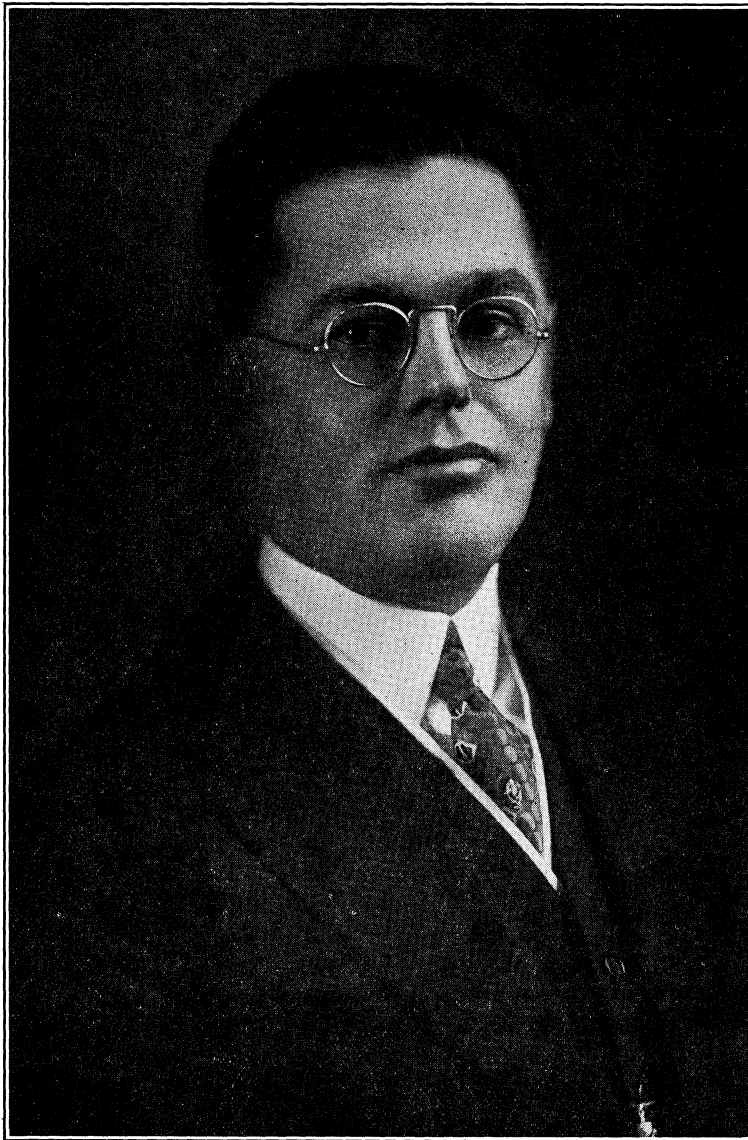


# KANSAS JUDICIAL COUNCIL BULLETIN

APRIL, 1932

PART 1.—SIXTH ANNUAL REPORT



B. I. LITOWICH, President Kansas State Bar Association.

Application at post office at Topeka, Kansas, for second-class matter.



## MEMBERS OF THE JUDICIAL COUNCIL.

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
ROSCOE H. WILSON.....	Jetmore.
Judge Thirty-third Judicial District.	
JOHN W. DAVIS.....	Dodge City.
Chairman Senate Judiciary Committee.	
GEORGE AUSTIN BROWN.....	Wichita.
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE:

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS of Kansas,  
 JUDGES OF STATE COURTS and their associations,  
 COURT OFFICIALS and their associations,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout  
 the state,  
 For the improvement of our Judicial System and its more  
 efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kan.

APRIL, 1932

## TABLE OF CONTENTS.

	PAGE
1. FOREWORD.....	3
2. LAWYERS: THEIR HELPFULNESS TO THE COMMONWEALTH.....	5
By B. I. Litowich, President Kansas State Bar Association.	
3. THE SOUTHWESTERN KANSAS BAR ASSOCIATION.....	7
By JUDGE ROSCOE H. WILSON, President.	
4. THE NORTHWESTERN KANSAS BAR ASSOCIATION.....	7
By E. C. Flood, President.	
5. DISTRICT JUDGES' ASSOCIATION.....	9
By JUDGE RAY H. BEALS.	
6. THE JUDICIAL COUNCIL: WHAT IT IS DOING NOW.....	10
7. A CODE OF PROCEDURE FOR THE PROBATE, JUVENILE AND COUNTY COURTS OF KANSAS.....	13
By JUDGE J. C. RUPPENTHAL.	
8. ECONOMY IN JURY TRIALS.....	16
By JUDGE E. L. FISCHER.	
9. CONFUSION IN CONDEMNATION PROCEDURE.....	18
By CHESTER STEVENS.	
10. THE REDEMPTION PERIOD IN FORECLOSURES.....	21
By GEORGE AUSTIN BROWN.	
11. ITEMS OF INTEREST.....	22
12. PROGRAM, STATE BAR ASSOCIATION.....	23

## FOREWORD.

This bulletin is issued as Part 1 of our Sixth Annual Report. By issuing our report in the form of periodical bulletins we believe we can keep in more accurate touch with trial courts, attorneys and others with whom we are co-operating, and with increased beneficial results. Incidentally, there may be a substantial saving in our expenditure for postage.

The publication of this bulletin is timed for distribution shortly before the meeting of the State Bar Association, which will be held May 27 and 28 at Hutchinson, Kan. Other issues will be published in July, October and December. We print herein an interesting article from B. I. Litowich, of Salina, president of the association, and one of the leading lawyers of the state, on "Lawyers: Their Helpfulness to the Commonwealth." We print also the program of the association furnished us by its secretary, W. E. Stanley, of Wichita.

This discloses that every meeting of the association from the opening of the first session to the last toast of the banquet will be full of interest. Every

lawyer can attend these sessions with pleasure and profit. The Association of District Judges and the Organization of Court Reporters will hold meetings to discuss matters of special interest to them. The attorney-general has asked the county attorneys to meet, and one or more sessions of that group will be crowded in so as not to interfere with the meetings of the State Bar Association. The Judicial Council will meet one day early, on May 26. The district judges have been invited to attend this meeting, and we hope all of them will do so.

Hutchinson is one of the good, live cities of Kansas. Its local bar association, assisted by leading citizens and organizations of the city, has made extensive preparations for the comfort and entertainment of its guests. Altogether the meeting bids fair to be unusually entertaining and instructive. Every lawyer of the state should be a member of the State Bar Association and attend its meetings, and thereby extend his acquaintance with the members of his profession and the judges of our courts, broaden his knowledge of law and humanity, increase his ability as a lawyer, make him more useful to his community, and enable him to augment the financial returns from his labors.

We have a short article from Judge Roscoe H. Wilson relating to the activities of the Southwestern Kansas Bar Association, and a more detailed article from E. C. Flood, of Hays, concerning the organization and meeting of the Northwestern Kansas Bar Association. These are active organizations doing efficient work along specific lines. In many of the counties, and in some of the judicial districts composed of two or more counties, local bar associations are doing similar work. We have made no effort to get articles as to specific activities of these organizations for this bulletin, but may do so for a later one. Collectively they show a widespread interest and active efforts on the part of the lawyers of the state for the improvement of our judicial system.

The judges of southwestern Kansas have been having monthly meetings, and Judge Ray H. Beals, in a brief article, tells us something of the nature and benefits of these meetings. A group of judges in northwestern Kansas have been holding similar meetings for the last year. We believe other groups should be organized over the state. Certainly beneficial results can come from such meetings.

We have an article dealing with the work of the Judicial Council and the specific problems now receiving its attention, and special articles by Judge Ruppenthal on procedure in probate courts, by Judge Fischer on jury trials and their cost, by Mr. Chester Stevens on procedure in eminent domain, and by Hon. George Austin Brown on suggested modification of our redemption statute, and a few additional items of special interest.

## Lawyers: Their Helpfulness to the Commonwealth.

By B. I. LITOWICH.

The lawyers of any commonwealth can and should be helpful to that commonwealth. The helpfulness need not necessarily consist of theories, or of attempts to carry out high ideals; but at least it can consist of practical action. If a lawyer is a good citizen he is unconsciously of practical assistance; and, if he lends his efforts to assist in doing constructive work of any kind, he is helpful and is of material assistance.

There are very few days in a lawyer's practice but what he will accidentally find something that should be corrected. Many of those matters are of small consequence and their correction would benefit only a few; however, occasionally he will find conditions the correction of which would be of material benefit to the community as a whole. The latter deserve his attention, and he should assist in remedying them. In order to be of assistance it is not necessary for him to become a crusader, a radical or a reformer. The lawyer should never be any of them. His nature, experience and ability should lead to conservatism in all matters, and especially in practical and governmental affairs.

Conditions referred to herein are not only political, but conditions generally, and more specifically those pertaining to the legal status, statutes or laws. These conditions which need changing can best be corrected if the party who has discovered them will present them in a proper manner to the Bar Association, which can assist in making such changes as are proper, providing the members of the association and the lawyers of the state will take a proper interest. The lawyers of Kansas, through the Bar Association, have been responsible for several changes in the administration of justice, and it is primarily responsible for the Judicial Council. However, many lawyers of the state have not given the Bar Association the help and assistance they should give it. Many matters have been called to the attention of lawyers who have not given them even a passing thought.

When the Kansas Statutes were revised the revision committee communicated with lawyers over the state of Kansas, asking for suggestions; very few of the lawyers heeded this request for assistance. The Judicial Council has asked for assistance from lawyers in order to correct different situations; but the lawyers of Kansas as a whole have not given the Judicial Council that assistance, and it has been said that many of the judges of the district courts of Kansas thought that the Judicial Council was trying to dictate to them. The Judicial Council has done a great deal of good work; its members have devoted a great deal of time, thought and energy to the work, and they deserve a lot of credit and should be complimented for the conscientious endeavors they have put forth.

The Bar Association of Kansas can do a most constructive work over a period of years, and it is the duty of the lawyers to cause the association to perform such constructive service. The association in the past, with a few possible exceptions, has had programs which were a benefit to the lawyers. The program which they will have this year is designed for the purpose of providing something of interest to the lawyers and their conduct. This association should have a broader object in view. It is perfectly proper for it to have such a program; but if a portion of its work were devoted to mak-

ing suggestions with reference to changes in the statutes, which would be of benefit to the public at large, then the association would be of inestimable benefit to the whole state of Kansas.

There are statutes upon the books which are obsolete; there are others which are inconsistent with the present-day scheme of things; there are others upon the books which it is impractical to enforce. In this reference criminal statutes are not included. All of these should be changed. There are statutes which prevent expansion of business; there are others which prohibit lawful transactions by certain corporations, and still others which, with proper interpretation, would interfere with the conduct of business. These should also be corrected, and the only means of making such corrections is through the legislature.

All members of the Bar Association can assist in making the necessary corrections by a proper cultivation of and contact with members of the legislature. Lawyers have always been accused of interfering with legislation. It is the universal opinion that if a lawyer attempts to suggest or interfere with legislation he has "an axe to grind." The public at large feels that the lawyers have an ulterior motive and that they represent some client. This feeling will never be overcome.

When a lawyer approaches a member of the legislature upon a matter of this kind he will always be suspected and regarded with suspicion. That condition is to be regretted. There is no reason why anyone should try to place the blame or try to overcome it. The only thing to do is for each lawyer to remember that he has such a handicap and explain to the member of the legislature from his district, frankly and candidly, the reason such a change should be made. Of course, the practical side of this theory is the character of the individual member of the legislature. The only answer to that is that the lawyers in their respective districts should assist in obtaining and inducing strong, conservative persons to serve in such capacity. Such a person does not have to be a lawyer, but if he is conservative, strong, and a sound individual, he can see the force of any argument supporting any change. Good citizenship demands that strong men sacrifice their time for the benefit of their community and their state. Members of the legislature cannot all be lawyers, and all lawyers cannot be members of the legislature, but all lawyers can be of assistance in obtaining proper persons for the legislature. Conservative legislation is the only legislation which can be beneficial to any community. Radical legislation is always ultimately detrimental, no matter how beneficial immediate results may seem.

Many lawyers do not take the interest in matters of this kind that their position in the community in which they live demands. The reason for this is that they are occupied looking after the interests of their clients. That duty, of course, may be the first duty of every lawyer. However, he could take a little time to assist in obtaining the proper persons to become candidates for the legislature if he so desired, and could make such suggestions of any changes necessary for the advancement of his community, advancement of good citizenship and the advancement of good business.

Lawyers can assist in making their communities better communities; the administration of justice more fair, and place themselves in our scheme of government more secure, prominent and influential. There never was a more opportune time, and never have we had times when assistance of this kind is more needed.

## The Southwestern Kansas Bar Association.

By JUDGE ROSCOE H. WILSON.

The movement for the organization of the Southwestern Kansas Bar Association was initiated at a meeting of the lawyers of that territory, held at Garden City in December, 1924. In January, 1925, at a meeting held at Dodge City, the association was organized. Carl Van Riper was the first president of the association and A. J. Fleming the first secretary.

The association originally comprised the counties contained in the thirty-first, thirty-second, thirty-third and thirty-ninth judicial districts, and later, at the request of the lawyers residing in those counties, the counties of the twentieth judicial district were added to the association.

Two meetings are held each year, one usually in June, and the annual meeting the latter part of December. The June meetings are held at various places in the territory and the annual meeting is held at Dodge City, that being the most central point.

Very interesting programs have been provided at each meeting. Some distinguished judge or lawyer has always had a place on the program, and nearly every year the president of the State Bar Association has been present and addressed one of the meetings. Matters of interest to the members have been stressed and much helpful and constructive work has been accomplished by the association. One of the notable accomplishments has been the adoption of a set of uniform requirements for abstracts. Some twelve or fifteen mooted questions regarding requirements on abstracts have been discussed, and the association has adopted a recommendation whether or not a requirement should be made.

Fully seventy-five per cent of the practicing lawyers living within the territory of the association are members, and usually about eighty lawyers are in attendance at the meetings. The association has been very fortunate for several years in having John C. King, of Liberal, as its secretary. Mr. King is a former court reporter and keeps stenographic notes of all the proceedings, which are printed and distributed to the members each year.

The next meeting of the Southwestern Kansas Bar Association will be held at Garden City on June 22, 1932.

---

## Bar Association of Northwestern Kansas.

By E. C. FLOOD.

The Bar Association of Northwestern Kansas was organized at a meeting of the members of the bar of the sixth congressional district held at Stockton, Kan., May 23, 1929, upon the call of Hon. John S. Dawson, a member of the executive council of the State Bar Association. A permanent organization covering the twenty-two counties in the sixth congressional district was perfected. The constitution provided for three general officers; an executive committee, consisting of the three general officers, *ex officio*, and one member from each judicial district; and a general council, consisting of one member from each county. The following were elected as general officers for the first year: President, H. McCaslin, of Osborne; vice president, J. F. Bennett, of Norton; and secretary-treasurer, E. C. Flood, of Hays. Justice Dawson pre-

sided at this meeting, and his residence being within the sixth congressional district, he has been an active member of the association since its organization, and has attended all the annual meetings. About seventy-five members of the bar, mostly from the sixth congressional district, were present at this first meeting, and among the prominent members of the Kansas bar from outside the sixth district who attended were: Hon. Charles D. Shukers, of Independence, president of the State Bar Association; William A. Smith, attorney-general; Roland Boynton, then assistant attorney-general; and Charles L. Hunt, of Concordia, a member of the Judicial Council. Mr. Shukers made an able address, and some of the work of the Judicial Council was discussed by Mr. Hunt and by Judge Ruppenthal, the latter also being a member of the Judicial Council.

This association has continued to hold annual meetings since its organization. The second meeting was held at Phillipsburg, June 11, 1930. The third meeting, held at Hays, June 11, 1931, was a joint meeting of this association and the Southwest Kansas Bar Association. The general officers for the year 1930-1931 were: President, W. A. Barron, Phillipsburg; vice president, G. E. Teeple, Mankato; secretary-treasurer, E. C. Flood, Hays. Those for the current year, 1931-1932, are: President, E. C. Flood, Hays; vice president, E. H. Benson, Colby; secretary-treasurer, J. C. Ruppenthal, Russell. At the 1931 meeting the four new counties of the sixth congressional district, namely, Republic, Cloud, Ottawa and Saline, were included in the territory covered by this association. The association now has an active membership of about eighty-five, which is approximately sixty to sixty-five per cent of the practicing lawyers in the now twenty-six counties of the sixth congressional district.

In addition to interesting talks or papers at each meeting by members of the association, some very able and instructive addresses by prominent outsiders have been given. At the Phillipsburg meeting, in 1930, Hon. R. A. Burch, of the supreme court, read a scholarly and very well-written paper on "Principles and Methods of Legal Research," and Judge Roscoe H. Wilson, of Jetmore, gave an interesting and instructive address on "State Constabulary Police." At the Hays meeting, in 1931, a most interesting address on "The Judiciary" was given by Justice Sloan, of the supreme court, and an instructive paper on "Scientific Document Identification" was read by J. C. Shearman, of Wichita; and W. H. Vernon, of Larned, of the Southwest Kansas Bar Association, discussed in an interesting as well as entertaining way the question of a "United States District Court for Western Kansas."

A keen interest in the banquet programs seems to have kept up. Speakers from outside of the membership of the association on these programs have included Hon. William A. Smith, in 1929; Hon. R. A. Burch, in 1930; and Hon. J. M. Challiss, of Atchison, and Hon. F. Dumont Smith, of Hutchinson, in 1931.

About one hundred members of the two bar associations and quite a number of outsiders attended the joint meeting of the Northwestern and Southwestern Kansas Bar Associations meeting at Hays in 1931. Five of the justices of the supreme court, namely, Dawson, Harvey, Hutchison, Smith and Sloan; Attorney-general Boynton; about ten district judges, and several members of the Judicial Council (which had been in session at Hays the day before) attended this meeting at Hays. It was apparently the consensus of the opinion of the members of both bar associations that this experiment of the joint meeting of

the two associations was a success, and that more of such joint meetings of the two associations should be held in the future.

Perhaps following the precedent set at the first meeting at Stockton in 1929, the work of the Judicial Council has been a topic of discussion at every meeting of the Bar Association of Northwestern Kansas. At the Phillipsburg meeting, in 1930, such discussion was principally over the recent rules of the supreme court, adopted on recommendation of the Judicial Council, the discussion being led by the district judges present at such meeting, and C. L. Hunt, of Concordia, a member of the Judicial Council, also took a part in this discussion. The question of a "State Police System" was also discussed at this meeting, and apparently a great deal of interest was taken in this question by practically all of those present. At the Hays meeting, in 1931, Justice Harvey, chairman of the Judicial Council, gave a very thorough and interesting report of the work of the Judicial Council since its organization.

The 1932 annual meeting of the Bar Association of Northwestern Kansas will be held at Colby on June 15. The committee in charge hope to have an interesting program, one of the features of which will be a discussion of the question of amendments or complete revision of our laws relating to probate court procedure and of our substantive laws relating to wills and the administration of estates of decedents, minors and other incompetents, these being matters that the Judicial Council has had under consideration for some time.

---

### **District Judges' Association.**

By JUDGE RAY H. BEALS.

The district judges in the judicial districts which comprise the area of the Southwestern Kansas Bar Association have for several years been holding meetings on the fourth Saturday of each month. The judicial districts are the twentieth, the thirty-first, the thirty-second, the thirty-third and the thirty-ninth, and the five judges of the districts have been meeting at Dodge City.

Judge Roscoe H. Wilson, of Jetmore, suggested several years ago that the district judges have these monthly meetings. At first it was started as an experiment, but now it is as much a part of the routine work of the district judge as are his motion days. Dodge City is a central point which makes it convenient for all of the members to attend.

The judges meet at 10 o'clock in the morning at the courthouse in Dodge City. The meeting is immediately called to order by Judge Wilson, who is president of the Southwestern Kansas District Judges' Association, and actual cases are taken up. Each judge states the facts in some particular case pending before him, and the discussion begins, and as we have a good law library at Dodge City we also have access to the books, if there is a serious dispute about the law of a case. After the matter is gone into thoroughly, and after each judge has stated his views on the proposition, then each judge gives his opinion as to what he believes to be the law of the case.

During the day at least fifteen or twenty separate cases can be discussed before five o'clock p.m., the hour of adjournment, and it goes without saying that it does everyone present a good deal of good to have the views of the other judges on his particular legal proposition, because people look at the



same set of facts from different angles and think different rules of law apply to the same state of facts. At least, the judge who has the case under consideration, or the judge before whom the case is pending, has the views and ideas of the others.

Questions of procedure are also discussed, and the question of the best way to deal with paroles, contempt cases, orders for the support of children, etc., and it is a good law school to say the least.

During these meetings we have had other district judges meet with us, and we have also met with the Judicial Council.

Probably the best thing that can be said for a meeting of district judges once a month is the exchange of ideas which takes place. Everyone knows that the law is not an exact science. One judge may have the idea what the law is in the case, but suggestions of other judges may give him an entirely new idea about it, or a new angle on the law, and a discussion of any legal proposition from disinterested judges is very beneficial to say the least. In fact, instead of being drudgery these meetings are looked forward to with pleasure, and instead of the time dragging, the day is over all too quickly, but it is remarkable how much ground can be covered in six or eight hours' discussion.

Another phase of these meetings is, when time affords, the latest decisions of the supreme court are discussed, especially any new question that has been decided.

Our meetings have been made more enjoyable by reason of the fact that we take lunch with the members of the Dodge City Bar.

The fact that these meetings have been held for several years and that there is generally 100 per cent attendance is the best proof of their success.

---

### **The Judicial Council: What It Is Doing Now.**

Through the activities of the State Bar Association the legislature was prevailed upon to enact the statute which created the Judicial Council and outlined its duties. It is required to make a continual study of the judicial system of our state, collect data and other information from available sources, and make recommendations to the courts and annually to the governor for the improvement in the efficiency of our judicial system and the more prompt dispatch of business in our courts.

The judiciary is a branch of our government. Government, as we organize and maintain it, is designed to be beneficial to the people composing it. The judiciary as a branch of our government should be so organized in its framework and the business conducted therein should be by such procedure that the result of its activities and decisions should be beneficial to the people, and especially should these be so that they do not hamper the people in the orderly and desirable progress of their personal, business and governmental affairs.

To accomplish these results it is essential that we have a system of courts readily available for use as the occasions therefor arise, and properly equipped to transact the business presented to them. First and last, every controverted question of importance which arises among our people in their per-

sonal, business or governmental affairs is or may be presented to the courts for determination.

The structure of our judicial system, as we have studied it, discloses that it has many points of merit and some glaring defects. Naturally, the meritorious provisions should stand and the defective ones should be eliminated or modified.

