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CONTENTS

Civil Litigation In North Carolina

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To the Lawyers of North Carolina:

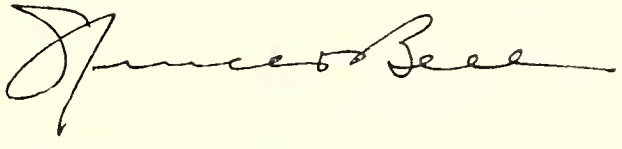
This issue of *Popular Government* makes available to you the second major research report prepared for the Committee on Improving and Expediting the Administration of Justice in North Carolina.

The Committee has had the benefit of this report, and many others which will be distributed to you as fast as the mechanics of printing and distribution permit. The Committee has sought to act only upon facts, and not upon impressions drawn from individual limited experience. This report established the correctness of many generally-held opinions concerning our civil courts, and no doubt discloses some facts which are not generally known.

We urge you to read this report carefully. If the Court Study Committee, the Bar, and the citizens of the State generally can start with a true picture of our court system as it is, we feel certain that we can arrive at conclusions and recommendations which will make a significant contribution toward improvement in the administration of justice in North Carolina.

At the risk of being tiresomely repetitious, I urge all of you to study the report and give us the benefit of your thinking. Especially do I request that, if you have not already done so, you send us your reactions to the tentative recommendations made in the subcommittee reports which you have received.

Sincerely yours,



Spencer Bell

Introduction

by Albert Coates, Director of the Institute of Government
University of North Carolina
Chapel Hill

For those who have not read previous reports it should be said:

1. That at the request of the Governor of North Carolina the North Carolina Bar Association appointed a Committee on Expediting and Improving the Administration of Justice in North Carolina;
2. That with the aid of funds procured by the Governor this Committee of lawyers and laymen started the Institute of Government on a series of studies of the structure and working of the courts in North Carolina from colonial beginnings to the present day;
3. That the first of these studies outlined the evolution of the structure and jurisdiction of the courts and was published in a Special Issue of POPULAR GOVERNMENT in March 1958 under the heading of "The Courts of Yesterday, The Courts of Today, The Courts of Tomorrow";
4. That the second of these studies is appearing in this issue of POPULAR GOVERNMENT under the heading of "Civil Litigation in North Carolina";

   This study falls into three parts:

   (1) Developing and Carrying Out the Civil Study Project,

   (2) Congestion and Delay in the Superior Courts,

   (3) Some Contributing Causes of Congestion and Delay.

   It will be followed by studies of

   (1) The Costs of Litigation in the Superior Court

   (2) Civil Litigation in Courts Below the Superior Court

   (3) Analysis of Delay in the Superior Court

5. That the third of these studies involving criminal litigation in the Courts of North Carolina will shortly appear under the following headings:

   (1) Developing and Carrying Out the Study of Criminal Justice in North Carolina,

   (2) The Prosecution of the Criminal Dockets in North Carolina,

   (3) The Effect of Inferior Criminal Courts, Mayors Courts, and Justice of the Peace Courts on the Superior Court Criminal Dockets,

   (4) The Criminal Business of the Justice of the Peace in North Carolina,

   (5) Motor Vehicle Cases in the Superior and Inferior Courts of North Carolina,

   (6) Trial by Jury in the Inferior Courts in North Carolina,

   (7) Criminal Caseloads, Pleas, Dispositions, and Punishment in the Criminal Courts,

   (8) The Use of Bonds, Defense of Persons Accused of Crime, and Other Matters;

6. That the fourth of these studies will analyze in some detail the Juvenile and Domestic Relations Courts in North Carolina and a comparison of the structure and jurisdiction of these courts with similar courts in other states.
7. That other studies in related areas will follow those listed above.

Civil Litigation In North Carolina

By Royal G. Shannonhouse
Assistant Director, Institute of Government

PART I

DEVELOPING AND CARRYING OUT THE CIVIL STUDY PROJECT

Pilot Study

During the three months which preceded the November 2, 1956 meeting of the Committee on Improving and Expediting the Administration of Justice, a staff of five men from the Institute of Government "crawled through the bloodstream" of the courts in four counties—Alamance, Chatham, Orange, and Durham—selected because of their proximity to Chapel Hill and their diversity in population. Among other things, these men interviewed the clerks of the Superior Courts, the clerks and judges of county and municipal courts, and justices of the peace concerning the procedures used in their courts; compiled comprehensive data on several hundred civil cases to determine what kinds of information could be obtained from court records; and recorded minutes of all proceedings during court sessions.

The pilot research team also studied statutes (both state and local), opinions of the Attorney General, and court rules and court decisions concerning the administration of justice in order to supplement the data being compiled in the field and to assure that no area of judicial procedure or court administration would be omitted from the Committee's consideration. Judicial research reports from other states were then examined to broaden the staff's knowledge of research techniques in this almost uncharted area.

This background of first-hand and vicarious experience was then enriched by a six-day series of conferences with a number of consultants and members of the staff of the Institute of Judicial Administration in New York City. The most trusted methods of judicial research were discussed at length and the tentative plans for accomplishing the study were reviewed.

Following this period of intensive preparation, the staff met with the Subcommittee on Project Planning in a series of conferences and developed a preliminary outline of the scope of the study. With the guidance of these conferences the staff proceeded to prepare a course of action, drafting outlines of the research methods to be used, preparing questionnaires and data sheet forms, and working out a list of counties and field research assistants to be submitted to the Committee for approval.

Thus was prepared the basic plan which was presented to and approved by the Committee on November 2, 1956.

Scope

Broadly stated, the civil study project was designed to acquire information about the civil law business of the Superior Courts, the county, township, and municipal courts, and justices of the peace. Specifically, the plan included a detailed study of the following: all civil cases terminated between July 1, 1955 and June 30, 1956; all civil cases pending on July 1, 1957; all court records pertaining to the cases examined; the system of records and files employed by the clerk of the court in connection with civil litigation; and the procedural rules and practices followed by the local bar in connection with civil matters. In addition, to supplement this data and to fill out the story of the administration of justice, projects were organized to study such matters as the court reporter system, the jury system, the costs of litigation and of court operation, the administrative organization of the courts under the authority of the Chief Justice of the Supreme Court, the trial court systems in the counties, and other matters of interest to the Committee.

Research Techniques

The magnitude of the undertaking, the varied nature of the subjects on which information was desired, and the importance of obtaining data from all available sources required the adoption of a number of different research techniques. These were as follows: recording on case abstract forms statistical data concerning pending and terminated cases, obtained from court records and files; statistical analysis of the data obtained; direct observation of all court operations, from the activities of the clerk to the trial of cases in the courtroom; submitting questionnaires to lawyers, judges, clerks, court reporters and other court officials and to laymen, asking for opinions and for specific data on all major aspects of the administration of justice; and interviewing as many lawyers, judges, clerks, court reporters and other court officials

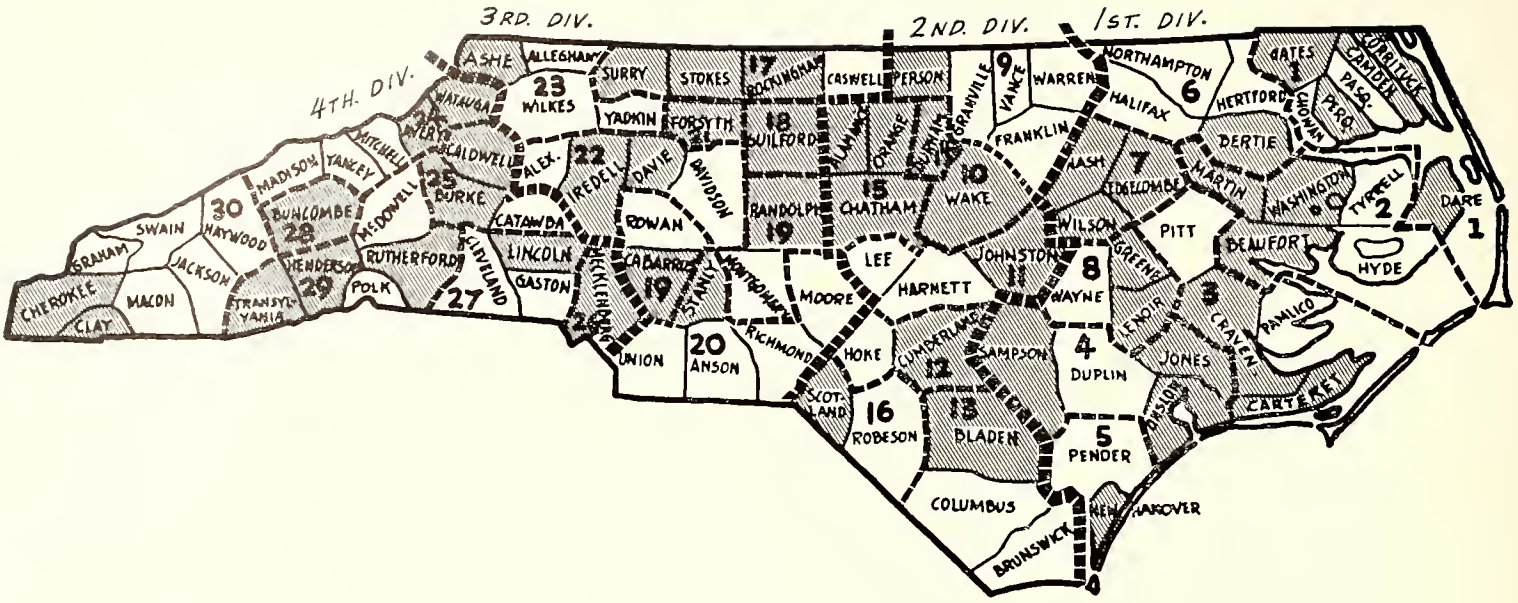


Figure 1

and laymen as could be reached in person. The compilation of background information from statutes and court opinions and from treatises and other publications on the subjects of the study was also included in the research plan.

Research Field

Because of the variety of county court systems known to exist, the geographical unit selected for study was the county. Limitations on time and funds precluded the detailed study of all counties in the state; therefore it was necessary to determine which ones would provide results representative of conditions all over the state. Geographical distribution was provided by selecting at least one county from each judicial district. Next, on the assumption that the population of a county has a bearing on the amount of litigation in that county, the state was divided into four population groups: over 100,000; 50 to 100,000; 25 to 50,000; and under 25,000. Then, on the assumption that the economy of a county has a bearing on the nature of litigation in that county, each population group was sub-divided into four economic groups, namely, those in which over 45% of the employed population was engaged in (1) agriculture, (2) manufacturing, (3) trade or commerce, and (4) none of these. Finally, on the assumption that the inferior court system in a county has some bearing on the superior court caseload, each economic sub-group was further subdivided according to the types of inferior courts in each county. (See Table 1.) Figure 1 illustrates the geographical distribution of the counties from which information was finally obtained.

