking the University to do about drugs is to mind their own business—the business of teaching, the business of turning out bachelors, masters and Ph.D.'s.

All of these differences and discussions came into focus in March 1969, when the student body approved a constitutional "double jeopardy" amendment under which student courts were prohibited from trying students for offenses previously tried by public courts.

The following month Chancellor Sitterson and Kenneth Penegar, chairman of the Faculty Committee on Student Discipline, sent a letter to nine student leaders stating that the University administration would not adhere to the "double jeopardy" proposal enacted in the student referendum and that "since students tried in civil or criminal courts would no longer be prosecuted in student courts, they will be tried by the Faculty Review Board. . . ."

The letter regretted this decision and continued, ". . . it is the responsibility of the faculty and the Chancellor to speak when a rule or practice of student agencies . . . is in conflict with essential principles by which the campus community should be governed . . . the delegation of responsibility makes the Chancellor and the [faculty] committee responsible when the student courts do not act."

The student body president expressed his outrage on receipt of this letter and declared his intention to uphold his pledge to enforce the constitution of student government and to take all steps necessary to insure that the double jeopardy provision would be respected by all segments of the University community. He stated that "this latest action by the administration totally disregarded the overwhelming mandate of those who voted . . . and seriously undermines the 175-year-old tradition of student discipline on this campus."

A *Tar Heel* editorial supported the student president and expressed disappointment that the chancellor had chosen "to repudiate a tradition which has existed at UNC for more than 175 years.

"That tradition is student self-government."

The editorial was against extreme measures such as "disrupting the campus," but urged the student president to call the Legislature into special session as early as possible and ask for a strongly worded condemnation of the administration's action. It urged student leaders to "mobilize" the support of the student body. If this failed the student court members "must resolve to resign en masse. . . . the courts would have no reason to continue in office."

The Student Legislature did meet in special session and passed a resolution censuring the administration and the Faculty Committee on Student Discipline for their response to the double jeopardy amendment to the constitution, calling it "unilateral decision making."

In the meantime, a *Tar Heel* editorial, headed "Ray of Light," stated that the student president and the University administration had agreed to form a "student-faculty-administrative committee to study and recommend changes in the student judicial system." This committee was to be composed of five members from the student body, three from the faculty, and two from the administration.

Minority Problems in the Judicial System

Last of the controversies prompting judicial revolution was that involving the Black Student Movement (BSM). In December 1968 the BSM presented twenty-two "demands" to the chancellor including: dismissal of the dean of student affairs and the director of the student union; exemption of black students from SAT score requirements; intensified recruitment of blacks; greater financial aid to blacks; and a separate judicial system for black students. The chancellor responded that "...the University cannot, in policy or in practice, provide unique treatment for any single race, color, or creed." Displeased with the response the BSM announced in February 1969 that it would no longer recognize the jurisdiction of student courts.

Paul Frederick Sharp was chancellor of the University, 1964–1966. A graduate of Phillips University, he earned a Ph.D. degree in history at the University of Minnesota. He came to this University from the presidency of Hiram College and left Chapel Hill to become president of Drake University.

Chapter XV

The Process of Judicial Reform

by James O. Cansler

Editor's note. We have asked James Cansler, associate vice chancellor and associate dean of student affairs, to write the story of the Process of Judicial Reform. He was at the heart and center of the work and its guiding spirit from beginning to end, and for this reason we have asked him to write the story in the first person pronoun. In our opinion, this story represents the highest peak of student government in the University of North Carolina at Chapel Hill in the years from 1946 to 1985.

A faculty colleague on the committee had this to say about his performance: "I came away from the work of the Judicial Reform Committee with the greatest respect for James Cansler. Maybe it was his theological training that gave him his Job-like patience with us all. At any rate, I have no doubt that the good will and good talents of James Cansler brought this whole process to a conclusion. He had the patience to keep us at our task, arrange all the details of the meetings, and moderate our differences. He had the experience of years of student administration, and the sensitivity to problems that helped us avoid needless confrontation and wasted effort."

On 25 April 1969, Chancellor Sitterson and Student Body President Albright appointed the Judicial Reform Committee with the following members:

Heather Ness, Assistant Dean of Women
James O. Cansler, Associate Dean of Student Affairs
Peter F. Walker, Professor, Department of History
Rollie Tillman, Professor, School of Business Administration
Frank R. Strong, Professor, School of Law

Lawrence Whitfield, student
Robert Mannekin, student
Robert Locke, student
Cynthia Ricks, student
John McDowell, student

In August 1969, George Butler replaced Robert Locke who had resigned in the summer in protest of the Committee's involvement in the development of adjudicatory procedures for the Trustee Campus Disruption Policy. Joseph Stallings replaced Cynthia Ricks who also resigned.

In October 1970, William Blue replaced Robert Mannekin who had graduated and Jody Nelson replaced Lawrence Whitfield who had died in a tragic accident in Scotland. Dean Frederic W. Schroeder, Jr. replaced Dean Heather Ness who had resigned her position in the University.

In November 1970, and following receipt of the resolution from the Graduate Student Coordinating Committee, two graduate students were named to the Committee in addition to its original membership. Steve Hart and Ronald Lippencott served throughout that year as representatives of graduate and professional students.

The letter appointing the Judicial Reform Committee stipulated that the Committee should select its own chairman and that administrative support for the Committee and its work would be supplied by my office. The student body president took the lead in calling the first meeting in a letter dated five days after the appointing letter. The first meeting was called for May 6, 1969 at 7 A.M.! The urgency in beginning the process and the time of the first meeting typified the attitude and pace of the Committee throughout its first two years. There was the sense, shared by all involved, that the work of this Committee was terribly important, that a lot hung on its successfully completing its assignment and that the job it had was more complex and difficult than most people could imagine. One of the strong remembrances of the Committee and its work, therefore, was the scores and scores of hours spent in formal Committee meetings and subgroups and individual conversations with Committee members. There were literally hundreds of hours spent in the first year.

