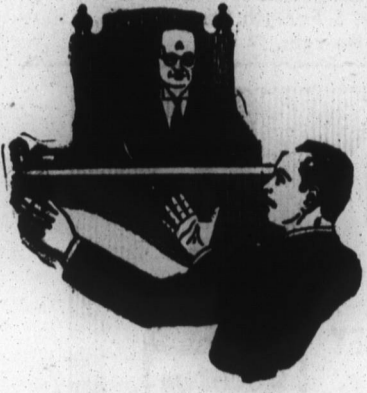


# This is the Law



BY CHARLES W. DANIEL  
(For the N. C. Bar Association)  
Justices of the Peace

There are more than 2,000 Justices of the Peace in North Carolina today. Some are elected by the people, some are named by Superior Court judges, some are appointed by the Governor, and a large number are named in an "omnibus bill" every two years by our General Assembly, some of whom never qualify for office.

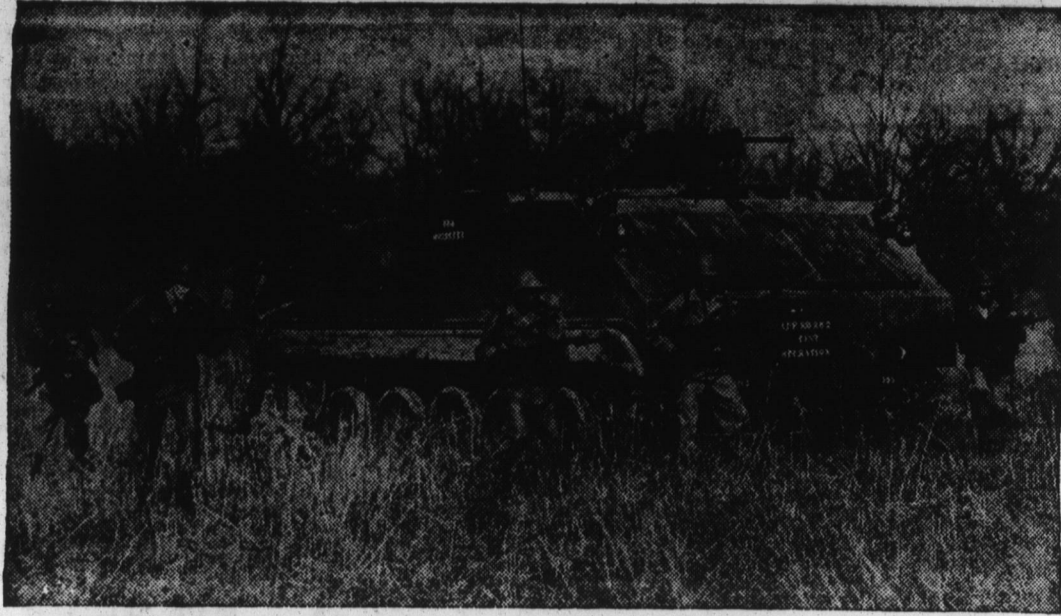
Statutes provide that elected J. P.'s and those appointed by the resident Superior Court judge of a county shall serve for two years. Those appointed by the governor have four-year terms. Governor Umstead has adopted a policy of naming about 250 J. P.'s each year during his term.

**Limited Authority**  
Jaypees, by statute, have rather sharply limited authority to try both civil and criminal cases. In civil actions based on contract they have EXCLUSIVE, original authority if the sum involved (not counting interest) is \$200 or less. Other civil matters, within their right to try, are limited to claims of \$50 or less. They can NOT hear disputes over title to real estate. By special law, however, they may try disputes between landlord and tenant over the right to possession of real estate. The amount demanded by a party before a J. P., and NOT the amount ACTUALLY involved, determines the magistrate's power to hear the case.

Justices of the Peace may try, with EXCLUSIVE, original authority, all criminal cases the punishment for which does not exceed \$50 fine or 30 days in jail. They have no right to hear charges of assault with intent to kill and assault with intent to commit rape, except to find "probable cause". Upon finding of probable cause, such cases are actually tried later by the Superior Court or a Recorder's Court. Upon appeal filed within 10 days after J. P. trial, the person appealing in most cases is entitled to a complete new trial in a higher court.

**May Not Draft Will**  
A Justice of the Peace may NOT draft a will or draw a deed for another, unless he is a lawyer and does so in the latter capacity. A non-lawyer who purports to do these things is subject to prosecution and restraint under the North Carolina statute defining the practice of law.