Personnel

It was necessary to supplement the staff available in Chapel Hill for field research so as to permit the study of a sufficient number of counties to be representative of conditions on a state-wide basis. (See Table 2.) It was decided to employ practicing attorneys in the counties whose courts were selected for study because they would be able to begin the research without the loss of time involved in learning different systems of records and procedures and because having research personnel already at each location selected for study would reduce travel expenses. These local field workers were selected from lists supplied by the deans of three law schools in the state, from nominations submitted by members of the Committee, by officers of local bar associations, and by attorneys and judges of the Superior Court.

Following the approval of the plan for the civil project by the Committee, the staff prepared a manual of instructions for the use of the field research personnel. Into this operation went the product of months of study and pilot research: sample tables and data sheet forms, detailed directions regarding the use of the research techniques adopted by the planning staff, and suggestions designed to assist those who would return to study counties whose systems were like none of those encountered during the pilot study. When all supplies had been prepared and personnel had been engaged for the counties selected for study, the field research staff was called to the Institute of Government for three days of intensive instruction. On April 8, 1957, the civil court study was launched.

Field Studies

Almost immediately after the local research personnel had returned to their home counties, the civil project staff began a series of field trips for the purpose of assisting in those counties where unexpected problems arose and in order to gain additional information in counties where no attorneys were available to do the work. Altogether, the staff traveled more than 1000 miles during this phase of the study. In this manner a great deal of additional data were gathered in counties for which there was insufficient time or funds to conduct a detailed statistical study of individual cases. Inevitably, two or three of those originally engaged to do the field work met with personal conflicts and were unable to complete the work in their counties. In a few more counties certain areas of inquiry had to be abandoned because of peculiar local conditions, such as the lack of essential records, but the final coverage included more counties than had originally been planned.

Data Analysis

As the results from the counties began to be received, a special staff of assistants was engaged for the purpose of collating the information. Before the end of this phase of the undertaking, detailed information from more than 20,000 pending and terminated civil cases had been coded and punched into special cards designed to be used with tabulation machines; more than 500 additional data sheets had been filled out, tabulated and summarized; more than 300 additional pages of narrative reports of interviews and personal observations had been read, compared and digested; more than 100 multiple-page questionnaires had been completed and returned, studied, and summarized in narrative reports; and more than 100 postal card questionnaires had been subjected to the same analysis. After all of the case abstracts had been received and checked for legibility, the data coded, the coded data rechecked against the abstracts for accuracy, punched into machine-sort cards and the cards then verified against the code sheets, 47 different types of information were machine-tabulated and cross-tabulated in 94 different combinations. Every effort was made to find all of the significant relationships between different factors. For example, the total time each pending case had been awaiting trial was compared with the length of time that case had been pending after the filing of the last pleading or motion; the length of time elapsed between initial filing and final disposition of every terminated case was determined, then the cases were grouped by causes of action, by the kinds of relief claimed, by the number of parties on each side, and by other factors in order to determine which of them—if any—appeared to retard or to expedite progress through the courts. Slowly, drop by tedious drop, like the distillate from a chemist's retort, facts and figures began to appear. Piece after tenuous piece of the gigantic puzzle was fitted into place until a picture of the administration of justice began to appear.

Reports

Although it would, perhaps, have been desirable to have made a single report encompassing all of the accumulated information, the magnitude of the undertaking and the limited time available to the Committee for study of the results and the preparation of recommendations made this impracticable. Consequently, a number of interim reports were prepared, each dealing with a limited subject on which information had been gathered. Many of these reports were revised and amplified as additional information was assimilated. In addition to the pilot study report and regular progress reports, these preliminary materials included a summary of questionnaire replies returned by lawyers, judges, laymen and court officials all over the state, commenting on the administration of civil justice and making suggestions for its improvement; a report on superior court reporters and the court reporter system; a report on administrative offices of the courts in other states and on the office of Administrative Assistant to the Chief Justice of North Carolina; a statistical report designed to show the types of information that could be obtained by statistical analysis; and a report on the existence of congested dockets and delay in civil litigation in the Superior Courts. Additional information was supplied to the Committee by means of oral statements and memorandum reports in response to specific questions during the course of its deliberations.

With the publication of this, the first three in a series of several final reports, the civil study project approaches a conclusion. A great deal of the material that has been used to date in "raw" form is now being organized, checked, amplified and published so that the people of North Carolina, who have such a vital stake in the administration of justice in their courts, may know the system that serves them and may then determine its adequacies and its shortcomings.

PART II

CONGESTION AND DELAY IN THE SUPERIOR COURTS

Docket Congestion and Pending Case Backlogs

Introduction

One of the now classic symptoms of an inefficient judicial system is docket congestion. The verb, "to

congest" means "to block, obstruct, or affect by an overaccumulation of anything or by overcrowding."[1] Docket congestion means that there is such an overaccumulation of cases waiting to be heard that they cannot all be disposed of within a reasonable time. In courts sitting in continuous session, hearing cases in the order in which they become ready for trial, the existence of congestion may be determined by comparing the number of cases awaiting trial at a given time with the usual disposition rate of the court. For example, 100 pending cases will not represent congestion in a court which normally disposes of 25 cases per week, because a case can be heard about four weeks after it becomes ready for trial.

In North Carolina, however, Superior Court terms are not continuous in most counties, civil cases are not necessarily tried in the order in which they become ready for trial,[2] and one can never be sure how many days of a scheduled term will actually be used for the disposition of civil litigation. Under these circumstances the amount of court time represented by the number of cases awaiting trial is meaningless because it is impossible to know which of these cases, if any, will be calendared and tried. The number of cases on a civil issue docket does not, in itself, reflect congestion or the absence of congestion. Until civil cases are set for trial in the order in which they become ready for trial, and until the courts are able to try cases five days out of every five days scheduled, it will not be possible to determine whether the courts are congested—that is, whether they have more cases awaiting trial than can be disposed of in a reasonable time.

The efficiency of a judicial system may be measured in other ways, however. Over a period of time a court must dispose of at least as many cases as are filed in order to avoid the eventual overaccumulation of cases that results in congestion and delay. For example, assume that 100 cases are filed during the course of a year in a court that had 50 cases pending at the beginning of the year. If the court disposed of all of the original 50 cases and half of the cases filed during the year, it will still have 50 cases pending at the end of the year, but all will be less than a year old. But, if the court disposed of only 90 cases during the year, its backlog will have grown to 60 cases by the end of the year. Unless the court begins to dispose of more than 100 cases per year its backlog will continue to grow and must eventually contain cases which have been awaiting trial for over a year. One indication of potential docket congestion, then, is the failure of a court over a period of time to dispose of as many cases as are filed.

One measure of a court's failure to keep up with the flow of litigation is the relationship between the number of cases filed and the number of cases disposed of over a period of time. Another measure is a comparison of the number of cases pending at a given time with the number of cases pending some time later. The latter also shows the magnitude of the court's backlog. For this reason, the latter method was used in the analysis of North Carolina Superior Court backlogs contained in this report.

Re-evaluation of 1955-56 Backlog Reduction

In 1956 the Administrative Assistant to the Chief Justice reported that: "On July 1, 1955 . . . there were 33,069 civil and criminal cases on the Superior Court dockets. One year later, on June 30, 1956, there were 24,065 cases. Thus, there was an overall reduction of 9,004 cases."[3] He further stated that "approximately 44,000 new cases [were] instituted during the year" and "about 53,000 cases" were disposed of.[4] On the basis of these figures, about 69% of all cases reportedly ready for trial (the backlog plus cases added to civil issue dockets) were disposed of during the year.

If it be assumed that the 53,000 cases terminated were all 44,000 of the cases initiated during the year plus 9,000 of the cases on the dockets at the beginning of the year, this is a 27% reduction of the latter group, *i.e.*, a 27% reduction of the "backlog."

Since all of the cases initiated during the 1955-56 period were probably not terminated, the 55,000 cases disposed of probably included more than 9,000 of the "backlog" cases. Therefore, the reduction of the backlog must have been somewhat more than 27%. But even at this minimum disposition rate, assuming that the number of new cases filed does not appreciably increase, the criminal and civil dockets would become current some time between July 1, 1959 and July 1, 1960.

Unfortunately, for most of the counties in the state, this pleasant prospect is extremely unlikely to be realized.

When docket figures from 100 counties are compiled, a substantial improvement in a few counties may give the appearance of state-wide improvement, even when in a majority of the counties the situation has not improved or has become worse. An example of this effect can be found in the 1956 report of the Administrative Assistant. The figures for Mecklenburg County alone show a reduction of cases on the docket from 9,915 to 2,003—a decline of 7,912 cases, or 68.5% of the total reduction

1. Webster's New Collegiate Dictionary, p. 174.
2. See "Civil Calendar Rules and Practices," page 15, below.
3. 1956 Annual Report, page 1.
4. *Ibid.*

reported for the state. In a footnote to the Mecklenburg County figure, the Administrative Assistant commented, "This figure [9,915] was reported from Mecklenburg but may not be correct." It has since been established that this figure was in fact several thousand cases higher than the true number.

Excluding Mecklenburg and one other county which failed to report, the criminal and civil dockets in 45 counties were reduced by 3,698 cases during the 1955-1956 fiscal year, while 53 of the remaining counties realized an increase of 2,605 cases. Therefore, the net change in the criminal and civil dockets by the end of the year was a reduction of 1,093 cases. (See Figure 1.) Without the reduction in New Hanover County of 1,004 cases, the overall decrease would have been less than 100 cases. The reductions in eight counties made up 66% of the total 3,698 case decrease.

Figure 1

NET CHANGE IN CRIMINAL AND CIVIL DOCKETS
July 1, 1955 to July 1, 1956

Reported Change	No. Counties	Total Cases
Decrease	45	−3698
Increase	53	+2605
Net Change	98	−1093

Counties Reporting More Than 100 Case Decrease

Craven	221	Wayne	280
New Hanover	1004	Columbus	202
Nash	141	Durham	232
Lenoir	106	Chatham	263

Total 2449—66% of 3698

Civil Case Backlogs—1955-1957

The 1956 report of the Administrative Assistant contained total figures for both criminal and civil cases. With the cooperation and generous assistance of the present Administrative Assistant, Bert M. Montague, the number of cases pending on the civil issue dockets, according to the last civil or mixed term reports prior to July 1, 1955, were tabulated for comparison with the number of such cases pending on July 1, 1956 and July 1, 1957.[5] Figure 2 illustrates the results of this comparison.

Figure 2

CHANGE IN NUMBER OF CASES ON CIVIL ISSUE DOCKETS
92 Superior Courts[6]

Date	Cases on Dockets	Year-End Decrease—Increase
July 1, 1955	16,096	
July 1, 1956	14,823	−1273[7]
July 1, 1957	15,228	+405[8]

5. See tables 3A, B, C, D, and 4.
6. Complete reports covering the two-year period in eight Superior Courts were not available.
7. The reports for one additional court showed an increase of 28 cases, giving a net change for 93 counties of (−)1245 cases. Since the 1957 report for this court was not available, it is not included above.
8. The reports for five additional courts showed a net reduction of 237 cases, giving a net change for 97 counties of (+)168 cases. Since the 1955 civil docket reports for these courts were not available, they are not included above.