For the improvement of the structure of our judicial system two measures have been tentatively outlined and proposed by the Judicial Council. First, a rewriting of the judicial article of our constitution. This is discussed in some detail, pages 18 to 21, and a copy of the proposed redraft of the article is set out, page 185 in our 1931 report. Some features of it were discussed in our earlier reports. We shall not take space to repeat these discussions here. We have received many letters and other comments from attorneys and others on this suggested redraft of the judicial article of our constitution. Most of these are favorable to the proposal. We would appreciate a more careful study of this measure by the jurists and lawyers of the state than apparently has been given it, and comments, whether favorable or unfavorable, thereon in order that we may be aided in the final draft to be presented to the legislature at its next session for adoption.

The second measure which we have tentatively prepared with regard to the structure of our judicial system is a proposed legislative enactment for the reorganization of our judicial system below the district court. So far as the structure of our judicial system is concerned, no complaint is made of the district court nor of the supreme court. They are adequate to our needs, and should, of course, remain. But the structure of our judicial system inferior to our district courts is unsatisfactory, and has been for many years. Our constitutional and statutory provisions relating to justice-of-the-peace courts should be abolished. While in a few localities in the state justices of the peace are still elected who perform a useful public service, taken as a whole these courts have proved to be unsatisfactory, and in one way and another statutes designed to eliminate them have been enacted applicable to certain cities or counties; and in the great majority of the townships in the state the people do not elect such officers, although authorized by statute to do so. There has been created in perhaps a dozen of the larger cities of the state, either under special acts or a general law designed for that purpose, what is known as city courts, with a full complement of officers—judges, clerks and marshals. All of these statutes eliminate the active duties of the justice of the peace. Most of these perform useful functions as units of our judiciary and are greatly superior to the justice-of-the-peace courts which they superseded. The people of the county in which such cities are situated are entitled to as good courts as the cities have by these acts, and can be given such courts, and with less expense, by the measure which we have proposed. We have a general law for the creation of county courts, available to counties desiring such courts, by their county commissioners adopting a resolution taking advantage of the law. This statute makes the judge of the probate court the judge of the county court. More than twenty counties have taken advantage of this law and created such county courts. They function well where the judge of the court is a man capable of performing the duties of that position. While the statute does not eliminate justices of the peace in such counties, the practical effect of the creation of the court, when it is well officered, is that the business

formerly taken to justice-of-the-peace courts is now taken to the county courts. It creates no new offices of clerks or marshals.

The Judicial Council has proposed a measure—discussed at pages 24 and 25 and a copy set out at page 191 of our 1931 report—for the reorganization of our judicial system below the district court by creating a probate and county court having the jurisdiction of the present probate court, juvenile court and justice of the peace, and in addition thereto jurisdiction in civil actions for the recovery of money or specific personal property where the amount involved does not exceed \$1,000, the process from this court to be handled by the sheriff. It provides for divisions of the court and that it may sit at more than one place in the county as the business may require. We shall not take space to repeat the discussion contained in our 1931 report concerning this measure. We add only this—that the more carefully this measure is studied the more it has grown in favor. We trust the members of the bar will give it more careful study, with the specific idea in mind as to how it would operate in their respective counties, and write us their views. Certainly it would give in each county an adequate court for the prompt hearing of all controversies not within the jurisdiction of the district court, or which for some reason the parties would prefer a more speedy disposition than they could ordinarily get in the district court.

With respect to the procedure in our courts our study disclosed that in the main the procedure in our district courts and in our supreme court is satisfactory, but that in specific details there may be desirable improvement. With respect to some of these we have recommended legislative enactments, which have been discussed in our 1931 and previous reports, which discussion need not be repeated here. We also have recommended some rules which have been promulgated by the supreme court. We shall not pause here to discuss those further than to say that our information convinces us that by the few fairly well-selected rules, recommended by the Judicial Council and promulgated by the supreme court, applicable to district courts, more has been accomplished in the efficiency and promptness of the dispatch of business in our trial courts than has been accomplished by changes made in our code of procedure by the legislature in more than twenty years.

These rules which have been promulgated are subject to modification when changes in them are deemed desirable. We therefore invite reports as to their usefulness in actual practice, with suggestions of modifications which would make them more useful.

It has been suggested to the Judicial Council that two additional rules be promulgated by the supreme court, to be numbered 35 and 36, as follows:

“35. In all cases tried before the court without the aid of a jury, or by the court sitting in chambers, where either party shall urge the application of a presumption of law, the trial judge, upon written request of the party, shall file with the clerk, either separately or as part of his findings of fact and conclusions of law, a written statement as to whether, in deciding a case, he did or did not give effect to the presumption of law contended for.

“36. In trials before the court, without a jury, where evidence is admitted over proper objections, it shall be presumed that such evidence was considered by the court and entered into its final decision in the case.”

We published these suggested rules in our 1931 report (pages 9 and 10), with request for comments thereon. We have received a number of letters from attorneys in the active practice and with wide experience, expressing their

hearty approval of these rules and urging that they be promulgated. We are having a meeting of the Judicial Council at Hutchinson on May 26, at which we have invited the district judges to be present, at which the advisability of promulgating these two rules will be the principal topic for discussion. Some of the trial judges are conforming to them now. Many of the attorneys think it would be better that all of them should do so.

We are at present giving special consideration to the matter of procedure in the probate courts. That an improved procedure is desirable is well recognized. It is a subject which requires much study and in which we desire the coöperation of practicing lawyers throughout the state. We are also giving attention to the possibility of reducing the cost of jury trials without depreciating their efficiency. We are studying measures to clarify procedure in condemnation proceedings, in garnishment proceedings, and to render more efficient our laws with reference to supervision of persons paroled by judges of the district court, and the advisability of a suggested change in our redemption law. These and other matters previously mentioned in our reports will be discussed more fully in later bulletins. In the meantime we would appreciate suggestions from the bar upon any of these matters.

We shall not this year collect data from clerks of the district court as we have in the past. We have now collected data from such courts on the same forms for five years, and have an accumulation of statistics which forms a fair basis for recommendations in so far as such statistics may be utilized for that purpose. In fact, we have never had sufficient clerical help to compile from these reports all of the information which they show and which might be valuable. We shall endeavor to make some compilations of that class of matters from reports already received. It is quite possible that next year we shall again collect data from clerks of the district court, possibly on forms somewhat different from those used in the past; but that is a matter still to be determined.

While compared with some of the other states our judiciary is functioning well, there is room for substantial improvement in it, which perhaps can be made only by a careful study and by the coöperation of the bench and bar of the state.

---

## **A Code of Procedure for the Probate, Juvenile and County Courts of Kansas.**

By JUDGE J. C. RUPPENTHAL.

"It is to be regretted that in preparing the new surrogate court rules, the board of county court judges did not frame a complete code of practice and procedure, instead of leaving the puzzled practitioner to wander through the mazes Tristram & Coote." This quotation from the preface of a Canadian work on Surrogate Court Practice and Procedure," by C. H. Widdifield, judge of surrogate, published in 1917, gives expression to a feeling that pervades the entire legal profession, at least wherever the Anglo-American system of law prevails. Although codes of procedure have been in use more or less for about a hundred years in the United States and in British jurisdictions, these have been limited to civil and criminal fields. Even for those matters longest com-

mitted to probate courts, namely, estates of decedents, and guardians, no state seems so far to have developed, either by statute or by rule of court, a code that sharply separates the procedural or adjective law from the substantive law. Instead, even so recent and voluminous probate code as that of California, in effect August 14, 1931, by legislative enactment, intersperses a large amount of substantive law with a small amount of procedure and rules of practice in its hundred pages.

#### BELIEF IN A CODE.

There is a conviction among the bar of Kansas that practice and procedure in the many matters committed to the probate courts, perhaps including also those of juvenile and county courts wherein the probate judge is judge by virtue of his office, and even the election contest courts of which the probate judge is presiding judge, should be codified. If this is to be done the problem is to lift out the sections and parts of sections that relate to procedure, and arrange them logically in the formulation of a code that will apply wholly or partially to all trials and proceedings wherein the probate judge exercises judicial power.

#### RANGE OF SUBJECT MATTER.

In courts of limited jurisdiction, as are all our courts except the district and supreme courts, a code of practice is of special desirability. This is true as to the original subject matter of probate courts which was estates of deceased persons, and later guardians of minors. Wills came in to a degree. Our Wyandotte constitution added estates of persons of unsound mind, if no more. Legislation either added to the jurisdiction of the probate court or devolved upon the incumbent judge care of the persons as well as of estates of mental defectives, persons of unsound mind, lunatics, distracted persons, idiots, imbeciles, feeble-minded, insane, dangerous and criminal insane, habitual drunkards, drug habitues or addicts; also of minors. Laws committed to the probate court, adoption of children, care of crippled children, matters of apprentices, removal of paupers, guardianship of all kinds, whether of person or estate, trusteeship of estates of convicts, and of minors if no others, and also determination of status as to incompetency, whether by nonage, mental defect, epilepsy or penal sentence, and the determination of decease, of testacy or intestacy, of escheat and of taxation of successions. The probate court must decide as to matters of residence or domicile of decedents, and as well of defectives, incompetents and special classes committed to such court.

#### DUTIES OF PROBATE JUDGE.

As a juvenile court, since 1905, it deals with the dependent, neglected and delinquent children. The probate court has jurisdiction in habeas corpus, makes inquiry and orders in proceedings in aid of execution, and has special powers as to platting, sale and mortgaging real estate in charge. The probate judge is the appointing power in naming two judges of a contest court in disputes over county elections, and presides over such court. Such judge exercises control over private burial grounds, and notifies foreign consuls of matters before him affecting estates or persons of nationals of such foreign countries.

## WORK SO FAR DONE.

The bringing together of all this mass of dissevered material under rules that, as far as may be, will be common to all proceedings and actions in prescribing procedure is the task that is believed to be possible, though laborious. Among the matters to which the Judicial Council of Kansas gave attention very early after organization in 1927 was that of procedure in the probate courts. Members have examined nearly all statutory provisions of the states of the American Union, the provinces of Canada, and of Great Britain, besides searching the textbooks on probate matters and the law-magazine literature for a generation past. The Bar Association of Northwest Kansas has a special committee at work on this topic, and besides giving over its 1932 program largely to a discussion of probate practice and procedure, plans to co-operate with a similar committee of the Southwest Kansas Bar Association. The law schools have shown an interest.

## ADVERSARY PROCEEDINGS.

A few tentative conclusions are drawn and the matter is put before the bar of the state for entire freedom of discussion and suggestions. At the outset rises the question as to manner of procedure. There is a conviction that jurisdiction of the persons of all interested should be secured, and jurisdiction of both person and estate should be adjudicated with much greater certainty, and then with finality such as is not now known to our probate practice. A feeling that all adjudication in the probate court should be adversary in its nature may be tempered somewhat if jurisdiction of all persons affected, as well as of the estate, is obtained with the certainty of that of courts of general jurisdiction and declared as conclusively. Having thus an invulnerable jurisdiction, proceedings may be in a way *ex parte* as now, or perhaps a better terminology would be, "in common form, or as noncontentious business," as the British and Canadians say. However, when at any stage any necessary or proper party to proceedings files a written request for a particular course, or for certain relief, or in protest to what has been done or is about to be done by personal representative, guardian, trustee, the court or judge, or anyone in relation to the matters before the court, the proceedings at once take on an adversary nature, and become "contentious business," to use again a British term. Both in Canada and England there is recognized the "caveat," which is formal notice in the court by anyone interested, that nothing may be done with relation to the estate, person, etc., without notice to the party filing the caveat. This is not considered as going far enough to make the proceeding adversary or contentious, but any "caveat" or warning could be made sufficient to require the strictness of adversary proceedings.\*

Two alternatives are presented in making a code. One is to create it a complete entity by abstracting procedural parts from the vast mass of

---

\* A proceeding shall be adjudged contentious when an appearance has been entered by any person in opposition to the party proceeding, or when a citation or judge's order has been obtained against a party supposed to be interested in a proceeding, or when an application for grant is made on motion and the right to such grant is opposed, or when application is made to revoke a grant, or when there is contention as to the right to obtain probate or administration, and before contest terminated. (Widdifield, Sur. Proc. & Prac. 383.) Contentious business does not necessarily begin with the entry, or with a warning of a caveat (*ibid.*, p. 383) . . . includes suits in relation to grant of guardianship. . . . In contentious matters, the rules of evidence and the practice and procedure of the supreme court apply to surrogate courts (Canada). (*Ibid.*, 384.)

materials scattered through our statutes from apprentices to taxation, and rounding them out by much-needed filling of great gaps.† The other is to apply our code of civil procedure to all actions, suits and proceedings in the probate court, the juvenile court, the county court, the contest court, and all other matters wherein the incumbent of the office of probate judge acts in a judicial capacity.

In using either of these means to the end of having a visible, concrete, fairly definitive code of probate procedure, two courses are open: (1) The legislature may enact that the code of civil procedure applies with stated exceptions which are named. (2) Or, the legislature may declare that the supreme court shall prescribe rules of practice and procedure for all business of the probate courts. Under the latter license, which would be a direct application of the code of civil procedure (R. S. 60-3825) the supreme court could prescribe the code of civil procedure as applicable to the probate court, and add such exceptions as may seem to be required either by the summary or the noncontentious nature of any proceedings, or otherwise.

#### ALL MAY AID.

If the Bar of Kansas enters upon a course of bettering our probate procedure, nearly every member and every probate judge can contribute to the work from his own experience as to gaps and overlapping, omissions and redundancies, of useless verbiage and ambiguous expression, in the parts at least that supplement the code of civil procedure.

### Economy in Jury Trials.

By JUDGE E. L. FISCHER.

In these days of general slump in public revenue, by reason of falling values, unemployment, inability to pay, and voluntary tax dodging, all means of tax reduction should receive attention.

One of the greatest sources of public expense in most counties of the state is the large amount of jurors' fees. This item has been often referred to by county auditors and others who are familiar with county expenditures.

In other states the same situation exists. In Jackson county, Missouri, the circuit judges recently suggested to the bar that more cases should be tried by the court without a jury, to lessen the burden of civil trials upon the taxpayers. Such a suggestion might be timely in Kansas.

The Judicial Council has had under consideration drafts of bills designed to bring about the practice of trying civil and misdemeanor cases by juries of six instead of twelve. The correct way to accomplish this would, no doubt, be by an amendment to section 5 of the bill of rights of the state constitution, reducing or authorizing the legislature to reduce to six the number of jurors in all civil and misdemeanor cases. Judging from past experience, it appears impractical to wait until an amendment could be submitted and adopted.

---

† Except as otherwise provided, the provisions of the code of civil procedure are applicable to and constitute the rules of practice in the proceedings (relative to probate matters, etc.) (Codes of Ariz., Cal., Idaho, Mont. and Wyo.) Mode of proceeding is in the nature of a suit in equity as distinguished from an action at law . . . in writing . . . on application of a party, or on order of court. The court exercises its powers by means of (1) a citation to the party; (2) an affidavit or verified petition or statement of a party; (3) a subpoena to a witness; (4) orders and decrees; (5) an execution or warrant to enforce them. (Oregon.)

The suggested bill as to civil cases provided in substance that section 60-2903, R. S. 1923, should be amended by adding the words, "Unless a jury of twelve be demanded by either party within ten days after the issues are joined, the trial shall be by six jurors." The draft of the bill relating to misdemeanors provided that there should be added to section 62-1401, R. S. 1923, the following: "In all misdemeanor cases, unless a jury of twelve be demanded by the defendant or complainant or prosecuting attorney before the case is called for trial, they shall be tried by six jurors."

While these proposed bills would not absolutely abolish trials by twelve jurors (which probably could not be done without an amendment to the constitution) they would, in time, materially reduce the number of trials by twelve jurors, if not wholly dispense with them. Such a change might also, by its practicability and great saving, ultimately bring about a constitutional amendment abolishing juries of more than six in civil and misdemeanor cases.

In Wyandotte county the aggregate cost of jurors' fees last year (1931) was \$28,500. In Sedgwick county in 1931 we paid to jurors in fees and mileage, \$33,826; other costs incidental to the jury work was \$4,554.31, making a grand disbursement to the juries of our peers of \$38,380.31. In smaller counties it was less, in proportion to size and court business done. This item of expense could be materially reduced, possibly almost cut in half, by this change in our procedure. No doubt it would raise the standard of jurors by enabling jury-selecting officials to discriminate more carefully as to the character and mental qualifications in making lists of available jurors.

At a meeting of the Judicial Association, consisting of the judges of the district courts, in attendance at the State Bar Association at Topeka, Kan., November 13, 1926, a resolution was unanimously adopted recommending that the legislature enact all necessary measures to amend the statute, and submit constitutional amendments relating to trial by jury to provide, among other things, for trial by six jurors in all civil and misdemeanor cases. Drafts of bills were submitted to the legislature, but up to the present nothing has been accomplished, except, perhaps, some discussion of the question involved. The judges of the district court, having constant actual contact with the situation, would seem to be in a fair position to observe the need and importance of this proposed change in our procedure. Their recommendation should at least warrant fair discussion and serious consideration.

Numerous trials of misdemeanor by juries of six have been found satisfactory. In civil cases there have been many trials by less than twelve, sometimes as few as six, without any apparent evil consequences nor any complaint by the attorneys or parties involved. The tendency would seem to be toward closer application, better concentration and less danger of loose consideration than with the larger number of twelve. Furthermore, there would probably be more expeditious action and fewer hung juries. It is generally conceded with respect to the work of committees that a smaller number is more effective than a larger. Why would not this rule apply to juries?

There is another matter pertaining to jury trials which has also been considered by the Council, *i. e.*, verdicts by three-fourths of the jury or less. Statistics obtained by surveys made by the Council convinced a majority of its members that the problem of hung juries was not sufficiently serious to justify a modification of the old rule of a unanimous verdict or none. The fact remains, however, that there are quite a number of mistrials by disagreement of



juries, thereby necessitating retrials at considerable expense to the taxpayers. Besides the saving of public funds, there is also another feature to be considered, which is that one or two or three men out of twelve should not be compelled to sacrifice their individual judgment as is no doubt done in many cases; neither should three or less be given the power to hang a jury or to force down or up the amount of the verdict as against the conscientious judgment of three-fourths or more of the jurors. Other states have the three-fourths system, and it seems to work satisfactorily. The question is not new in Kansas. At the meeting of the Judicial Association in November, 1926, above referred to, a constitutional amendment was recommended. A bill was later drafted to submit an amendment to the constitution, but was not adopted by the legislature. The State Bar Association has given considerable consideration to the proposition, but it is still an unsettled question which should, and no doubt will from time to time, receive serious consideration by the bar, the legislature and the people. Perhaps this is the opportune time to reopen the discussion of this very important question, and indeed it may be the time when popular interest will bring it to a final decision.

---

### Confusion in Condemnation Procedure.

By CHESTER STEVENS.

Eminent domain is an attribute of sovereignty. It is inherent in government. In a republic it can be limited only by the constitution. The basis for its exercise is the benefit to the public.

The method of its exercise is regarded as a legislative function and all of the states have prescribed methods or rules for exercising it.

The reform movements which have invaded practically every field seem not to have discovered this branch of the law, and little has been said or written concerning uniformity or consistency in the procedure for the exercise of this power. In nearly all of the states no effort has been made to systemize the method whereby the power may be exercised.

In Kansas much confusion, apparent contradiction and ambiguity exists in the statutes conferring the power of eminent domain and defining the manner of its exercise. It is mentioned only once in the constitution, which prohibits the taking of private property for right of way by corporations without first compensation and damages and without regard to benefits conferred. Therefore, the procedure for the exercise of this power rests with the legislature.

Prior to the revision of 1923 there were more than twenty different statutes in the state of Kansas permitting or authorizing the exercise of the power of eminent domain for various objects, many of them simply authorizing the exercise of the power, a few adding indefinite and incomplete rules for procedure, only a few granting the right of appeal, and it may be safely said that none of them, except the act relating to condemnation by railroads, was anything like complete in itself. From time to time the legislature conferred authority to use the power, being an isolated grant, and for one or two purposes only. Separate enactments were made for the following purposes: The state for historical purposes; Board of Administration for coal lands near the Penitentiary; cities and townships for cemetery purposes; cities of each class for change of grade of streets; a general statute authorizing all states to con-

demn for parks, and other statutes giving to the cities of the respective classes the right to condemn for parks and some of them for boulevards and viaducts; for market houses; viaducts and tunnels by railroads; canals; county buildings; drainage works by counties; drainage and levies; condemnation of water; depot grounds; bridges and approaches; sewers; stone quarries; playgrounds; outlet for drainage of storm sewers; county or city for memorials; power-plant dams; school districts and boards of education; railroads; hospitals; telegram and telephone; hydraulic, irrigation, milling and manufacturing companies using power; oil companies; pipe-line companies; water companies; interurban and street railways; and electric transmission.

In some of the statutes special benefits, conferred by the proposed improvement, must be considered in determining the compensation for the land taken, and damages to the remainder. In others nothing is said about benefits and probably they cannot be set off against the award.

In the present state of the statute law, it is frequently a serious question as to how to invoke the power of eminent domain. Due to the very indefinite language of some of the statutes, it is a serious problem as to how to proceed.

Similar confusion, contradiction, ambiguity and incompleteness exist in the laws relating to eminent domain in practically all of the states of the Union. Kansas can come to the forefront by adopting a general law covering this subject, and because it is one of the highest prerogatives of government and directly affects the citizen in his prior ownership and dominion of his property, it is worthy of the most serious consideration. Therefore the high points which can be solved in detail by an appropriate bill are suggested.

Since the true basis of the power of eminent domain rests upon the public use of the property sought to be taken, this should constitute the fundamental and controlling principle in determining when the power of eminent domain may be exercised, and where the use will be beneficial to the public there should be no restriction about its free operation.

Every person, municipality and corporation should be authorized to invoke the power for such purpose. If the use proposed is appropriate and within the power, the extent thereof and the quantity of property necessary should be left to the determination of the party seeking to invoke it.

The application should be in writing, stating the name of the petitioner, or municipality or the state, and if the state or municipality is the petitioner, the resolution, ordinance or other proceeding determining the extent and character of the use and of the property should be set forth. Otherwise the purpose of the condemnation or use to be made of the property should be specifically described.

An accurate and correct description of the lands involved and of the exact boundaries of the part sought to be taken should be set forth, including maps or surveys of the same.

The application should be verified by the petitioner, if a person, or by one of the chief officers, if a corporation or the state or the municipality.

Frequently it is important that condemnation be accomplished as quickly as possible, and therefore the application for the appointment of commissioners to lay off the land necessary and to fix compensation and award damages should be submitted to the judge of the district court in which the land is located. Three commissioners, in the opinion of the judge competent and impartial to perform the duties of condemnation, would be sufficient to protect the rights of all of the parties concerned. The appointment could be filed

with the clerk of the district court and recorded and the report of their proceedings, together with their oath, should be filed in the same office to expedite and make convenient the proceedings on appeal.