In the summer when the Committee's task shifted from judicial reform to attempts at negotiating a mutually agreeable procedure for dealing with the Trustee Campus Disruption Policy, meetings continued at all hours of the day and evening. Student members were particularly disadvantaged in that time because many were forced to drive distances from home and work in order to meet.

It was apparent that there were strong feelings concerning what the

Committee had to do for the protection of important values. Those values were, of course, perceived differently by different constituencies, and the potential for conflict and seemingly irreconcilable differences seemed built into the process from the outset. For the student members there were important student rights to be protected. There were student freedoms either newly won and to be defended, or not yet won and to be fought for. For myself, there were institutional needs in the judicial arena which urgently required attention and most likely could not be met without the students feeling that they had given up something they considered to be important. There was the need to balance the rights and freedoms students were demanding with the accountabilities which trustees, legislators and families were demanding from the University administration. There was conflict even among and between student constituencies because some student interests and needs could not be met except at the perceived expense of others. The task seemed essentially insurmountable as the process began. The obvious importance of the Committee's work, its apparent difficulty, and the commitment of every member to it quickly created a sense of collegiality and a "yokefellow bond" among us which still is cherished.

One of the inspiring remembrances of the Committee and its work was the way in which collegiality developed. The "us-them" mentality which characterized the first meetings began to dissipate. Committee members began to see and strive toward an approach which transcended the vested interests of particular constituencies.

The Work of the Committee

Very early in the meetings—I think in the very first meeting—as we each talked about the things we hoped the Committee could accomplish, Frank Strong articulated the concern of many of us that we could do nothing but fail if we came to the Committee simply as representatives of our particular constituency, principally to defend our special interests. Unless that attitude could be transcended, he urged, unless we could see ourselves as representatives first of the whole University, concerned for the overall good, then the Committee could not succeed. To the credit of the spirit and attitude of all those on the Committee, that approach was understood and embraced. It characterized our work throughout. To be sure, there were long, torturous, sometimes vehement, exchanges. To be sure, there were points at issue which seemed immune to reconciliation, and each of us gave a great deal in the negotiating process as we worked. The commitment and the willingness to compromise brought us ultimately to the first, second and third drafts of the *Instrument*.

The persons I remember most strongly from that process are Frank Strong and Lawrence Whitfield. Boshamer Professor of Constitutional Law in the Law School and former Dean of the School of Law at the Ohio State University, Frank Strong brought wisdom and insight and spiritual depth to the Committee which made him the one to whom we all turned for assistance on how to move ahead from where we were. Others, Rollie Tillman, Peter Walker, Heather Ness—all made their contributions. Frank Strong, however, stands out in my mind among the non-students. I know that students turned to him, both in the Committee and out, and spent hours and hours discussing endlessly the issues with which we wrestled.

Among the students, Lawrence Whitfield stands out. The original appointing letter had stipulated that the Committee should select its own Chairman, and as the very first order of business in the first meeting Lawrence Whitfield was turned to instinctively as the person who should fill that role. Lawrence, a junior English major from Raleigh, lived up to everyone's expectations. Bright, articulate, personable, an avid reader and lover of William Butler Yeats, he brought to the chairmanship a vision of what we should be about, an understanding of what was at stake in this enterprise. He understood the importance of compromise on all sides if we were to succeed. He thus became an articulate spokesman and an almost irresistible lobbyist, both openly and behind the scenes, with student leaders, faculty and administrators. His untimely death shocked us all. His successor as chairman, John McDowell, did a highly creditable job, but Lawrence is the person that most of us think of first among student members of the Committee.

I saw my role in the Committee as one of facilitation. I was secretary for the group, the writer of first attempts at saying what we thought we wanted to say, the verbal articulator of issues and their alternatives. I was the busy producer of draft after draft after draft of sections or pages or articles for consideration and change. I came to the Committee with strong feelings about what the Committee's work must include and was an ardent pusher, not of any preconceived solution, but that issues be addressed fully and realistically, and that the problems inherent in the system at the time be rectified through an entirely new approach to the judicial process.

To say that I was secretary for the group is essentially erroneous. Mrs. Sylvia King, secretary in my office for nine years, deserves that title. Much of the credit for the work of the Judicial Reform Committee belongs to her commitment in keeping us in current drafts. I have no idea of how many days, evenings, and hours she spent at her typewriter transcribing, retyping and making changes. She must have known the *Instrument* of Student Judicial Governance better than anyone else. There were nine formal drafts which were presented as formal drafts to the various constituencies. There were countless individual pages and sections and articles done, redone, and then redone again over the years that the *Instrument* was in process. In addition to the *Instrument* itself, there were letters and memoranda and speeches and articles interpreting, explaining and describing what was going on in the process and what the *Instrument* itself was about. Mrs. King, I suspect, has memories of the Judicial Reform process that equal those of any of us.

In addition to the importance of recognizing and dealing with the different value systems, special interests and agendas of the Committee's constituencies, one of the early questions the Committee had to address was that of how to get a handle on the issue and make it manageable; how we might constructively approach reformulation of a judicial system that had almost a hundred years of tradition but that now required fundamental reorganization; how to deal constructively with divisive issues like drug use, room searches, student records, social conduct, racial equality, procedural and substantive due process, double jeopardy, student rights and administrative accountability in a group where the feelings were strongly held and the people were assertive. We began by the development and presentation of position papers. Papers were done on ways to correct the judicial system, academic offenses, group offenses, sanctions, a code of student conduct (another on a code of social conduct) and on basic presuppositions required for a judicial system.