It will be seen at once that, although there was a sizeable decrease in the number of cases pending on the civil issue dockets during the 1955-56 period, the movement toward reduction of pending civil case backlogs was reversed during the 1956-57 year. Not all of the Superior Courts represented by the above figures enjoyed a backlog reduction during 1955-56, nor did all suffer an increase in cases pending during 1956-57. (See Figure 3.)

Figure 3

COMPONENTS OF CIVIL ISSUE DOCKET CHANGES
92 Superior Courts[10]

	1955-56		1956-57[11]	
	Increase	Decrease	Increase	Decrease
No. Courts	46	46	49	41
No. Cases	1668	2941	1541	1136
Net Change	−1273		+405	

The number of courts experiencing an increase in cases on the civil issue docket was equal to the number enjoying a reduction of pending cases during 1955-56.[12] A state-wide reduction appeared because the magnitude of the decrease was greater than the total docket increases.

During the following year, 49 Superior Courts added to their backlogs while only 41 reduced them.[13] Furthermore, the total of the docket increases was greater than the total docket reductions. Perhaps some encouragement may be derived from the fact that the total increase was somewhat smaller than the total increase in 1955-56. The range of docket changes and average increases and decreases are illustrated in Figure 4.

Figure 4

ANALYSIS OF MAGNITUDE OF CIVIL ISSUE DOCKET CHANGES
92 Superior Courts[14]

	1955-56	1956-57[15]
Increase	(46 Counties)	(49 Counties)
Smallest	1 Case	1 Case
Greatest	234 Cases	160 Cases
Average	36 Cases	31 Cases[16]
Median	22 Cases[17]	21 Cases[18]
Decrease	(46 Counties)	(41 Counties)
Smallest	1 Case	1 Case
Greatest	971 Cases	168 Cases[19]
Average	64 Cases	28 Cases[20]
Median	30 Cases	11 Cases

10. See note 6.
11. Reports from two courts revealed no change in the number of cases on the civil issue dockets by the end of the 1955-56 year.
12. If the court mentioned in note 7 were considered there would be 47 which increased the cases on their civil issue dockets.
13. If the year-end results from the courts mentioned in note 8 were considered, the figures in the text would be 52 and 43, respectively.
14. See note 6.
15. See note 11.
16. The average of 52 counties was 30 cases. See note 13.
17. The median of 47 counties was 24. See note 12.
18. The median of 52 counties was 19-20 cases. See note 13.
19. The greatest reduction in 43 counties was 239 cases. See note 13.
20. The average of 43 counties was 31 cases. See note 13.

The above figures reveal that both the average increase and the average reduction of cases on the civil issue dockets were smaller in 1956-57 than in the preceding year, and that the average increase became slightly greater than the average reduction during 1956-57.

It is interesting to note that at the end of a year (1955-56) of widespread docket reductions one court reported 234 more cases on its civil issue docket than it had at the beginning of the year.

The absence of a consistent trend among the majority of the courts reporting over the two-year period (July 1, 1955 to July 1, 1957) is revealed by figure 5.

Figure 5

CIVIL ISSUE DOCKET TRENDS—92 SUPERIOR COURTS[21]

1955-56 July 1 to June 30	1956-57 July 1 to June 30	No. Courts
Decrease	Decrease	14
Increase	Increase	17
Increase	Decrease	27
Decrease	Increase	31
Increase	None	2
None	Increase	1

It may readily be seen that 14 courts have consistently reduced the number of pending cases, while 17 courts have continued to add to their backlogs over the two-year period. Twenty-seven courts reversed a movement toward increasing pending cases, but 31 halted a decreasing movement by adding to their pending cases during the second year.

The 46 courts which reduced their pending cases during 1955-56 and the 49 which added to their backlogs during 1956-57 were well scattered, geographically, although the majority of each group was located in the first three judicial divisions. (See Figure 6.)

Figure 6

CIVIL ISSUE DOCKET TRENDS IN EACH JUDICIAL DIVISION

92 Superior Courts[22]

Judicial Division	1955-56 Net Change Increase	1955-56 Net Change Decrease	1956-57 Net Change Increase	1956-57 Net Change Decrease
I (–3 Counties)		1073	20	
II (–1 County)		334	208	
III (–1 County)		18	182	
IV (–3 Counties)	152			5
Totals	+152	–1425	+410	–5
Overall Net Change		–1273		+405

Evaluation of Reported Figures

Under the present system of statistical reports, authorized by G.S. 114-11.1, the clerks of Superior Court are required to report to the Administrative Assistant only those civil actions which are pending on the civil issue dockets. Since many civil actions which are ready for trial or other disposition are not on the civil issue dockets,[23] the clerks' reports to the Administrative Assistant do not reveal the true number of pending cases. Therefore, tables constructed from these reports show smaller backlogs than actually exist.

How much worse the situation may be in a particular county than is indicated by the figures reported to the Administrative Assistant is illustrated by Table 5, in which the reported civil issue docket figures are compared with total pending case figures compiled by the field research staff. Almost 6,000 additional pending cases were found in 17 counties alone.

A small part of the discrepancy in each county is due to the difference in dates on which the figures were obtained. In some of the cases reported by the field research staff the time for the joinder of issues had not expired and many others were "dead" cases which had been abandoned by the parties or their attorneys. Nevertheless, in these counties the difference between the field count and the clerks' reports is large enough to justify two conclusions:

(1) The present reporting system does not give the Administrative Assistant the true number of civil cases awaiting trial or other disposition, and

(2) In many counties the size of pending case backlogs is much greater than has been previously reported.

An even more serious defect in the reports being filed by the clerks was pointed out by the Administrative Assistant—many of them are grossly inaccurate. The quarterly report form currently in use provides for the following civil statistics: (1) the number of cases on the civil issue docket at the beginning of the quarter; (2) the number added during the quarter; (3) the number disposed of during the quarter; and (4) the number remaining on the docket at the end of the quarter. Item (4) should equal the sum of item (1) plus item (2) minus item (3). The number of cases on the civil issue docket at the end of a year should equal the number on the docket at the beginning of the year (item 1) plus the total number of cases added during the year (item 2) minus the total number of cases disposed of during the year (item 3). The 1956-57 reports from 56 of the Superior Courts failed to "add up" in this manner. The reports from three additional courts omitted one or more items and could not be checked.

The figures used in the study of civil case backlogs were based upon the assumption that the

21. See note 6.

22. See note 6. The net change in each division would remain an increase or decrease for each period as shown above if the additional courts mentioned in notes 7 and 8 were considered. See Table 5 for division totals containing these figures.

23. See "Variations from Statutory Directions Concerning Clerks' Dockets and Files for Civil Matters," page 11, below.

number of pending cases reported by the clerks at the beginning and at the end of the year were accurate. It was assumed that errors, if any, had been made in the figures showing the number of cases added to the dockets and the number of cases disposed of during each quarter.

If the figures reported in items (1), (2), and (3) were correct and the figures in item (4), where inconsistent with the first three entries, were the result of simple errors in arithmetic, 30 courts had 801 more cases pending on July 1, 1957 than were reported by their clerks and in 26 courts there were 494 fewer cases than reported. Thus the total backlog may contain 307 more cases than was indicated in the preceding section. (See figure 7.)

Figure 7

APPARENT ERRORS IN CLERKS' REPORTS OF CASES ON CIVIL ISSUE DOCKETS

July 1, 1957

Clerks reporting—	No. Courts	No. Cases
(a) *less* than sum of items (1) + (2) − (3):	30	801
(b) *more* than sum of items (1) + (2) − (3):	26	494
Difference		307

Delay in Reaching Trial

Introduction

A customary method of measuring the extent of delay in civil litigation is to determine the average or the median time elapsed between the filing and the final disposition of the largest available sample of terminated cases. This is a reasonably reliable method in those jurisdictions where cases are generally calendared and tried in the order in which they become ready for trial.

In North Carolina, however, all of the cases which are ready for trial usually do not appear on trial calendars.[24] Those which are calendared are not necessarily the oldest cases, nor are they necessarily in the order in which they became ready for trial. Under these circumstances, the "age at termination" method of determining delay does not give an accurate picture because it fails to take into account those cases which were not selected for calendaring and which may have been pending a great deal longer than the cases which were set for trial. Thus, in order to determine the extent of delay in civil litigation in North Carolina, the average or median age of both pending and terminated cases must be considered.

In the following analysis of delay in civil litigation in North Carolina, both pending and terminated cases in 44 sample counties[25] were examined. A tabulation was made of the time elapsed from the issuance of summons to final disposition in all of the cases terminated during one fiscal year (1955-56). The resulting figures were then compared with a tabulation of the time elapsed from the issuance of summons to July 1, 1957 in all of the cases which had not been terminated before that date.

A total of 20,058 civil cases were analyzed for this phase of the study. Within this group were 836 cases (4%) in which essential reference dates could not be determined, leaving a research field of 19,222 cases. Of these, 12,276 (64%) were pending cases and 6,946 (36%) were terminated cases.

Time Elapsed before Termination

In 6,946 terminated cases the elapsed time between the issuance of summons and final disposition of the median case was four months. In other words, the time required from filing to termination in half of the cases was four months or less and in the other half of the cases it was four months or more. Seventy-two per cent of the cases were disposed of within one year of filing and 93% were disposed of within three years. (See Figure 8.)

Figure 8

CIVIL CASES TERMINATED IN 44 COUNTIES

July 1, 1955 to July 1, 1956

Time Elapsed from Issuance of Summons to Disposition of Case

6946 Cases = 100%

Time	No. Cases	Per Cent
Less than 2 months	2000	29%
More than 5 years	283	4%
More than 2 months and Less than 5 years	4663	67%

Time Less than	No. Cases	Per Cent	Time More than	No. Cases	Per Cent
6 months	4004	58%	6 months	2942	42%
1 year	5015	72%	1 year	1931	28%
2 years	6034	87%	2 years	912	13%
3 years	6433	93%	3 years	513	7%

The cases terminated within two months of the issuance of summons and those which were terminated more than five years after the issuance of summons total 2,283—33% of the cases terminated within the fiscal year studied. If these terminations were primarily the result of default judgments and "clean-up terms," then the remaining 4,663 cases—67% of the total terminations—were disposed of primarily during the usual course of court operations. The age of the median case in this group was seven months.

The effect of "clean-up terms" on these figures is probably negligible, since 72% of the total cases terminated were disposed of within one year of the issuance of summons. Even the most regularly scheduled "clean-up terms" do not normally dispose of cases less than one year old.

Length of Time Pending

In 12,276 pending cases the elapsed time between the issuance of summons and July 1, 1957 was 19

24. See "Civil Calendar Rules and Practices," page 15, below.
25. See Table 2.

months in the median case. That is, in half of the cases studied summons had been issued less than 19 months prior to July 1, 1957 and in the other half of the cases summons had been issued more than 19 months prior to July 1, 1957. Sixty-two per cent of the cases had been pending more than one year at the time of the study and 20% had been pending more than five years. (See Figure 9.)