To enable the petitioner to obtain possession of the land actually needed without delay, the commissioners could be required to proceed forthwith to actually view, lay off and condemn the lands, award compensation and damages, and file their report with the clerk of the court, and then give notice by personal service upon all owners resident within the county where the land is situated, and notice by publication for thirty days upon nonresidents that such lands had been condemned, with a description of each part thereof, the amount of compensation and damages awarded, benefits deducted, and that the owner or owners should have the right to appeal as to the amount of the award and deduction of benefits to the district court, within sixty days from the filing of the report, with the same right to appeal to the petitioner. Upon the filing of the report, the petitioner could have immediate possession of the lands by paying to the clerk of the court the net amount of the award and giving a good and sufficient bond in a reasonable amount to be approved by the clerk, to pay such additional compensation and damages as might be awarded on the appeal. This would fully protect the landowner and avoid the present delay in obtaining possession.

That notice of the proceedings with the right to be heard cannot be denied to the landowner, and a condemnation proceeding without notice is, by the great weight of authority, in violation of the provisions of the constitution of the United States against the taking of private property without due process of law, and is therefore void. Under the act relating to railroads, notice is specifically provided for, but the petitioner cannot have the possession of the lands until this notice is given, after the expiration of which the commissioners make the condemnation and file their report.

Section 1, chapter 26, Revised Statutes, is intended to constitute a general law governing the procedure for the exercise of the power of eminent domain, except for railroads and interurban railways. However, no provision is made for the giving of notice to the owners of the lands to be taken in the condemnation proceedings, and without such notice there is no question but what the proceedings would be void. What shall constitute sufficient notice, and the manner of the service thereof, should be definitely and specifically fixed by statute.

Under the act of 1864 the fee-simple title passed to the condemner, but that was later changed, and the rule that only the possessory right attends the condemnation, and whenever the lands condemned are abandoned for the use for which they were condemned the possession returns to the fee owner. Because of the well-known fact that in all condemnation proceedings the awards or the verdicts of the juries are nearly always at the top price for the land actually taken and adds thereto a large sum for damages to the lands not taken, it is incompatible with justice that the condemner should have only a possessory right. Having to pay high prices for the lands and for damages to the part not taken, the condemner should be vested with the fee-simple title and thereby make it an actual asset of the condemner.

Benefits specially and actually accruing to the landowner by reason of the improvement should be deducted from the award. Of course this could not be made to apply to rights of way for private corporations without a change in the

constitution. On no theory can the denial of benefits be justified, and where the public improvement or use is actually conducive to the beneficial use or value of the land remaining, proper consideration should be given thereto, and reasonable deduction from the award should be made.

## **The Redemption Period in Foreclosures.**

By GEORGE AUSTIN BROWN.

The present procedure in the foreclosure of a lien is expensive both to the creditor and debtor. The present procedure to sell real property creates considerable expense that may not and in many cases often does not, inure to the benefit of any of the parties. In case the property is redeemed, the expense of foreclosure is a loss to all parties involved in the litigation.

If the creditor in foreclosure proceeding bids the property in, he must pay into court enough money to pay the costs and taxes. Before the debtor can redeem he must pay the amount of the sales price, plus interest, costs and taxes, and any special items mentioned in R. S. 1931 Supp. 60-3443. If the period of redemption was fixed in the judgment and the property ordered sold at the end of the period of redemption, if the same was not redeemed, this would avoid the creditor advancing money to pay costs and taxes, and the debtor would be allowed to redeem for the amount of the sales price and the cost of putting the mortgage debt into judgment. It would not be necessary for the judgment debtor to raise additional money to pay the expenses and taxes that had been paid by the creditor. The cost of foreclosure and the taxes paid by the creditor often amounts to several hundred dollars, and such an additional amount in many cases makes it impossible for the debtor to redeem.

Again, if the property was not sold until the end of the period of redemption, the purchaser would know that he was going to get immediate possession, and he would know the condition of the property at the time of delivery. This would stimulate bidding, not only on behalf of the mortgage creditor, but also on behalf of subsequent lien holders and third persons who might be interested in buying the property.

In order to give the mortgage debtor further protection, the law might provide that if the property is sold for less than the prior mortgage judgment, the mortgage debtor might pay into court the amount of the sales price within a short time, probably three days, in which event the debtor could have the property free from the remainder of the judgment debts.

The junior mortgagee or lien holder would have more protection if the sale was made at the end of the period of redemption. Under the present system the junior lien holder has to advance enough cash to pay the first mortgage, costs and taxes. Under the present condition the lien holder many times will not bid because it means the payment of a large sum of money before the purchaser can get possession and without the purchaser knowing the condition of the property at the time of delivery. If the sale is made at the end of the period of redemption, the junior lien holder could use the property, if needed, as security for obtaining a part of the purchase price. The junior lien holder would many times bid the amount of the first mortgage and his own judgment if the property was ready to be delivered. This procedure would inure to the benefit of the debtor as well as the lien holders in that all of the debts, includ-

ing the first-mortgage debt and the subsequent lien holders' debts, would be paid. Whereas under the present procedure the property is bid in by the prior mortgagor or lien holder and the judgment of the subsequent lien holder still is a personal obligation against the debtor.

### Items of Interest.

FRED R. SMITH, since January, 1915, judge of the district court of the twenty-first judicial district (Clay, Marshall and Riley counties), resigned early this year to enter the practice of law at Manhattan. Edgar C. Bennett, of Marysville, was appointed as his successor.

\* \* \*

HORACE T. PHINNEY, since January, 1929, judge of the district court of the thirty-sixth judicial district (Jackson, Jefferson and Pottawatomie counties), died April 3, 1932. W. F. Challis, of Wamego, was appointed as his successor.

\* \* \*

A FEW YEARS AGO, through the activities of the State Bar Association, a one-volume digest of Kansas reports was prepared by E. H. Hatcher covering cases in our reports up to and including the 125th Kansas. We are advised a supplement is in preparation which will cover cases up to and including the 135th Kansas, which it is estimated will be completed with the July decisions.

\* \* \*

A BILL recommended by the Judicial Council and enacted into law by the legislature (chapter 229, Laws 1931, R. S. 1931 Supp. 61-1001 *et seq.*), relating to appeals from justices of the peace and city and county courts, was recently interpreted by the supreme court in the case of *Brockman v. Bayman*, 135 Kan. 238. The statute is referred to as "a simple and easy method of obtaining a trial *de novo* in the district court."

\* \* \*

OUR STATE LIBRARIAN, Miss Louise McNeal, complying with the provisions of an act of the last session of our legislature, has compiled a catalogue of the law books and those relating to legal subjects in the State Library. This will be printed by the state printer and distributed to lawyers and judges throughout the state. We are told by law-book men that we have one of the best law libraries in the Middle West. Practitioners have not made as much use of it as they could have done if they had known more definitely what it contains. This catalogue will give them this information.

\* \* \*

HARRY K. ALLEN, dean of the Washburn College School of Law, recently published a bulletin in which was discussed a number of cases decided by the supreme court dealing with question of future interest and particularly with the estates tail. It is a valuable contribution to the study of these questions. We understand other bulletins are in contemplation.

\* \* \*

PROF. THOMAS E. ATKINSON, of the faculty of the Kansas University School of Law, has given special study to the law of wills and the administration of estates, and is joint author with Philip Mechem of a case book on those subjects. He has consented to assist the Judicial Council in an advisory capacity in the amendment of our laws relating to probate procedure.

\* \* \*

RULINGS within the last year by the supreme court of the United States on cases sought to be taken to that court from the supreme court of Kansas are as follows: *Hanson v. Kramer*, 131 Kan. 491, appeal dismissed February 2, 1932. *McFall v. Ford*, 133 Kan. 593, 678, certiorari denied March 2, 1932. *Tschreppel v. Missouri-K.-T. Rld. Co.*, 134 Kan. 259, certiorari denied April 28, 1932. There are no cases now pending in the supreme court of the United States from the supreme court of Kansas.

## PROGRAM

### FIFTIETH ANNUAL MEETING OF THE BAR ASSOCIATION OF THE STATE OF KANSAS

Hutchinson, Kan., May 27 and 28, 1931

FRIDAY, MAY 27, 1932.

MORNING SESSION—9:30 A. M.

MEETING PLACE, MIDLAND THEATER

Invocation.

Address of Welcome.....EUSTACE SMITH  
 President's Address.....B. I. LITOWICH  
 Report of the Secretary.....W. E. STANLEY  
 Report of the Treasurer.....JAMES G. NORTON  
 Report of Committee on Prospective Legislation..DOUGLAS HUDSON, *Chairman*  
 Report of Committee on Americanization and  
 Citizenship.....I. M. PLATT, *Chairman*  
 Address: "Some Observations on the French Law and  
 Procedure".....EDWARD E. PEDROJA  
 Report of Committee on Amendment of Laws and  
 Prospective Legislation.....EUSTACE SMITH, *Chairman*

AFTERNOON SESSION—1:30 P. M.

MEETING PLACE, MIDLAND THEATER

Report of Committee on Local Bar Associations.....C. A. BURNETT, *Chairman*  
 Report of Committee on Legal Education and Admission  
 to the Bar.....JOHN S. DAWSON, *Chairman*  
 Address: "Unauthorized Practice of Law"....EDWARD J. McCULLEN, St. Louis  
 Report of Committee on Unauthorized Practice of Law..HARRY HART, *Chairman*  
 Address: "Legal, Social and Industrial Conditions  
 in Russia".....J. D. M. HAMILTON  
 Report of Committee on Professional Ethics.....S. S. ALEXANDER, *Chairman*  
 Report of Committee on Coöperation with American  
 Law Institute .....JOHN A. HALL, *Chairman*

SATURDAY, MAY 28, 1932.

MORNING SESSION—9:30 A. M.

MEETING PLACE, MIDLAND THEATER

Report on the Kansas Annotations to the Restatement  
of the Law.....DEAN HARRY K. ALLEN  
DEAN ROBERT MCNAIR DAVIS

Address: "Incompetent, Irrelevant and Immaterial".....CARL ACKARMAN

Report on Incorporation of the Bar.....AUSTIN M. COWAN

Address: "A Man of Sorrows, Acquainted with Grief".....THEODORE SHORT

AFTERNOON SESSION—1:30 P. M.

MEETING PLACE, MIDLAND THEATER

Report of Committee to Prepare and Revise a Corporation  
Code.....C. L. HUNT, *Chairman*

Address.....HON. MAX D. STEUER, New York

Report on Tentative Plan for Publication of  
*Kansas Legal Journal*.....HON. J. C. RUPPENTHAL

Report of Committee to Revise Constitution and By-laws of the  
Bar Association.

Report of Committee on the Election of Sheriff.

Report of Memorial Committee.....GILBERT H. FRITH, *Chairman*

Report of Resolution Committee.

Report of Nominating Committee.

EVENING SESSION—6:30 P. M.

BISONTE HOTEL.

BANQUET.

Toastmaster.....B. I. LITOWICH

Speakers: HON. SILAS PORTER, HON. MAX D. STEUER, HON. F. DUMONT SMITH,  
HON. ORIE L. PHILLIPS.

All sessions of the Bar Association will be held in the Midland Theater.  
Meetings of the judges will be held in the court room in the new courthouse  
Meetings of the reporters will likewise be held in the courthouse.

## ENTERTAINMENT.

Dutch lunch at Elks Club, 12:15, Friday, May 27.

For the judges and reporters only: Luncheon at State Reformatory, 12:15,  
Saturday, May 28.

For visiting ladies: Friday afternoon, garden party at the home of Hon.  
J. N. Tincher; Friday evening, theater party.

Saturday: 1:15 luncheon, Rorabaugh-Wiley Tea Room, followed by bridge.

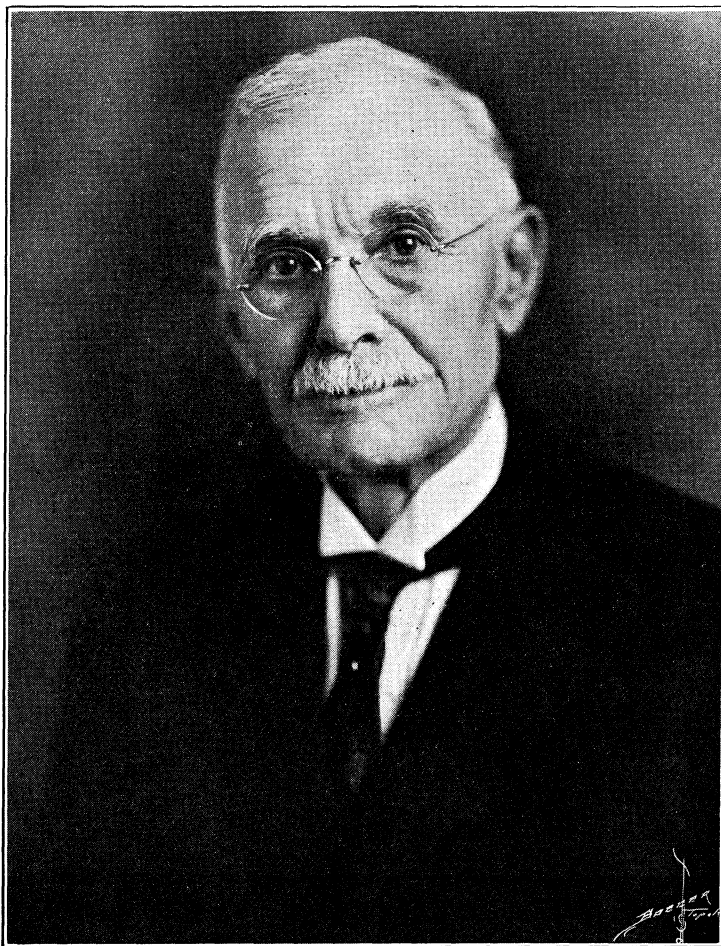
Privileges of the Hutchinson Country Club and the Carey Lake Country  
Club will be available to all registrants.



# KANSAS JUDICIAL COUNCIL BULLETIN

JULY, 1932.

PART 2.—SIXTH ANNUAL REPORT



W. A. JOHNSTON, Chief Justice, Kansas Supreme Court.

Application at post office at Topeka, Kansas, for second-class matter.



## MEMBERS OF THE JUDICIAL COUNCIL.

---

W. W. HARVEY, Chairman.....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, Secretary.....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
ROSCOE H. WILSON.....	Jetmore.
Judge Thirty-third Judicial District.	
JOHN W. DAVIS.....	Dodge City.
Chairman Senate Judiciary Committee.	
GEORGE AUSTIN BROWN.....	Wichita.
Chairman House Judiciary Committee.	
CHARLES L. HUNT .....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE:

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the  
 state,  
 For the improvement of our Judicial System and its more  
 efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kansas.

JULY, 1932

## TABLE OF CONTENTS.

	PAGE
1. FOREWORD .....	27
2. OUR JUDICIARY: ITS IMPROVEMENT .....	30
By W. A. JOHNSTON, Chief Justice Kansas Supreme Court.	
3. THE JUDICIAL COUNCIL: WHAT IT IS DOING NOW.....	32
4. A PROPOSAL TO AMEND THE JUDICIAL ARTICLE OF THE KANSAS CON- STITUTION .....	35
By C. L. HUNT.	
5. EMINENT DOMAIN: A PROPOSED CODE OF PROCEDURE.....	41
By CHESTER STEVENS.	
6. ECONOMY IN JURY TRIALS: MORE CAPABLE JURORS.....	43
By E. L. FISCHER.	
7. NORTHWESTERN KANSAS BAR MEETING .....	47
By J. C. RUPPENTHAL.	
8. SOUTHWESTERN KANSAS BAR MEETING.....	51
By ROSCOE H. WILSON.	

## FOREWORD.

This is the second issue of our BULLETIN, and part 2 of our sixth annual report. The many favorable comments concerning our first BULLETIN from judges, lawyers, and the press throughout the state, encourage us to believe that our report printed in this form is more readily read and produces more beneficial results than when published in one number as our annual report.

The structure of our judicial system and methods of conducting judicial business therein are receiving more attention than perhaps at any time within the history of our state. That both may be improved is clearly recognized. There is developing a genuine spirit of coöperation to accomplish such improvement. To do this requires a thorough, unbiased study of the structure of our judicial system and of procedure therein as they now exist; a realization of what they should be, and the formulation of necessary measures to bring about desired changes.

W. A. Johnston, whose portrait appears on the frontispiece of this BULLETIN, a justice of the supreme court of this state since December 1, 1884, and its chief justice since January 12, 1903, by the statute creating the Judicial Council was authorized to appoint its members other than the chairmen of the judiciary committees of the legislature. He is therefore responsible in the main for the personnel of the Judicial Council and has been interested in its work since its organization. He frequently has been consulted, and repeatedly has given valuable advice concerning its many activities. His long and varied experience, his familiarity with the law, our judicial system and its purpose, and

his intimate knowledge of humanity, the aspirations of our people and the motives which prompt their conduct, render his judgment of exceptional value. We are pleased to print in this BULLETIN an article from him on "Our Judiciary: Its Improvement," with the confidence that it will be read with interest and profit.

This issue contains an article discussing some of the principal things the Judicial Council is doing now; an article by C. L. Hunt on the proposed amendment of the judicial article of our constitution; one by Judge Fischer on greater economy and efficiency in jury trials, with copies of proposed bills; one by Chester Stevens outlining a code of procedure in condemnation cases; a report by Judge Ruppenthal on the meeting of the Northwestern Kansas Bar, and a similar one from Judge Wilson on the meeting of the Southwestern Kansas Bar. These two associations are doing splendid constructive work.

George Austin Brown, whose article in our April BULLETIN on "The Redemption Period in Foreclosures" has aroused much favorable interest, was asked to prepare the form of a proposed bill embodying the ideas contained in the article. He found his time so occupied with his law business that he was unable to complete it for this BULLETIN. It will be completed, however, and appear in our next issue. We believe such a measure can be drawn that will be fair to all interested, materially reduce unnecessary expense and eliminate many confusing questions which now exist.

An interesting and instructive meeting of the State Bar Association was held at Hutchinson last month. It was well attended. The local bar, assisted by other organizations and individuals of the city, provided well for the comfort and recreation of their guests. Gilbert Frith, of Emporia, was elected president for the ensuing year. The program, including a report of the work of the Judicial Council, disclosed an earnest interest in legal matters generally and particularly as they relate to our government, and also specific interest in definite proposals for the improvement of our laws, our judicial system, and procedure therein. We abbreviate our report of this meeting as the State Bar Association, for the first time in its history, is undertaking the publication of a journal to be issued quarterly. The first issue, which will appear perhaps within thirty days, will contain the proceedings of this meeting.

On the day preceding the meeting of the State Bar Association the Judicial Council met at Hutchinson. District judges had been invited to meet with us. Those who could arrange their work so as to enable them to do so accepted the invitation. The following district judges were present: J. H. Wendorff, of Leavenworth, president of the Association of District Judges; Otis E. Hungate, of Topeka; J. G. Somers, of Newton; Tom Kennett, of Concordia; E. E. Kite, of Cheyenne; Ray H. Beals, of St. John; Herman Long, of Wakeeney; Geo. L. Hay, of Kingman; E. L. Fischer, of Kansas City; Wendell Ready, of Wellington; H. E. Walters, of Syracuse; Roscoe H. Wilson, of Jetmore; and F. O. Rindom, of Liberal. The time was largely consumed in discussing practical problems arising in trial courts and the utility of rules previously recommended by the Council and promulgated by the supreme court. The consensus of opinion was that these rules are useful and beneficial. No changes in them were suggested. The two proposed new rules set out on page 12 of our April BULLETIN also were discussed. With some changes which

were suggested placing more responsibility on trial attorneys the consensus of opinion was that they would be beneficial.

Our October BULLETIN, in addition to other matters, will contain some statistics. Our December BULLETIN will consist largely of proposed constitutional and statutory changes. We hope to have them in final form for submission to the legislature. Changes made by the proposed measures in existing provisions will be pointed out and the reasons for them will be given. In the meantime we want all the assistance we can get to help us frame these measures in the form to make them beneficial.

## Our Judiciary: Its Improvement.

By W. A. JOHNSTON.

The work of the Kansas Judicial Council is attracting much attention among judges, lawyers, public officers and others interested in the improvement of the administration of justice. Every citizen and taxpayer is concerned in the operation of our judicial system, and especially that justice shall be administered promptly, justly, efficiently and without unnecessary expense.

The Judicial Department is said to be the most helpless of the three departments of our government, as it has not the sword of the executive nor the purse of the legislature, but must depend for its strength on the intelligence and good judgment of the people in order that the administration of the law be conducted so justly and efficiently as to gain and hold confidence. This can be accomplished only by a procedure which will prevent unnecessary delays, dispense with useless formalities and avoid needless expense. The adoption of rules that will simplify and expedite the business of our courts has been the subject of agitation among judges, lawyers, the press and general public for a number of years. Recognition of the necessity for improvement of our system was taken by the legislature of 1927, when it enacted a statute creating a Judicial Council. That act, in brief, provided that it is the duty of the Council to study the Judicial Department, the condition and volume of business in all courts, the rules and procedure therein, the time elapsing between the starting of actions and the conclusion of them, and the unfinished business at the conclusion of terms. It also directed the Council to obtain and consider suggestions from judges, lawyers, public officials and citizens as to new and better methods, and to recommend changes which it is thought would simplify procedure and expedite business and then submit its conclusions to the courts and judges, and also make an annual report of its work to the governor. Such reports are printed and distributed to members of the legislature, judges of courts, lawyers, and others interested.

The members appointed to the Council under the authority of the act proved to be well qualified for the duties imposed upon them and with a full understanding of the importance and difficulties of the task entered at once upon the work and have carried it out methodically, diligently and with a discriminating judgment and ability that has commanded the approbation of every observing citizen.

The annual reports of the Council and the improvements in the procedure and practice already achieved and the plans for other improvements correcting faults in the system now under consideration abundantly justify the action of the legislature in creating the Judicial Council. In the beginning and for five consecutive years the Council has collected from the records of the different courts the time occupied in trying and disposing of cases, tracing them from the time they were filed until they were finally disposed of on appeal. This information, freely furnished in considerable detail by the court officers, has been studied, and with this information a number of recommendations have been made with a view to simplifying procedure and expediting the business of the courts and correcting what was deemed to be faults in the administration. The reports show consideration of the making of rules by the

supreme court applicable to trial courts, and a number of rules so recommended have been adopted by the supreme court and are now in force.

The Council has assumed that there is no question as to the power of the supreme court to make rules which are not in conflict with the code, since that power has been expressly given by the legislature. It has not yet entered upon the more debatable field of making rules setting aside or amending code rules as being within the power of the court, and which is exercised in some other jurisdictions. The rules recommended and adopted have been in force now for several years and have met the general approval of judges and members of the bar, who are almost unanimous in the view that these rules have proven beneficial and are a real improvement of the system. Many attorneys in the state who were doubtful of the power and propriety of promulgating these rules are now advocating that other rules properly may be made superseding those in the code of civil procedure.