We also wrestled with the question of procedure. Once the Committee had developed a judicial document acceptable to itself, how should it then proceed to disseminate the document to the three constituencies whose approval was essential to its success? Heretofore, by trustee action, the chancellor and the faculty were jointly responsible in matters of student conduct—a long standing responsibility which gave life, purpose and authority to the Faculty Committee on Student Discipline. However, in the Trustee Disruptions Policy adopted shortly after the appointment of this Committee, the faculty had been effectively removed from that role and the chancellor was left solely responsible in matters of student conduct. How could this Committee build in a role for students and a role for faculty, given this new legal development? In what order should approval of the documents be sought? The Committee resolved that issue ultimately by describing a role for students, faculty and the chancellor's office that in its judgment, seemed most appropriate. In the matter of ratification, the Committee refused to ascribe an order of pre-

cedence. It sent the document to each constituency simultaneously with a proposed timetable for response and a further proposal that the document would be sent to the student body first for ratification.

Chancellor Sitterson resolved the question of priority in the referendum process in his response of December 17, 1970 to the first draft. In addition to proposing changes in the document itself, he said, "As I am sure you understand, in order to fulfill responsibilities imposed upon this office by the Trustees, it will be necessary that I review and approve the entire *Instrument* prior to its submission to the student body for approval or rejection. Hopefully, by this process the best interest of a changing and complex University may be appropriately served and general acceptance of the *Instrument* be expedited." At a later date Chancellor Taylor followed that precedent and expanded it by stipulating the order of precedence for later amendments. His prior approval was required before the *Instrument* would go to the student body or the faculty for initial ratification. In the amendment process, proposed amendments should go to the student body and the faculty and last to the chancellor for ultimate approval.

Once the first draft had been disseminated and responses received from the three constituencies, the Committee was faced with the task of negotiating a consensus on substantive issues on which the constituencies had expressed divergent views. In effect, there were on some issues four divergent opinions—the chancellor's, student government's, that of the Faculty Committee on Student Discipline, and the Judicial Reform Committee's. An example may be helpful. Since 1949 there had been a faculty policy to the effect that any student convicted of an academically related offense in student courts would receive a failing grade in that course in addition to any other sanction imposed. This policy, referred to as the "Automatic F," had come under increasing fire in the late 1960s and the student courts had increasingly chaffed under that constraint. The court wished some flexibility in dealing with the grade as it considered a sanction for a convicted honor code offender. There also was the matter of power; who has authority to assign an academic grade—the faculty, or the students in a student court?

In considering that specific sanction, the Committee had decided to leave the old faculty policy intact; thus, the first draft of the *Instrument* stated "*Academic sanctions* in the form of a failing grade in the course involved shall be incurred for convictions on grade related offenses." In the chancellor's reaction to that draft, the language was changed to read, "*Academic sanctions* in the form of a *disenrollment in the course without grade or credit* shall be incurred for convictions on grade related offenses." The

Faculty Committee on Student Discipline proposed that that section read "*Academic sanctions* in the form of a failing grade in the course involved may be recommended by the court to the instructor concerned." The student legislature's response proposed that it read "*Academic sanctions* imposed by the appropriate faculty member in the form of a reduced or failing grade on the work involved may be incurred for convictions on grade offenses."

After considering all of the above, the Committee changed the section on academic sanctions to read as follows in the second draft: "*Academic sanctions* in the form of a failing grade in the course involved shall be incurred for convictions on grade related offenses unless otherwise recommended by the court and agreed to by the instructor concerned."

That process of threading our way through thickets of conflicting opinions was repeated literally scores of times. The process did not end at that point, of course. Having taken into account the various viewpoints and suggestions on a given issue and having developed language on that issue which was acceptable to the Committee, it was then necessary both to defend and sell that particular language or position to the constituencies whose views were thus rejected or modified. Some issues were resolved between the first draft and the second. On others, several drafts were required before eventual agreement could be reached.

The principal issues of double jeopardy, minority courts, student power and student rights were resolved ultimately in ways that were acceptable to all constituencies. The double jeopardy issue was discussed and debated at length in the Committee and outside it. The result was that student leaders finally accepted the reality of multiple jurisdictions as being truly valid concepts in law. Frank Strong was most helpful in this regard. William Van Alstyne, Professor of Law at Duke and national authority in constitutional law, also helped. Readings and personal conversations ultimately convinced student leaders that the institution's stance on that issue was legally correct and would not change. George Butler, a student member of the Judicial Reform Committee and judicial advisor to the student body president in the 1970–71 year, wrote a booklet on student rights which student government published in October 1970, the same time that the three campus constituencies were reviewing the first draft of the *Instrument*. His discussion of "double penalties" echoes the *Instrument* in many respects and says nothing that any member of the Committee would not have agreed with fully.

In the matter of minority courts, the Committee was unanimous in its opposition to their incorporation in the reformulated court system. In the Committee's view they were antithetical to the integration of minor-

ities into the full stream of campus life as well as inconsistent with the ideal of a single system of justice for the student body. Ultimately, they were incorporated into the *Instrument* by consensus of those then voting —a body which included some members of the original Committee. As has also been stated elsewhere, however, their incorporation was for reasons of expediency rather than ideology.