Figure 9

CIVIL CASES PENDING IN 44 COUNTIES ON JULY 1, 1957

Time Elapsed from Issuance of Summons to July 1, 1957

12,276 Cases = 100%

Time	No. Cases	Per Cent
Less than 1 month	563	4%
More than 8 years	1,430	12%
More than 1 month and Less than 8 years	10,283	84%

Time Less than	No. Cases	Per Cent	Time More than	No. Cases	Per Cent
6 months	2935	24%	6 months	9341	76%
1 year	4712	38%	1 year	7564	62%
2 years	6970	57%	2 years	5306	43%
3 years	8298	68%	3 years	3978	32%
5 years	9800	80%	5 years	2476	20%

The cases which had been pending less than one month and those which had been pending more than eight years total 1,993—16% of all pending cases studied. If these cases are omitted, on the assumption that they were not ready for trial or had been abandoned, the age of the median case in the remaining 10,283 (84% of the pending cases studied) was 17 months.

If all cases over five years old had been disposed of by "clean-up terms" or some other means prior to July 1, 1957, the median case in the remaining group would have been 12 months old. Twenty-nine per cent of the cases in this group would still have been two to five years old.

If five years is assumed to be the maximum active life of the majority of civil actions, over two thousand cases (one-fifth of the total studied) were "dead" cases cluttering up the dockets and files and decreasing the efficiency of clerks' offices and calendaring committees.

If the proposition is accepted that "delay in the final disposition of the average civil case beyond six months after the action is commenced should be considered excessive,"[26] there has been "excessive delay" in the disposition of about 76% of the cases which were pending on July 1, 1957.

In short, it seems clear that there is a backlog of "deadwood" on the civil dockets and in the civil files that probably could be disposed of summarily. There may be a number of mis-filed terminated cases among those listed as pending. There are probably many cases which are classified as "pending" because they are subject to periodic review for the purpose of enforcing a judgment or an order of the court. But the state also entered the year 1958 with a substantial heritage of active civil cases which have already waited several months or years for a just conclusion. For most of these cases, apparently, the existing system offers little hope for a prompt determination.

Time Elapsed Before and After Last Action Taken

A search for the causes of delay in civil litigation is simplified by the preliminary determination of whether the greatest delay occurs in the pleadings stage, before the cases are ready for trial, or after issues are joined and the litigants are awaiting their "day in court." The answer to this question, as to a specific group of cases, may be found in the relationship between (a) the time elapsed from the issuance of summons to a pre-determined date (the "age" of a pending case) and (b) the time elapsed between the issuance of summons and the last action taken by the litigants in moving their case toward trial. The "last action taken" may be the issuance of summons upon a motion for extension of time to file a complaint; the filing of an answer which joins the issues to be tried in court; or the filing of a subsequent pleading or motion.

The determination of either the "age" of cases pending in a sample group of counties or the time elapsed after the last action taken in such cases reveals useful information, but the results of either of these tabulations are "one-dimensional" and do not show the relationship between age and delay after last action. For example, (a) the time elapsed between the issuance of summons and a pre-determined date indicates the length of time a case or a group of cases have been pending—thus, whether or not delay exists—but this alone does not show the stage in each case's development where that delay occurred; (b) whether the time elapsed between the issuance of summons and the last action taken in a group of cases is generally long or short means little, except in relation to the total time each case has been pending.

In order to determine the proportion of the time pending that had been consumed up to the last action taken, a detailed analysis was made of 5,599 cases pending in 22 Superior Courts.[27] The validity of this sample as representative of the 44-court

26. Report of the Initial Meeting of the Executive Committee, page 5. The Attorney General's Conference on Court Congestion and Delay in Litigation. Department of Justice, Washington, D. C. January 7, 1957.

27. Limitations on time and funds precluded the study of all papers and records in all of the cases pending in all of the counties in the research field. The examination of case papers and records incident to the determination of the date of the last action taken was accomplished in 22 Superior Courts, in which there were 6,063 cases pending. The date of summons issuance or the date on which the last action was taken could not be determined in 289 of these cases, and 175 more had been pending less than 30 days. These 464 cases were omitted so that the analysis would be based upon known information about cases which had been pending longer than the usual time allowed for the filing of an answer.

group studied in the preceding section was first checked by comparing the "age" of the cases in the 22-court sample with the "age" of the cases in the 44-court sample. The two groups were found to be almost identical in the proportion of cases in various age brackets (see Figure 10), and the value of the planned analysis was checked by measuring the time elapsed from the issuance of summons to the last recorded action taken in the sample cases.

Figure 10

AGE OF CASES PENDING

[From Issuance of Summons to July 1, 1957]

Sample County Group Compared with Total Research Field

Time	Research Field (See Fig. 9) 12,276 cases = 100% No. Cases	Per Cent	Sample County Group (22 Counties) 5599 Cases=100% No. Cases	Per Cent
Less than One month	563	4%	175	3%
Six months	2935	24%	1383	24%
One year	4712	38%	2260	39%
Five years	9800	80%	4599	82%
More than Five years	2476	20%	1000	17%

This test indicated that the proposed analysis would be meaningful: in 82% of the 5,599 cases the time elapsed from the issuance of summons to the last action taken was less than 60 days. Since 61% of the cases studied had been pending for more than a year, it was apparent that many of those in which the last action was taken within 60 days of the issuance of summons must have been pending for more than a year and that, therefore, most of the time that these cases had been pending elapsed after the last action was taken. This hypothesis was proved by dividing the cases into different age groups and then tabulating them by the time elapsed from the issuance of summons to the last action taken. (See Figure 11.)

From the above tabulation, it may be seen that, in almost all of the cases studied, the time elapsed from the issuance of summons to the last action taken did not increase in proportion to the total time that the cases had been pending, but remained less than 60 days in the majority of the cases. Even of those cases which had been pending for more than five years (1,000 cases), the last action had been taken within 60 days of the issuance of summons in 86% (861 cases). Thus, most of the time elapsed after the last action was taken.

In Figure 11, the cases in which the time elapsed from issuance of summons to the last action taken include those cases in which the issuance of summons was itself the last recorded action. The last line of the table reveals the number and percentage of such cases falling within each age bracket. It may be seen that there were a total of 1,134 such cases—20% of all cases studied — in which the only action taken, according to the clerks' records, was the issuance of summons. It may further be seen that these cases constituted 9% of those which had been pending for more than five years; 15% of those which had been pending for one to five years; 34% of those which had been pending for six months to one year; and 29% of those which had been pending for one to six months. Why these cases were on the dockets and in the files long after all conceivable extensions of time to file complaint should have expired is not apparent from the figures themselves, but it is known that such cases may be found in almost every Superior Court.

PART III

SOME CONTRIBUTING CAUSES OF CONGESTION AND DELAY

Variation from Statutory Directions Concerning Clerks' Dockets and Files for Civil Matters

Introduction

There are three basic guides to the records of civil actions to be maintained by clerks of Superior Court. Section 2-42 of the General Statutes prescribes a list of the dockets and records to be kept by the clerks and briefly describes the contents of each. Section 2-8 provides that to each of these books "there must be attached an alphabetical index securely bound in the volume . . . unless there is a cross-index of such books required by law to be kept." Section 1-169.1 provides that "the clerk of the Superior Court of every county shall maintain a pre-trial docket," and prescribes its use.

The General Statutes do not give the clerk detailed instructions regarding the filing of case papers. Section 2-39 merely provides, "The clerk must file and preserve all papers . . . belonging to the court; and shall keep the papers in each action in a separate roll or bundle, and at its termination attach them together, properly labeled, and file

Figure 11

LOCATION OF DELAY IN 5599 CASES PENDING IN 22 SUPERIOR COURTS ON JULY 1, 1957

Time elapsed from issuance of summons to last action taken:	Time elapsed from issuance of summons to July 1, 1957 1 to 6 mos. (1208=100%)	6 mos. to 1 year (877=100%)	1 to 5 years (2514=100%)	Over 5 years (1000=100%)	Total (5599=100%
Less than 30 days	900= 74%	620= 71%	1632= 64%	841= 84%	3993= 71%
Less than 60 days	1104= 91%	733= 84%	1872= 74%	861= 86%	4570= 82%
More than 60 days	104= 9%	144= 16%	642= 26%	139= 14%	1029= 18%
Issuance of summons was last action taken	356= 29%	296= 34%	388= 15%	94= 9%	1134= 20%

them in the order of the date of the final judgment."

Two types of variation from these statutory provisions were observed in the courts studied.[1] Both of these types of variation limit the reliability of the statistics reported by the clerks to the Administrative Assistant to the the Chief Justice because they affect the contents of the civil issue dockets on which those reports are based. Furthermore, in many courts the particular variation in use adversely affects the orderly disposition of civil cases, thereby increasing backlogs of such cases awaiting trial.

The first three types of variation may be found in the different ways some of the clerks handle certain classes of civil matters. For example, some of the clerks docket and file special proceedings in the same manner as regular civil actions, while other clerks follow—with varying degrees of care—G.S. 2-42(9), which prescribes a separate docket for special proceedings. Another example of this type of variation is the way some clerks handle certain types of cases, such as uncontested divorce actions, apart from all other civil actions. Some of these clerks have separate dockets for such cases and others omit them from their dockets entirely. (This class of variation from statutory directions is treated in more detail below, under the heading, "Special Cases and Other Matters.")

A second type of variation occurs in the methods followed by the clerks in docketing and filing routine civil actions, other than the "special cases" mentioned above. (These variations are described in more detail in the following section.)

In many of the counties studied, the clerks reported that their systems worked well for them and that local attorneys found them satisfactory. In other counties the clerks were extremely interested in improving the existing system, which most of them had inherited from their predecessors, but stated that they did not know how to do so. In still others, some members of the local bar described deficiencies in the clerks' systems, but appeared unable or unwilling to challenge procedures which had been followed for many years. In a few clerks' offices, changes were being made at the time of the study. Many of these changes had been suggested by other clerks or were adopted after a study of other clerks' offices.

Detailed information about the clerks' offices in three counties could not be obtained because of the following situations:

County No. 1. Field research personnel could not locate the clerk, who had no assistants or deputies, although they inquired of local officials and visited the clerk's office every day for several days;

County No. 2. The clerk had recently vacated his office and the vacancy had not been filled at the time of the study; a local attorney reported that it would be impossible to obtain any of the desired information regarding civil litigation because the absent clerk had failed to follow any discernible records system;

County No. 3. The clerk was out of town on the only day available for the study and neither the deputy clerk nor the field research staff could locate any civil case records covering the period desired for study; the deputy clerk stated that she was not familiar with the civil records.

Civil Actions Generally

Action in Case	Action in Clerk's Office Required by Statute
Complaint filed and summons issued	Caption of case and date of summons and complaint noted in summons docket; reference noted in summons docket index.