It appears from the reports of the Council that it is making a study of changes that might be made in the structure of our judicial system, changes that can be effected only through constitutional amendment adopted by a vote of the people. The Council has suggested a complete new judicial article of the constitution and has prepared and presented amendments for the consideration of the legislature at some early session. Our judicial article, however well adapted to the conditions existing when it was first adopted, may not be as well suited to present conditions. The law is a thing of growth, and the increase of population and vast economic changes suggest that changes in the structure of our system are necessary. The legislature in an attempt to meet public demands has created various courts under the restrictions of our present constitution with different and overlapping jurisdictions, causing unnecessary expense. There is an apparent need for the unification of the system. The judicial power of the state is scattered among one supreme court, thirty-six district courts, some of which have from two to four divisions, with a judge in each division, one hundred and five probate courts, twenty or more county courts and a great number of city courts with considerable differing degrees of jurisdiction. Without expressing a definite opinion as to the different features of the tentative proposal of the new article on the judiciary, I have no hesitation in saying that it is well worthy of the special attention of the bar and the people. Close study should be given it, as it is still under consideration by the Council and it will welcome suggestions of modification of the whole or any particular part of it.

Suggestions of changes in the system that may be made below the district courts, which might be effected without changing the entire judicial article, have been made by the Council. The suggested changes under this head have been formulated in a tentative act which will be presented for legislative action, and as its provisions are studied it has grown in favor among the members of the bar and those that have given it attention. The necessity for this reorganization by statute will bring substantial relief without waiting for the slow process of constitutional changes. The reasons for the proposed measure have been well stated in the reports of the Council. The Council reasons that the legislature has created a dozen or more courts in large cities, it also has created county courts in twenty counties, the general aim being to find substitutes for the courts of justices of the peace and provide in each county a court

open all of the time for the transaction of business. These courts are to be well equipped, have qualified judges, capable of transacting probate business, which is growing more important every year, and also have a limited jurisdiction in civil and criminal actions which they can handle efficiently with a more speedy procedure than is appropriate for the district courts. This proposal, I think, would be a great improvement of our system and would tend to facilitate the prompt and efficient disposition of business in our courts and effect a reduction of the costs of litigation.

The reports of the Council show that it is giving thoughtful consideration to a number of suggested improvements, including the trial of certain classes of cases with a less number of jurors than now is required, and also to provide a better method of selecting jurors. Considerable time and effort have been devoted by the Council to the improvement of the procedure and practice in probate courts. This is regarded by many as a crying need, and the recent meetings of the Northwest Kansas Bar Association and the Southwest Kansas Bar Association gave most of their attention to probate procedure. It will be observed, too, that the Council is interested in finding more effective and better methods of criminal procedure, and of desired changes in the granting of paroles to prisoners. These and some other matters, which I have not time to mention, are of vital and pressing importance in improving our judicial procedure.

What is of paramount importance in carrying out the beneficial purpose of the act is that the Council shall have the earnest interest and assistance of all the judges, lawyers and officers. It is noticeable that there is a growing interest in these plans among members of the bar, and many helpful suggestions are coming to the Council every day which are fully appreciated. The Council already has accomplished much, and many other important improvements are contemplated which it is diligently working upon, and if all of us who are interested join it in the good work we may be assured of a better judicial system by which justice will be administered more promptly, efficiently and without unnecessary expense.

---

### **The Judicial Council: What It Is Doing Now.**

We find that lawyers and judges throughout the state like to know from time to time the problem receiving special consideration of the Judicial Council. We hope to convey that information here.

On the recommendation of the Judicial Council, the supreme court recently promulgated two additional rules relating to procedure in district courts, to become effective September 1, 1932, as follows:

"No. 35. In all cases tried before the court without a jury, where either party shall urge the application of a presumption of law, the trial judge, upon timely written request of the party setting forth the presumption of law which the party contends applies, shall file with the clerk, either separately or as part of his findings of fact and conclusions of law, a written statement as to whether, in deciding the case, he did or did not give effect to the presumption of law contended for.

"No. 36. In trials before the court, without a jury, where evidence is admitted over proper objections, and not stricken out on timely motion therefor, it shall be presumed that such evidence was considered by the court and entered into its final decision in the case."

These rules have been under consideration for more than a year. They were discussed at our meeting with the district judges of western Kansas held in June of last year at Hays. They were printed and discussed (pages 9 and 10) in our 1931 report and again at page 12 in our April BULLETIN. Some changes of wording were suggested by trial judges at our recent meeting in Hutchinson. In the form promulgated they place responsibility upon trial lawyers as well as trial judges to conduct the trial as it relates to the issues before the court and to make the record so that the controverted questions referred to in the rules may be presented for review on appeal. Compliance with these rules should shorten the time for the trial of actions before the court, make it possible to have a review of rulings upon presumptions of law contended for, and on admission of evidence complained of, and litigants will be better assured of obtaining their legal rights. The natural result should be the more prompt and efficient administration of justice.

The consensus of opinion among lawyers and trial judges throughout the state, as we have been able to ascertain it, is that the rules heretofore promulgated by the supreme court relating to district courts very decidedly have resulted in the more prompt dispatch of judicial business and in more efficient results. These and other considerations are leading many attorneys, at first in doubt on the matter, to believe that purely procedural matter should be governed entirely by rules of court as distinct from legislative enactment. The practicability of doing so has been demonstrated. The facility with which they may be modified to conform to discovered needs is found desirable. To be effective it is essential that trial lawyers and judges get in the habit of conforming to these rules. One who engages in a game of chess, or of football, to attain success finds it necessary to learn the rules of the game and conform to them. So it is in the practice of law. Trial lawyers and judges are recognizing that important fundamental fact, are familiarizing themselves with these rules and their application, and are conforming to them better as they realize their importance and the merits of their results. A few instances of nonconformity to some one of the rules, with results disastrous to the rights of the litigants, are occasionally called to our attention. We recently were advised of a flagrant instance in which rights of litigants on both sides of the controversy were affected to their detriment by the failure of a trial court to decide within thirty days a matter taken under advisement. While these instances are rare, the few that occur should not exist. We have heretofore refrained from pointing out the details of such instances and shall do so this time. The instance referred to causes us to wonder if in fairness to other trial courts and attorneys, as well as for other reasons, it would not be best for us to state and publish the entire details.

The matter of procedure in probate court is receiving attention of the Council. Attorneys throughout the state recognize the importance of this question. At the recent meetings of the bar associations of northwestern and southwestern Kansas the subject formed the principal topic of discussion, as will be seen from the quotations contained in the article by Judge Ruppenthal in this issue of the Bulletin. It is not necessary to repeat here any of that discussion. It is sufficient to say that those who have given serious consideration to the matter appear to have reached the conclusion that our present probate procedure is entirely inadequate. The importance of this matter is shown by the fact that on July 1, 1930, the gross value of estates in process of administration, including guardianships, amounted, in round numbers, to \$90,000,000.



This did not include the value of real property in intestate estates. Under our present procedure in many instances claims are allowed, distribution made or property disposed of without notice to parties affected and without a fair opportunity for them to be heard. Lack of adequacy, uniformity, and simplicity are apparent in our probate procedure. It should be thoroughly revised. In our proposed measure for the reorganization of courts inferior to the district court, by creating a probate and county court, it is provided that the procedure shall be by rules of court. If that bill should be enacted into law, as growing sentiment in its favor tends to indicate that it may be, a revised procedure for probate courts could be provided by rules of court. In the absence of that there should be a rewriting of our statute concerning estates of decedents and those under guardianship, separating the substantive law from the procedural provisions, and providing a simple, uniform, adequate procedure. The Judicial Council would appreciate hearing more from attorneys, probate judges and other on this question.

Our proposed measure (set out pages 191 to 193 of our 1931 report) for the reorganization of our judicial system inferior to the district court is receiving the attention of the Judicial Council. The more this measure has been studied and given serious consideration by attorneys and others throughout the state the more favorably it has been received. The temporary commission, provided by chapter 287, Laws 1931, have considered it in connection with its work and has approved it, and some of its members have written articles and made addresses favorable to its adoption. It has received favorable comment, either specifically or inferentially, by numerous attorneys at recent bar meetings. The fact that people no longer elect them in most localities demonstrates the lack of utility of justices of the peace. The fact that **more than twenty** counties in the state have taken advantage of the county-court act, and that in about a dozen of the larger cities of the state city courts have been created under special acts, or the general law, show the need of the people for a local, adequately equipped court for the transaction of business which ordinarily does not find its way into the district court. The need of such a court as is outlined by our proposed measure is demonstrated by an incident which recently came to light. In Arkansas City a few years ago the people, growing weary of the inefficiency of justice-of-the-peace courts and desiring a judicial tribunal at home for controversies which ordinarily would not reach the district court, adopted the provisions of the city-court act by an appropriate ordinance of the governing body of the city. This necessarily created a new court for that locality, with a full complement of officers—judge, clerk and marshal. At the time it was created enthusiasts for the court anticipated fees charged litigants in cases would take care of the expense of conducting the court, including the salaries of its officials, or substantially so. After the court was conducted two or three years it was found that the fees were entirely inadequate to meet that expense, and the city was confronted with the necessity of paying approximately \$4,000 a year for the maintenance of this court by funds raised from taxation. Not wishing to carry that burden, the governing body of the city passed an ordinance by which it attempted to dissolve the city court and return to justices of the peace. The supreme court was compelled under the law to hold that the governing body of the city had no authority to pass such an ordinance (*Brown v. Arkansas City*, 135 Kan. 453). The result is the city has an unduly expensive court. Had our proposed

measure been in effect, the judge of the probate and county court could sit at Arkansas City as a division of the court. There would be no necessity of an additional judge. The sheriff would serve the process of the court, hence there would be no necessity for a marshal. Perhaps a deputy clerk would be in charge of the Arkansas City division, but that is all that would be needed in additional clerical force. What is more, the people of Arkansas City would have had a better court than is now provided, for the division of the probate and county court would have jurisdiction in probate matters, guardianships, juvenile business, etc., which its present city court does not have. Altogether it would provide a simpler, less expensive and more adequate judicial structure. Other specific instances of the merits of the proposed measure might be pointed out.

Other questions receiving the attention of the Judicial Council are treated in separate articles in this issue, or are mentioned in our April BULLETIN or our 1931 report. We shall not take the space to enlarge upon them here. Some of the questions under consideration are far-reaching in their importance. What is finally done about them should be the result of the combined judgment of lawyers and jurists of the state formed after thorough consideration.

## A Proposal to Amend the Judicial Article of the Kansas Constitution.\*

By C. L. HUNT.

The last revision by the Judicial Council of the proposed amendment of the judicial article of the Kansas constitution is not a mere thoughtless expectoration of words. It is the product, however imperfect, of much studious labor by members of the Council. An historical sketch with the merit of brevity will suffice as a demonstration.

In 1928 the Council, in its effort to recommend correctives to some procedural defects, found constitutional impediments. The idea of rewriting the judicial article of the constitution was that of Justice W. W. Harvey, the chairman. Other members were easily convinced. The reasons for the movement were clearly stated by Justice Harvey in his report to the State Bar Association at its November, 1929, meeting (Proceedings 1929, pp. 23, 24, 25). The subject received treatment by his hands in a report to the same body in 1930 (Proceedings 1930, p. 37 *et seq.*), and again in 1931 (Proceedings 1931,

---

\*A PROPOSITION to amend article III of the constitution of the State of Kansas, relating to the judiciary.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:*

SECTION 1. There is hereby recommended and submitted to the qualified electors of the state of Kansas, to be voted upon at the next general election for representatives, for their approval or rejection, a proposition to amend article III of the constitution of the state of Kansas, relating to the judiciary, so as to read as follows:

### ARTICLE III.—THE JUDICIARY.

Section 1. All of the judicial power of this state shall be vested in a system of courts composed of a supreme court, district courts, county courts, and such other courts, inferior to the supreme court, as may be created by law.

Sec. 2. The supreme court, district courts, and county courts shall be courts of record and each shall have a seal to be used in the authentication of all process and records.

Sec. 3. The supreme court shall be the highest court in the judicial system of the state. It shall have original jurisdiction in proceedings in quo warranto, mandamus, habeas corpus, and such other actions and proceedings presenting questions of law only and which are submitted on a written statement of agreed facts; and appellate jurisdiction in all civil and

pp. 26, 27). Frequent references to the subject appear in the annual reports of the Council.

Briefly, and not comprehensively stated, the purposes of rewriting the article were to convert presently existing bodies having judicial powers, disconnected in operation, working independently, yet with conflicts in and overlapping of jurisdiction, into a unified interworking system of courts, constituting altogether a judicial department of the state. The practice and procedure were deemed more advantageous if conducted under rule than by a legislatively created code. It was thought best to enlarge the original jurisdiction of the supreme court to include actions and proceedings presenting questions of law only submitted on a statement of agreed facts. A check against uncontrolled and sometimes political appointments of justices and judges by the governor to fill vacancies was deemed advisable, as was also a method of removing such an officer for the good of the service without the stigmatizing process of impeachment. Life tenure was a debatable subject. The justice of the peace, who now holds office by constitutional endowment, is generally conceded to now have no such important place in a modern scheme of jurisprudence as necessarily makes his office a constitutional mandate.

With these and other views in mind, the Council set about redrafting the Judicial article. No one task has even approximately commanded as much

criminal actions and special proceedings tried in the district court, and shall have appellate jurisdiction in such other actions and proceedings as may be provided by law. It shall consist of seven justices until the number shall be changed by law. It may make provision by rules for the practice and procedure in all state courts. It may temporarily transfer a district judge from one district court or division to another, when the condition of business, disqualification of the acting judge or his inability to sit makes such action advisable. Any judge so transferred, and the court over which he presides, shall have the same power and jurisdiction as a regular judge or court in civil and criminal cases and other proceedings. The supreme court may call a judge of any district court to sit on the supreme court in the event a member of that court be ill or otherwise disqualified to sit and a full bench is needed. The justices of the supreme court may sit separately in divisions with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division and the concurrence of three shall be necessary to a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all of the justices and the concurrence of a majority shall be necessary to a decision in cases so heard. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in years of these shall be the chief justice, and the presiding justice of each division shall be selected from the judges assigned to that division in like manner.

Sec. 4. Justices of the supreme court, judges of the district courts, and judges of county courts may be removed from office by resolution of both houses if two-thirds of the members of each house concur. But no such removal by such proceeding shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

Sec. 5. The supreme court, not more than two justices voting in the negative, after a hearing, on complaint and due notice, may ask the resignation of, or by order remove a justice of that court or a judge of any state court for the good of the service, and shall prescribe rules of procedure therefor; and by like vote, after notice and hearing, may retire on half pay any justice of the supreme court or judge of the district court who has served continuously as such justice or judge, or both, for as much as fifteen years, and who shall have attained the age of seventy years, or whose physical or mental infirmities have rendered such retirement advisable for the good of the service.

Sec. 6. The supreme court shall appoint a reporter and a clerk for that court who shall hold office during the pleasure of the court and shall prescribe their respective duties.

Sec. 7. There shall be a district court in each county, but several counties may compose one district, and there may be divisions of the district court as the business therein may require. Judicial districts consisting of one or more counties, and the divisions of each district court and the number of judges therein, as they may exist at the time of the adoption of this amendment, shall continue to exist until changed by law. The district court shall be a court of original general jurisdiction for the trial of all civil and criminal actions and proceedings, except as the exclusive jurisdiction of any civil or criminal action or proceeding is hereby vested in some other court, and shall have appellate jurisdiction in all civil and criminal actions and proceedings originating in courts inferior to the district court, and in boards, commissions and tribunals when exercising judicial functions, and such other jurisdiction as may be provided by law.

Sec. 8. There shall be established in each county in this state a county court which shall have exclusive original jurisdiction for the probate of wills, in all matters relating to the estates of decedents and the persons and estates of incompetent persons and minors, and which shall have such original jurisdiction in civil and criminal actions and proceedings as

time and study. Several drafts were prepared, rewritten and revised before a rough and certainly tentative draft was in form which the members thought might be presented to the Bar Association to draw criticism and helpful suggestions. This was done at the June, 1930, meeting, and the subject drew some fire. (Proceedings 1930, pp. 38-42.) Life tenure of justices of the supreme court and district-court judges was a high point in that first tentative draft. Thereafter the Council held many sessions devoted almost exclusively to changes and revisions, and finally worked out the draft appended hereto.

As all other organic acts, it is a document of compromises. Life tenure was reluctantly abandoned by some. Other modifications so worked out will be noted.

In section 3 original jurisdiction of the supreme court was enlarged in the respects already mentioned.

Section 7 of the present draft gives to district courts appellate jurisdiction in proceedings of boards, commissions and tribunals when exercising judicial power. After much debate this provision was added to the first tentative draft.

---

may be provided by law. The board of commissioners of the county shall establish such divisions of the county court as the condition of business therein requires. The judge or judges of such court shall be examining magistrates in prosecutions for felonies. There shall be at least one judge of the county court in each county, and such additional judges as may be provided by law. At the first session of the legislature following the adoption of this article the legislature shall provide for the organization of county courts in accordance with this section, the transferring to such courts of the records and pending business of trial courts inferior to the district court, and for the election of judges for such courts at the next general election, so that such county courts may be fully organized and equipped to take care of such business on the second Monday in January following such general election.

Sec. 9. In each county there shall be a court clerk who shall be selected as provided by law and shall act as clerk for both the district and county courts in such county, and whose duties shall be prescribed by rule of the supreme court.

Sec. 10. To be eligible to hold the office of justice of the supreme court or judge of the district court a person must be duly admitted to practice law in this state, and shall be a citizen and resident of the state and district in which he is elected or appointed, and before taking such office must have been engaged in the active practice of law or shall have served as judge of a court of record, or both, in the aggregate as follows: for justice of the supreme court, ten years; for judge of the district court, five years. No person shall be ineligible to hold any judicial office in this state on account of his holding another judicial office therein at the time of his election or appointment. No person shall hold more than one judicial office concurrently.

Sec. 11. Justices of the supreme court and judges of the district courts and county courts shall be elected at general elections as provided by law, and shall hold their respective offices for such terms as the legislature shall prescribe, which shall be not less than six years for justices of the supreme court nor less than four years for judges of district courts and county courts.

Sec. 12. All appeals from county courts shall be to the district court, and all appeals from the district court shall be to the supreme court.

Sec. 13. The justices of the supreme court and judges of the district courts and county courts shall, at stated times, receive for their services such compensation as may be provided by law, but no such justice or judge shall receive any fee or perquisites, nor shall he practice law during his continuance in office.

Sec. 14. The several justices and judges of courts of record in this state shall have such jurisdiction at chambers as may be provided by rule of the supreme court.

Sec. 15. Provision shall be made by rule of the supreme court for the selection of a judge *pro tem* of the district court or county court.

Sec. 16. In the event of a vacancy in the office of a justice or judge of any of the courts of record of this state the governor shall appoint some eligible person to fill such vacancy. No such appointment to fill a vacancy on the supreme court or the district court shall be valid without the written concurrence therein of a majority of the justices of the supreme court. The person so appointed shall hold office until his successor, elected for the balance of the unexpired term, shall have qualified. A successor shall be elected at the next general election which occurs more than four months after the vacancy.

Sec. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the state. All process from any of the courts of the state shall be executed by a sheriff, undersheriff or deputy, or by the clerk of the district court if the sheriff be the party to be served.

Sec. 2. This proposition shall be submitted to the electors of the state of Kansas at the general election in 1934. The amendment hereby proposed shall be known on the official ballot by the title, "The Judiciary Amendment to the State Constitution," and the vote for and against such proposition shall be taken as provided by law.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

In the present draft a more comprehensive provision appears in section 8 concerning the organization and jurisdiction of county courts.

In section 10 the three-year requirement for eligibility for judges of county courts has been eliminated.

Tenure of office for county-court judges has been changed from two to four years. Life tenure for supreme-court Justices and district-court judges having been abandoned, the legislature is given power to fix the length of the terms with a minimum of six years for justices of the supreme court and four years for judges of the district courts. Under the present constitution these terms were definitely fixed. As now proposed, the legislature would have power to extend the terms for periods longer than the minimum fixed in the proposed amendment, but not to shorten them.

It removes what is now practically a prohibition against a district judge becoming judge of the supreme court. It provides for the transfer of a district judge temporarily from one district or division to another, when special conditions exist making such action advisable, and also for calling a district judge to sit on the supreme court for the determination of any cause if a member of that court is ill or otherwise disqualified to sit and a full bench is needed. It provides that salaries of judicial offices shall be fixed by law, thus giving the legislature the same power to increase or decrease salaries of judicial offices that it has of the salaries of other state offices.

When the first tentative draft was presented to the Bar Association in 1930, ex-Chief Justice Doster offered the criticism that the amendment went too far into detail and contained too much legislative matter. The same sentiment was voiced by Senator Benjamin F. Hegler, of the Wichita bar. In this respect perhaps the present draft is no particular improvement over the one then presented; but even so, is the criticism directed to anything harmful? The present draft contains 310 words more than the existing constitutional article. Much of this can be charged to provisions concerning county courts. In any event, it may be well doubted whether the present draft is any more legislative than the existing article. As an example, what could be more legislative than section 4 of the existing article with reference to the appointment of a reporter and clerk of the supreme court? Examinations made of the constitutions of other states show no fewer phrases of a legislative character than does the proposed draft. It seems necessary to inject some features which smack of legislative grants. The purely organic act has yet to be penned.

At the same meeting Judge Doster challenged the new provision relating to the removal of judges for the good of the service, and reaffirmed his belief that impeachment proceedings were alone proper. The old section with reference to impeachment is preserved, but an added method is provided for removing a justice or judge for the good of the service. The new provision was ably defended by Justice Harvey in his report at the 1929 proceedings, and his remarks on that occasion are here quoted.

"There should be a provision by which authority is placed somewhere to ask a judge to resign, or to remove him, for the good of the service. The only methods now of removing a judge are by impeachment (§§ 27, 28, art. II, const.), or joint resolution of the legislature (§ 15, art. III, const.), or perhaps in some instances by the ouster statute (R. S. 60-1609 *et seq.*); but before any of these can be invoked there must be a violation of some penal statute, or

serious misconduct. The occasion seldom arises when they can be, or are, applied. But we need something more than that. Under our present system anyone (having the statutory qualifications [R. S. 20-105], where the statute prescribes qualifications) who desires to run for a judicial office, and who succeeds in getting enough votes, is elected, and for a definite term. The result is, we frequently have one elected whose ability as a jurist proves to be mediocre, and occasionally one is chosen who proves to be thoroughly unsuited for the work. It is peculiarly true that whatever may be a person's success in the practice of law or in other vocations of life, he may or may not have qualities which make him an efficient jurist. Whether he is, or becomes, efficient as a jurist can in fact be determined only by observation of him after he has undertaken to perform the duties. If it developed that one who had been appointed or elected to a judicial position did not have the qualities or the ability of transacting the business of the court efficiently and promptly there should be authority placed somewhere to ask him to step aside for the good of the service, and that should be done without any reflection on his integrity or honor."

