

February 13, 1974

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DRAFT OF ROBERT MORGAN'S REMARKS TO THE PUBLIC HEARING ON
THE CRIMINAL CODE PROPOSAL

Ladies and gentlemen of the General Assembly, I am glad to have the opportunity to come before you today in support of legislation which I think represents the best and most constructive efforts to improve the administration of justice in North Carolina in my lifetime. The bill that I am talking about is, of course, the Pretrial Criminal Procedure Act, originally recommended by the Criminal Code Commission and carefully studied and re-worked by your Select Subcommittee and again by the Judiciary Committees of the House.

The work of the Criminal Code Commission, which we appointed three years ago, has been an example by which all volunteer efforts at constructive legal reform should pattern themselves. These men and women have met and argued the law -- how it is -- and how it ought to be in North Carolina -- with a diligence and intensity that has caused me to be very proud to have been associated with them.

The bill that they put forward, House Bill 256 and Senate Bill 207, which was introduced in the House by Representatives Blackwell and Wade Smith of Wake County, and in the Senate by Senators Godwin and Strickland, represented a fair and even-handed approach to modernizing the administration of justice in North Carolina. There were portions of the bill with which some of our prosecutors did not agree. Likewise, there were segments which some defense counsel could not accept. However, under the leadership of Representatives Twiggs and Stevens,

Chairmen of the Judiciary Committees, and the members of the Judiciary Committees, these conflicts, for the most part, have been hammered out. Representative Smith's Select Committee met, to my knowledge, on four separate weekends during the summer and fall recess and I know of the dedication that the Judiciary Committees have put into consideration of this bill since you reconvened last month. As Attorney General and a citizen of North Carolina, I thank you for your dedication and hard work.

I should say, however, that while I support as I do the thrust of this bill, there are a few points in the bill with which I personally do not agree and which I urge you to carefully reconsider and then delete from the bill. The only points in this most recent draft with which I have real problems are the requirement for a mandatory probable cause hearing in felony cases, before the District Attorney can send a bill of indictment to the Grand Jury. I believe that that requirement as a mandatory item is unnecessary, especially when you consider the value and benefit of the discovery provisions of the bill. I believe that this provision will unnecessarily clog the courts of our State. The second point with which I have some disagreement is the amendments made in the Judiciary Committee which tend to limit and impair the prosecutor's flexibility in amending criminal process. Those restrictions and impairments on the prosecutor's right to amend will, in my opinion, require many cases to be retried and in some cases the interests of justice will be frustrated.

Let me re-emphasize, however, that all in all, the bill as hammered out thus far, with the two further changes that I suggest, is a giant step forward for the administration of justice. For the first time in my life as a practicing lawyer the rules of the game are set down for all to see -- law enforcement officer, defense lawyer, prosecutor and judge alike. No longer will there be the endless guessing game that goes on in criminal investigations and criminal trials, where lawyers and judges disagree about the impact of the decisions of the appellate courts.

I urge that you enact this legislation and that you support its efforts to make the administration of justice more efficient, quicker and cheaper in terms of wasted effort and time. Perhaps, the most important aspect of this bill is its aim at reducing inconvenience to the citizens of our State, who play an indispensable role in the administration of justice as jurors, witnesses and unfortunately, as victims.

I appreciate the opportunity to appear and give you my endorsement of the Pretrial Criminal Procedure Act.