Reference: G.S. 2-42 (1),(5)

Variations:

The statute was generally followed, except that when a complaint was filed after summons was issued some clerks did not record the filing date in the summons docket. In some counties no summons docket was maintained, case papers being put into an envelope or shuck and then placed in a file or desk drawer with other pending cases in various stages of development. In others, a civil issue docket record was the first step in the clerk's procedure, the entry being made upon issuance of summons. In a few counties, several summons dockets were maintained. For example, one clerk kept four identical dockets—one for his own use, one for the judge, one for attorneys, and one for a permanent record. Another clerk used separate dockets for different types of cases, such as divorce actions, cases on contracts involving small amounts, etc.

The most consistent variation from the statutory requirement regarding the summons docket was that these docket entries, rather than being carried through "up to the final judgment inclusive," were no longer made after a civil issue docket or some other record was begun. Even in many counties where the clerks informed the field research staff that the summons docket contained a complete record of each case, it was observed that the prescribed entries were not consistently made and that many summons docket records were incomplete. It was not unusual to find no summons docket entries after the date of filing of complaint, although subsequent pleadings were in the case files.

The summons dockets themselves were found to be sometimes heavy bound volumes in which all entries were made in longhand, and sometimes the dockets were loose-leaf binders. In the latter, the pages were usually printed forms on which entries were typewritten. Some clerks transferred these

1. See Table 1 for list of courts.

loose-leaf summons docket sheets to the civil issue docket when issues in a case were joined; others transferred the sheets at intervals of 30 to 90 days. In one county the typewritten summons docket page was transcribed in longhand to a permanently bound civil issue docket, and in others carbon copies of the summons docket entries were transferred to a civil issue docket binder periodically or when issues in a case were joined. Other variations were observed.

As for indexing and cross indexing, some form of index was found in almost all of the offices observed, but they often fell short of the requirements of G.S. 2-42 (5) for "an alphatical index and cross index of all parties to all civil actions . . . ." Sometimes the summons dockets were indexed by one plaintiff's name and by one defendant's name and sometimes by all plaintiffs' names only. Rarely was the index found "so arranged that beside each name shall appear a reference to the book and page whereon the action or proceeding will be found upon the summons docket, civil issue docket, special proceeding docket, and judgment docket, or such of said dockets as carry reference to said action or proceeding." Futhermore, such indexing was very often not performed "immediately upon said action or proceeding being entered upon any of said dockets."

Action in Case	Action in Clerk's Office Required by Statute
Other papers filed, prior to joinder of issues.	Nature of paper or pleading and date of filing noted in summons docket.

Reference: G.S. 2-42 (1)

Variations:

This requirement was more often ignored than followed. In most of the counties observed, such papers were merely stamped with the date received by the clerk and were then filed in the shuck or flat file folder containing other papers filed in the same case.

Action in Case	Action in Clerk's Office Required by Statute
Joinder of issues	Noted in summons docket; "a docket of all issues of fact joined upon the pleadings, and of all other matters for hearing before the judge at a regular term of the court . . ." recorded in civil issue docket.

Reference: G.S. 2-42 (1),(3)

Variations:

The moment at which issues are joined in a civil action was not recognized or identified as such, for docketing purposes, in most of the clerks' offices. Upon the filing of answer many clerks recorded the caption of the case in the civil issue docket, although some clerks made such an entry thirty days after the filing of complaint, whether or not an answer had been filed. None of the civil issue dockets examined contained a record of "all issues of fact joined upon the pleadings."

Whatever the method for determining the time to take it, there were three major variants in the action taken in the various clerks' offices. These were: (1) no action was taken, other than the filing of the answer or other pleading joining issues; (2) date of filing and the title of the pleading joining issues was noted in a docket and the pleading was filed; (3) an entry as to the filing of the pleading joining issues was made in one or more dockets, the paper was filed with the other papers in the case, and the file was shifted to another location which contained all other cases in which issues had been joined. These three variations are discussed in more detail below.

(1) *No Action Taken*—There were a number of reasons why no action was taken by a clerk when the issues in a particular case were joined. The simplest was that he followed no system which required any action, other than the filing of the papers, to be taken. In some counties, an entry was made in both the summons docket and the civil issue docket when the complaint was filed and, therefore, when answer was filed no entry was made anywhere because there was already a record of the case in the civil issue docket. In a third group of counties, the captions of pending cases were noted monthly or quarterly in the summons docket and the civil issue docket, whether or not issues had been joined. The same identification number was used in both dockets and the case papers were then filed by this number. When an answer was filed, it was merely stamped with the date of receipt and placed with the other case papers. In support of this practice, one clerk stated that enough cases had been entered in the summons and civil issue dockets for calendaring purposes and that the end of the month or the end of the quarter was soon enough for cases to be added to these records.

(2) *Docket Entry—No Change in Files*—The most frequent routine observed in the counties following this practice was that an entry was made in the civil issue docket, the case file remaining in its original location. In some of these counties, the case was filed with all other pending cases in the order in which summons was issued. In others it was placed in a desk or file drawer with other pending cases in no particular order. In one of the latter counties, the civil issue docket was the record used by the calendar committee, and the clerk was of the opinion that since he could find all of the cases calendared, the system was satisfactory. Other variations included the following: (a) a notebook entry was made for the first time when an answer was filed, there being no docket entries prior to this time; the shucks were usually

not numbered, but were merely kept together, regardless of filing date, in some sort of pending case file; (b) no civil issue docket was kept, but an entry was made in the summons docket; (c) the loose-leaf summons docket page or a carbon copy was transferred to a civil issue docket binder, but the summons docket number was retained for index purposes and the case files remained in the order of summons docket numbers.

(3) *Docket Entry—File Shifted*—The practice followed in this group of counties sometimes included making a reference to a case in both the summons docket and the civil issue docket, but more frequently the summons docket was abandoned as soon as a civil issue docket record was made.

Another common procedure was that a civil issue docket entry was made, either by shifting summons docket pages or copies of summons docket pages, or by recording a new entry in a civil issue docket. A case was given a civil issue docket number and was refiled by this number with other cases in which issues had been joined. In a variation of this practice, an entry was made in a civil issue docket, but the case papers were transferred to an "active pending" file and were located by summons docket numbers.

In one office, entries were made in three civil issue dockets, (one for the clerk, one for the judge, and one for the permanent file), and the case entries in the summons dockets kept for the clerk and the judge were destroyed.

Action in Case	Action in Clerk's Office Required by Statute
Calendared for trial	Noted in summons docket.

Reference: G.S. 2-42(1)

Variations:

A note that a case had been calendared for trial was not found in any of the summons dockets which were examined. Few offices made any record of the calendaring of cases, other than the printed or mimeographed calendar itself.

Action in Case	Action in Clerk's Office Required by Statute
Continued before term	Noted in summons docket.

Reference: G.S. 2-42(1)

Variations:

In none of the observed counties were continuances noted in the summons docket. In a few counties some record of continuances was made, but this record usually consisted simply of a note on the calendar itself and the calendar was generally destroyed after the term of court for which it was prepared. Sometimes the files of continued cases were segregated so that these cases would be given priority during the next term of court, but most frequently they were simply replaced in the pending case file in the same order, if any, as they were before the term.

Action in Case	Action in Clerk's Office Required by Statute
Trial	Entry in minute docket of "a record of all proceedings had in the court during term, in the order in which they occur, and such other entries as the judge may direct.

Reference: G.S. 2-42 (8)

Variations:

This requirement was generally, if loosely, followed. That is, all of the counties studied maintained "minute dockets," purporting to be records of proceedings in the courtroom during term time. In some offices the court reporter typed the minute docket and in these offices the minute docket usually conformed to the statutory requirements. In a few other counties there was no minute docket, in the sense contemplated by the statute, although there was a book which carried the name. In these counties there was no appreciable difference between the "minute docket" and the "judgment docket," except that the "minute docket" contained a transcript of every judgment (and very little else), and the "judgment docket" contained transcripts only of the judgments for money or property.

Action in Case	Action in Clerk's Office Required by Statute
Terminated	Substance of judgment recorded in judgment docket; reference made in index and cross-index.

Reference: G.S. 2-42 (2),(4)

Variations:

This requirement, too, was generally followed, in the sense that all of the clerks' offices studied contained a "judgment docket." The entry in this book was more often a transcript than a "note of the substance" of every judgment, however. Many of these judgment dockets contained records only of money judgments. Others contained little more than a notation that judgment had been rendered and a reference to the minute docket book and page number where a transcript could be found or to the case file where a copy of the judgment could be located.

As for the terminated case files, they were most often given a judgment docket number or file number and filed with other terminated cases. In some offices these files were arranged alphabetically or numerically in one year groups. In others, they were filed alphabetically by the first letter of the plaintiff's or the defendant's name and then numerically by summons docket, judment docket or civil issue docket number within the letter group.

Special Cases and Other Matters

Inactive Cases. In a number of clerks' offices special collections of pending cases were found apart from the regular pending case files. These special groups of cases may be classified generally as those

in which there was purposeful delay, and those which had been abandoned or forgotten. The cases in the first group were usually called "off-docket cases"; those in the second group, "dead file cases." Rarely were these groups of cases labelled as such, however. Among other places, they were found (a) in a clerk's desk drawer, (b) on a window seat, (c) on top of a filing cabinet, and (d) in unmarked file drawers away from the regular pending case files.

Most of the "off-docket cases" had originated within a two-year period preceding the date of the study, and records of these cases usually appeared in the summons docket currently in use. Among the reasons given by some of the clerks and by some attorneys for keeping these cases off of the civil issue docket were the following: settlement negotiations were in progress; the plaintiff wished to get personal service of process and was awaiting the return of the defendant from out of the state; the attorneys for both sides had agreed to postpone further action, for reasons unknown to the clerk. One clerk stated that the "off-docket file" was of value because it cleared the other dockets of "slow" cases, allowing the cases on those dockets to move more rapidly.

The "dead file cases" were simply what the name implies—cases which had been abandoned or forgotten for so long that it was accepted that they would never be called for trial. (In one county some of these cases dated back to early 1920.) In many counties summons and civil issue docket entries for these cases were found in volumes that had long since been filled up with entries and stored away. In some of the counties using loose-leaf summons and civil issue dockets, there were no entries for these cases, the clerks stating that they were not carried forward when the office changed from the bound-volume to the loose-leaf system. Other variations in the handling of these old cases were observed, but the end result was usually the same—they were kept out of the way of the newer cases flowing through the court and they were not reported to the Administrative Assistant as pending cases.

Motor Vehicle Operators' Petitions. G.S. 20-279.2 provides that, under certain circumstances, the filing of a petition in the Superior Court to review an order of the Commissioner of Motor Vehicles suspending or revoking a motor vehicle operator's license, "shall suspend the order or act of the Commissioner pending the final determination of the review." In other words, so long as such a petition is pending, the petitioner retains his license to drive an automobile. Since the petitioners were usually successful in delaying the hearings on their petitions, many clerks left these matters off of the dockets entirely, simply filing them wherever they would be least in the way. Not being on record in the civil issue docket, these petitions were not reported to the Administrative Assistant as pending cases.

Uncontested Divorce Actions. The number of these actions had grown to such proportions that the clerks of the Superior Court in some counties entered them in special "divorces dockets." Other clerks did not enter them in the civil issue docket because no answer was filed. Most of these clerks failed to report these cases to the Administrative Assistant because, being specially docketed, they did not appear on the civil issue docket.