Memory has dimmed in fourteen years. There are many comments I would make about individuals involved in this long process and about issues themselves were my memory clearer. I am proud to have been a part of this enterprise. I have much admiration and appreciation for the Committee members, student and non-student alike, whose commitment, unflagging energy and shared concerns for what we were about, produced ultimately a judicial system for this campus which I now believe to be an effective, efficient and respected part of student government. It is, as well, a paradigm for administration, faculty and student cooperation. I could wish that other branches of student government were so carefully defined, with lines of authority, responsibility and cooperation as carefully delineated as the judicial system now enjoys.

Having extolled the virtues of the Committee members whose involvement in this process has been described, it is important also to give credit to others in the University whose sympathetic support, constructive criticism and ultimate endorsement made the process possible. Chancellor Sitterson, Dr. Claiborne Jones and others of the chancellor's administrative council expended substantial time and energy in studying the proposed documents and responding constructively in the early phases of the process. Later, Chancellor Taylor, Susan Ehringhaus, Dr. Jones and others in that administration fulfilled an equally supportive role. Members of the Faculty Committee on Student Discipline worked similarly to provide faculty input and response. Finally, many members of student government, though not on the Committee per se, were instrumental in bringing other student input to bear and ultimately in attaining student ratification of the new system. The Committee facilitated the efforts of the three constituencies to achieve judicial reform. It could not have been done without sympathetic and sustained involvement of these others over time.

On 21 August 1970, the Judicial Reform Committee submitted the first draft of the Instrument of Student Judicial Governance to the chancellor, the chairman of the faculty, the president of the student body, and the speaker of the Student Legislature. On 20 October 1972, the third draft of the *Instrument* was submitted to Chancellor Taylor who had succeeded Chancellor Sitterson in February of that year. On 5 November 1973, Chancellor Taylor appointed a new, expanded panel of students, faculty and administrators with Dean of Student Affairs Donald A. Boulton as convener. This committee the chancellor simply called the "Review Committee." To that committee he referred the latest draft of the Instrument of Student Judicial Governance and requested that they advise him of their collective judgment as to whether he should accept the draft and submit it for approval by the student body and Faculty Council.

On 19 November 1973, the Review Committee reported to the chancellor recommending changes in the draft of the *Instrument* as it related to minority courts. On 4 December 1973, Chancellor Taylor approved the judicial reform document as recommended to him by the Review Committee. On 27 February 1974, the student body approved the Instrument of Student Judicial Governance by constitutional referendum. On 29 March 1974, the Faculty Council approved the Instrument of Student Judicial Governance. On 2 October 1974, the Instrument of Student Judicial Governance became effective.

The Committee Product: The Reorganization of the Student Judiciary

The structure of the Student Judiciary was radically changed under the *Instrument*. The Men's and Women's Honor Courts were merged into a new thirty-member Undergraduate Honor Court, which had original jurisdiction over all violations of the Code of Student Conduct except for those within the jurisdiction of the new Graduate or Professional Honor Courts, or those cases reserved for the new University Hearings Board. To ensure that women and minorities were represented on the new Honor Court, the *Instrument* required that its membership contain at least twelve women and eight minority students. Initially elected from designated campus judicial districts, since 1976 Honor Court members have been appointed by the student body president, subject to confirmation by the Campus Governing Council. Honor Court members serve a one-year term and receive no compensation for their work, which involves 5–10 hours per week, depending on the Judiciary's caseload. The Honor Court is administered by a chairman and two vice-chairmen, selected by a new seven-member Student Judiciary Supervisory Board. Like Honor Court members, these chairmen receive no compensation for their work, which can amount to 10 to 20 hours per week, depending upon the caseload.

The *Instrument* also abolished the Student Council, replacing it with a new appellate process. Appeals from Honor Court decisions now are heard by a five-member student-faculty-administration University Hearings Board and, ultimately, by the chancellor. The University Hearings

Board also has original jurisdiction over cases otherwise within the jurisdiction of the student courts, but deemed inappropriate for hearing there due to medical complications, disparities in age of defendant and court members, et cetera. Grounds for appeal are limited to insufficient evidence (which requires an appellate *de novo* hearing), severity of sentence or violation of basic rights, including discrimination based upon race or sex, with such appeals based solely on the record below.

For the first time, the *Instrument* recognized separate, independent graduate school and professional honor courts in the schools of dentistry, law and medicine. Administered by their respective student government agencies, these courts were bound to the judicial procedures outlined in the *Instrument*. The graduate and professional honor courts consist of seven students, with appeals taken to five-member panels consisting of three faculty members and two students.

The residence hall councils were eliminated by the *Instrument*. Violations of visitation privileges or other University housing regulations now are handled administratively by the department of housing, and are treated as violations of the student's housing contract.

In sharp contrast to other components of the student judicial system, the office of student attorney general was largely unchanged under the *Instrument*. As before, the attorney general is appointed by the student body president, subject to confirmation by the Campus Governing Council, and serves a one-year term. Putting in 20 to 40 hours of work each week, depending on the judicial caseload, the attorney general is paid $1,000 per year. The attorney general is assisted by two or three assistant attorney generals, who typically work 10 to 20 hours per week without compensation, as well as other unpaid staff members.

The Instrument of Student Judicial Governance

In order to ensure effective functioning of an honor system worthy of respect in this institution, specific responsibilities of students and the faculty have been set forth. These responsibilities are not all inclusive: They constitute but the *minimum* required of members of the faculty and of the student body. Nor are they mutually exclusive. The obligation of a faculty member or a student to uphold the values of academic integrity in this University shall not be lessened or excused by any failure of the other to comply with this responsibility.