To this may be added the observation that the instances where district judges, especially, have perpetuated themselves in office by methods other than a demonstration of judicial ability are sufficiently numerous to challenge the attention of the student of jurisprudence to a method of removing a justice or a judge without ascribing to him any illegal or immoral act, without besmirching his honored name by debates in the legislature, and without retiring him to private life with the black mark of impeachment upon him. This additional remedy is needed, and there is no official body better qualified for this important function than the supreme court.

Members of the bar have some voice in the nomination and election of judges, and why should they be ignored in cases of appointment? Appointments are now made by the governor, who is usually not a lawyer. The appointments, as a rule, have been good, but there have been exceptions, and there may be more. Federal judges are appointed by the President of the United States, but confirmation by the United States senate is required. Obviously, this method cannot be pursued in a state where legislative sessions are infrequent. The Council cast about in a search for some confirming body. The Senate is not available. Obviously, the body which knows best the qualifications and temperament of the bench and the bar of the state is the supreme court, and so the present draft was written requiring confirmation of appointments by the supreme court.

The office of probate judge is now a constitutional office. It is generally recognized that the law and procedure of probate courts, not only with reference to estates of decedents, but in handling the affairs of incompetents and minors, need drastic changes. The subject has received some attention by the Council, and more attention is now being given it by members of the bar. This is evidenced by the programs of the Northwest Kansas Bar Association and the Southwestern Kansas Bar Association at their recent 1932 meetings. The discussions in both associations were devoted almost exclusively to this important branch of our jurisprudence, and in that section of the state, at least, there is a widespread and growing conviction that the easiest and most wholesome remedial method is by amending the judicial article of the constitution, and providing that the practice be regulated by rules promulgated by the supreme court. Undoubtedly much of the labor which will otherwise be attendant upon redrafting the substantive law relating to these subjects

and preparing a code of procedure for legislative approval can be obviated by the proposed amendment to the constitution and the regulation of the practice and procedure by rule.

The bench and bar of Kansas may as well be preparing for the era of practicing by rule instead of by code. It is coming, and it will soon be here.

England long struggled under a cumbersome and technical procedure before efforts were made to throw off the yoke. The movement came from the bar, as it should, and the result has been a gradual working out of a system of practice, simple, shorn of time-killing devices, aimed only at a fair disclosure of the facts and the rendition of judgment in conformity with justice.

The late Prof. William E. Higgins, one time of the Kansas University Law School, one time president of the Kansas State Bar Association, and later a member of the American Judicature Society, spent one year in England in thoughtful study and observation of the English practice. Some of the observations contained in his report to the latter society will be noticed. He says:

"The prime quality of the English procedure is flexibility, by which its rules may be easily and quickly changed to meet new conditions or to remedy their defects as these are discovered, flexibility to meet the needs of individual actions, flexibility of adjustment by the transfer of its judges from one department to another to meet the needs of the judicial business."

Even under our own code, of which we are somewhat proud, we encounter sections which impede our progress. We find the absence of provisions which would accelerate proceedings in our courts. Corrective measures may be applied at a session of our legislature, and they may not, but if we practice by rule instead of by code and these impediments appear, remedial action may be had through the rule-making powers of the supreme court. This will result, as observed by Professor Higgins, in elasticity in procedure, which, after all, is the basic secret of a speedy and satisfactory administration of justice.

Our constitution now requires the election of two justices of the peace in each township of the state. The Council learned in 1928 that this constitutional provision requires the election of 3,258 justices of the peace in Kansas. Strangely enough, we have a statute which penalizes one who is elected as a justice of the peace for his failure or refusal to qualify. Nevertheless, it was found in 1928 that only 982 justices were qualified. Of these only 297 reported that there was any business in their courts. It would seem obvious that justice-of-the-peace courts, being the most numerous branch of our present judicial system, have outgrown their usefulness. Improved highways and speedy methods of transportation have directed the traffic of litigation into the county seats. The proposed amendment omits all reference to justices of the peace, but is sufficiently elastic to enable the legislature to create such courts inferior to the supreme court, district and county courts as may be found necessary for the transaction of such business as would for reasons of convenience and economy fall to such few magistrates as might be necessarily located in various points in the county, without the necessity of having two of them in each township.

This discussion does not pretend to go into every detail of the proposed amendment, the changes which will result by its adoption, or to recite in detail every comparison which might be made between the present article and that proposed. It is not claimed that the present draft is perfect, but some

such measure will be presented at the coming session of the legislature. Members of the bar and judges have not heretofore responded to any large degree to the invitation of the Judicial Council to submit their own ideas as to whether this article should be amended at all, or if so, what the amendment should contain. There remain several months during which the Judicial Council may see fit to revise the appended draft. During that period suggestions from judges and members of the bar are urgently solicited.

### **Eminent Domain: A Proposed Code of Procedure.**

By CHESTER STEVENS.

Following the publication in our April BULLETIN of the article on "Confusion in Condemnation Procedure" and the general interest shown in the question, the Judicial Council asked me to draft a bill outlining a code of procedure for the exercise of the power of eminent domain, and here it is. Naturally, it has been prepared with some haste. As yet it has not received the careful study of all members of the Council. Doubtless it will need modification in some particulars. We do not have now a clear, easily understood procedure for condemnation cases. There are obscure and conflicting provisions, even omissions in some instances. These can be corrected by an appropriate act of the legislature. It is a measure in which the public generally, as well as individual owners of real property, are vitally interested. We desire that the measure we ultimately recommend to the legislature be fair in its provisions, comprehensive in its scope, and readily understood and applied. To enable the Council to so frame the measure we invite its careful consideration and its free criticism by letters directed to the Judicial Council or some one of its members. The measure as now prepared is as follows:

AN ACT concerning the power of eminent domain and providing a code of procedure for the exercise thereof.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. Any person, copartnership, corporation and the state, including its municipal subdivisions, may exercise the power of eminent domain only in accordance with the provisions of this act.

SEC. 2. No right of way shall be appropriated to the use of any corporation until full compensation therefor first be made in money or secured by a deposit of money to the owner irrespective of any benefit from any improvement proposed by such corporation.

SEC. 3. The right to take private property shall depend solely upon the public use of the property sought to be taken, and if the use will be beneficial to the public the power may be invoked in accordance with the provisions of this act.

SEC. 4. Any person, copartnership, corporation, the state or any of its municipal subdivisions shall file in the office of the clerk of the district court of the county in which the land proposed to be taken is located an application in writing, duly verified, stating the name of the petitioner, and if the state or municipality is the petitioner, a certified copy of the resolution, ordinance or other proceedings authorizing the same, a description of the lands involved and the exact boundaries of the part sought to be taken and the extent and character of the use to which the petitioner proposes to subject the land.

SEC. 5. Said application shall be presented to the judge of the district court of said county, and in his absence or inability to act the same may be presented to the probate judge of such county, who shall examine said application,



and if said proposed purpose is impressed with public use or benefit the district judge or probate judge, as the case may be, thereupon shall appoint three competent disinterested householders of such county as commissioners, upon actual view, to proceed to lay off and condemn the lands sought to be taken as described in the application. If the judge shall deny said application the petitioner forthwith may file with the clerk of the district court a notice of appeal, and thereupon the clerk forthwith shall certify the same to the supreme court for immediate decision.

SEC. 6. The appointment of the commissioners shall be in writing and signed by the judge and filed with the clerk of the district court. The commissioners forthwith shall take an oath honestly and faithfully to discharge their duties as such commissioners and thereupon shall proceed to an actual view of the lands sought to be taken and shall appraise the same at its actual cash value and shall assess the damages to those parts, portions and parcels not taken, the valuation and assessment of damages to be allotted to the respective owners of such lands. Except in cases of condemnation of rights of way for corporations, the commissioners shall offset against the damages allowed to those portions of the several tracts, portions or parcels not taken such benefits as they shall determine will result to the owner or respective owner of the lands affected, but in no event shall the allowance of benefits exceed the amount of damages. The commissioners shall embody their doings in a written report to which their oath shall be attached, sign and file the same with the clerk of the district court.

SEC. 7. If the petitioner desires immediately to occupy the lands proposed to be taken, he thereupon shall pay to the clerk of the district court the respective sums allowed to the respective owners as compensation for the land taken, and damages, if any, to the lands not taken, and shall execute and file with the clerk, to be approved by the clerk, a good and sufficient bond in a sum equal to the allowance made by the commissioners to indemnify the respective landowners for additional compensation and all damages which may be allowed in the event of an appeal, as hereinafter provided, and thereupon the petitioner may enter into the possession of the land.

SEC. 8. Upon the filing of the report of the commissioners the clerk of the district court shall issue a summons to each of the owners of the property affected by the condemnation proceedings, if their residence is within the state of Kansas and known, such summons to be directed to such owner and delivered or sent to the sheriff of the county of such owner's residence to be served by such sheriff and return made thereof as in case of summons in civil actions. If service of summons cannot be made upon such owners within the state of Kansas, or if their whereabouts or residence is unknown, such owners and all nonresident owners of the state of Kansas thereupon shall be notified of said condemnation by said clerk by publication of a notice once each week for four consecutive weeks in some newspaper published and of general circulation in such county, or if none be published therein then one of general circulation in such county, which notice shall state the name of the petitioner, a description of the several tracts and parcels of land owned by such unknown or nonresident owners, and an accurate description of the several parts thereof sought to be taken, together with the amount of compensation allowed for the part or parts taken, the amount of damages assessed and the amount of benefits, if any, deducted, and which notice further shall notify such owners that unless they shall appeal from the award of said commissioners on or before a certain date therein specified, which shall be twenty days after the last publication, said award will become binding and final on them. Proof of publication shall be made and filed as in other cases.

SEC. 9. Any owner affected by such condemnation proceedings upon whom service of summons has been made by the sheriff as in the last preceding section provided within ten days after the return day of said summons may appeal to the district court of the county wherein said lands are situated by filing with the clerk of the district court a written notice, stating his name, a description of the land which he claims to own and which is affected by said condemnation proceedings, and stating that he appeals to the district court

from the award of the commissioners, and thereupon the clerk shall docket the appeal as in other cases.

SEC. 10. If the petitioner shall feel aggrieved by the award of the commissioners as to any particular tract or parcel of land affected by the condemnation proceedings, he may enter into the occupancy of the land by complying with the provisions of section 7, and filing with the clerk of the district court within twenty days after the filing of the report of the commissioners with said clerk, a notice of appeal, stating his name, the name of the owner or owners of the tract or tracts affected, and stating that he appeals to the district court from such award, and the clerk shall thereupon docket said appeal as in other cases.

SEC. 11. All such appeals shall be tried as other civil actions.

SEC. 12. Either party may appeal from the district court to the supreme court as appeals are taken in civil cases under the code of civil procedure.

SEC. 13. In all proceedings in the district court the code of civil procedure shall govern the same.

SEC. 14. All costs and expenses of filing the application and appointment of the commissioners, of the report, and of all summons issued and served and all notices published, as in this act provided, and the fees of the commissioners to be fixed by the judge, shall be paid by the petitioner and in all appeals from the award of the commissioners the party appealing shall make security for costs as provided in the code of civil procedure.

SEC. 15. Upon final payment of the award or in case of appeal, on final judgment, the petitioner thereupon shall become vested with the fee-simple title to the lands taken under the condemnation proceedings.

SEC. 16. All statutes relating to condemnation proceedings now in force in this state are hereby repealed; provided, however, that any and all condemnation proceedings instituted or commenced and not completed before the publication of this act shall be in accordance with the statutes now in force.

SEC. 17. This act shall take effect and be in force from and after its publication in the official state paper.

---

## Economy in Jury Trials: More Capable Jurors.

By E. L. FISCHER.

Following the publication in our April BULLETIN of the article on "Economy in Jury Trials" the Judicial Council asked me to prepare appropriate bills authorizing the trial of civil actions and misdemeanor cases by juries of six, when the parties are willing to do so. To accomplish that result requires a change of but one section of our civil code, and one section of our criminal code. Appropriate bills for such changes are as follows (new matter added to the old sections is printed in italics):

AN ACT relating to civil procedure, amending section 60-2903 of the Revised Statutes of Kansas of 1923 and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-2903 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: 60-2903. Issues of fact arising in actions for the recovery of money or of specific real or personal property shall be tried by a jury, unless a jury trial is waived or a reference be ordered as hereinafter provided. All other issues of fact shall be tried by the court, subject to its power to order any issue or issues to be tried by a jury or referred as provided in this code. *Unless a jury of twelve be demanded by either party within ten days after the issues are joined the trial shall be by six jurors.*

SEC. 2. That section 60-2903 of the Revised Statutes of Kansas of 1923 and all acts or parts of acts in conflict herewith, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

AN ACT relating to criminal procedure, amending section 62-1401 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1401 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: 62-1401. The defendant and prosecuting attorney, with the assent of the court, may submit the trial to the court, except in cases of felonies. All other trials shall be by jury, to be selected, summoned and returned as prescribed by law. *In all misdemeanor cases, unless a jury of twelve be demanded by the defendant or complainant or prosecuting attorney before the case is called for trial, they shall be tried by six jurors.*

SEC. 2. That section 62-1401 of the Revised Statutes of Kansas of 1923, and all acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

In connection with the matter of jury trials by six jurors, there is another thought that should receive serious attention. It is as to the raising of the standard of the jurors selected to try and determine the cases submitted to them. There is too much of the feeling that jury service is a mere trifling and unimportant matter, to be avoided by those who, by one pretext or another, are excused from that high duty.

It has occurred to me, and no doubt to every trial judge, that a careful, systematic effort should be made to elevate the mental attitude of the citizen toward jury service, and such service should not be intrusted to any person who does not show himself to be at least fairly well mentally equipped to grasp the points and issues involved, and, also, to appreciate the seriousness and importance of the duty and power involved: the duty to decide whether or not the money or property of one should be taken from him and given to another, or whether one's liberty should be taken from him upon the charge of another.

Why would it not be a good thing to require by law, or at least request, by jury commissioners and other proper officers who have the duty of selecting names for jury service, that before making final lists all prospective jurors make answers to a written questionnaire pertaining to their qualifications, substantially as follows:

*Questionnaire for Prospective Juror.*

Please fill in blanks in your own handwriting:

Name..... Age..... Place of residence.....  
 Street No..... City..... R. F. D.....  
 Married..... Number of children, if any.....  
 Nationality..... Race.....  
 Citizen of United States?..... (a) Native born?.....  
 (b) Naturalized..... (d) If naturalized, when?.....  
 Education: (a) Grade schools?..... What grade?..... (b) High  
 school?..... What grade?..... (c) Junior college.  
 What grade?..... (d) College or university..... (e) Profes-  
 sional school?.....  
 Business, profession or occupation.....  
 How long have you followed same?.....

Employed or unemployed?.....  
 Are you willing to serve as a juror?.....  
 (a) If not, state why not.....  
 Did you ever serve?..... (a) If so, how often and when?.....  
 Do you have any conscientious or religious scruples against jury service?  
 ..... If so, what.....  
 Do you believe in a trial by jury?..... If not why not?.....  
 If you do not believe in jury trials, please state briefly your idea as to how a  
 trial should be conducted?.....  
 .....

These and numerous other questions might be asked. Possibly some of these should not be asked. They are only tentative suggestions. All questions might be condensed so as to take only the space on one side of a moderately sized card, which might be used in a card index, alphabetically arranged, and divided into eligibles and ineligibles.

After the final list is made, there might well be some beneficial educational effort to assist prospective jurors in learning the duties and responsibilities of jury service. An effort along this line was made a few years ago by one of our trial judges, who prepared and published a small booklet called "Primary Instructions to Jurors," which was mailed to prospective jurors. The preface follows:

"To EACH JUROR: You have been selected by the regular processes of our law to appear and serve as a juror. While it may be a sacrifice from a financial consideration, so is most of the public duties we are called to do, but it is none the less a very fine and honorable part of good citizenship, and a part which most citizens perform willingly if it is not virtually impossible. Experience has conclusively demonstrated, however, that the best juror is the one that from experience or otherwise has become familiar with the exact duties of the jury and is not confused by the enactment of the many details of a trial and left with a vague notion of just the duties that abide with a juror throughout a trial.

"That you as a juror may approach your duty better advised as to your duty and to enable you to readily separate your duties from that of other officers of the court, I am sending you the following pages of practical instructions with serious recommendation that you read and study it carefully. In making such use of these instructions as I have indicated, I am convinced you will approach your duties fully prepared to discharge your duty with intelligence and increased rapidity."

This was followed by questions and answers, simply and comprehensively covering the matters involved. Lack of space forbids quoting, except a few questions and answers to convey the idea:

"Q. What does the jury do?

"A. The jury decides the disputed questions of fact. The jurors are the sole judges of the facts. Their decision, if it has on any reasonable view the support of the believable evidence, is final and cannot be disturbed. It is very important, therefore, that the jury decide the facts honestly and correctly."

"Q. Upon what does the jury base its decision on the facts?

"A. The jury may base its decision on the facts only upon the evidence received from the witnesses, and any exhibits that may have been received in evidence. The jury must not decide any questions of fact upon anything outside of the evidence in the case. The jury is not to decide any question of fact upon any statement of fact made by the judge or the lawyer for either of the parties to the dispute unless such statement of fact is based upon evidence in

the case, which the jury accepts as being true. The jury's recollection of the facts and not the recollection of either lawyer or the judge is to control."

"Q. What does the judge do in the trial?

"A. The judge decides the question of law, among others, as to what evidence should or should not be admitted. The judge's rulings are based upon the results of hundreds of years of experience in courts in the determining of questions of fact. The fact that one side or another objects to a particular question should not and may not be made the basis of any inference for or against that person's side. Under the law each side has a perfect right to object to any question asked a witness or to any other evidence offered. Whether the judge decides that the question or the evidence is proper or improper does not concern the jury because that is a question of law for the judge to decide. The judge is the sole source of the law in the case. The jury, by their oaths, are required to apply the law as the judge gives it to them, whether they approve of it being the law or not. If they fail to do that, the jurors violate their oaths and destroy the basis for the impartial administration of the law and are faithless to their high trust and duty."

"Q. Why should the jury be required to accept the law from the judge and no one else?

"A. If this were not required there would be utter confusion in the administration of the law. If each juror applied his own ideas of the law or what he thinks it should be, you might have twelve different standards of law in a case, and those standards would vary in every case. . . ."

"Q. When testimony is stricken out by the judge, how should jurors give effect of such action?

"A. By ignoring the testimony stricken out, as if they had never heard it uttered."

The booklet closes with this paragraph:

"Jurors should realize it is to their personal interest to see to it that the verdict registers the truth in the case they are trying. They themselves may find it necessary to come to court any time to enforce rights or defend them. Every juror and every jury should therefore stand as an example as an intelligent, honest effort to ascertain and express the truth in their verdict."

Other district judges have addressed communications relating to their duties to persons selected for jury service or letters of instructions to officials whose duty it is to select persons for such service. I regret to say that this practice has not been followed in the twenty-ninth district. One good reason has been the lack of the financial provision to make it possible. It is not unreasonable to believe that such an effort universally put forth by the judges of the state in time, possibly a long time, would bear fruit in the form of a higher and keener sense on the part of the average citizen as to his duty and responsibility with respect to jury service.

The above and other suggestions were before the Judicial Council when it prepared the proposed bill, "An Act relating to the selection of jurors, creating a board of jury commissioners," etc., set out on page 188 of our 1931 report. This proposed measure should receive more consideration than it has heretofore received. We believe it would produce beneficial results.

## Northwestern Kansas Bar Meeting.

By J. C. RUPPENTHAL.

The members of the bar of northwestern Kansas, at their fourth annual meeting, held June 15, 1932, at Colby, gave over the day program to matters relating to the probate courts. No effort was made to discuss every part of the field into which the probate court jurisdiction ramifies, nor the duties, whether judicial or ministerial, cast by statute upon the probate judges in relation to probate duties or juvenile courts, county courts, election contest courts, nor as to duties in place of the district judge in the latter's absence from the county.

The Judicial Council, soon after organizing June 11, 1927, included in its first questionnaire sent out shortly thereafter: "What, if anything, do you find wrong with our judicial procedure, or practice: . . . (c) Probate? . . . What do you suggest as a remedy?" At the annual meeting of the Bar Association of Kansas that year Charles L. Hunt, a member of the Judicial Council, narrated the start made in the few months preceding, and added:

"There are yet to be explored the workings of the probate court, and recommendations to the Council are numerous that the entire statute relating to the practice and procedure in probate courts and the method of administration of decedents' estates should be rewritten, and that such court should be presided over by a duly admitted practitioner."

The annual report of the Council, 1927, briefly summarized the letters and other responses to its inquiry:

"As to probate courts, complaint is made from some sections of the state of the failure to keep proper records of business transacted, especially in matters of adoption, insanity hearings, and the like. There are many suggestions that such changes be made in the law as would permit the clerical work of the office to be performed by clerks, and that the judicial matters be handled by a qualified judge of the law, and that this be accomplished by having qualified lawyers as probate judges, or, in counties where the business is not sufficient to justify that, to have the judicial duties transacted in district court."

The Northwestern Bar made at Colby a substantial contribution of fact and of reasoning to the data accumulated in the survey by the Judicial Council. A helpful introduction was an annotated paper by Roscoe E. Peterson, of Larned, on "Origin and History of Probate Practice." The evolution of the law of wills and of administration in England was traced from antiquity to the vesting of such jurisdiction in 1857 in probate courts and the divesting thereof in ecclesiastical and manorial courts by the same enactments. The separation of church and state necessarily hastened constitutional and statutory provision for probate matters in the United States at the time of and following the Revolution.

Whether the code of civil procedure of Kansas should be made to apply to all judicial matters in the probate court was the subject of a debate between Samuel E. Bartlett, of Ellsworth, and C. L. Hunt, of Concordia. The paper of the former maintained with modifications the affirmative. The paper of the latter asserted need of a wholly new code of procedure for the probate courts.

