

THIS IS THE LAW



A Weekly Series of Articles
By Charles W. Daniel
for the
North Carolina
Bar Association

the family (or petitioner) actually wants the patient committed, and, (4) the clerk must actually see the patient in person. Next comes the painful question of "when shall the commitment take place?" Usually, the family or friends, at the end of their patience, request immediate transfer. This being almost always impossible, the clerk must advise that, if he accepts custody of the patient, there is only one place of temporary confinement: the county jail. Many petitioners, understandably, take offense at the suggestion of confining a loved one in the common jail. Their answer is usually "no." Their alternative, continued tolerance of a tortuous home circumstance. Their reaction, despair.

Constitutional Provision
The North Carolina Constitution says that the General Assembly may provide care for the insane who are without means to care for themselves. This means that the State has no outright duty to take in such unfortunate. But it has attempted to do so under compulsion of Christian principles.

Our law provides that "any person" may request of the clerk commitment on sworn affidavit for a mentally defective person. The clerk may have the lunacy of such person determined by a jury of 12, after he has served notice of the request on the supposed mental defective or insane individual. Lunacy may also be determined by a 30-day observation period in a State institution. A guardian (or trustee) must be appointed for such person. If he is adjudged incompetent, he may appeal to the next term of Superior Court held in the county. His appeal must be heard ahead of all other cases.

This somewhat stringent, careful procedure is intended to prevent the "railroading" of competent persons.

How To Get Out

A person, adjudged incompetent and confined to a State institution, who regains his faculties, may reclaim his normal social position and his freedom by petition to the clerk of court and a finding by a six-man jury that he is again competent. If the finding of this jury goes against him, he may appeal to the Superior Court and have his case heard anew by a full jury.

The law, of course, attempts to protect the rights of persons adjudged insane.

For example, no divorce action may be brought against an insane person, even though the case be considered hopeless, for a period of five years after an adjudication of incompetence. Even then the law requires the spouse seeking the divorce to provide adequately for the insane mate.

Another safeguard for mental incompetents is found in the "lunacy docket" kept by the clerk of court. A will purportedly made by a person while his name is on the lunacy docket has no effect. Further, if property, belonging to one whose name is on the lunacy docket, is sold during that time, the attorney checking the title to such property must be very careful to see that the sale is authorized and conducted according to the protective law in such cases. Otherwise, the buyer may later lose the property. This, of course, is as it should be. The rights and property of a person unable to manage his own affairs must be guarded with vigilance.

Mental incompetence is also a ground for annulment of marriage in North Carolina. This is true because the law generally requires that the obligations of matrimony be voluntarily assumed. But the right of annulment on ground of mental incapacity is available only to the person who,

Police Report Auto Mishaps

A series of minor accidents were reported by Kings Mountain police department to have occurred within the city limits the week ending November 17.

On Monday, cars driven by Tom Foster, of route 3, and Doyle Shelton, of 805 Second street, collided at Craftsman Yarns, Inc. gate entrance on Linwood road, police reported. The accident, with property damages estimated to total \$10, occurred, the report stated, when the Foster vehicle, attempting to make a turn into the gate entrance, was struck on the left rear fender by the Shelton vehicle. The accident was investigated by Officer B. P. Cook.

Police reported the occurrence of a two car collision Sunday, around 2:45 p. m., on First street. A parked car, owned by Edith Herlong Floyd, according to the report, was struck on right rear fender by a car driven by Jetter James. Officers B. P. Cook and Warren Ellison investigated the accident.

An accident occurring at the intersection of King street and Battleground avenue, Friday afternoon, police stated, involved cars driven by Annie Milburn Goins, of McGinnis street, and Ernest H. Dixon, of Morris street. Police said both vehicles traveling east on King street were attempting to make turns, the Goins' vehicle to the left onto Battleground avenue, the Dixon car to the right onto Battleground avenue. The traffic light changing to red caused the Goins vehicle to make a stop and was struck from the rear by the Dixon vehicle. The accident, resulting in property damages estimated to total \$50, was investigated by Officers Warren Ellison and B. P. Cook.