Fees payable to Jaypees for issuing summons, hearing cases and issuing subpoenas are not the same in every county. These fees, however, are set out specifically in Chapter 7, section 134 of the General Statutes. Regu-



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lar monthly reports of fees received and deposits made must be made to the clerk of court of the county served by the J. P.

A statute designed to uphold the dignity of the magistrate's court gives him authority to punish a person found in contempt. The law says:

"If any person shall profanely swear or curse in the hearing of a Justice of the Peace, holding court, the justice may commit him for contempt, or fine him not exceeding five dollars."

At the request of either party to an action before him, the justice can compel attendance of witnesses. If a witness fails to appear, he must forfeit eight dollars to the person for whom he was summoned.

**Can "Attach" Property**  
A justice can "attach" property in a proper case, just as the clerk or judge of Superior Court can do so. If an "order of attachment" is issued against the property of a person who can not be found for personal service of summons, notice of the claim must be posted for 30 days at the county courthouse door.

The statutes regulating magistrate courts also provide for trial by jury upon request of either party where there is a question of fact to be determined. The statute specifies a six-man jury. The parties may agree to have the case heard by a less number of jurors, however. Each justice is required to keep a jury box of two divisions with a lock for each containing the names of qualified persons

from the township in which the magistrate serves. No person is compelled to serve as a juror in a justice's court out of his own township, except as a talesman. Each party in a J. P. case is allowed, as a matter of right, to challenge two jurors and have them excused from the trial.

A party demanding a jury trial must post three dollars with the justice. It is required that each juror be paid 25 cents for his services, but only if the party requesting the jury trial wins the case. If the party requesting the jury loses, the jurors may be out of luck insofar as their "pay" is concerned.

### One Advantage

"I'm glad my wife is built long and thin, sorter like a shoe string, as you might say," stated Gap Johnson of Rumpus Ridge. "Why?" inquired an acquaintance. "Well, she don't shade the corn while she's a-hoeing of it like a fat woman would."

### Town Council Proceedings

Edenton, N. C., May 11, 1954.  
The Town Council met this day in regular session at 8 P. M. Members present: Mayor Leroy H. Hasket, J. Clarence Leary, Clyde Hollowell, G. M. Byrum, George A. Byrum, J. Edwin Buflap and John Mitchener, Jr. Clyde Hollowell and George A. By-

rum were appointed to confer with the County Commissioners regarding the answering of fire calls in the county.

The Mayor has appointed the following committee to investigate the feasibility of the Town of Edenton adopting a zoning committee ordinance: G. B. Potter, chairman, L. S. Byrum, W. D. Holmes, Jr., T. C. Byrum, Jr., and S. S. Campen.

Motion was made by George A. Byrum, seconded by J. Clarence Leary, that George Franklin, legal counsel for the North Carolina League of Municipalities, be requested to meet with the Council and Zoning Committee to discuss zoning. Motion carried.

Motion was made by G. M. Byrum, seconded by J. Clarence Leary, that a purchase by the E. & W. Department of a piece of property 100 feet by 51 feet and 4 inches belonging to

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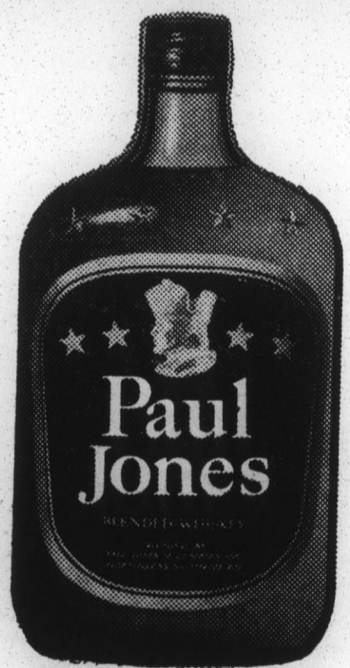
- |   |                              |
|---|------------------------------|
| Fumigate your land—                     | Grade and Set Only           |
| Row or Broadcast.                       | Nice Strong Plants.          |
| Dip Lower Part of Plant to              | Space Plants in Row Regular- |
| help Control Diseases.                  | ly—Water Each Plant Equal.   |
| Grow Sweet Potatoes on Nicest of Soils. |                              |

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