Mr. Bartlett noted that by statute the code of civil procedure does not apply to "proceedings under the statutes for the settlement of estates of

deceased persons, nor proceedings under the statutes relating to apprentices; . . . but such proceedings may be prosecuted under the code whenever it is applicable." (R. S. 60-3823.) Describing conditions, he said:

"What we have in Kansas to-day is a collection of statutes, enacted at different times for different purposes, from which one may glean the substantive and the adjective law relating to probate matters. The 1931 report of the Judicial Council states: 'Our present probate code is not a system of procedure, but is simply a patchwork of various statutes which have been enacted to meet various conditions arising in probate practice.' It is apparent to any lawyer and to anyone who has had experience in probate matters that Kansas should have a code of probate procedure. An essential feature of the system ought to be the requirement of such notice as would give the probate court jurisdiction of the property and of the necessary or proper parties. The proceedings ought to be adversary. Under such proceedings one cannot attend the funeral in the morning, obtain the necessary information from the obituary, prepare the papers at the noon hour and probate the will at one o'clock. There must of necessity be a slowing up at the beginning, but it is more than likely to be offset by speed at the close. . . . Estates of decedents, incompetents, minors, and similar probate matters could be settled and determined by actions, as that term is defined in the civil code. The Judicial Council states in its 1931 report: 'Such investigation as we have made has not disclosed any proceeding under the probate practice which could not be handled under the code of procedure.' . . . I realize that under constitutional limitations in Kansas probate courts may not determine interests between those claiming by virtue of the estate and those claiming adversely (Const., Art. 3, § 8; *Byerly v. Edie*, 95 Kan. 400; *Lindholm v. Nelson*, 125 Kan. 223, at 231). That is not the proposition. Our probate courts, under their present constitutional limitations, may be given power and authority to determine who have interests in the estate and what those interests are. There can and ought to be an adjudication as to who are the heirs, devisees and legatees of the deceased, binding against all who may claim as such. It will be noted that in each special proceeding governed by the code specific provision is made for notices or the means of acquiring jurisdiction; and specific provision is made for much of the procedure. If it were determined that the probate practice should be governed by the code, it should be determined whether actions should be introduced into the probate practice. It should be further determined what courses may be pursued by special proceedings; and specific provision should be made for them. What has been said about adversary proceedings, notice, jurisdiction, and final adjudication applies, and ought to apply, with equal force, to such special proceedings. There should be adequate provision for everything that is peculiar to probate jurisprudence. Much of the substance that is contained in our present probate statutes would undoubtedly be retained. In any event, whatever the detail of the procedure, when the whole business is concluded, as sound a judgment as is possible should be procured as to the ownership and the rights of all the parties that could possibly have any interest in the estate that is administered.

"A brief enactment that the civil code shall apply to probate matters, or that the supreme court may extend the civil code to probate matters will not solve the problem; such a course would only add to the confusion. If we are to have a commendable code for probate practice we cannot escape the labor of drafting it and the responsibility of specifically determining the exact extent and in what respect the civil code shall be made to apply.

"In determining these questions it should be remembered that in so far as the code of civil procedure is made to apply or made a part of the new probate code, the new code will give all parties interested an opportunity to be heard. It will produce a final adjudication, and it will have the advantage of having already been interpreted and of being understood."

To the foregoing and other argument of Mr. Bartlett, Mr. Hunt responded. He expressly limited the scope of his paper to estates of decedents, ignoring the county courts, the matters of estates of minors, insane and other incom-

petents, etc., though conceding the importance of all these if time permitted discussion.

Mr. Hunt noted that much of the civil code is definitely substantive and not procedural. Only a few sections of the code could be made to apply to procedure in the probate courts with reference to estates of decedents. Even the disputes of lawyers over this would be productive of litigation that should not be, and would not if a separate code be designed for probate courts.

But in chapter 22, relating to decedents' estates, of 341 sections 221 are either procedural purely or nearly so. Now we have more procedure than substantive law for estates of deceased persons and to this would be added 868 sections of the civil code. In detail Mr. Hunt named articles and parts of articles of the civil code that could have no applicability to decedents' estates. However, the "general provisions" could well be used by probate courts with reference to keeping a journal entry of judgments, indorsement of papers, making files, custody of papers and records, duties of the sheriff and adjournment of hearings, since reference to records in chapter 22 is meager.

"My conclusion is," said Mr. Hunt, "that an attempt to make the code of civil procedure applicable to proceedings in the probate court is awkward, unworkable and provocative of disputes and litigation. . . . Can we do better by building a separate code of procedure for the probate court? In view of the fact that the probate court has no equitable jurisdiction, that its powers are greatly limited by constitution and statute, and that it has yet the exclusive original jurisdiction over so many of our vital parts of jurisprudence, it cannot be gainsaid that a procedural code should be written for this important branch of judicial activity.

"There being 221 procedural sections in chapter 22, no argument seems to be necessary to demonstrate that we are overloaded with technical conflicting procedural requirements sadly lacking in that uniformity needed for a certain and reasonably speedy administration of justice in the probate court. There are twenty-two situations arising in the administration of the estate of a decedent where notice or citation is required, and, astonishing as it may seem, no two of this number are identical as to four essentials of notice: The kind of notice, the length of time, the manner of service and the persons who must be served. Surely there can be and should be more uniformity in provision as to notice and citations. Properly written these 22 provisions with reference to giving notice could be combined into two or three sections which would govern every instance where notice is now required or should be given.

"There are many sections with reference to limitation of time in which proceedings can be instituted or orders made. They are not uniform. The act is sadly deficient in placing no limitation of time for some important proceedings. There appears to be no time limitation within which a will may be proved and admitted to probate if the will be properly executed and attested in due form. . . . Why should there not be a reasonable limitation on the time for presenting any will for probate, and indeed why should not there be a limitation of time within which letters of administration may be granted for the handling of estates of intestates? Why should not notice be given of a hearing to probate a will?"

Mr. Hunt then proceeded to present numerous practical, concrete instances of doubt and of apparently conflicting court decisions.

"Why not," he asked, "consolidate the three sections into one relating to the inventory and appraisal of personal property? . . . The substantive law relating to estates of decedents, juveniles, minors, insane and incompetent persons should be restated and printed in one chapter. Then there should be a procedural chapter dealing with all phases of proceedings in the probate court concerning these matters. These are no small tasks, but must



be undertaken if we are to improve the administration of justice in these departments. If the legislature can be persuaded to adopt the county court bill in the form prepared and presented by the Judicial Council, the situation will be somewhat remedied. . . .

"I wish to urge upon you a thorough and painstaking study of the judicial article of the constitution of Kansas as rewritten by the Judicial Council and published in its reports. If that amendment should ever be adopted, many of the troubles we are discussing to-day would vanish. The time will come, I believe, when instead of by codes of procedure we will practice law in accordance with rules promulgated by the supreme court. You may as well be thinking about it because it will come sooner or later. We will then have a much more workable and elastic procedure, which after all is the basic secret of a speedy and satisfactory administration of justice. We encounter sections of codes which impede our progress. We find the absence of provisions that would accelerate proceedings in trial courts. Corrective measures may be applied at a session of the legislature, and they may not be. But if we practice by rule instead of by code, and these defects and impediments appear, remedial action can quickly be had through the rule-making power of the supreme court."

In general discussion following the papers of Messrs. Bartlett and Hunt, David Ritchie, of Salina, supported strongly the principle of having rules of practice from the supreme court rather than codes from the legislature.

The general topic which was the chief feature of the Bar Association's program was presented further by E. E. Euwer, of Goodland. His paper was entitled "Desirable Amendments and Revision of our Substantive Law Relating to Wills and Administration of Estates of Deceased and Incompetent Persons."

Mr. Euwer set out in detail a long series of defects, doubts and gaps in probate law in Kansas. He said:

"Most of our laws relating to administration were passed in 1868 when conditions were vastly different from what they now are. Kansas has now reached an age where the older generation of people who have accumulated considerable property are rapidly dying, and estates are now common in probate court that are quite complicated and large in amount, and where earlier they were small in amount and value they are now large, and the administration is not a simple matter.

"It appears that matters affecting incompetent persons are not treated alike when any provision at all is made. No main principle runs through any of them. The matter of gaining jurisdiction, notice, publications, hearings, rulings, decisions, sales, notices of sale, have no common course, and the substantive law is lacking in these kinds of estates. There is still a broad field that might be covered by laws affecting the rights of incompetent persons such as convicts, insane persons and minors, which time does not permit herein to be discussed. And in this connection I refer you to questions concerning adoption of minors, the suspension of rights of incarcerated persons, the conflict of laws where a person is minor in one state and considered of full age in another. . . . The present probate law is fragmentary and uncertain, in some particulars deficient, and needs general revision."

C. A. Spencer, of Oakley, offered the last formal paper. It was entitled "A Better Court System for Probate Matters." Mr. Spencer held that all the bar agree to the need of improvement in our probate-court system. To abolish the present probate court and confer the jurisdiction on another court takes too much time. "To establish a definite and uniform procedure would bring the quickest and surest results." A better and uniform system of records should be required to be kept by probate courts. Time of hearings should be fixed. Qualified judges are at times needed. Cases are begun and then for

want of system are forgotten, perhaps for years. County courts should be established to hold court over the county wherever required by litigation. It should sit from time to time in each incorporated city, and the city clerk should be, by virtue of his office, the clerk for such city division of the county court. Record at the county seat should be made only on demand.

For estates assurance should be given that all interested would have notice. For this the proceedings need be adversary. To apply the civil code and let the supreme court prescribe rules for any further needs would make the system uniform.

General discussion, which before had been limited in time, now brought out extended comments by several of the bar. O. O. Osborn said that lawyers must improve probate procedure. R. W. Hemphill, of Norton, cited the fact that probate jurisdiction is an adjunct of the court of general jurisdiction in Iowa, Indiana and other states. B. W. Brooke described the Iowa system. D. H. Postlethwaite suggested that every decedent's estate be probated.

---

### **Southwestern Kansas Bar Meeting.**

By ROSCOE H. WILSON.

The Southwestern Kansas Bar Association held its sixteenth semiannual meeting at Garden City on June 22. About eighty lawyers were in attendance at this meeting, it being one of the best-attended summer meetings in the history of the association. The meetings were held in the new American Legion building and were all well attended.

Matters heretofore suggested by the Judicial Council formed the principal topic of discussion, especially suggested improvement in probate procedure. The morning session included an address of welcome by Fred J. Evans, mayor of Garden City, with a response by Roland H. Tate, of Lakin, and a most interesting paper on "Early Probate Law and Procedure" by Roscoe E. Peterson, of Larned. Dean Harry K. Allen, of the Washburn College School of Law, delivered a very fine address in the afternoon on the development and growth of the various systems of law. This was followed by a discussion on the subject of the adoption of the code of civil procedure for probate practice. Robert Garvin, of St. John, had the affirmative of the question and Judge G. L. Light, of Liberal, presented the negative side of the argument. This was followed by a general discussion which showed a very genuine interest in the matter of probate procedure and indicated an almost unanimous opinion that probate matters, to a considerable degree at least, should be made adversary and some logical system of procedure adopted. The arguments made on the subject of a revised procedure for probate courts were similar to those contained in the papers read at the meeting of the Northwestern Kansas Bar Association. Since Judge Ruppenthal has made extensive quotations from these papers they will not be reproduced here. A considerable time was spent in considering the question of fees in the probate court.

The evening banquet was held at the American Legion building with A. M. Fleming as toastmaster. The principal speakers at the banquet were E. C. Flood, of Hays, formerly president of the Northwestern Kansas Bar Association, and Judge Edgar Foster, of Garden City.



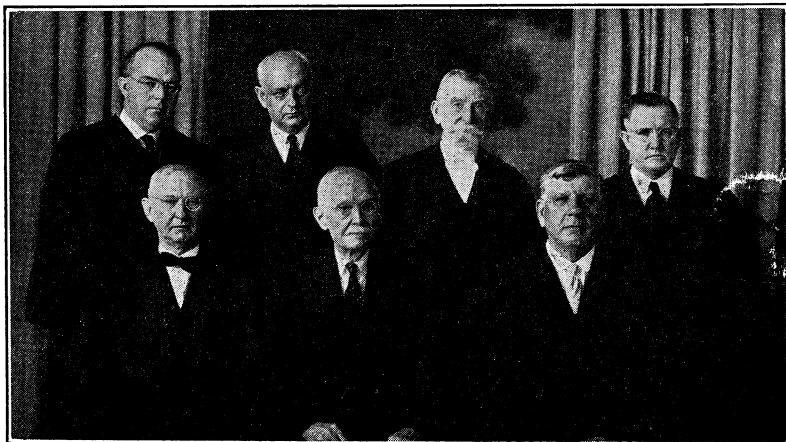


# KANSAS JUDICIAL COUNCIL BULLETIN

OCTOBER, 1932.

PART 3.—SIXTH ANNUAL REPORT

## THE SUPREME COURT OF KANSAS.



William A. Smith, W. W. Harvey, Wm. Easton Hutchison, Edward R. Sloan,  
Rousseau A. Burch, William A. Johnston (C.J.), John S. Dawson.

## TABLE OF CONTENTS.

	PAGE
FOREWORD .....	55
SUMMARY OF WORK OF SUPREME COURT.....	57
SOME CHANGES IN THE PROPOSED JUDICIAL ARTICLE OF OUR CONSTITUTION .....	62
By C. L. HUNT.	
REDEMPTION OF REAL PROPERTY.....	66
By GEORGE AUSTIN BROWN.	
SUGGESTED AMENDMENTS IN PROCEDURE INVOLVING EMINENT DOMAIN, .....	69
By CHESTER STEVENS.	
SYNOPSIS OF EMINENT DOMAIN STATUTES.....	72
By FRANKLIN CORRICK.	
PROPOSED CODE OF PROBATE PROCEDURE.....	87

Application at post office at Topeka, Kansas, for second-class matter.

## MEMBERS OF THE JUDICIAL COUNCIL.

---

W. W. HARVEY, Chairman.....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, Secretary.....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
ROSCOE H. WILSON.....	Jetmore.
Judge Thirty-third Judicial District.	
JOHN W. DAVIS.....	Dodge City.
Chairman Senate Judiciary Committee.	
GEORGE AUSTIN BROWN.....	Wichita.
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE:

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the  
state,

For the improvement of our Judicial System and its more  
efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

---

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kan.

OCTOBER, 1932

---

## FOREWORD.

This BULLETIN is part three of our sixth annual report. The fourth and concluding part will be issued in December. That issue will contain, in appropriate form, recommendations to the legislature for the improvement of our judicial system and for improved methods of procedure, in so far as we have completed our study of those matters and to the extent we will feel justified in making definite recommendations concerning them, and a brief statement of the reasons which prompted each of the proposed measures. Our December issue also will contain general summaries of reports received from clerks of courts within the last five years. Some of these are prepared and could have been included in this issue, but we thought best to have them together in one issue, and we have for this issue an abundance of material on which we would like to have the views of the bar at an early date.

The Judicial Council was created by statute in 1927. Its members serve without pay, but an appropriation is made to pay their actual expenses to attend meetings and for clerical help, postage, and the like. Its duties, briefly, are to study our judicial system, the quantity of business therein, the procedure by which it is handled and the time consumed in doing so, and to suggest to the courts, to the governor and to the legislature changes deemed beneficial. It has made many such suggestions. The courts have adopted some of these, with the result that they are functioning, certainly more promptly, and we believe more efficiently, than at any time in the history of our state.

The legislature has been slow to respond to beneficial changes suggested by the Council, with the result that many of its recommendations which would make substantial improvements in our judicial system and its functioning, but which require legislative sanction, have not been put into effect.

Government as we have organized and endeavor to maintain it is designed to be beneficial to our people. The judiciary is a branch of the government. First and last every important controverted question which arises among our people in their business, personal and governmental relations finds its way into the courts for determination. They should be determined fairly and with reasonable promptness. How these things can be best accomplished are matters worthy of the best thought, not only of judges, lawyers and other court officials, but of citizens generally.

In this issue we print a group picture of the justices of the supreme court, the first such picture taken of the court with its present membership, and the first taken since the court adopted the practice of wearing robes while on the bench. While somewhat aside from the work of the Council, we feel justified in printing it because of the interest the members of the court have shown in

the work of the Council and the many helpful suggestions they have given it from time to time, and because the chief justice appoints seven of the nine members of the Council and is to that extent responsible for its personnel, and because one of the justices is a member of the Council and has been its chairman from the beginning. We are confident that lawyers and others who receive the BULLETIN will appreciate its publication.

In this issue we have a detailed summary of the work of the supreme court for the year ending June 30, 1932. This is the fifth consecutive year we have printed similar summaries of the work of the highest court of the state. So far as we are informed, this is the only state in which the work performed by the supreme court, and the time consumed in the progress of cases through such a court, have been detailed in a way available to lawyers and others interested in the work of the court.

The articles herein on the suggested changes in the judicial article of our constitution, the redemption of real property sold on execution or order of sale, procedure in eminent domain, and the proposed code of probate procedure, need not be enlarged upon in this foreword. It is sufficient to note that in undertaking these matters the Council has laid out for itself a lot of work in which it will need all the help it can get from all who are affected thereby. Each of these measures is important and far-reaching. That great improvement in present provisions relating to these subjects can and should be made is quite generally recognized. We sincerely trust that the bench and bar of the state will work actively with the Council in the study of these questions so the results obtained will be our best combined judgment.

We shall not take space here to mention other questions heretofore discussed in our bulletins and reports, many of which are still receiving consideration.

### Summary of Work of Supreme Court.

The following is a summary of the work of the supreme court for the year ending June 30, 1932:

There were 522 appealed civil cases disposed of within the year ending June 30, 1932. Of this number 159 were dismissed without having been presented on the merits, and 363 were submitted on the merits and written opinions filed. Of the 363 submitted on the merits 267 were affirmed, 80 reversed, 7 affirmed and reversed, 6 affirmed and modified, and 3 modified.

The court also disposed of 74 criminal cases. Of this number 45 were dismissed without having been presented on the merits, and 29 were submitted on the merits and written opinions filed. Of this number 24 were affirmed and 5 reversed.

The court also disposed of 32 original cases, of which 6 were dismissed before having been presented on the merits and 26 were submitted on the merits, and written opinions filed.

This makes a grand total of 628 cases disposed of by the supreme court, of which 210 were dismissed without having been presented on the merits and 418 were submitted on the merits and written opinions filed.

Cases pending July 1, 1932: 292 appealed civil cases, 50 appealed criminal cases, and 15 original cases.

Progress of cases: The data with respect to the progress of cases through the court are grouped below under the headings of civil, criminal and original cases.

#### CIVIL CASES.

Progress of civil cases tried on the merits: In the 363 appealed civil cases which were tried on the merits and in which written opinions were filed, the interim between the date of the judgment appealed from and the date notice of appeal was filed in the trial court was as follows: Within 10 days, 75 cases; in 10 to 30 days, 70 cases; 1 to 2 months, 44 cases; 2 to 3 months, 48 cases; 3 to 4 months, 31 cases; 4 to 5 months, 36 cases; 5 to 6 months, 39 cases; more than 6 months, 16 cases; date not given, 4 cases.

The time between the date the notice of appeal was filed in the trial court and the date the same was filed in the supreme court was as follows: Within 5 days, 131 cases; 5 to 10 days, 63 cases; 10 to 20 days, 65 cases; 20 to 30 days, 43 cases; 1 to 2 months, 31 cases; 2 to 3 months, 10 cases; 3 to 4 months, 6 cases; 4 to 5 months, 6 cases; 5 to 6 months, 2 cases; more than 6 months; 2 cases; date not given, 4 cases.

The time between the filing of the notice of appeal in the supreme court and the date the docket fee was filed was as follows: Within 5 days, 95 cases; 5 to 15 days, 70 cases; 15 to 30 days, 73 cases; 1 to 2 months, 32 cases; 2 to 3 months, 17 cases; more than 3 months, 29 cases; date not given, 47 cases.

The time between the date the notice of appeal was filed in the supreme court and the date the bond for costs was filed was as follows: Less than 10 days, 75 cases; 10 to 30 days, 68 cases; 1 to 2 months, 30 cases; 2 to 3 months, 11 cases; more than 3 months, 21 cases; date not given, 158 cases.

The interval between the filing of the notice of appeal in the supreme court and the date appellant's abstract was filed was as follows: Less than 3



months, 112 cases; 3 to 4 months, 88 cases; 4 to 5 months, 47 cases; 5 to 6 months, 41 cases; 6 to 9 months, 36 cases; 9 to 12 months, 15 cases; more than 12 months, 2 cases; date not given, 22 cases.

The interval between the filing of the notice of appeal in the supreme court and the time appellant's brief was filed was as follows: Less than 3 months, 64 cases; 3 to 4 months, 29 cases; 4 to 5 months, 48 cases; 5 to 6 months, 50 cases; 6 to 9 months, 131 cases; 9 to 12 months, 25 cases; more than 12 months, 4 cases; date not given, 12 cases.

The time between the date the notice of appeal was filed in the supreme court and the date the case was submitted on its merits was as follows: Less than 3 months, 12 cases; 3 to 4 months, 9 cases; 4 to 5 months, 9 cases; 5 to 6 months, 40 cases; 6 to 9 months, 202 cases; 9 to 12 months, 50 cases; 12 to 15 months, 34 cases; 15 to 18 months, 6 cases; more than 18 months, 1 case.

The interval between the date the case was submitted to the supreme court and the date the opinion was filed was as follows: Before the first opinion day, 4 cases; first opinion day, 331 cases; second opinion day, 27 cases; third opinion day, 1 case.

Progress of civil cases dismissed: In the 159 appealed civil cases that were dismissed without being submitted on the merits, the interim between the date of the judgment appealed from and the date notice of appeal was filed in the trial court was as follows: Within 10 days, 39 cases; 10 to 30 days, 26 cases; 1 to 2 months, 27 cases; 2 to 3 months, 16 cases; 3 to 4 months, 11 cases; 4 to 5 months, 8 cases; 5 to 6 months, 18 cases; over 6 months, 11 cases; date not given, 3 cases.

The time between the date the notice of appeal was filed in the trial court and the date the same was filed in the supreme court was as follows: Within 10 days, 83 cases; 10 to 20 days, 20 cases; 20 to 30 days, 18 cases; 1 to 2 months, 24 cases; 2 to 3 months, 11 cases; 3 to 4 months, 3 cases; date not given, 1 case.

The time between the filing of the notice of appeal in the supreme court and the date the docket fee was filed was as follows: Within 5 days, 17 cases; 5 to 15 days, 19 cases; 15 to 30 days, 24 cases; 1 to 2 months, 20 cases; 2 to 3 months, 3 cases; more than 3 months, 2 cases; date not given, 74 cases.

The time between the date the notice of appeal was filed in the supreme court and the date the bond for costs was filed was as follows: Less than 10 days, 8 cases; 10 to 30 days, 14 cases; 1 to 2 months, 5 cases; 2 to 3 months, 2 cases; more than 3 months, 4 cases; date not given, 126 cases.

The interval between the date the case was filed in the supreme court and the date same was dismissed was as follows: Less than 1 month, 7 cases; 1 to 2 months, 21 cases; 2 to 3 months, 17 cases; 3 to 4 months, 26 cases; 4 to 6 months, 43 cases; 6 to 9 months, 27 cases; 9 to 12 months, 8 cases; more than 12 months, 10 cases.

