

# This Is The Law

By ROBERT E. LEE  
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of North Carolina)

## JURY TRIAL

Is it unconstitutional to convict a person of a criminal offense without trial by jury?

The Sixth Amendment to the Federal Constitution provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime

shall have been committed." The Fourteenth Amendment denies the States the power to "deprive any person of life, liberty, or property without due process of law."

In a 1968 decision the United States Supreme Court held that constitutional provisions guaranteeing the right to jury trial were applicable to "serious" criminal cases but not to "petty" offenses.

The court stated: "So-called petty offenses were tried with-

out juries both in England and in the Colonies, and have always been held to be exempt from the otherwise comprehensive language of the Sixth Amendment's jury trial procedure. There is no substantial evidence that the Framers intended to depart from this established common-law practice, and the possible consequences to defendants from convictions for petty offenses have been thought insufficient to outweigh the benefits to efficient law enforcement and simplified judicial administration resulting from the availability of speedy and inexpensive non-jury adjudications."

The court has not settled "the exact location of the line between petty offenses and serious crimes." Until this is done, the various states will have great difficulty in determining which of these crimes are "jury" cases and which are "non-jury" cases. Most states, like North Carolina, do not define the terms "serious crimes" and "petty offenses." Existing North Carolina statutes define crimes as either misdemeanors or felonies.

In the federal system, petty offenses are defined as those punishable by not more than six months in prison and a \$500 fine. There is some indication that the state courts may take the six-months period as a guideline.

In the particular case before the United States Supreme Court the defendant was convicted of simple battery in Louisiana and sentenced to serve 60 days in the parish prison and pay a fine of \$150. Under the law of Louisiana simple battery is a misdemeanor which carries a maximum punishment of two years' imprisonment and a \$300 fine. The defendant had sought a trial by jury but the trial judge denied such because it was not a case providing for trial by jury under the Louisiana constitution. The United States Supreme Court reversed the judgment of the Louisiana court and remanded the case for a new trial with a jury.

If the particular misdemeanor had not been one carrying a possible maximum penalty in excess of six months, apparently the 60-day sentence would not have been one requiring trial by jury. "The penalty authorized for a particular crime is of major relevancy in determining whether it is serious or not."

The Supreme Court found no fault with the practices, common in both federal and state courts, of accepting waivers of jury by trial.

Criminal cases below the grade of felony must be tried in the district courts of North Carolina without a jury. The convicted defendant has the right to a de novo trial before a jury in the superior court.

# Washington Report

By CONGRESSMAN  
JAMES T. BROYHILL

## U. S. - SOVIET UNION AGREEMENTS

President Nixon returned from his historic visit to Moscow last week with several accomplishments which could signal the beginning of the end of the cold war. Unlike previous summit meetings, President Nixon's talks with Soviet leaders produced solid accomplishments and committed both nations to further talks on subjects of mutual interest.

The most notable agreement reached between the two world powers was the limitation on offensive and defensive nuclear weapons. This agreement was the culmination of two and a half years of strategic arms limitation (SALT) talks which began November 17, 1969.

The U. S.-Soviet Union arms limitation agreement takes two forms. For defensive weapons, a treaty provides a limit on anti-ballistic missile (ABM) systems. Each country is limited to two ABM sites, one for the defense of the capital and one for the defense of the chief intercontinental ballistic missile (ICBM) field. For the U. S., this means a reduction from the presently planned 12-site ABM system. One site has already been located near Grand Forks, North Dakota, and another will be provided near Washington, D. C.

Inspection is provided through "national technical means," which would involve satellite surveil-

lance from outside national territory rather than on-site inspection. A significant provision of the treaty states that neither side will interfere with the other's national technical collection means or seek to conceal missile sites. The treaty is of unlimited duration and is subject to Senate ratification.