Pre-trial Dockets. The first sentence of G.S. 1-169.1 reads, "The clerk of the Superior Court of every county shall maintain a pre-trial docket." The statute then prescribes the manner and the circumstances under which this docket shall be used. In response to a questionnaire on the subject, 47 out of 68 clerks replying stated that they no longer maintained a pre-trial docket. Most of the 21 clerks who reported that they did have a pre-trial docket commented that it was "inactive" or that it had not been used in several years.

Civil Calendar Rules and Practices

Introduction

Rules pertaining to the procedure for calendaring original civil cases for trial are prescribed in a few local acts,[2] in Rules 5, 18, and 20 through 23 of the Rules of Practice in the Superior Courts [General Statutes, Appendix I (2)] and in General Statutes sections 1-175 through 1-178. Even if studied collectively, these rules and statutes do not provide a complete guide to the manner in which civil calendars should be prepared. An increasing number of city, county and district bar associations in recent years have been filling the need for such instructions by drafting their own rules. In many counties today, however, the calendaring procedure is very largely a matter of unwritten custom and in a few counties, the calendaring of cases is not undertaken at all. In the latter group, the clerks merely take the file of pending cases into the courtroom on the first day of the term for the attorneys and the judge to pick over in an effort to find those which can be tried.

As might be expected, civil cases finally get before a judge and jury for trial in a variety of ways.

2. For example, Public Laws 1927, Ch. 105 — Caswell County: Provides that clerk of superior court shall make out the calendar a certain number of days before civil and criminal terms, prescribes the order of cases to be calendared and provides for the printing and distribution of the calendar; Public Laws 1913, Ch. 48—Stokes County: Prescribes the manner in which the clerk of superior court shall carry forward on his dockets the cases not finally disposed of "so that cases may be conveniently traced from their first appearance on the docket to final judgment," and provides a fee for performing this function.

Variations in Responsibility

Procedures for calendaring civil cases in the counties studied fell into five basic patterns, which might be labelled as follows: (1) "no rules," meaning that there is no formal agreement of the bar association and little or no system to the procedure followed for each term of court; (2) "clerk dominant," meaning that, whether or not there are formal rules, in practice the clerk of the Superior Court prepares the calendar virtually without the assistance, supervision, or even (in some counties) the cooperation of the local bar; (3) "clerk-bar," meaning that the clerk first makes up a calendar which is then revised by a committee of the local bar association; (4) "bar-clerk," meaning that a committee of the bar association makes up the calendar with the assistance of the clerk, then turns it over to him for duplication and distribution, and (5) "bar dominant," meaning that the local bar association or a committee appointed by it handles the entire procedure with little or no assistance from the clerk.

Variations numbered (3) and (4) were most frequently encountered among the counties observed. In most of the counties in each of these two groups there were written agreements or resolutions or rules of local bar associations, although the details of such rules were not always followed. Within each of these groups there was greater variation in details than in the other groups.

Variations in Procedures

(1) *"No Rules."* One field worker found that, until several years ago, the clerk of Superior Court prepared the calendar of civil cases without the assistance or supervision of local attorneys. Then a Superior Court judge told him that the preparation of the calendar was the responsibility of the local bar.[3] Since that time, the clerk has relied upon the bar to fulfill this function, but he stated that this practice has not worked out satisfactorily. The clerk begins trying to call the bar together about thirty days before a term of civil court begins. Sometimes he gets a calendar from them before term time and sometimes he has to prepare it himself at the last minute. In either case, the field worker reported, the order of cases on the calendar is largely ignored during term time.

In a few other counties, the situation was similar to that described above, except that some of the clerks did not bother to prepare a calendar if the local bar did not provide them with one. In all of these counties, there were few "active" civil cases ready for trial each term. The attorneys concerned either told the clerk just before term time which cases they desired to have called for trial, or the clerk merely took the entire file of "active" pending cases into the courtroom.

In almost all of the counties which had no formal calendaring rules the first day of each civil term was devoted to a review of the cases by the judge and attorneys.

(2) *"Clerk Dominant."* The counties in this group were one degree more organized than those in the preceding group, as far as calendaring procedure was concerned, in that the clerk prepared a calendar in essentially the same manner before every term. The participation of the local bar in this chore was negligible, but the calendars prepared by the clerks were given slightly more consideration than those prepared in the counties in the first group. The preparation of the calendar was left to the clerks of these courts either because of a small civil case load, because of a small bar that did not have time to attend to such details, or because of an unusually efficient clerk who could do a good job of it in accordance with the unwritten policies of the local bar without their participation.

(3) *"Clerk-Bar Committee."* In the group of counties following the calendar practice discussed here, the clerk of Superior Court played a large part and usually initiated the action which resulted in a civil calendar, but he was supervised and controlled by the local bar association calendar committee. In some of these counties, the clerk called the meetings of the calendar committee, at which he presided or at which he acted as secretary. In others, he mimeographed or typed a list of all cases in which issues had been joined or answers filed and sent this list to the members of the local bar association. Then the calendar committee met, with or without the clerk, to consider the cases to be calendared. Sometimes the members of the local bar merely returned the list of cases, with their wishes written on it, for the clerk's guidance in preparing the trial calendar. A second or final calendar was usually made up after the wishes of the members of the local bar had been expressed and this calendar was then distributed to the attorneys concerned. In several counties, the preliminary calendar contained a form on which attorneys were requested to state whether they wished the case set for trial, the time estimated to be required for trial and the nature of the case.

(4) *"Bar Committee-Clerk."* In this group of counties, the local bar association calendar committee played a dominant role in the calendaring of cases, but looked to the clerk for ministerial assistance in the execution of its instructions. Again, the details of procedure varied somewhat from county to county. Generally, the calendar committee itself prepared a printed calendar of cases selected by it from the civil issue docket.

3. See the introduction to this section. The calendaring practices of local bar associations are apparently unsupported by statutes or court rules.

Written requests from other attorneys were usually considered. The committee then turned this list over to the clerk for distribution. A second meeting of the committee was usually held shortly before a term began, at which time additional information and written requests from attorneys were considered and a final calendar prepared. This calendar was then turned over to the clerk for printing or mimeographing and distribution. In some of these counties, the clerk or a representative from his office attended the meetings of the calendar committee. In other counties the committee had its own secretary who dealt directly with the clerk regarding the ministerial aspects of the procedure.

(5) *"Bar Dominant."* In this group of counties, the bar association committee handled the calendaring process from beginning to end with little or no assistance from the clerk's office. The committee almost always met elsewhere than in the clerk's office, although it usually used the clerk's docket. The final calendar was given to the clerk for his information and for posting in his office, individual copies being distributed by the bar committee itself to attorneys of record. There was few counties in this group, most bar associations preferring to let the clerk's office handle the details of the calendaring procedure.

Clean-up Calendars

In several counties "clean-up terms" or "clean-up calendars" of old cases are provided for by rule of the local bar association. In some of these, such terms are provided annually and in others they are provided for less often. In some counties they are ordered by a judge from time to time without the sanction of bar association rules. One or two clerks have reported that they initiate a clean-up calendar "every once in a while" by privately notifying the presiding or resident judge of the need for such a term.

When clean-up terms are provided for by rule, the cases calendared for such terms are sometimes limited to those which have been pending for over a specified time, such as three years or 18 months. In most instances, members of the bar can have a particular case omitted from the clean-up calendar, regardless of the length of time it has been pending, by a telephone request or note to the clerk.

In a few counties certain matters, notably motor vehicle operators' petitions, in which there is a particular motive for delay, are reserved for the clean-up terms and are usually not calendared for trial or hearing during regular terms.

In those counties where clean-up terms have been used regularly, they have been effective in trimming the "deadwood" from the dockets. One clerk reported that the extensive use of such terms had reduced the average time interval from filing to trial of civil cases from two years to nine months. These terms are less effective in the counties where they are scheduled haphazardly, however, and there are still many counties in which such a term has never been held.

Miscellaneous Special Practices and Variations

Most of the local bar association rules for calendaring civil cases provided for a preliminary calendar and a final or trial calendar. According to these rules, the cases listed on the preliminary calendar could be all of those in which issues had been joined or they could be limited to those selected by a special committee. In either case, the rules often provided that priority on the calendar should be given to the oldest cases on the civil issue docket or to those cases which had been continued from previous terms or to cases in both of these categories.

These apparent attempts to keep the civil dockets current by disposing of the oldest cases first were usually defeated by one or more of the following factors: (a) the civil issue docket did not contain all of the cases ready for trial; consequently these cases were not placed on the preliminary trial calendar; (b) the records of cases which had been continued at previous terms were incomplete or nonexistent; and (c) the final, or trial, calendar was composed only of those cases selected for trial by the local bar, the practical effect being that only those cases were finally calendared in which there was a current, active interest, regardless of the length of time other cases had been pending In many counties a case was never calendared over the objection of a local attorney.

In most of the counties observed, attorneys who were not members of the local bar association found that their written requests for the calendaring of cases were given the same consideration as the wishes of local attorneys. In some counties, however, the clerks stated that the wishes of the members of the local bar association prevail and that any cases which are not represented on either side by the local bar are calendared only after all other cases have been calendared and the customary quota for the term has not been filled.

Some counties followed the procedure of calendaring cases, when requested to do so by one attorney, but noting the opposing attorney's objection on the calendar. In such cases the matter was thereby referred to the presiding judge. Very few Superior Court judges stated, in response to a questionnaire, that they insisted upon the trial of a case calendared over the objection of one of the attorneys.

The degree of control over the calendar assumed by many local bar associations is expressed in a rule that cases shall be calendared after the preparation of the trial calendar "only with the unanimous consent of the . . . Bar Association." Several formal calendar rules requested the presiding judge

not to calendar cases peremptorily or preferentially. That these rules were not always observed by the judges was indicated by several reports from Superior Court clerks and local attorneys that court terms had broken down because presiding judges had set cases for trial without consulting the local bar association.

The efforts of many bar associations to improve court term efficiency by various calendaring devices or rules was indicated by the practice of setting non-jury matters for the first day of each term. In other counties, a specified day, usually the first, was reserved for uncontested divorce cases and other matters expected to take very little time. Although many of these rules were similar, in some respects, to the provisions for pre-trial hearings contained in G.S. 1-169.1 and 1-169.2, none was observed which cited these sections or which followed them specifically.

In one county uncontested divorce actions were not calendared at all, being taken up during criminal and civil terms when breaks in the calendars appeared due to unexpected settlements, continuances, or for other reasons. In another county a "quick call" calendar was used, consisting of cases which were not expected "to take more than one-half hour to dispose of" and which could be ready for hearing on short notice. This calendar was used in the presiding judge's discretion when necessary to save the term of court from having to adjourn early for lack of cases ready to be tried.

Continuance Rules and Practices

Many local bar associations exercise some degree of control over the continuance of cases which have been calendared, both before and during the court term. These local rules or practices cover either or both of the following situations: (a) continuance is requested to meet the convenience of one or both of the attorneys concerned; (b) cases are not reached for trial on the day for which they were calendared. Some counties have no rules applying to either situation and leave it up to the judge to decide the disposition of such cases.