Pending cases: There were 292 appealed civil cases pending July 1, 1932. The time between the date of the judgment appealed from and the date the notice of appeal was filed in the trial court was as follows: Within 10 days, 60 cases; 10 to 30 days, 55 cases; 1 to 2 months, 54 cases; 2 to 3 months, 26 cases; 3 to 4 months, 28 cases; 4 to 5 months, 17 cases; 5 to 6 months, 33 cases; after 6 months, 16 cases; date not given, 3 cases.

The interval from the date the notice of appeal was filed in the trial court

to the date same was filed in the supreme court was as follows: Within 5 days, 122 cases; 5 to 10 days, 46 cases; 10 to 20 days, 51 cases; 20 to 30 days, 33 cases; 1 to 2 months, 32 cases; 2 to 3 months, 3 cases; 3 to 4 months, 1 case; 4 to 5 months, 1 case; date not given, 3 cases.

The time between the filing of the notice of appeal in the supreme court and the date the docket fee was filed was as follows: Within 5 days, 62 cases; 5 to 15 days, 60 cases; 15 to 30 days, 68 cases; 1 to 2 months, 26 cases; 2 to 3 months, 17 cases; more than 3 months, 2 cases; date not given, 57 cases.

The time between the date the notice of appeal was filed in the supreme court and the date the bond for costs was filed was as follows: Less than 10 days, 3 cases; 10 to 30 days, 2 cases; 1 to 2 months, 1 case; date not given, 286 cases.

The interval between the filing of the notice of appeal in the supreme court and the date appellant's abstract was filed was as follows: Less than 3 months, 51 cases; 3 to 4 months, 24 cases; 4 to 5 months, 14 cases; 5 to 6 months, 11 cases; 6 to 9 months, 14 cases; 9 to 12 months, 1 case; date not given, 177 cases.

The interval between the filing of the notice of appeal in the supreme court and the time appellant's brief was filed was as follows: Less than 3 months, 12 cases; 3 to 4 months, 20 cases; 4 to 5 months, 22 cases; 5 to 6 months, 5 cases; 6 to 9 months, 14 cases; 9 to 12 months, 4 cases; date not given, 215 cases.

#### CRIMINAL CASES.

Progress of criminal cases tried on the merits: In the 29 appealed criminal cases which were tried on the merits and in which written opinions were filed, the interval between the date of the judgment appealed from and date the notice of appeal was filed in the trial court was as follows: The same day, 5 cases; within 10 days, 3 cases; 10 to 30 days, 12 cases; 1 to 2 months, 5 cases; 3 to 4 months, 2 cases; 4 to 5 months, 1 case; more than 6 months, 1 case.

The time from the date the notice of appeal was filed in the trial court to the date the notice of appeal was filed in the supreme court was as follows: Within 5 days, 9 cases; 5 to 10 days, 3 cases; 10 to 20 days, 6 cases; 20 to 30 days, 3 cases; 1 to 2 months, 3 cases; 2 to 3 months, 4 cases; more than 6 months, 1 case.

The interval between the date the notice of appeal was filed in the supreme court and the date the docket fee was filed was as follows: Within 5 days, 5 cases; 5 to 15 days, 7 cases; 15 to 30 days, 9 cases; 1 to 2 months, 2 cases; 2 to 3 months, 1 case; more than 3 months, 2 cases; date not given, 3 cases.

The interval between date notice of appeal filed in supreme court and date abstract of appellant was filed was as follows: One to 4 months, 6 cases; 4 to 6 months, 13 cases; 6 to 12 months, 9 cases; more than 12 months, 1 case.

The interim between the filing of appellant's brief and the filing of appellant's abstract was as follows: The same day, 12 cases; within 10 days, 6 cases; 10 to 30 days, 8 cases; 1 to 2 months, 1 case; more than 2 months, 2 cases.

The interim between the date the notice of appeal was filed in the supreme court to date counter abstract was filed was as follows: One to 3 months, 3 cases; 4 to 6 months, 3 cases; 6 to 9 months, 9 cases; 9 to 12 months, 3 cases; 12 to 15 months, 6 cases; date not given, 5 cases.

The time between the date the notice of appeal was filed in the supreme court and the date appellee's brief was filed was as follows: One to 3 months, 3 cases; 3 to 4 months, 1 case; 4 to 6 months, 3 cases; 6 to 9 months, 11 cases; 9 to 12 months, 4 cases; 12 to 15 months, 6 cases; date not given, 1 case.

The interval between the date the notice of appeal was filed in the supreme court and date the case was submitted on the merits was as follows: One to 3 months, 1 case; 3 to 4 months, 1 case; 4 to 6 months, 5 cases; 6 to 9 months, 13 cases; 9 to 12 months, 4 cases; 12 to 15 months, 4 cases; more than 15 months, 1 case.

The interval between the date the case was submitted on the merits and date the opinion was filed was as follows: Before first opinion day, 1 case; first opinion day, 28 cases.

The nature of the offenses charged and their number are as follows: Violation of intoxicating liquor law, 11 cases; murder, 1 case; larceny, 3 cases; robbery, 2 cases; homicide, 3 cases; gambling, 1 case; perjury, 1 case; grand larceny, 1 case; manslaughter, 2 cases; fraud, 1 case; bond forfeiture, 2 cases; violation Sunday labor law, 1 case.

Of the 45 appealed criminal cases which were dismissed without having been submitted on the merits, the interval between the date of the judgment appealed from and date the notice of appeal was filed in the trial court was as follows: The same day, 9 cases; within 10 days, 9 cases; 10 to 30 days, 13 cases; 1 to 2 months, 7 cases; 2 to 3 months, 4 cases; 3 to 4 months, 1 case; 7 to 8 months, 1 case; 8 to 9 months, 1 case.

The time from the date the notice of appeal was filed in the trial court to the date the notice of appeal was filed in supreme court was as follows: Within 5 days, 14 cases; 5 to 10 days, 9 cases; 10 to 20 days, 6 cases; 20 to 30 days, 5 cases; 2 to 3 months, 3 cases; 3 to 4 months, 2 cases; 4 to 5 months, 4 cases; over 5 months, 2 cases.

The interval between the date the notice of appeal was filed in the supreme court and the date the docket fee was filed was as follows: Five to 15 days, 2 cases; 15 to 30 days, 8 cases; 1 to 2 months, 6 cases; 2 to 3 months, 2 cases; 3 to 4 months, 1 case; 4 to 5 months, 1 case; date not given, 25 cases.

The interval between the date the case was filed in the supreme court and the date same was dismissed was as follows: Less than 30 days, 3 cases; 1 to 2 months, 3 cases; 2 to 3 months, 9 cases; 3 to 4 months, 5 cases; 4 to 6 months, 11 cases; 6 to 9 months, 10 cases; 9 to 12 months, 4 cases.

The nature of the offenses charged and their number are as follows: Violation of intoxicating liquor law, 16 cases; murder, 2 cases; larceny, 2 cases; rape, 3 cases; robbery, 4 cases; arson, 2 cases; manslaughter, 1 case; assault and battery, 1 case; forgery, 1 case; theft, 1 case; bad check, 1 case; narcotic, 2 cases; blue sky law, 1 case; burglary, 1 case; embezzlement, 1 case; lottery, 1 case; confiscation, 1 case; perjury, 1 case; contempt, 1 case; fraud, 1 case; not stated, 1 case.

Pending cases: There were 50 appealed criminal cases pending July 1, 1932. The time between the date of the judgment appealed from and the date the notice of appeal was filed in the trial court was as follows: Same day, 10 cases; within 10 days, 12 cases; 10 to 30 days, 13 cases; 1 to 2 months, 6 cases; 2 to 3 months, 4 cases; 3 to 4 months, 3 cases; 5 to 6 months, 2 cases.

The interval from the date the notice of appeal was filed in the trial court to the date same was filed in the supreme court was as follows: Within 5

days, 26 cases; 5 to 10 days, 4 cases; 10 to 20 days, 6 cases; 20 to 30 days, 8 cases; 1 to 2 months, 3 cases; 2 to 3 months, 2 cases; more than 3 months, 1 case.

The interval between the filing of the notice of appeal in the supreme court and the date the docket fee was filed was as follows: Within 5 days, 3 cases; 5 to 15 days, 4 cases; 15 to 30 days, 12 cases; 1 to 2 months, 5 cases; 2 to 3 months, 4 cases; 3 to 4 months, 3 cases; over 4 months, 2 cases; date not given, 17 cases.

The time between the filing of the notice of appeal in the supreme court and the date appellant's abstract was filed was as follows: Less than 3 months, 2 cases; 3 to 4 months, 2 cases; 4 to 5 months, 1 case; 5 to 6 months, 2 cases; 6 to 9 months, 6 cases; 9 to 12 months, 1 case; more than 12 months, 1 case; date not given, 35 cases.

The time between the filing of the notice of appeal in the supreme court and the date appellant's brief was filed was as follows: Less than 3 months, 2 cases; 3 to 4 months, 1 case; 6 to 9 months, 7 cases; more than 9 months, 2 cases; date not given, 38 cases.

Of the 50 appealed criminal cases pending July 1, 1932, the nature of the offenses charged and their number are as follows: Violation of intoxicating liquor law, 9 cases; murder, 8 cases; larceny, 4 cases; robbery, 3 cases; bad check, 4 cases; manslaughter, 1 case; embezzlement, 6 cases; gambling, 1 case; perjury, 1 case; grand larceny, 1 case; auto theft, 1 case; blue sky law, 1 case; rape, 1 case; fraud, 1 case; chicken stealing, 1 case; bastardy, 1 case; confiscation, 1 case; theft, 1 case; not stated, 4 cases.

#### ORIGINAL CASES.

Progress of original cases submitted on the merits in which written opinions were filed, the time between the date petition or application was filed and the date the case was presented on its merits was as follows: Less than 1 month, 6 cases; 1 to 3 months, 4 cases; 3 to 6 months, 7 cases; 6 to 9 months, 2 cases; 9 to 12 months, 5 cases; 1 to 2 years, 1 case; after 2 years, 1 case.

The interval between the presentation on the merits and the date decided was as follows: Before the first opinion day, 6 cases; first opinion day, 18 cases; second opinion day, 2 cases.

The nature of the cases and their number are as follows: Mandamus, 11 cases; habeas corpus, 4 cases; quo warranto, 7 cases; disbarment, 2 cases; contempt, 2 cases.

Of the 6 original cases which were dismissed before having been presented, the time between the date petition or application was filed and the date case was dismissed was as follows: Less than 1 month, 2 cases; 3 to 6 months, 1 case; 6 to 9 months, 2 cases; 9 to 12 months, 1 case.

The nature of the cases and their number are as follows: Mandamus, 5 cases; habeas corpus, 1 case.

Pending cases: There were 15 original cases pending in the supreme court on July 1, 1932; 2 had been pending less than 30 days; 8 from 3 to 6 months; 5 more than 6 months.

The nature of the cases and their number are as follows: Mandamus, 11 cases; quo warranto, 3 cases; contempt, 1 case.

There were a total of 984 motions disposed of by the supreme court for the year ending June 30, 1932. Of which 782 were allowed, 200 denied, and 2 withdrawn. There were 86 motions pending July 1, 1932.

## Some Changes in the Proposed Judicial Article of the Kansas Constitution.

By CHARLES L. HUNT.

A draft of the proposed amendment of the judicial article of the Kansas Constitution, prepared by the Judicial Council, appeared in the July, 1932, BULLETIN published by the Council, with some comments by the writer. The bench and bar were invited to offer criticisms and suggestions. Very few have been received.

The Council is much indebted to Arthur S. Humphrey, of the Junction City bar, for two meritorious and constructive suggestions. One was that section 3 was so phrased to admit a possible construction that the supreme court would have original jurisdiction in quo warranto, mandamus and habeas corpus only if questions of law solely were presented and the cases be submitted on a written statement of agreed facts. He also directed attention to section 8, voicing the fear that it might deprive district courts of the power in divorce cases to make a suitable order concerning the custody of children. Mr. Humphrey's views in these two instances appear to be sound.

The Judicial Council met on September 30 and October 1, and about one day was devoted to rewriting some of the sections as they appeared in the July BULLETIN. A few minor changes in phraseology were made, and some unnecessary language was deleted. Appended hereto is the complete draft as revised at the last meeting, and the changes made will be apparent by a comparison of the appended draft with the one appearing in the July BULLETIN. Some of the changes, including the revisions of sections 3 and 8 designed to meet the suggestions tendered by Mr. Humphrey, will be noted.

Section 3 was rewritten to clearly confer original jurisdiction on the supreme court in quo warranto, mandamus and habeas corpus, whether presenting questions of law or fact, and to exclude the limitation of submission on a statement of agreed facts.

After much debate the original jurisdiction of the supreme court was enlarged to include proceedings wherein injunctive relief only was sought, yet leaving it to the discretion of the court as to whether under the situation presented in each individual case it will or it will not assume jurisdiction. Situations are not infrequent where it is obviously necessary to obtain injunctive relief quickly and in the court of last resort, yet the court should not be burdened with applications for restraining orders and temporary injunctions where such relief is incidental to the principal relief sought. Therefore the jurisdiction is limited to cases wherein no relief except injunction is desired. It was felt even this additional jurisdiction might overburden the court, and accordingly the advisability of taking jurisdiction in injunction cases is left to the discretion of the court.

A slight change was made relating to the appellate jurisdiction of the supreme court. There appeared to be some question as to whether an appeal would lie to cases tried in the district court on appeal from inferior tribunals. The word "tried" was eliminated and the present provision is that appeals shall lie from the final decision of the district court.

An additional provision was inserted in section 3 to avoid the necessity of the appointment of a commissioner to take evidence and return findings of fact and conclusions of law in original proceedings. This practice has in some instances occasioned expense entirely out of proportion to the importance of the proceeding. The new provision permits the supreme court to direct a judge of a district court to perform this service, but it is not exclusive, and in proper cases a commissioner may be appointed as heretofore.

Section 8 confers exclusive original jurisdiction on the county court for the probate of wills and in all matters relating to the estates of decedents, minors and incompetent persons, whereas in the former draft this jurisdiction extended to the persons of minors and incompetent persons. The new provision leaves it to the legislature to confer jurisdiction in matters relating to the person of minors and incompetent persons.

A new provision was inserted in section 10. There appears to be a widespread disapproval of a judge becoming a candidate for congress or any other nonjudicial office. Section 13 of article 3 of the present constitution provides that no judge shall hold any other office of profit or trust under the authority of the state or the United States during the term for which he shall have been elected. This provision is nugatory so far as candidates for congress are concerned because it has been repeatedly held that the house of representatives in congress is the exclusive judge of the qualifications of its own members. It is believed, however, that the people of the state, speaking through their constitution, have a right to declare vacant the office of any judge when he becomes a candidate for or accepts an appointment to a nonjudicial office. This added provision is not dissimilar to section 5 of article 2 of the Kansas constitution relating to eligibility to membership in the state legislature. It will be noted that nothing in the present draft of the constitution forbids any judge from becoming a candidate for another judicial office. The present barrier against the advancement of a district judge to the supreme bench is thus removed.

Again, the Council urgently invites suggestions and criticisms by the bench and bar.

A PROPOSITION to amend article III of the constitution of the state of Kansas, relating to the judiciary.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:*

SECTION 1. There is hereby recommended and submitted to the qualified electors of the state of Kansas, to be voted upon at the next general election for representatives, for their approval or rejection, a proposition to amend article III of the constitution of the state of Kansas, relating to the judiciary, so as to read as follows:

#### ARTICLE III.—THE JUDICIARY.

SECTION 1. All of the judicial power of this state shall be vested in a system of courts composed of a supreme court, district courts, county courts, and such other courts, inferior to the supreme court, as may be created by law.

SEC. 2. The supreme court, district courts, and county courts shall be courts of record and each shall have a seal to be used in the authentication of all process and records.

SEC. 3. The supreme court shall be the highest in the judicial system of the state. It shall have original jurisdiction in proceedings in quo warranto, man-

damus, habeas corpus, and also shall have original jurisdiction in other actions and proceedings presenting questions of law only which are submitted on a written statement of agreed facts. The supreme court also shall have original jurisdiction in proceedings where injunctive relief only is sought, but shall assume jurisdiction in such cases only as it shall deem advisable, and shall have appellate jurisdiction from the final decision of the district court in all civil and criminal actions and special proceedings, and shall have such other appellate jurisdiction as may be provided by law. It shall consist of seven justices until the number shall be changed by law. It may make provision by rules for the practice and procedure in all state courts. It may temporarily transfer a district judge from one district court or division to another, when the condition of business, disqualification of the acting judge or his inability to sit makes such action advisable. Any judge so transferred, and the court over which he presides, shall have the same power and jurisdiction as a regular judge or court in civil and criminal cases and other proceedings. The supreme court may call a judge of any district court to sit on the supreme court in the event a member of that court be ill or disqualified. In original proceedings in the supreme court which involve controversies of fact the supreme court may direct a judge of a district court to hear the evidence and make findings of fact and conclusions of law and report them to the supreme court. The justices of the supreme court may sit separately in divisions with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division and the concurrence of three shall be necessary to a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all of the justices, and the concurrence of a majority shall be necessary to a decision in cases so heard. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in years of these shall be the chief justice, and the presiding justice of each division shall be selected from the judges assigned to that division in like manner.

SEC. 4. Justices of the supreme court, judges of the district courts, and judges of county courts may be removed from office by resolution of both houses of the legislature if two-thirds of the members of each house concur. But no such removal by such proceeding shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

SEC. 5. The supreme court, not more than two justices voting in the negative, after a hearing, on complaint and due notice, may ask the resignation of, or by order remove, a justice of that court or a judge of any state court for the good of the service, and shall prescribe rules of procedure therefor; and by like vote, after notice and hearing, may retire on half pay any justice of the supreme court or judge of the district court who has served continuously as such justice or judge, or both, for as much as fifteen years, and who shall have attained the age of seventy years, or whose physical or mental infirmities have rendered such retirement advisable for the good of the service.

SEC. 6. The supreme court shall appoint a reporter and a clerk for that court who shall hold office during the pleasure of the court and shall prescribe their respective duties.

SEC. 7. There shall be a district court in each county, but several counties may compose one district, and there may be divisions of the district court as the business therein may require. Judicial districts consisting of one or more counties, and the divisions of each district court and the number of judges therein, as they may exist at the time of the adoption of this amendment, shall continue to exist until changed by law. The district court shall be a court of original general jurisdiction for the trial of all civil and criminal actions and proceedings, except as the exclusive jurisdiction of any civil or criminal action or proceeding is hereby vested in some other court, and shall have appellate jurisdiction in all civil and criminal actions and proceedings originating in courts inferior to the district court, and before boards, commis-

sions, officers and tribunals when exercising judicial functions, and such other jurisdiction as may be provided by law.

SEC. 8. There shall be a county court in each county, which shall have exclusive original jurisdiction for the probate of wills and in all matters relating to the estates of decedents, minors and incompetent persons, and shall have such jurisdiction in matters relating to the person of minors and incompetent persons, and in civil and criminal actions and proceedings, as may be provided by law. The board of commissioners of the county shall establish such divisions of the county court as the condition of business therein requires. The judge or judges of such court shall be examining magistrates in prosecutions for felonies. There shall be at least one judge of the county court in each county, and such additional judges as may be provided by law. At the first session of the legislature following the adoption of this article the legislature shall provide for the organization of county courts in accordance with this section, the transferring to such courts of the records and pending business of trial courts inferior to the district court, and for the election of judges for such courts at the next general election, so that such county courts may be fully organized and equipped to take care of such business on the second Monday in January following such general election.

SEC. 9. In each county there shall be a court clerk who shall be selected as provided by law and who shall act as clerk for both the district court and the county court in such county, and whose duties shall be prescribed by rule of the supreme court.

SEC. 10. To be eligible to hold the office of justice of the supreme court or judge of the district court a person must be duly admitted to practice law in this state, and shall be a citizen and resident of the state and district in which he is elected or appointed, and before taking such office must have been engaged in the active practice of law or shall have served as judge of a court of record, or both, in the aggregate as follows: For justice of the supreme court, ten years; for judge of the district court, five years. No person shall be ineligible to hold any judicial office in this state on account of his holding another judicial office therein at the time of his election or appointment. No person shall hold more than one judicial office concurrently. A justice of the supreme court, or a judge of the district court or county court, shall not be a candidate for a nonjudicial office, and in the event he files for or accepts a nomination for or an appointment to a nonjudicial office, his office of justice or judge shall immediately become vacant.

SEC. 11. Justices of the supreme court and judges of the district courts and county courts shall be elected at general elections as provided by law, and shall hold their respective offices for such terms as the legislature shall prescribe, which shall be not less than six years for justices of the supreme court, nor less than four years for judges of district courts and county courts.

SEC. 12. All appeals from county courts shall be to the district court, and all appeals from the district court shall be to the supreme court.

SEC. 13. The justices of the supreme court and judges of the district courts and county courts shall, at stated times, receive for their services such compensation as may be provided by law, but no such justice or judge shall receive any fee or perquisites, nor shall he practice law during his continuance in office.

SEC. 14. The several justices and judges of courts of record in this state shall have such jurisdiction at chambers as may be provided by rule of the supreme court.

SEC. 15. Provision shall be made by rule of the supreme court for the selection of a judge *pro tem.* of the district court or county court.

SEC. 16. In the event of a vacancy in the office of a justice or judge of any of the courts of record of this state the governor shall appoint some eligible person to fill such vacancy. No such appointment to fill a vacancy on the supreme court or the district court shall be valid without the written concurrence therein of a majority of the justices of the supreme court. The person so appointed shall hold office until his successor, elected for the balance of the



unexpired term, shall have qualified. A successor shall be elected at the next general election which occurs more than four months after the vacancy.

SEC. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the state. All process from any of the courts of the state shall be executed by a sheriff, undersheriff or deputy, or by the clerk of the district court if the sheriff be the party to be served.

SEC. 2. This proposition shall be submitted to the electors of the state of Kansas at the general election in 1934. The amendment hereby proposed shall be known on the official ballot by the title, "The Judiciary Amendment to the State Constitution," and the vote for and against such proposition shall be taken as provided by law.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

---

## **The Redemption of Real Property Sold on Execution or Orders of Sale.**

By GEORGE AUSTIN BROWN.

Many requests have been made of the Judicial Council to prepare a proposed bill relating to the sale of real property under a general execution or an order of sale and carrying out the suggestion that the sale be made after the end of the redemption period instead of at the beginning of it. Our April BULLETIN contained an article outlining some of the advantages, both to the creditor and to the debtor, of the plan suggested.

We want to call your special attention to the fact that this bill does not shorten the period of redemption in any manner, and the Council is not recommending that the period of redemption be shortened. This bill provides for the sale of the property after the end of the period of redemption, except the debtor may redeem for the sales price at any time within ten days after the sale. This extra ten-days period gives the debtor additional time and will persuade the creditor to bid not less than the amount of the judgment and costs.