Responsibility of Students

1. To conduct all academic work within the letter and spirit of the Honor Code which prohibits the giving or receiving of unauthorized aid in all academic processes.
2. To consult with faculty and other sources to clarify the meaning of plagiarism; to learn the recognized techniques of proper attribution of sources used in the preparation of written work; and to identify allowable resource materials or aids to be used during examination or in completion of any graded work.
3. To sign a pledge on all graded academic work certifying that no unauthorized assistance has been received or given in the completion of the work.
4. To comply with faculty regulations designed to reduce the possibility of cheating—such as removing unauthorized materials or aids from the room and protecting one's own examination paper from view to others.
5. To maintain the confidentiality of examinations by divulging no information concerning an examination, directly or indirectly, to another student yet to write that same examination.
6. To report any instance in which reasonable grounds exist to believe that a student has given or received unauthorized aid in graded work. Such report should be made to the office of student affairs.
7. To cooperate with the office of the student attorney general and the defense counsel in the investigation and trial of any incident of alleged violation, including the giving of testimony when called upon. Nothing herein shall be construed to contravene a student's rights. . . .

The offenses set out in Section II of the *Instrument*, not the listing of responsibilities above, shall be the basis for determining chargeable offenses under the Code.

II CODE OF STUDENT CONDUCT

A. It shall be the responsibility of every student at the University of North Carolina at Chapel Hill to obey and to support the enforcement of the Honor Code, which prohibits lying, cheating or stealing when these actions involve academic processes or University, student or academic personnel acting in an official capacity.

B. It shall be the further responsibility of every student to abide by the Campus Code; namely, to conduct oneself so as not to impair significantly the welfare or the educational opportunities of others in the University community.

C. Offenses proscribed by Sections II.A. and II.B. shall include, but shall not be limited to, those set out in Sections II.D. and II.E.

D. Individual Offenses

1. Expulsion or suspension, or lesser sanctions, may result from the commission of any of the following offenses:
   a. Academic cheating, including (but not limited to) unauthorized copying, collaboration, or use of notes or books on examinations, and plagiarism (defined as the intentional representation of another person's words, thoughts, or ideas as one's own). For academic cheating, suspension is the normal sanction for the initial offense unless the court determines that unusual mitigating circumstances justify a lesser sentence. In those instances probation is the only appropriate lesser sanction. Suspension is the minimum sanction for conviction in second and subsequent offenses of academic cheating.
   b. Furnishing of false information, with intent to deceive, to members of the University community who are acting in the exercise of their official duties.
   c. Forgery, falsification, or fraudulent misuse of University documents, records, or identification cards.
   d. Physical abuse or hazing of any member or guest of the University community on institutional premises or in University-related activities.
   e. Intentionally inflicting physical injury upon a person or intentionally placing a person in fear of imminent physical injury or danger.
   f. Damage to, or destruction, theft or other misuse of University property.
   g. Willfully obstructing or interfering with any normal operation, function, or activity of the University or any of its organizations, its personnel (including students), or its or any of its organizations' guests by engaging in, or inciting others to engage in, individual or collective conduct which, because of its violent, forceful, threatening, intimidating or disruptive nature or because it improperly restrains freedom of movement, speech, assembly, or access to premises or activities, prevents any member of the University community, or guest of the University or of any of its organizations, from performing legitimate activities or duties within or at the University.
   h. Theft of or damage to either any personal property on institutional premises or academically related personal property wherever the offense occurs.
   i. The knowing abuse of a position of trust or responsibility within the University community.
   j. The unauthorized use of the name of the University or the names of members or organizations in the University community.
   k. Illegal trafficking in the selling or transfer of narcotics, marijuana or other hallucinogens, amphetamines, barbiturates, or similar drugs; or the possession of these drugs in quantities sufficient to indicate intent other than personal use.
   l. Disregard of the Honor Code or the judicial procedures provided by this Instrument: the refusal to identify oneself to a University official in pursuit of his duty; the refusal to appear before University officials or disciplinary bodies when directed to do so; the knowing violation of the terms of disciplinary proceedings or of any sanctions imposed thereby.
   m. Aiding or abetting in the infraction of any of the provisions of this Section. . . .
   n. Two or more (or a repetition of) offenses listed in Section II.D.2.
2. Disciplinary probation, or lesser sanctions, may result from the commission of any of the following offenses:
   a. Disorderly or obscene conduct on institutional premises or at University-sponsored functions.
   b. Trespass upon University housing units, offices, classrooms or other facilities.
   c. Possession on University premises of narcotics, marijuana or other hallucinogens, amphetamines, barbiturates, or similar drugs, which have not been prescribed for that individual by a physician.

E. Group Offenses

1. Societies, clubs, or similar organized groups in, or recognized by, the University are subject to the same standards as are individuals in the community.
2. The commission of any of the offenses within Section II.D. by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the Code by their members shall constitute a group offense.

3. Revocation or restriction of charter, probationary suspension, social probation, or lesser sanctions may result from the commission of a group offense.

F. Save for the violation of the University's policies and procedures for dealing with disruptive conduct, or any similar policies or procedures which may subsequently be adopted, and save for the violation of administrative regulations enforceable by the responsible University administrative units (for example, University Traffic Office, Department of University Housing, University Cashier), and subject to the chancellor's ultimate authority in the regulation of student affairs and in matters of student discipline, no offense shall be recognized or disciplinary action imposed on any student except as provided in this Instrument.

Responsibility of the Faculty

Academic work is a joint enterprise involving faculty and students. Both have a fundamental investment in the enterprise and both must share responsibility for ensuring its integrity. Therefore, the specific actions enumerated below are declared to be those which are included in, but do not exhaust the responsibility of the faculty in relation to the Honor Code.

