Jack Betts

Strange Laws Enacted by the N.C. General Assembly

"If the law supposes that," said Mr. Bumble, squeezing his hat emphatically in both hands, "the law is a ass—a idiot."

—from *Oliver Twist,* by Charles Dickens

by Jack Betts

If only Mr. Bumble could take a look at the laws enacted by the North Carolina General Assembly and see what they suppose, he would have conniptions, the fantods, and a heavy dose of the vapors to boot. For the state's General Statutes, some of them more than two centuries old, suppose things that not even "a ass" or "a idiot" would suppose.

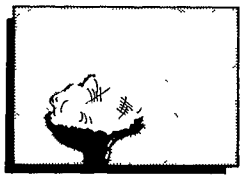
For instance, in North Carolina, it's a crime:

- to sell cotton lint at night;
- to hold a dance marathon or walkathon;
- to permit dogs to "pursue, worry or harass" any squirrel on the grounds of the state Capitol in Raleigh;
- to cuss aboard a passenger train (but not a freight train);
- to cuss anywhere in public, except within the counties of Pitt in the East and Swain in the West;
- to allow either a stone-horse or a stone-mule to run at large (except in the Dare County township of Hatteras);

Jack Betts, associate editor of North Carolina Insight, *has been covering dumb laws enacted by the legislature since 1977. Jody George, a former intern at the Center, assisted with research for this article. Art by Carol Majors.*

- to speak to a student at a college for women while on school property; or
- to allow the exhibition of a stallion or a jackass, or anything else of an unusual nature that can be exhibited, within half a mile of any place where the people are assembled for divine worship.

That's just a small sampling of the laws still on the books in North Carolina that might be reasonably construed by the average citizen as strange, unusual, far-fetched, or maybe just plain old out-and-out dumb. Some of those laws, of course, started out as serious efforts to solve a problem, prevent an incidence of unpleasantness, or perhaps simply make things better for a portion of the citizenry.



For instance, the ban on sale of cotton lint or seed by night was meant to protect the buyer and prevent fraud in the sale of cotton; the ban on dance marathons was meant to protect those indigent citizens during the Depression years from being exploited by unscrupulous dance-contest operators who might endanger the health of contestants by forcing them to dance for days on end; the law aimed at preventing harassment of squirrels on Capitol grounds was obviously

What's So Bad About Dumb Laws, Anyway?

Exactly what do the state's dumb laws say? And what's so bad about them that requires them to be repealed? Sometimes the answers to those questions are obvious. For instance, here's the precise citation and wording of a few of the choicer dumb laws, followed by the law's date of enactment.

- "G.S. 14-200. ***Disturbing religious assembly by certain exhibitions.***
"If any person shall bring within half a mile of any place where the people are assembled for divine worship, and stop for exhibition, any stallion or jack, or shall bring within that distance any natural or artificial curiosities and there exhibit them, he shall forfeit and pay to anyone who will sue therefor the sum of twenty dollars and shall also be guilty of a misdemeanor; Provided, that nothing herein shall be construed to prohibit exhibitions at any time if made within the limits of any incorporated town, or without such limits if made before the hour of ten o'clock in the forenoon or after three o'clock in the afternoon. Any person violating any provision of this section shall be punishable by a fine not to exceed five hundred dollars, imprisonment for not more than six months, or both." Enacted in 1800.

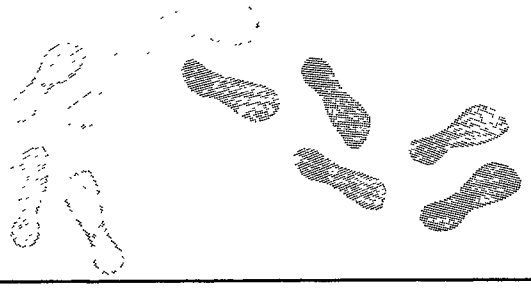
- "G.S. 14-201. ***Permitting stone-horses and stone-mules to run at large.***
"If any person shall let any stone-horse or stone-mule of two years old or upwards run at large, he shall be guilty of a misdemeanor, and shall be fined not exceeding fifty dollars or imprisoned not exceeding 30 days." Enacted in 1907.