As to situation (a), there is one county which follows the rule that no case may be continued by request after it is calendared, except upon penalty of being ineligible for consideration by the calendar committee for the following three civil terms of court. (If enforced, this rule could impose a delay of up to three months.) The counties having no formal rule regarding the continuance of cases by request appear to be in the majority, with the prevailing attitude in favor of liberality.

As for situation (b), most of the counties seem to have some kind of rule regarding the disposition of such cases. These rules range between the following extremes: (1) those which provide that a case not reached on the day for which it is calendared is automatically continued from day to day until reached for trial or until the term expires; (2) those which provide that a case not reached for trial on the day for which it is calendared is automatically continued for the term, (a) with priority on the calendar for the next term or (b) without such priority. In between these extremes are a number of "day rules," which take their name from the fact that cases not reached on the day for which they are calendared are continued automatically from day to day, for a specified maximum number, and then if not reached are continued for the term. In some counties these cases are ostensibly given priority on the calendar for the following term and in some counties they are not given such priority.

A loophole in the calendar-continuance systems that is almost impossible to plug is created by the policies of some of the judges regarding continuances by request. Although the discretion exercised by the judges in granting such continuances is not a matter for control by the local bar associations, it would seem that the failure of most of these associations to prescribe rules affecting their own members who obtain such continuances places the whole responsibility on the judges, and is one reason for the prevailing liberality in the granting of continuances during the term.

The policies of the Superior Court judges regarding continuances before or during trial were described in some detail, on the basis of replies to questionnaires, in the report to the Committee entitled, "Judicial Commentary on Administration of Courts and Civil Justice" [October, 1957, pages 7-9]. Briefly stated, these policies appear to fall under two main headings: (1) continuances are *granted* liberally, unless there is some objection from the attorneys concerned or some compelling reason for trying a particular case, and (2) continuances are *denied*, unless the statutory requirements [G.S. 1-175, 176] are met or unless there is some compelling reason for continuing a particular case. Although it is difficult to establish with certainty, it appears that the first of the two is favored by the majority of the judges. The justification for such a policy has been stated many times in terms of the failure of the bar to exercise its responsibility to assist the judges in requiring stricter conformance to the statutory requirements.

One last point on the difficulty of establishing the extent to which continuance rules and practices affect court term efficiency involves the clerks. Records of continuances are almost non-existent, for all practical purposes, since most of the clerks, if they make any record at all, merely note the fact of continuance on the printed or mimeographed calendar and then destroy the calendar after the

term is over. Some of the clerks note continuances in the minute docket, but this is rarely used by calendar committees. Only a few retain for future reference the calendars containing continuance notes. Of course, when a written affidavit in support of a motion for continuance is filed, it is preserved with the case papers, but the filing of written motions for continuance or affidavits in support of motions for continuance seems clearly the exception, rather than the rule.

Without such records it is impossible to determine the number of times a particular case has been continued and it is impossible for the calendar committee to give priority to previously continued cases. Without the evidence of delay and inefficiency that would be provided by accurate records of repeated continuances, the failure of a calendar-continuance system established by a local bar association to make court terms efficient does not readily come to light, and the need for some kind of system in those counties that have none is not made apparent. There are so many other factors contributing to court term inefficiency that the rules created by the local bar are likely to be far down on the list unless their deficiency can be demonstrated by accurate records.

TABLE 1—County Characteristics Used in Selecting Counties for Civil Study Project

Population Group	*Economy*[1]	Judicial Division I			Judicial Division II			Judicial Division III			Judicial Division IV		
		County[2]	*Judicial District*	*Inferior Courts*[3]	*County*[2]	*Judicial District*	*Inferior Courts*[3]	*County*[2]	*Judicial District*	*Inferior Courts*[3]	*County*[2]	*Judicial District*	*Inferior Courts*[3]
Over 100,000	*Agric.*												
	Mfg.										Gaston	27	b, d
	Trade				Wake*	10	b, d	Guilford*	18	c, d	Mecklen.*	26	a, d
					Durham*	14	a, c	Forsyth*	21	b, d	Buncombe*	28	a
	None												
50-100,000	*Agric.*	Pitt	3	b, c	Johnston*	11	b, c						
		Nash*	7	c	Columbus	13	a, b						
					Robeson	16	d						
	Mfg.				Alamance*	15	a, b	Cabarrus*	19	a	Catawba	25	a, d
								Randolph*	19	a			
								Davidson	22	c, d			
	Trade	New Han.*	5	c	Cumberland*	12	b, c	Rowan	19	c, d			
		Wilson*	7	a, b									
		Edgecombe*	7	c, d									
		Wayne	8	c									
	None	Halifax	6	a				Rocking.*	17	d	Cleveland	27	b, c
								Iredell*	22	a, d			
25-50,000	*Agric.*	Martin*	2	a	Granville	9	a	Caswell	17	a			
		Sampson*	4	a	Franklin	9	a						
		Duplin	4	a	Bladen*	13	a						
		Northamp.	6	a									
		Bertie*	6	a									
	Mfg.							Stanly*	20	c	Burke*	25	a
											Caldwell*	25	a
											McDowell	29	a
	Trade	Beaufort*	2	d	Vance	9	c	Richmond	20	a, d	Henderson*	29	a
		Craven*	3	a, b	Orange*	15	a, b	Moore	20	a, b			
		Onslow*	4	a									
		Lenoir*	8	a, d									
	None				Harnett	11	c, d	Surry*	17	b, c	Lincoln*	27	a
					Chatham*	15	a, b	Anson	20	a	Rutherford*	29	c
					Scotland*	16	c	Union	20	c	Haywood	30	d
								Wilkes	23	—			
Under 25,000	*Agric.*	Gates*	1	a	Person*	9	a	Stokes*	17	a	Madison	24	—
		Jones*	4	—	Warren	9	c	Yadkin	23	a	Watauga	24	—
		Pender	5	a	Hoke	12	a	Ashe*	23	—	Yancey	24	a
		Greene*	8	b, c	Brunswick	13	a	Alleghany	23	—	Avery*	24	—
											Clay*	30	—
	Mfg.										Mitchell	24	—
	Trade	Pasquotank	1	c	Lee	11	a				Cherokee*	30	a
		Chowan	1	c							Swain	30	—
		Currituck*	1	a							Graham	30	—
		Dare*	1	a									
		Hyde	2	a									
		Carteret*	3	a, b									
		Pamlico	3	a							Transyl.*	29	—
	None	Camden*	1	c				Montgomery	19	a	Polk	29	—
		Perquimans*	1	a				Davie*	22	a	Jackson	30	—
		Washington*	2	a				Alexander	22	a	Macon	30	—
		Tyrrell	2	c									
		Hertford	6	a									

1. Information was obtained from U. S. Census of Business, 1950. Counties were classified as follows:
   (a) Those in which over 45% of employed population is engaged in Agriculture;
   (b) Those in which over 45% of employed population is engaged in Manufacturing;
   (c) Those in which over 45% of employed population is engaged in business and trade;
   (d) Those in which over 45% of employed population is engaged in none of the above.

2. Counties followed by an asterisk (*) are those from which information, other than questionnaires, was obtained for study.

3. Key: a—County Court established under a General Statute.
   b—One or more municipal courts established under a General Statute.
   c—County Court established by a Special Act.
   d—One or more municipal or township courts established by Special Acts.
   —No courts below Superior Court, except Justices of the Peace.

TABLE 2—Superior Courts and Personnel Providing Data for Analysis

Superior Court	*Clerk*	*Field Research Personnel*
DIVISION I		
District 1		
Camden	Mrs. Shirley Topping	Institute of Government
Currituck	Ralph E. Saunders	Institute of Government
Dare	C. S. Meekins	Wallace R. Gray, Manteo
Gates	L. C. Hand	Philip P. Godwin, Gatesville
Perquimans	W. H. Pitt	Institute of Government
District 2		
Beaufort	Mrs. Ada Taylor	William P. Mayo, Washington
Martin	L. B. Wynne	Institute of Government
Washington	Mrs. Newman Allen	Carl L. Bailey, Jr., Plymouth
District 3		
Craven	Wm. B. Flanner	Institute of Government
District 4		
Jones	W. Murray Whitaker	Institute of Government
Onslow	Wilbur Justice	Institute of Government
Sampson	J. C. Moore	Institute of Government
District 5		
New Hanover	Foster Edwards	W. M. Cameron, Jr.; Wm. Warwick; Irving Glover; Geo. T. Clark, Jr.—Wilmington
District 6		
Bertie	Geo. C. Spoolman	Institute of Government
District 7		
Edgecombe	Don Gilliam, Jr.	T. H. Matthews, Rocky Mount
Nash	J. N. Sills	Roy A. Cooper, Jr., Nashville
Wilson	Charles C. Lamm	Institute of Government
District 8		
Greene	J. E. Mewborn	Institute of Government
Lenoir	John S. Davis	Institute of Government
DIVISION II		
District 9		
Person	George Perkins	A. M. Burns, Jr., Roxboro
District 10		
Wake	J. R. Nipper	G. A. Jones; B. T. Henderson; Edwin Hatch; J. R. Hudson—Raleigh
District 11		
Johnston	H. V. Rose	Wiley Narron, Smithfield
District 12		
Cumberland	Thos. H. Williams	Ervin I. Baer; A. M. Ruppe; N. H. Person; Hal Broadfoot; Bayliss Bramble—Fayetteville
District 13		
Bladen	C. C. Campbell	Worth H. Hester, Elizabethtown
District 16		
Scotland	C. L. Jones	Walter J. Cashwell, Jr., Laurinburg
DIVISION III		
District 17		
Rockingham	John Satterfield	Institute of Government
Stokes	J. Watt Tuttle	Institute of Government
Surry	K. W. Lawrence	Institute of Government
District 18		
Guilford	J. P. Shore	Institute of Government
District 19		
Cabarrus	D. Ray McEachern	William Lee Mills, Jr., Concord
Randolph	Carl L. King	Institute of Government
District 20		
Stanly	Everett G. Beam	Ernest H. Morton, Jr., Albemarle
District 21		
Forsyth	W. E. Church	B. R. Browder, Jr.; R. B. Hendrix; Forsyth County Junior Bar Assoc., Winston-Salem
District 22		
Davie	S. H. Chaffin	L. P. Martin, Jr., Mocksville
Iredell	C. G. Smith	Institute of Government
DIVISION IV		
District 25		
Burke	W. C. Ross	Institute of Government
Caldwell	G. W. Sullivan	Marshall E. Cline, Jr.; Claude F. Seila; J. R. Todd—Lenoir
District 26		
Mecklenburg	J. L. Wolfe	J. J. Caldwell; Peter Gerns; Harry Faggart; Paul Guthrey; Richard Kennedy; Marshall Ruppe—Charlotte
District 28		
Buncombe	Zeb Weaver, Jr.	Fred N. Sigman, Jr.; DeVere C. Lentz, Jr.—Asheville
District 29		
Henderson	George Fletcher	Institute of Government
Rutherford	Vance R. Price	A. J. Arledge, Rutherfordton
Transylvania	F. M. McCall	Harvey L. Cavender, Brevard
District 30		
Cherokee	K. W. Radford	Institute of Government
Clay	Geo. H. Martin	Institute of Government