1. To inform students at the beginning of each course and at other appropriate times that the Honor Code, which prohibits giving or receiving unauthorized aid, is in effect. Where appropriate, a clear definition of plagiarism and a reminder of its consequences should be presented, and the extent of permissible collaboration among students in fulfilling academic requirements should be carefully explained.
2. To identify clearly in advance of any examination or other graded work the books, notes or other materials or aids which may be used; to inform students that materials or aids other than those identified cannot be used; and to require unauthorized materials or aids to be taken from the room or otherwise made inaccessible before the work is undertaken.
3. To require each student on all written work to sign a pledge when appropriate that the student has neither given nor received unauthorized aid. Grades or other credit should not be awarded for unpledged work.
4. To take all reasonable steps consistent with existing physical classroom conditions—such as requiring students to sit in alternate seats—to reduce the possibility of cheating on graded work.

5. To exercise caution in the preparation, duplication and security of examinations (including make-up examinations) to ensure that students cannot gain improper advance knowledge of their contents.
6. To avoid, when possible, reuse of instructor-prepared examinations, in whole or in part, unless they are placed on reserve in the Library or otherwise made available to all students.
7. To exercise proper security in the distribution and collection of examination papers; and to be present in the classroom during an examination when the instructor believes that his presence is warranted or when circumstances, in his opinion, make his presence necessary.
8. To report to the Office of the Student Attorney General or the Office of Student Affairs any instance in which reasonable grounds exist to believe that a student has given or received unauthorized aid in graded work. When possible, consultation with the student should precede reporting. Private action as a sanction for academic cheating, including the assignment for disciplinary reasons of a failing grade in the course, is inconsistent with faculty policy and shall not be used in lieu of or in addition to a report of the incident.
9. To cooperate with the Office of the Student Attorney General and the defense counsel in the investigation and trial of any incident of alleged violation, including the giving of testimony when called upon.

Amendments to the Instrument

The *Instrument* has been amended three times since 1974. Each process has sought to clarify language and provide additional and supplanting procedures based upon experience.

In 1976 three substantive changes were effected by the amendment process:

1. Administrative hearings were established in an effort to streamline the judicial procedure for defendants who were pleading guilty and who requested the streamlined hearings as opposed to a hearing before the appropriate student court. Guilt could not be at issue in the deliberations and sanctions were to parallel those of the appropriate court of first jurisdiction.
2. The Trustees' Policy on Campus Disruption discussed above was altered in this year by the Trustees and incorporated in the Code of Student Conduct with jurisdiction placed in student courts.
3. The Undergraduate Court member selection process was changed from an elective to an appointive procedure. The concern was to remove the selection process from the political arena and make possible the

recruiting and training of persons especially interested in this kind of work, as opposed to individuals simply seeking to hold public office.

Reform of the Honor Code

In 1978 changes in the very nature of the Honor Code itself were made. In 1976 the Committee on Student Conduct had become increasingly concerned about the efficacy of the Honor Code itself as the *modus operandi* of the judicial system. Studies had been undertaken between 1976 and 1978 to determine attitudes of both students and faculty toward the Honor Code and the extent of its support. Attitudes toward the honor system had come to the point where faculty members were calling for its replacement. In 1977 one academic department had formally indicated its intention to withdraw its support of the honor system and establish its own means of providing for academic integrity among its students. Officers in the judicial system itself were calling for the Honor Code's replacement by a proctor system or some other system that might be more effective. The Committee on Student Conduct decided that it must either reform and revitalize the Honor Code or replace it entirely. It undertook that task through the amending process and an educational effort directed at both students and faculty.

In an attempt to devise an effective educational program, a statement of student responsibilities and of faculty responsibilities was developed. The purpose was to inform and remind both students and faculty of their responsibilities under the Honor Code and to describe these responsibilities in specific terms. The specific responsibilities were based upon the problems with the Honor Code which had been identified in the studies undertaken in previous years. The student responsibilities were incorporated in the Instrument of Student Judicial Governance by amendment. The faculty responsibilities were enacted by the Faculty Council as faculty legislation.

After extensive debate, the proposal to delete the requirement in the Honor Code that a student report any violation of the Code of which he or she has knowledge was adopted. . . . the so-called "rat clause" was seen as a major impediment to students' support of the Honor Code and its removal had been sought by conscientious students for years. The adoption in 1974 of the Code of Student Conduct which incorporated the Honor Code verbatim caused the "rat clause" to become a legal requirement. Students chaffed under the possibility of being charged with a Code violation for failure to "rat on a friend." Removal of that onus was seen as an effort to retain the essence of the Honor Code and gain increased support for it by removal of this most unpopular requirement.

Another major change in the Honor Code revitalization was the formal stipulation of suspension from the University as the normal sanction for a first conviction of an academic violation. That sanction had been the traditional sanction for decades in the University's past; however, in the previous two decades probation had evolved as the principal sanction of the courts. The Committee on Student Conduct successfully argued that academic violations strike at the very essence of the University's life and work and should be viewed accordingly. This change signaled the University's unwillingness to tolerate academic dishonesty. It put students on notice that convictions of such violations on their part would be dealt with harshly.

In keeping with concern for effective sanctions below the level of suspension the probationary sanction was made more meaningful by the creation of a probationary counselor and the requirement that all students on probation meet with that counselor as stipulated either by the Court or the counselor.

Changes in the *Instrument* adopted in 1980 were essentially procedural. They were designed to render the judicial system more effective. Appellate procedures were altered to require that all appeals be heard on the record only (consisting of a tape recording of the hearings) as opposed to previous procedures which, in some instances, amounted to a retrial of the case. Effective dates of sanctions were redefined so as to close loopholes in the appellate process and prohibit defendants from obtaining academic credit for a semester in which they had been formally suspended. Changes were also made in the composition and selection procedures of Undergraduate Court panels.