On Friday, an accident investigated by Sgt. Tom Gladden was reported to have occurred around 11:40 a. m. at the intersection of Cansler and Walker streets. A 1946 Ford driven by Lloyd Sidney Wood, of route 2, and a 1941 Plymouth Club Coupe, operated by Thomas Marion Strickland, of 503 Brookridge Drive, Shelby, were involved. The police report stated the Plymouth traveling east on Walker street, failed to stop for a stop sign and struck the Ford which was traveling north on Cansler street.

at the time of the supposed marriage, was mentally incompetent. A sane person who, for personal gain or other reason, attempts to marry an incompetent can not later have the union annulled because of his mate's insanity. It is the incompetent person again whom unfair advantage was taken in such a situation.

Be Tolerant

Meanwhile, in respect to inadequate public facilities for mental cases, it must be said in fairness to the legislative and executive branches of State government, that each is making an honest effort to meet and conquer the expensive and ever-increasing problem.

For families which must continue to cope with distressing cases at home the plea is: Be tolerant of the adversities under which the sheriff and clerk of court must operate in trying to meet their obligations under the law.

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Poll Reports Public Approves Way Police Forces Handle Jobs

By Kenneth Fink, Director Princeton Research Service

PRINCETON, N. J. — Rank and file citizens across the U. S. approve of the way their local police force is handling its job. This was the finding of a nationwide United States Poll survey just completed.

Seventy-three out of every 100 adults questioned in the survey personally told staff reporters that they approved of the way their local police force is handling its job. Those who said this outnumbered by a margin of better than 3 to 1 those who expressed disapproval.

Highlighting today's survey results are the following findings: 1. Residents of the nation's biggest cities — those with 100,000 or more people — were found to be somewhat more critical of the work of their local police force than were their smaller town neighbors.

In these big cities — places like New York City, Chicago, St. Louis, Boston, Philadelphia, Pittsburgh, New Orleans, Los Angeles, San Francisco, Baltimore, Detroit, Atlanta, and Cleveland — about one in three (32 percent) say they disapprove of the work of their local police force.

But even in the nation's biggest cities, those who approve outnumber those who disapprove by a margin of nearly 2 to 1.

2. Greatest degree of satisfaction with their police force is found among the nation's rural residents, where those who approve of their local police force outnumber those who disapprove by a margin of better than 4 to 1.

3. And people in communities with populations between 2,500 and 100,000 approve of the work of their local police force by a margin of better than 3 to 1.

The need for more police, the need for more foot police, better handling of traffic and traffic enforcement, more police at night and the halting of juvenile delinquency were the principal suggestions offered by citizens across the nation for improving the work of their local police force.

Taking the police out of politics, raising police pay, the need for more patrol cars, better training for their local police, better

Sgt. Don Sheppard Returning To U. S.

KOREA — Army Sgt. Donald G. Sheppard, son of Mr. and Mrs. John Sheppard, Route 1, Grover, N. C., is a member of the 3d Infantry Division, which is leaving Korea for the U. S.

The "Rock of the Marne" division is scheduled to be assigned to Fort Benning, Ga.

Sheppard, a rifleman with the 15th Regiment's Company I, entered the Army in January 1953 and arrived in Korea the following July.

Bridges Completes Infantry School

LADD AIR FORCE BASE, ALASKA — Pfc. Robert E. Bridges, whose wife, Nell, lives at 4010 Donna ave., Charlotte, N. C., was recently graduated from the 4th Infantry Regiment Leadership School at Ladd Air Force Base, Alaska.

Bridges, in Alaska since January, has since returned to his regular duties as a machine gunner in Company D of the regiment's 1st Battalion.

Before entering the Army in May 1953, he worked for the General Motors Corp., in Charlotte. His parents, Mr. and Mrs. T. C. Bridges, live on Route 3, Kings Mountain.



AT JAPAN CASE — Marine Pfc. Jack Sims, son of Mr. and Mrs. Charlie Y. Sims, 712 Gantt st., Kings Mountain, is serving as an ordnance man with Marine Aircraft Group 11, a unit of the 1st Marine Aircraft Wing stationed at US Naval Air Station, Atsugi, Japan. Before enlisting in 1952, Sims was employed at Griffin Drug Company.

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