- "G.S. 14-285. ***Failing to enclose marl beds.***
"If any person shall open any marl bed without surrounding it with a lawful fence, he shall be guilty of a misdemeanor, and upon conviction shall be fined not exeeding fifty dollars or imprisoned not exceeding 30 days: Provided, that this shall not apply to any person whose marl bed is situated inside his own enclosure." Enacted in 1886.

- "G.S. 14-345. ***Sale of cotton at night under certain conditions.***
"If any person shall buy, sell, deliver or receive, for a price, or for any reward whatever, any cotton in the seed, or any unpacked lint cotton, brought or carried in a basket, hamper or sheet, or in any mode where the quantity is less than what is

—continued page 24

meant to . . . . Well, there must have been a good reason, though no one remembers what it was anymore.



North Carolina's collection of strange, silly, or stupid statutes might be broken down into several classifications. For instance, one might start with that category of well-meant—and actually necessary—laws that appear to do something other than what was intended. One might call this category *Good Laws That Sound Funny*.

For instance, there is G.S. 113-291.1(j), which declares, in its entirety: "It is unlawful to take deer swimming or in water above the knees of the deer."

—continued from page 23

usually baled, or where the cotton is not baled, between the hours of sunset and sunrise, such person so offending shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars, imprisonment for not more than six months, or both." Enacted in 1874.

- "G.S. 14-345. ***Digging ginseng on another's land during certain months.***
"All persons shall be allowed to dig ginseng at any time of the year for the purpose of replanting same. If any person dig ginseng, except on his own premises, or for the purpose of replanting the same, between the first day of April and the first day of September, he shall forfeit and pay the sum of ten dollars for each day's or part of a day's digging, and shall also be guilty of a misdemeanor." Enacted in 1866.

- "G.S. 14-396. ***Dogs on 'Capitol Square' worrying squirrels.***
"It shall be unlawful for any owner or keeper of a dog to permit the same to run at large on the Capitol grounds known as 'Capitol Square,' or to be thereon unless on leash or otherwise in the immediate physical control of said owner or keeper, or to pursue, worry or harass any squirrel or other wild animal kept on said grounds. Any person violating the provisions of this section shall be guilty of a misdemeanor punishable by fine not exceeding fifty dollars or imprisonment not exceeding 30 days." Enacted in 1929.

- "G.S. 39-9. ***Absence of wife's acknowledgment does not affect deed as to husband.***
"When an instrument purports to be signed by a husband and wife the instrument may be ordered registered, if the acknowledgment of the husband is duly taken, but no such instrument shall be the act or deed of the wife unless proven or acknowledged by her according to law." Enacted in 1899.

- "G.S. 73-2. ***Miller to grind according to turn; tolls regulated.***
"All millers of public mills shall grind according to turn, and shall well and sufficiently grind the grain brought to their mills, if the water will permit, and shall take no more toll for grinding than one-eighth part of the Indian corn and wheat, and one-fourteenth part for chopping grain of any kind; and every miller and keeper of a mill making default therein shall, for each offense, forfeit and pay five dollars to the party injured: Provided, that the owner may grind his own grain at any time." Enacted in 1777.

- "G.S. 76-51. ***Pay of pilots when detained by vessel.***
"Every master of a vessel who shall detain a pilot at the time appointed, so that he cannot proceed to sea, though wind and weather should permit, shall pay to such pilot three dollars per day during the time of his actual detention." Enacted in 1858.

Many of these outdated and outmoded laws would have been repealed with the passage of criminal code revision legislation that was introduced in the 1985 General Assembly.[1] Then-Rep. Timothy McDowell (D-Alamance), one of the sponsors of the bill, says the criminal code revision would have eliminated "all kinds of crazy laws" which are still on the books for no apparent reason.