At the time of this writing, reform of the student judicial system is a process in its twelfth year. The most fundamental changes were effected in the system in the original judicial reform process which culminated in ratification of the Instrument of Student Judicial Governance in 1974. With the exception of changes in the Honor Code itself in 1978, changes since 1974 have been in the nature of "fine tuning" the system to improve its efficiency and effectiveness.

Given the circumstances which mandated reform in the late 1960s and the harmonious working relationships between student government and the administration subsequent to ratification of the *Instrument*, it can be said that the judicial reform movement has been unqualifiedly successful. The adversarial relationship regarding the judiciary is now absent. Gone are the misperceptions of authority and responsibility and efforts to alter the system unilaterally. Gone, also, are the ideology and the rhetoric of perceiving and describing the student judicial system as being of, by, and for students alone. In the place of these are close relationships character-

ized by mutual respect and trust. The court chairmen and the student attorney general work closely and harmoniously with the judicial programs officer (the student affairs officer whose primary duty is to work with the student judicial system) in the affairs of the honor system. There is shared planning and joint support of programs designed to select and train court members and the attorney general's staff. These is almost daily consultation in the matter of cases pending and court hearings. There is a mutual understanding of the dependence of students upon the administration and vice versa in the effective operation of a complex but well-functioning judicial system.

Perhaps most important, there is now present on the campus generally a feeling that the honor system is "alive and well." There is recognition that in the life of the University the honor system is larger than student self-governance or the University administration, or the faculty; no one constituency can provide as good a system by itself as can be provided through shared responsibility and mutual commitment. Even though the chancellor is given full and final authority in the regulation of student affairs, the system is now seen as a product and a responsibility of the entire University. More than this it is seen as of inestimable value and mutual benefit for all members of the campus community.

As a system to which all constituencies can now point with pride, it is possible to say that the work of many persons—students, faculty, and administrators—over a period of eleven years has borne fruit in good measure. The system required a radical reassessment. The ultimate form a reformed system might take could not be predicted at the outset, or even imagined. That the venture was successful is a credit to those who gave it the time, energy and interest which the ideal of student self-governance deserved.

Comments from Committee Members

Frank Strong

In retrospect, it has been my conviction that in two respects there was unseen guidance in this action. First, one of the student members was selected as chairman. The committee never could have succeeded under the chairmanship of either one of the administrators or one of the faculty. This is not said in disrespect of any of the five of us. The political milieu dictated otherwise; student demand was for major recognition in any effort to reform the chaotic situation. Second, how account for the fact that the ablest of the five students was the one named? Again, I do not suggest that the others were lacking in qualities of leadership, sound judgment, and maturity. Let me record here my admiration for

those of the students, on both original and later appointment in replacement, who gave so generously and constructively to the work of the committee. Second only to Larry Whitfield was Bob Manekin; others to be highly commended were John McDowell, also George Butler and Joe Stallings who joined us sometime during the year in place of the two original students who became inactive.

For me words are inadequate in laudation of Lawrence Whitfield. Suffice it to describe him as superb. To his many talents must be added his intense devotion to the goal of achieving an acceptable judicial process for student government. A log of the long period of committee deliberations would show literally hundreds of hours of meetings. The rest of us gave devoted time and energy; in my own career no committee or like assignment ever drained me as did this one. Yet the devotion of Larry was measured in even greater investment of time. His sidekick was Bob Manekin, who gave as freely of himself. I recall evenings of "extra sessions" when at their request the three of us would at my home struggle with intransigent issues of policy or of drafting until near midnight—and then they had their course work yet to do before the next day's classes. I just plain marvelled at their determination to find a way around the shoals that continually threatened to ground the committee's progress.

Important as was the election of Larry Whitfield as chairman, the committee could never have been successful had members approached the problems before it as advocates for the positions of the groups from which we had been selected. With whatever apology should be made for my immodesty, I record that it was I who spoke to this matter during the initial meeting. In my years in Ohio I had had two experiences where the fate of important committee assignments turned on whether deliberation and voting would be governed by the merits of issues or by mechanical reflection of the presumed views of the constituent bodies whom we "represented." If memory serves me aright, my statement not only pointed out the hopelessness of the latter course of operation, but ended with a declaration that my resignation would be forthcoming should it be adopted. It is of course not important who raised the problem of choice of procedure and its consequences; what is significant is that others voiced similar agreement on the proposition that we each approach each issue on the merits as we individually judged them. This became the policy from that moment on, through struggle with sensitive and crucial facets that for months seemed to intensify rather than abate. Possibly there were times when we "lined up" according to respective constituencies but I do not recall one and assuredly there were mighty few. The pattern of committee deliberations was one in which there was every possible combination of views on issues *except* the partisan.

In lauding Whitfield so highly I do not mean to leave a negative implication of lack of appreciation of the contribution of the other active student members. My admiration of each was great. That the undergraduate body of this University includes young men of such quality is most reassuring. With Manekin and especially Stallings I maintained contact for three years while they attended law school, the former at Maryland, the latter here. But now those connections are lost, while contact with Butler and McDowell ended with completion of their undergraduate study. Nor do I intend any adverse negative implication respecting the four non-student committee members with whom I labored. I greatly respected Deans Cansler and Ness for the sound judgment they exhibited despite the awkward circumstances in which they were placed. The student members were not the only ones to withstand outside pressure. For Rollie Tillman and Peter Walker my admiration grew as the exhausting work of the committee continued. Not a few were the times when these able men, especially Peter, talked me out of positions on issues as to which initially I felt no doubt whatsoever. In caliber they stand high among the many fellow committee members with whom I served during forty-five years in academe.

But then, only a sterling committee could have produced the document we authored!

