

The following indicated footnotes should be amended to read as follows:

217.21, note 5
217.25, note 3
217.26, note 4
217.30, note 4
217.31, note 5

Earlier versions of this instruction advised the judge, "In the event that a defendant relies on a claim of right, the jury should be told that if the defendant honestly believed that he was entitled to take the property he can not be guilty of robbery." In *S. v. Oxner*, 37 N.C. App. 600 (1978) the Court of Appeals affirmed the defendant's armed robbery conviction, finding no error in the trial judge's refusal so to instruct the jury, even though there was evidence that the defendant was trying to collect money which he thought the victim owed him. The Supreme Court, by an equally divided vote, affirmed the opinion of the Court of Appeals "without precedental value." *S. v. Oxner*, 297 N.C. 44 (1979). The cases in other jurisdictions are divided as to whether an individual's claim of right to property is a defense to armed robbery, as opposed to larceny from the person, common law robbery, or assault with a deadly weapon. See, LaFave and Scott, *Criminal Law* §94 at 693-694 (1974). The Committee takes no view as to the correct rule in North Carolina under the current state of our law.

This change has been made on N.C.P.I.--Crim. 217.20 and the above instructions will be issued in the near future with this addition. Until receiving corrected instructions, the trial judge should retain his present copies and this memorandum to keep his book current.