But the bill got short shrift in the legislature, partly because of its length (240 pages) and partly because it was introduced

Carol Majors

in April, relatively late in the session. Before adjournment, the bill was withdrawn from the House Committee on Courts and Administration of Justice and shifted to Appropriations.

Rep. Daniel T. Blue (D-Wake), the prime sponsor of the bill, says the legislation was needed not only to update the state's criminal code, but also to repeal the outlandish laws still on the books. "Some of them are simply outmoded. They have remained on the books as a way potentially to harass people, and they should have been eliminated long ago. Some of those laws were just plain unfair."

Both Blue and McDowell say the bill was delayed largely by resistance from within the legal profession. "Chapter 14 (the criminal code of the General Statutes) needs to be recodified, but unfortunately there are a lot of old lawyers out there who don't want to learn new law and they're fighting change," says McDowell. "That's unfortunate."

Blue, an attorney himself, says his decision to have the bill sent to Appropriations "was to give the judiciary, which gave it a big chill, time to read it and allow time for some of their misconceptions to evaporate. A year's time should allow for that."

Blue says the bill remains alive in the Appropriations Committee, and vows, "You'll see it again in some shape or form." □

—Jack Betts

FOOTNOTES

[1]HB 406, "Criminal Code Revision," introduced by Rep. Dan Blue on April 9, 1985, and referred to Committee on Courts and Administration of Justice, withdrawn and re-referred to House Appropriations Committee.

Not many folks have their own deer, and fewer still would think of taking their deer to the neighborhood swimming pool or even, for that matter, of taking them wading in water above their knees. But what would be wrong with it if they did want to take their deer for a swim?

Not a thing. But this law, of course, is written in the jargon of sportsmen, and in this case the verb "take" means to "kill," although it does not say that.

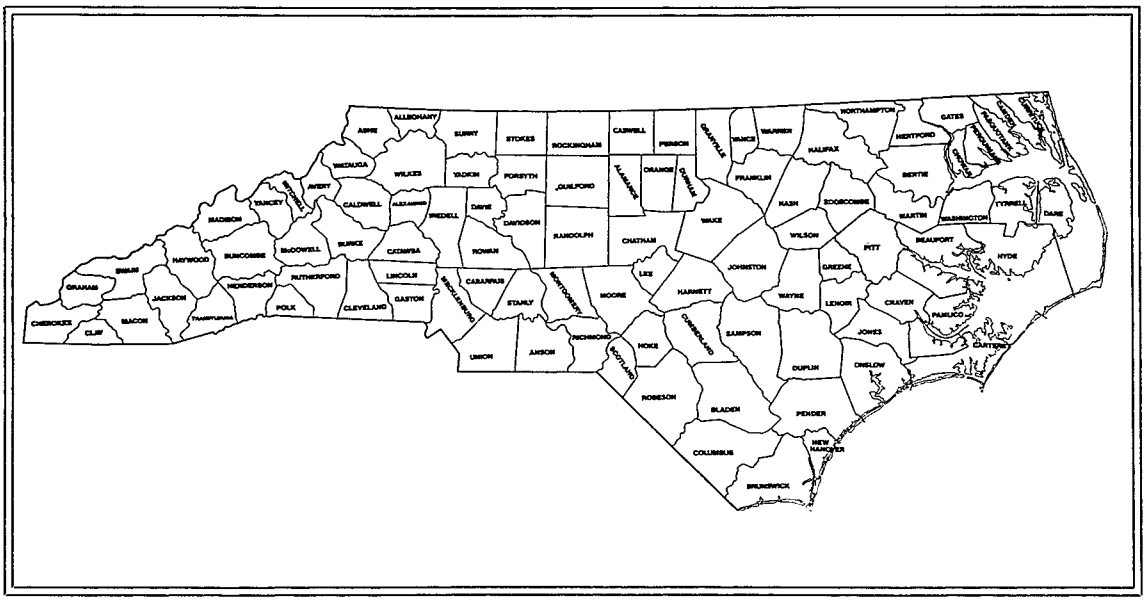
Then there is a certain category, admittedly a limited one, of laws still on the books that used to be enforced but aren't anymore because they have been struck down as unconstitutional. This category might be called *Hey, Anybody Seen My Speaker Ban?*