Sixteen months in gestation, the Report of the Judicial Reform Committee was submitted 21 August 1970. The Report, from which there was no dissent, proposed *The Instrument of Judicial Governance.* The document, treated as a first draft, underwent eighteen additional drafts during the next four years. Save in one major feature, however, the basic pattern and character of the initial undertaking remained intact.

Rollie Tillman

The first and overwhelming memory is of collegiality. Perhaps for the only time in my years here there existed a small group of faculty, administrators, and students who worked together as true colleagues for an extended period of time.

The other great impression is of endless hours! And most of these were spent in a windowless conference room in the basement of Steele Building where the offices of the Dean of Student Affairs were to be found. I wonder how many hours we spent? Probably—like a fishing story—fewer than memory recalls, but not *many* fewer. We met in fall, winter, and spring; we met in the summer—with students driving long distances from their summer jobs. We met in the Union occasionally, but most often it was that basement cell in Steele.

The people were something else. There was a wonderful range of experience and backgrounds, all focussed on this task of bringing together a sense of community in the affairs of student conduct and governance. The glue that held this all together was largely supplied by three persons: Frank Strong had a vision of what the end product should look like, for constitutions were his specialty; Jim Cansler had the patience to keep us at our task, arrange all the details of the meetings, and moderate our differences; and Lawrence Whitfield provided mature student leadership and liaison with student government as the process unfolded. Susan Case, another student, was faithful in her efforts despite enormous hours devoted to other projects improving the life and safety of women students on this campus.

Since time was scarce we plowed right through lunch, and pooled lunch money to have someone go to Hector's (famous since last year, at the time) for egg rolls and canned drinks. Here we were debating issues of jeopardy, restitution, and sanctions, and I am remembering the summer days of starting at nine, working through lunch, and dragging out late in the afternoon as we wished the students safe driving on their trips back to jobs or vacations.

I will always remember Frank Strong and Lawrence Whitfield. One, the distinguished Boshamer Professor of Constitutional Law and former Dean of the School of Law at the Ohio State University; the other, a terribly bright and wonderfully pleasant undergraduate student at UNC. How they argued! How they cared! They made references to other meetings that suggested long hours of talking about these issues and about the underlying principles that must attend a workable relationship between a faculty and administration charged by the State of North Carolina with certain duties, and a student body charged with tradition and desire to manage affairs of honor and conduct in a responsible way.

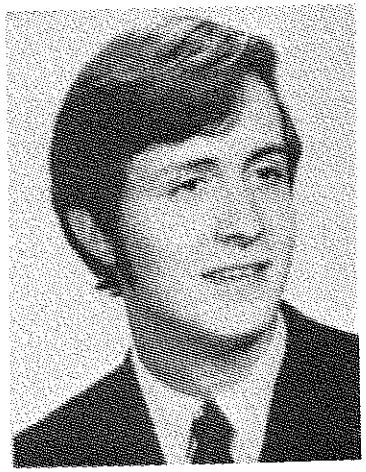
I think people tend to take Deans of Students for granted, as if it were the easiest thing in the world to ride herd on thousands of energy cells and keep them from reaching some critical mass that will detract from, if not destroy, their chances for an education. I came away from this process with the greatest respect for James Cansler. Maybe it was his theological training that gave him his Job-like patience with us all. At any rate, I have no doubt that the goodwill and good talents of Jim Cansler brought this whole process to some conclusion. He had the experience of years of student administration, and the sensitivity to problems that helped us avoid needless confrontation and wasted effort.

We came to agree that this process could not work as a thing apart—a student code of conduct. The faculty would, indeed must, insist on cer-

tain safety procedures, and the administration would have to be involved standing between both of the other constituents and the outside world of parents, board of governors, legislators, and courts of law.

Sanctions were my responsibility, and with my student colleague we worked on draft after draft. There were no real precedents on this campus for group offenses, and we had to play "what if" for many sessions trying to anticipate the needs for clear standards and a range of sanctions to be imposed by the student court hearing the case. This involved not only the main court system, but the other courts of the IFC and the Residence Halls. We wanted something with teeth in it, both for the corporate group offender and the individuals. Until now the group had provided a shield, with the result that a group amorality could develop with a kind of "Am I my brother's keeper?" mindset.

James O. Cansler, associate vice chancellor and associate dean of student affairs, who wrote the story of the Process of Judicial Reform.



Lawrence Whitfield (1947–1971), class of 1970, was graduated with highest honors in English. Appointed a student member of the Judicial Reform Committee, he was elected first chairman of the Committee, and served for some months before his tragic death.

Frank R. Strong
Cary C. Boshamer Professor
School of Law; member
of the Judicial Reform Committee.

Rollie Tillman, Jr., class of 1955
Professor, School of Business Administration; Director, Institute for Private Enterprise; member of the Judicial Reform Committee.

Joseph Carlyle Sitterson, class of 1931, was chancellor of the University, 1966–1972. Following graduation he earned a master's degree in history, taught a year in Georgia Military Academy, served a year as director of the N.C. Hall of History in Raleigh, and returned to Chapel Hill as instructor in history in 1935. He was made professor of history in 1947, dean of the College of Arts and Sciences in 1955, Kenan Professor and dean of the General College in 1961. His tenure as chancellor was sometimes tumultuous as he led the University through tremendous growth and student unrest over the Vietnam War, the Speaker Ban Law, and the military draft. The campus "simmered but never burned during those trying times," and the chancellor met the problems with "calm good sense and a spirit of fairness that enabled the University to avoid the serious consequences that plagued a number of other universities throughout the world." He returned to the classroom on leaving the chancellorship and was the recipient of the University Award for excellence in teaching.