An interim agreement provides for the limitation of offensive weapons at current levels. For the U. S., this allows 1,054 land-based missiles, compared to an estimated 1,618 for the Soviet Union. Submarine missiles would be at the following levels: for the U. S., 710 ballistic missile launchers on 44 submarines; for Soviet Union, an estimated 950 launchers on 62 submarines. Only numerical limits on missiles are established, and modernization of weapons and replacement by more advanced weapons are permitted within the limitations.

The interim agreement is for a period of five years, during which time both sides are committed to negotiating a permanent and more comprehensive treaty. Although not required by law, the President has indicated his intention to submit the interim agreement to both houses of the Congress for concurrence.

I have no doubt that under the limitations provided the United States can maintain its strong defense posture. The U. S. leads the Soviet Union in manned bomber strength, an area not covered by the limitation agree-

ment, and also has superior strength in deliverable missile warheads. In addition, our nation leads in offensive and defensive missile technology.

The goal of nuclear arms limitation has been of national concern for many years. The signing of the Partial Test Ban Treaty of 1963 and the Nuclear Non-Proliferation Treaty of 1968 helped to pave the way for the new accords. The escalation of the arms race between the world's nuclear powers has created a dangerous climate for the conduct of foreign relations. The growth of our nation's arsenal has also been an expensive burden for the American taxpayer. The arms limitation agreement is an encouraging sign for the future and a step toward world peace. I am pleased with the favorable response of the Congress to the President's accomplishments, and I feel sure that Congressional approval will be readily given to the agreement.

Agreements in other areas were reached between our two nations which commit us to joint efforts in several fields. A joint commission will be established to study problems of air, water, and soil pollution and measures to control man's impact on the environment. A Joint Commercial Commission will meet in Moscow in July to begin work on an entire range of trade problems. In the space effort, a joint docking of manned spacecraft and flight in linked craft will be carried out in 1975. There will also be cooperation in space medicine and exploration of the moon and planets.

## MORE CORN

A year makes a lot of difference in supplies of farm commodities. This spring, North Carolina had over a third more corn on hand than at the same time the previous year. The

most significant factor in this difference was the blight trouble 1970 crop which left critically short supplies to be carried into 1971. And last year's crop was a big one.

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## THANK YOU

I am very grateful for your assistance in helping me carry out my duties in the June Run-Off Election.

Pat Taylor  
Lt. Gov. of N. C.

Cecil L. Barrier, M.D.

Buck Lattimore

Bill Plonk

Co-Chairmen — Taylor For Governor



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# FULTON'S

## The Veterans Corner

Editor's Note: Veterans and their families are asking thousands of questions concerning the benefits their government provides for them through the Veterans Administration. Below are some representative queries. Additional information may be obtained at any VA office.

Q.—I'd like to apply for a cer-

tificate of eligibility for a GI loan, but I lost my DD-214 Armed Forces Report of Transfer or Discharge. What should I do?

A.—VA will accept a legible copy of an original discharge or release from active duty. If a copy is not available any VA office will supply an application form for requesting a replacement from your military department.

Q.—Will the Army furnish a memorial marker to be put in a private cemetery for my son who was lost at sea during World War II military service?

A.—Yes. Application forms for memorial markers are available at all VA offices, and should be mailed to the Office of the Chief Support Services, Department of the Army, Washington, D. C.

Q.—My husband, a veteran, is in a nursing home for a condition not related to military service. Will VA pay for his nursing home care?

A.—No. VA is permitted to provide nursing home care only for a limited time for such veterans who have received maximum benefits from VA hospitalization. There is no time limit for veterans who were hospitalized primarily for service-connected conditions.

### ADDITIVE COSTS

It costs between \$125,000 to 250,000 to develop and test a new food additive.

Not many companies can afford to spend this amount of money on products that will fail to pass the standards of the Food and Drug Administration. Out Mrs. Ruby Uzzle extension consumer marketing economist, North Carolina State University.

# HERALD

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## Kings Mountain

# HERALD