The lead candidate for this category surely is G.S. 14-336, commonly known as the vagrancy law. The law has been on the books since 1905, and identifies seven classes of persons who could be determined to be vagrants— and thus tossed into the pokey for up to six months. In 1969, however, in the case of *Wheeler V. Goodman*, a U.S. District Court declared the law unconstitutional and thus unenforceable. Yet it remains on the books, as useless as silk spats on a wart hog.

Then there's a certain category of state law that is quite obviously sexist, although none of the gender-based interest groups has taken up the cudgel against them. These statutes might be known as *Lady and the Tramp Laws: What Walt Disney Never Knew About North Carolina.*

The reference, of course, is to G.S. 14-338, which defines a tramp and sets a $50 fine and up to 30 days imprisonment for anyone convicted of being a tramp (one who goes from place to place begging). However, only adult males can be defined as tramps. All females, and minors under 14, and any blind person, are exempt from the law. That appears to be a prima facie case of discrimination against adult male beggars based purely on gender. But then, others would beg to differ.

Another category of North Carolina law is that which was surely well-meant, morally



uplifting, and spiritually pure, but doesn't the legislature have anything better to do? Call this category *The Gol-Durnedest Laws in the Whole Danged State.* The leading offender in the category is G.S. 14-197, which makes it a misdemeanor to use profane or indecent language on public highways within the hearing of two or more persons, save within the counties of Pitt and Swain.

This particular law was the object of a lively debate in the 1973 General Assembly, when then-state Rep. Herbert Hyde (D-Buncombe) rose to argue against legislation that would eliminate the exemption for Swain County. Hyde, a remarkable orator and gifted lawyer, advised his colleagues that the law was "obviously unconstitutional," but said the good people of Swain County didn't like legal nitpicking and wouldn't want him to "stand on that kind of technicality and I'm not going to do that."

Rather, said Hyde, "There ought to be a refuge somewhere, where a man could go and when he really is provoked that he can say something with impunity. There's only two places left—Pitt and Swain. One in the East and one in the West. I think that's most appropriate."

Hyde's speech carried the day, and that's why today it's still legal to cuss in only two counties. In the other 98 of North Carolina's 100 counties, watch what you say.

Then there's a special category of legislative foolishness that doesn't show up on the General Statutes, but which takes up legislative time and money and confirms the low opinion that some folks have of the legislature. It might well be called *Why Do We Put Up With This Truck?* The major suspect in this field is Senate Resolution 861, adopted in the North Carolina Senate on May 14, 1979, entitled "A Senate Resolution Honoring A Remarkable Pulpwood Truck."

The resolution described the pulpwood truck owned by former Sen. Joe Palmer (D-Haywood) which apparently violated most safety laws and which had figured prominently in a number of Senate debates over improving vehicle safety. The resolution said, "Section 1. The old pulpwood truck of Sen. Joe H. Palmer is hereby declared to be an item of State Historic Property, and is hereby proposed for entry in the National Registry of Historic Property, in sincere hope that entry into said Registry will get such a vehicle, which has questionable adherence to North Carolina motor vehicle laws, special attention from the people of the State of North Carolina so that they can stay out of the path of this particular pulpwood truck.

"Section 2. This resolution, in the interest of safety to all drivers in this State, shall become effective upon its adoption."

That resolution never made it into the General Statutes, thus saving the taxpayers some money, the printers some trouble, and drivers everywhere from the burden of watching out for Palmer's truck. But in a way, it's a shame the resolution didn't become a law. It would have had so much good company amongst all the other dumb laws of the state of North Carolina.□