TABLE 3A—Pending Cases Reported by Superior Court Clerks to the Administrative Assistant to the Chief Justice

Judicial Division I

SUPERIOR COURTS	*Cases on Civil Issue Docket* July 1 1955	July 1 1956	July 1 1957	*Net Change* 1955-56 (+)	(−)	1956-57 (+)	(−)
1st District							
Camden	—	22	12	—	—	—	10
Chowan	42	53	36	11	—	—	17
Currituck	4	28	17	24	—	—	11
Dare	42	39	34	—	3	—	5
Gates	36	17	24	—	19	7	—
Pasquotank	45	36	47	—	9	11	—
Perquimans	35	38	41	3	—	3	—
2nd District							
Beaufort	204	174	181	—	30	7	—
Hyde	6	—	15	—	—	—	—
Martin	106	124	195	18	—	71	—
Tyrrell	28	25	35	—	3	10	—
Washington	64	68	65	4	—	—	3
3rd District							
Carteret	86	77	99	—	9	22	—
Craven	477	370	438	—	107	68	—
Pamlico	—	—	—	—	—	—	—
Pitt	267	303	326	36	—	23	—
4th District							
Duplin	332	330	359	—	2	29	—
Jones	84	64	67	—	20	3	—
Onslow	128	63	79	—	65	16	—
Sampson	75	309	217	234	—	—	92
5th District							
New Hanover	2106	1135	967	—	971	—	168
Pender	217	187	215	—	30	28	—
6th District							
Bertie	31	38	35	7	—	—	3
Halifax	86	87	129	1	—	42	—
Hertford	89	58	54	—	31	—	4
Northampton	29	41	31	12	—	—	10
7th District							
Edgecombe	80	64	53	—	16	—	11
Nash	99	115	155	16	—	40	—
Wilson	77	158	195	81	—	37	—
8th District							
Greene	134	136	132	2	—	—	4
Lenoir	174	202	107	28	—	—	95
Wayne	557	322	348	—	235	26	—
TOTAL	5740	4683	4708	477	1550	443	433
1955-56 (–3 courts)	5734	4661	——		(−) 1073		
1956-57 (–2 courts)	—	4683	4693				(+) 10
1955,56,57 (–3 courts)	5734	4661	4681		(−) 1073		(+) 20

TABLE 3B—Pending Cases Reported by Superior Court Clerks to the Administrative Assistant to the Chief Justice

Judicial Division II

SUPERIOR COURTS	*Cases on Civil Issue Docket* July 1 1955	July 1 1956	July 1 1957	*Net Change* 1955-56 (+)	(−)	1956-57 (+)	(−)
9th District							
Franklin	73	56	47	—	17	—	9
Granville	—	87	96	—	—	9	—
Person	100	126	129	26	—	3	—
Vance	133	87	93	—	46	6	—
Warren	7	80	100	73	—	20	—
10th District							
Wake	1691	1667	1827	—	24	160	—
11th District							
Harnett	222	189	160	—	33	—	29
Lee	91	86	109	—	5	23	—
Johnston	179	164	200	—	15	36	—
12th District							
Cumberland	205	210	210	5	—	—	—
Hoke	6	35	34	29	—	—	1
13th District							
Bladen	107	60	74	—	47	14	—
Brunswick	220	193	265	—	27	72	—
Columbus	620	442	413	—	178	—	29
14th District							
Durham	602	468	561	—	134	93	—
15th District							
Alamance	243	240	249	—	3	9	—
Chatham	125	217	207	92	—	—	10
Orange	108	115	78	7	—	—	37
16th District							
Robeson	278	212	110	—	66	—	102
Scotland	47	76	65	29	—	—	11
TOTAL	5057	4810	5027	261	595	445	228
1955-56 (–1 court)	5057	4723	——	(−) 334			
1956-57 (complete)	——	4810	5027			(+) 217	
1955, 56, 57 (—1 court)	5057	4723	4931	(−) 334		(+) 208	

TABLE 3C—Pending Cases Reported by Superior Court Clerks to the Administrative Assistant to the Chief Justice

Judicial Division III

SUPERIOR COURTS	*Cases on Civil Issue Docket* July 1 1955	July 1 1956	July 1 1957	*Net Change* 1955-56 (+)	(−)	1956-57 (+)	(−)
17th District							
Caswell	27	58	79	31	—	21	—
Rockingham	230	247	202	17	—	—	45
Stokes	15	20	19	5	—	—	1
Surry	167	312	357	145	—	45	—
18th District							
Guilford, Greensboro Division	396	327	292	—	69	—	35
Guilford, High Point Division	159	161	224	2	—	63	—
19th District							
Cabarrus	336	295	308	—	41	13	—
Montgomery	11	26	26	15	—	—	—
Randolph	132	150	133	18	—	—	17
Rowan	98	135	159	37	—	24	—
20th District							
Anson	101	114	126	13	—	12	—
Moore	152	66	40	—	86	—	26
Richmond	272	246	241	—	26	—	5
Stanly	66	13	37	—	53	24	—
Union	45	99	78	54	—	—	21
21st District							
Forsyth	404	328	474	—	76	146	—
22nd District							
Alexander	19	7	23	—	12	16	—
Davidson	105	145	164	40	—	19	—
Davie	42	36	42	—	6	6	—
Iredell	194	127	104	—	67	—	23
23rd District							
Alleghany	18	35	30	17	—	—	5
Ashe	—	54	56	—	—	2	—
Wilkes	72	79	38	7	—	—	41
Yadkin	44	61	73	17	—	12	—
TOTAL	3105	3141	3325	418	436	403	219
1955-56 (−1 court)	3105	3087	——		(−) 18		
1956-57 (complete)	——	3141	3325				(+) 184
1955, 56, 57 (−1 court)	3105	3087	3269		(−) 18		(+) 182

TABLE 3D—Pending Cases Reported by Superior Court Clerks to the Administrative Assistant to the Chief Justice

Judicial Division IV

SUPERIOR COURTS	*Cases on Civil Issue Docket* July 1 1955	July 1 1956	July 1 1957	*Net Change* 1955-56 (+)	(-)	1956-57 (+)	(-)
24th District							
Avery	12	9	16	—	3	7	—
Madison	21	97	53	76	—	—	44
Mitchell	16	44	—	28	—	—	—
Watauga	14	16	12	2	—	—	4
Yancey	11	35	63	24	—	28	—
25th District							
Burke	21	118	146	97	—	28	—
Caldwell	84	127	98	43	—	—	29
Catawba	302	111	140	—	191	29	—
26th District							
Mecklenburg	—	1858	1619	—	—	—	239
27th District							
Cleveland	149	192	122	43	—	—	70
Gaston	667	635	625	—	32	—	10
Lincoln	51	32	38	—	19	6	—
28th District							
Buncombe	254	237	335	—	17	98	—
29th District							
Henderson	138	107	101	—	31	—	6
McDowell	10	67	61	57	—	—	6
Polk	40	18	36	—	22	18	—
Rutherford	83	37	51	—	46	14	—
Transylvania	3	52	33	49	—	—	19
30th District							
Cherokee	46	58	46	12	—	—	12
Clay	—	6	7	—	—	1	—
Graham	10	9	3	—	1	—	6
Haywood	198	283	234	85	—	—	49
Jackson	34	34	51	—	—	17	—
Macon	4	24	13	20	—	—	11
Swain	48	54	70	6	—	16	—
TOTAL	2216	4260	3973	542	362	262	505
1955-56 (–2 courts)	2216	2396	——	(+) 180			
1956-57 (–1 court)	——	4216	3973			(–) 243	
1955, 56, 57 (–3 courts)	2200	2352	2347	(+) 152		(–) 5	

TABLE 4—Pending Cases in Each Judicial Division as Reported by Superior Court Clerks
1955-1956-1957

JUDICIAL DIVISION	*Cases on Civil Issue Dockets* July 1, 1955	July 1, 1956	*Net Change* (+)	(–)
I (–3 courts)	5,734	4,661		1073
II (–1 court)	5,057	4,723		334
III (–1 court)	3,105	3,087		18
IV (–2 courts)	2,216	2,396	180	
TOTAL (93 courts)	16,112	14,867	180	1425
Net Change	(–)1245		(–)1245	

JUDICIAL DIVISION	*Cases on Civil Issue Dockets* July 1, 1956	July 1, 1957	*Net Change* (+)	(–)
I (–2 courts)	4,683	4,693	10	
II	4,810	5,027	217	
III	3,141	3,325	184	
IV (–1 court)	4,216	3,973		243
TOTAL (97 courts)	16,850	17,018	411	243
Net Change	(+)168		(+)168	

JUDICIAL DIVISION	*Cases on Civil Issue Dockets* July 1 1955	July 1 1956	July 1 1957	*Net Change* 1955-56 (+)	(–)	1956-57 (+)	(–)
I (–3 courts)	5,734	4,661	4,681		1073	20	
II (–1 court)	5,057	4,723	4,931		334	208	
III (–1 court)	3,105	3,087	3,269		18	182	
IV (–3 courts)	2,200	2,352	2,347	152			5
TOTAL (92 courts)	16,096	14,823	15,228	152	1425	410	5
Net Change	(–)1273	(+)405		(–)1273		(+)405	

TABLE 5—Civil Cases Pending—17 Superior Courts
Clerks' Reports to Administrative Assistant Compared with Field Count by Court Study Research Staff

District	*Court*	*Clerk's Report 6/30/57*	*Court Study Count*	*Date (1957)*	*Difference*	*Notes*
1	Currituck	17	17	8/1	—	20 additional very old tax cases.
2	Beaufort	181	510	7/30	329	300 additional very old summons docket cases.
4	Onslow	79	196	7/19	117	
	Sampson	217	327	7/23	110	
5	New Hanover	967	1145	8/30	178	166 additional "off-docket" cases.
6	Bertie	35	36	7/30	1	87 additional cases "not at issue."
7	Wilson	195	226	7/24	31	546 additional cases: 188 "not at issue," plus 428 in "dead file."
8	Lenoir	107	454	7/24	347	
11	Johnston	200	514	8/20	314	574 additional cases: 164 with papers missing, plus 410 over ten years old.
12	Cumberland	210	703	8/1	493	
13	Bladen	74	141	7/8	67	
18	Guilford	516	1650	8/26	1134	Both figures include Guilford and High Point divisions, A and B calendars.
20	Stanly	37	156	8/2	119	
21	Forsyth	474	543	7/1	69	
29	Henderson	101	581	7/10	480	
	Rutherford	51	115	7/18	64	26 additional cases "not at issue."
30	Cherokee	46	218	7/13	172	90 additional cases over ten years old.
	TOTALS:	3507	7532		4025	+1809=5834 additional cases.