The Council has spent considerable time in formulating its ideas and submit the same herewith for the consideration of the courts, lawyers, and other persons interested. The Council solicits suggestions and criticisms and co-operation for the passage of a new law, such as suggested, for the sale of real property.

AN ACT relating to the sale of property on general execution, special execution, and order of sale and the redemption thereof, and amending sections 60-3408, 60-3416, 60-3438, 60-3455, 60-3456, 60-3457, 60-3459, 60-3460, 60-3461, 60-3462, 60-3465, and 60-3466 of the Revised Statutes of 1923 and sections 60-3430 and 60-3443 of the 1931 Supplement to the Revised Statutes of 1923, and repealing sections 60-3408, 60-3416, 60-3438, 60-3440, 60-3441, 60-3442, 60-3444, 60-3445, 60-3446, 60-3447, 60-3448, 60-3449, 60-3450, 60-3452, 60-3455, 60-3456, 60-3457, 60-3459, 60-3460, 60-3461, 60-3462, 60-3463, and 60-3466 of the Revised Statutes of 1923, and sections 60-3439 and 60-3443 of the 1931 Supplement to the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-3408 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3408. The officer to whom a writ of execution is delivered shall proceed immediately to levy the

same upon the goods and chattels of the debtor; but if no goods and chattels can be found the officer shall indorse on the writ of execution "No goods," and forthwith levy the writ of execution upon the lands and tenements of the debtor which may be liable to satisfy the judgment; *the officer shall make a return showing the lands and tenements of the debtor levied upon and the judgment creditor shall file an application with the court describing the lands and tenements levied upon and the court shall fix the date of sale, and the court may make an order making known and unknown persons parties claiming or having an interest in the property levied on and determine the interest owned by the execution debtor, and if any of the lands and tenements of the debtor which may be liable shall be encumbered by mortgage or any other lien or liens such lands and tenements may be levied upon and sold subject to such lien or liens.*

SEC. 2. That section 60-3416 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3416. Lands and tenements taken on execution or sold on order of sale shall not be sold until the expiration of the time fixed by the court for the sale and not until the officer cause public notice of the time and place of sale, to be given for at least thirty days before the day of sale, by advertisement in some newspaper regularly printed and published and having a general circulation in the county, to be designated by the party ordering the sale, or in case no newspaper be printed in the county, in some newspaper in general circulation therein. All sales made without such advertisement shall be set aside on motion by the court to which the execution is returnable. And no greater sum shall be taxed as costs for advertising in any case than the amount received or to be received by the publisher, printer, or editor of the paper doing the printing, and which shall not exceed the amount prescribed by law for such publication.

SEC. 3. That section 60-3439 of the 1931 Supplement to the Revised Statutes of 1923 is hereby amended to read as follows: Section 60-3439. The defendant owner may redeem any real property sold under execution, special execution, order of sale, for the amount sold for, together with interest, cost and taxes as provided in this act at any time *within ten days* from the day of sale as provided herein, and shall in the meantime be entitled to possession of the property, *and the date of sale of the real property shall not be fixed at less than eighteen (18) months from the date of the judgment or date of levy, except where the court or judge shall find that the lands and tenements have been abandoned or not occupied in good faith then in that event the court may fix the date of sale not less than six months from the date of judgment or date of levy; provided, that oil and gas leases or oil and gas leasehold estates may be sold immediately after judgment or levy and in all sales of oil and gas leases under order of sale or levy the property shall be appraised and sold for not less than two-thirds of its appraised value, and provided further that any contract and any mortgage or deed or trust agreeing to the sale of the real property within any period less than eighteen (18) months from the date of the judgment or waiving the ten-days period of redemption after the sale shall be null and void, except that any corporation organized under the laws of the United States, the District of Columbia or any state of the United States, may, as mortgagor, agree in the mortgage instrument to a sale being made at a shorter period than eighteen (18) months after the date of judgment or may consent to a sale of the property being made immediately after the judgment as against said corporation mortgagor owner, and all such agreements when so made shall be fully binding on such mortgagor.*

SEC. 4. That section 60-3443 of the 1931 Supplement to the Revised Statutes of 1923 is hereby amended to read as follows: Section 60-3443. During the period allowed *between the date of judgment or the date of levy and the ten-day period for redemption of real property* sold under execution, special execution, or order of sale, the judgment creditor may pay the taxes on the land and tenements ordered sold or levied on, the insurance premium on the

buildings thereon, and interest or sums due upon any prior lien or encumbrance thereon; and the same shall be a judgment upon such real property in favor of the judgment creditor paying the same, and the judgment creditor paying the same shall be entitled to repayment of all sums thus paid by him together with interest thereon, and before the judgment debtor shall clear his property of said judgment, the judgment creditors shall be reimbursed all sums paid by them for taxes, insurance premiums, and interest or sums due as shown by receipts or vouchers to be filed in the office of the clerk of the district court with interest at the rate of 6 per cent per annum together with costs, approved by the court; except, however, if the property is sold, the debtor shall have the right to redeem the property at any time within ten days after the sale by paying to the clerk of the district court the sum for which the property was sold and the property shall not be subject to further sale to satisfy said judgment or any sums allowed herein.

SEC. 5. That section 60-3455 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3455. *That the lands and tenements levied on or sold on order of sale may be sold or transferred by the defendant owner, and the transferee may have the same rights as the defendant owner, but the property levied on or ordered sold shall not be subject to levy or sale on execution after the date of judgment or after the court fixes the date for sale on execution, and the defendant owner or his transferee shall be entitled to possession and all the rents and profits therefrom after the date is fixed for sale until expiration of the ten-day period of redemption and the rents and profits therefrom shall be exempt from levy or sale on execution after the date of judgment or after the time is fixed for the sale of the property on general execution.*

SEC. 6. That section 60-3456 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3456. The holder of the legal title at the time of the issuance of the execution or order of sale shall have the same right to pay the judgment and other sums due the judgment creditor upon the same terms and conditions as the defendant in execution, and also shall be entitled to the possession of the property the same as the defendant in execution as herein provided.

SEC. 7. That section 60-3457 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3457. If the defendant in execution or order of sale or his transferee or the owner of the legal title, fail to redeem the sheriff shall, at the end of the period of redemption herein provided upon the confirmation of the sale by the court, execute a deed to the purchaser. If the person entitled to the deed be dead, the deed shall be made to his heirs; but the property will be subject to all liens or to the payment of all debts of such deceased purchaser in the same manner as if acquired during his lifetime.

SEC. 8. That section 60-3459 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3459. The purchaser or party entitled to a deed under sale as herein provided, may, after the deed is made to him by the sheriff, recover damages for any injury or waste permitted upon the property purchased after date of judgment or after the time is fixed for sale on execution and before possession is delivered under the conveyance.

SEC. 9. That section 60-3460 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3460. *The land and tenements once sold upon order of sale, special execution, or general execution shall not again be liable for sale for any balance due upon the judgment or decree under which the same is sold or any judgment or lien inferior thereto; provided, however, if the real property sells for more than enough to satisfy the judgment or decree, any inferior judgment or lien shall be a lien upon the excess proceeds.*

SEC. 10. That section 60-3461 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3461. *After the date*

*of judgment or after the time fixed for the sale on execution the judgment creditor shall be entitled to prevent any waste or destruction of the premises purchased, and for that purpose the court, on proper showing, may issue an injunction; or, when required to protect said premises against waste appoint and place in charge thereof a receiver, who shall hold said premises until such time as the purchaser is entitled to a deed and shall be entitled to rent and control and manage the same; but the income during said time, except what is necessary to keep up the repairs and prevent waste, shall go to the owner or defendant in execution or the owner of its legal title.*

SEC. 11. That section 60-3463 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3463. The sheriff shall at once make a return of all sales made under this act to the court; and the court, if it finds the proceedings regular and in conformity with law and equity, shall confirm the same and shall direct that the clerk make an entry on the journal that the court finds that the sale has in all respects been made in conformity with law, and order, and that the sheriff make to the purchaser *a deed* provided for herein.

SEC. 12. That section 60-3466 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3466. Whenever a lien shall be given for the purchase price of any real estate, and default shall be made in the conditions of the mortgage or instrument giving such lien before one-third of the purchase price of said real estate shall be paid by the purchaser thereof such purchase money lien may be foreclosed by the legal holder thereof in the manner now provided by law for the foreclosure of other mortgages, and such real property may be sold on judgment of foreclosure as now provided by law: *Provided, That whenever any such purchase-money lien is foreclosed the court shall fix the date of sale six months from the date of judgment, and if said property is not redeemed as herein provided within ten days after the date of sale the purchaser shall be entitled to a deed.*

SEC. 13. That sections 60-3408, 60-3416, 60-3438, 60-3440, 60-3441, 60-3442, 60-3444, 60-3445, 60-3446, 60-3447, 60-3448, 60-3449, 60-3450, 60-3452, 60-3455, 60-3456, 60-3457, 60-3459, 60-3460, 60-3461, 60-3462, 60-3463, and 60-3466 of the Revised Statutes of 1923, and sections 60-3438 and 60-3443 of the 1931 Supplement to the Revised Statutes of 1923, are hereby repealed.

SEC. 14. That this act shall take effect and be in force from and after its publication in the statute book.

## **Suggestions for Amendment of the Proposed Code of Procedure Involving Eminent Domain.**

By CHESTER STEVENS.

In the April BULLETIN appeared an article dealing with the confusion existing in the present statute law of Kansas involving the exercise of the power of eminent domain. The article was necessarily brief and was limited to a general definition of eminent domain, some of its characteristics, the method of invoking it, and the numerous statutes providing for its exercise, many of which contained no procedure, and therefore left the condemnor in a state of uncertainty as to how to proceed.

In the July BULLETIN of the Judicial Council a proposed code of procedure was set forth in the form of a suggested act of the legislature to bring uniformity and remove the ambiguity in the various statutes of the state.

The proposed code of procedure is intended to simplify the exercise of this attribute of sovereignty by such persons and corporations as are engaged in business necessitating the use or appropriation of private property for public purposes. It proposes to give the condemnor an expeditious method of pro-

curing the private property needed for the use, and to fix a uniform tribunal throughout the state of Kansas to which he should be directed to go for the purpose of making the condemnation. It is also designed to enable the condemnor to have the immediate possession of the property sought to be taken and not suffer the delays incident to the giving of a reasonable notice to the owners of the lands to be condemned. The proposed act avoided naming the purposes for which the power might be exercised, it being regarded as more practical to require as the foundation for the exercise of the power that it be for "public purpose," and vested in the district court, subject to the right of appeal, the power to determine whether the use stated by the condemnor in the application was a public use.

In the proposed act no attempt was made to define or prescribe when the proceedings could be abandoned by the condemnor. It might be preferable to leave that question to the courts to determine upon the particular circumstances of each case. It is difficult to always foresee the conditions which may and frequently do arise in such proceedings. Should the legislature undertake to prescribe when the proceedings could be abandoned, meritorious cases might arise not within the statute but which would fully justify the abandonment of the proceedings. However, this question has been suggested, and suggestions from the bench and bar will be gladly received by the Council touching this important question. Of course, provision could be made for the abandonment of the proceedings by the condemnor at any time preceding the actual occupancy of the land. However, if the condemnor had taken actual possession and commenced to convert the same into the use for which condemnation had been sought, it would be extremely difficult to make adequate provision by legislative enactment for abandonment.

Three very important suggestions have been made. The first is that the act in section 5 seems to require an immediate appeal in case the judge of the district court shall deny the application. It was not the intention to require an immediate appeal, although there is no question but what a limitation within which an appeal could be taken would be advisable so that the owner would not be deprived of the advantages of lease or sale of the land by an unreasonable delay on the part of the condemnor as to whether he would proceed with the appeal.

The second suggestion was with reference to section 7, requiring a deposit of the amount of the award with the clerk of the district court and the filing of a bond in a sum equal to the allowance or award made by the commissioners. As drawn, section 7 would require the state and all of its municipal subdivisions to execute the bond. The discussion along this line assumed a broad scope. Whether the state and its municipal subdivisions should be required to make a deposit of the award before entering into possession was suggested. However, it is a fundamental conception that private property shall not be taken from the owner without just compensation having first been made before he is deprived of his property. No good reason appears why the state or its municipal subdivisions should be permitted to take possession of the land until it has paid to the owner or deposited with the clerk of the court the amount of the award. Certainly the landowner, being forced to surrender his land, should not be compelled to accept any delay in the payment of the award or be put to any expense in enforcing the payment of the same. As to the question of bond, many obstacles can be seen which would

seriously interfere with the state or the county or the city giving such a bond, and no doubt the section should be amended so as to except these municipalities from this requirement.

The third suggestion deals vitally with the whole structure of the proposed bill, and instead of allowing an application to be filled by the condemnor the whole proceeding would take on the aspect of a civil action. The condemnor would appear in the rôle of a plaintiff, filing his petition with the clerk of the court, giving security for costs, and causing summons to be issued for all of the owners or persons owning any interest in the land, including holders of liens thereon, who would be named in the petition as defendants. Summons would be served as in other cases, and where service could not be had within the state, notice would be published and the defendants so served would be given forty-one days from the date of the first publication in which to answer. The case would proceed just as a civil action under the code of civil procedure, except that time for pleading and for hearing might be accelerated. Plaintiff's allegation that the property is being taken for a designated public use would be taken as true unless issues were joined on that question, in which event the court could first hear and determine that issue. Commissioners could be appointed to make appraisal of damages, and on their report being filed judgment could be rendered in accord with it, unless exceptions were taken within a fixed time. In that event there would be trial to a jury on the question of damages, as now, except that a judgment would be rendered as distinct from an award found. Among other things adjudged at some stage of the proceedings would be whether plaintiff gets title to the property condemned, or an easement only. Provision could be made outlining under what circumstances or stage of the proceedings, or upon what terms, if the situation were such as to justify the imposing of terms, the proceedings might be abandoned. There could be determined in the same action the ultimate disposition of the amount of the judgment between owners or holders of liens upon the property as the facts might appear, although plaintiff would not be concerned in that question and it need not interfere with his taking possession of the property.

This last suggestion has many commendable features. It would insure the bringing into court all of the persons interested in the land sought to be taken, and no question could afterwards be raised as to the jurisdiction of the court concerning the subject matter of the action and of the parties and the binding force of the judgment. Converting the award into a judgment would facilitate the collection of the same, as execution could be issued and levied as in other cases involving a money judgment. Such a proceeding would bring to issue in a court of competent jurisdiction all questions involved and they would be tried and determined in accordance with the code of civil procedure with which the bench and bar are thoroughly familiar.

On the other hand, there are some meritorious objections to treating the proceeding as a civil action. The exercise of the power of eminent domain by private corporations, such as railroads and pipe-line companies, and by municipal subdivisions of the state, frequently involves a number of different tracts of land owned by different individuals. If the entire proceeding was allowed to take its course as a single civil action there would be as many lawsuits involved in the one case as there were different owners of the respective tracts of land, and much confusion would necessarily result. Each

action could be treated as a separate action and so filed, but this would involve large expense and costs. Under the proposed act the condemnor would file his application in the district court for the appropriation of as many separate and distinct tracts of land in the particular county as was desired, and the commissioners would appraise and award as to each tract. In many instances the majority of the owners accept the appraisal and award, and there are no further proceedings. Occasionally an owner will feel that the award is inadequate, and therefore seek redress by appeal to the district court. In this respect the application method for appointment of commissioners is more expeditious and much less expensive.

The Judicial Council hopes the bench and bar will give the subject of eminent domain careful investigation and study and report their views to them, and that the proposed act will result in a simple, complete and expeditious method for the exercise of this power.

The previous articles in our BULLETIN have brought out the fact that lawyers throughout the state recognize the confusion which now exists in our statutes on this question and the need of a statute simplifying our procedure with respect thereto. Realizing, as we do, that sometimes the legislature passes an important bill without being thoroughly familiar with existing statutes and decisions of our courts relating to the subject, we thought best to have a synopsis of those prepared. For this purpose we sought the assistance of A. Harry Crane, revisor of statutes, and some weeks ago he put his assistant, Franklin Corrick, to work on the matter. Mr. Corrick has prepared a synopsis of our statutes concerning eminent domain and proceedings thereunder. We deem this compilation important enough to print herein. An examination of it discloses the confusion which exists in our statutes on the subject, and demonstrates quite thoroughly, not only the need of an act providing for uniform procedure for the exercise of the right of eminent domain, but indicates also the need of some changes in the substantive law relating to that matter. This last probably would consist largely of a revision of those sections of the statute conferring the right of eminent domain, stating the purpose for which it is granted, and eliminating such procedural provisions as are contained in the disconnected sections.

## SYNOPSIS OF STATUTORY PROVISIONS RELATING TO RIGHT OF EMINENT DOMAIN AND CONDEMNATION PROCEDURE.

By FRANKLIN CORRICK.

**CONSTITUTIONAL PROVISION.** Kansas constitution, article 12, section 4: "No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation."

[Sectional References are to Revised Statutes of 1923, except where followed by word "Supp." which means: 1931 Supplement to Revised Statutes.]

2-135. Supp. *County fairs.* Any county fair association operating under R. S. 1931 Supp. 2-125 to 41 has the right of eminent domain as provided in R. S. 26-101 to 2.

3-115. Supp. *Airports.* All cities given same right of eminent domain in regard to airports and fields as for property now located within city limits.

**NOTE.**—R. S. 26-201 gives a city the right of eminent domain as to private property for any purpose whatsoever, and R. S. 26-208 relates to procedure for taking lands outside cities.

12-622 to 3. *Sewer works outside any city.* Right of eminent domain granted and (12-623) may proceed to condemn the necessary lands or right of way.

NOTE.—No provision as to what procedural statute shall apply. (See R. S. ch. 26, art. 2.)

12-632 to 4. *Change of grade, second and third class cities.* (12-632) Pass ordinance changing grade, (12-633) appoint appraisers to assess damages and make report to governing body. (12-634) Governing body fixes time for hearing objections to the appraisers report. Appeals may be taken to the district court. If no appeal, city shall within thirty days reestablish grade by ordinance or rescind all the proceedings relating thereto.

12-635 Supp. *Flood control in any city.* This section is an amendment to an act which includes sections 12-636 to 46 and now provides that a city may "acquire by condemnation and eminent domain, or purchase, within or without said city limits, within five miles therefrom any lands and easements." Sections 12-636 to 38: City declares necessity by resolution; engineer makes survey and cost estimate and report which must be approved by the public service commission's engineer; thereupon contracts are let for the work. Sections 12-639 to 43: (12-639) The governing body appoints three disinterested householders who appraise and assess all damages to any property, taking into consideration the benefits. They shall personally view and examine all property liable to be damaged and file written report with city clerk. (12-640) The governing body fixes a time and place for hearing objections to the appraisers' report and gives notice by publication once in the official city paper ten days before the hearing. (12-641) Hearing on the report by governing body; damages determined. (12-642) Written objections to appraisers' report must be filed with city clerk forty-eight hours prior to such hearing. (12-643) Any person who has filed objection may appeal to the district court upon giving bond conditioned as in civil cases from justice courts, and also, if amount recovered on appeal is not greater than damages allowed by city they shall pay damages caused by the delay. 12-645 Supp.: This section was amended in 1927 so as to provide for appraisal of special benefits to property condemned under R. S. 12-635 to 46. The procedure to be the same as provided in R. S. 12-639 to 43.

12-663. *Public feed lots in any city.* May acquire title to lands by purchase, gift or condemnation "in manner provided by law for park purposes."

12-809 to 10. *Land for waterworks by any city.* (12-809) Petition to district court setting forth necessity for appropriation of lands and water for waterworks. Thereupon "necessary real estate shall be condemned as provided by law." City has right to perpetual use of same. (12-810) Foreign corporation may condemn land and rights therein for water "as provided by law."

12-811. *Acquisition of corporate utility plants by any city.* In cities where corporation franchise has expired the city may acquire water, gas, street railways or power plants. City passes resolution; then makes application to district court in writing. Court appoints one of three commissioners to determine value of utility. One is selected by the city. The other by the owner of the plant. The three determine value and make report and file with clerk of district court. The court gives notice of hearing on the report and the court's decision modifying, confirming or rejecting the report is final, from which an appeal may be taken. The section then provides for an election and if a majority of the electors vote in favor of it the city by ordinance issues bonds to pay the award. Upon payment of the award the title and possession vests in the city.

12-820. *Water plants outside of any city.* This section is hardly broad enough to confer the right of eminent domain. It provides that a city may "acquire title" to plants outside a city.

12-844 to 7. *Pipe lines, water or sewer systems, second and third class cities.* May proceed to condemn same as provided by law.



12-1306. *Public parks in any city.* After survey by competent engineer is made and filed with city clerk, the governing body makes order declaring necessity for the appropriation with description as shown by the survey. All other condemnation proceedings shall be the same as provided by law.

12-1401. *Cemeteries in cities or in city and townships.* When requested by twenty-five or more taxpayers a township, trustee or trustees may institute proceedings to condemn land for cemeteries as provided by law. Any city may condemn land for cemeteries and may join with one or more townships.

12-1633 to 4. *Viaducts or tunnels, first and second class cities.* The city may cause construction of viaducts or tunnels under or over railways when deemed necessary and provide for appraising, assessing and determining the damages, if any, as provided by law for changing grade in any street; except the railway company or companies shall pay the damages. (12-1634) This section is a supplementary act and applies to first and second class cities in counties of over 90,000. Both sections provide that the damages shall be a lien against the railway, which may be collected by suit.

13-404. *Cities of the first class.* The governing body of first-class cities has power "to condemn private property for the use of the city as provided by law."

13-414. *Hospitals, workhouses, houses of correction and workhouses in first-class cities.* City has power to condemn for these purposes as provided by law; city must pay all damages.

13-443. *Reopening of streets or alleys, first-class cities.* When a street is reopened after being vacated, and there have been improvements erected on same, the city shall pay to the owner of the improvements their value, which shall be ascertained by three disinterested appraisers. The city selects one appraiser; the owner one; the two appraisers then select a third. The award of the appraisers is binding on both parties and the value of the improvements must be paid by the city before such street or alley is reopened.

13-1014 to 6. *Right of way for sewers, first-class cities.* Right of way for sewers may be condemned "as provided by law." All costs and expenses to be assessed against the land in the district.

13-1018c to d Supp. *Sewage-disposal works, cities between 50,000 and 85,000.* City has power to condemn or acquire lands by purchase for such purpose. The costs shall be paid by the city.

13-1018f Supp. *Sewage-disposal works, cities of 95,000 or over.* Such cities have the power to condemn or acquire by purchase lands for sewage-disposal plants.

13-1020 to 2. *Change of street grade, first-class cities.* After a resolution declaring necessity to change any grade, the governing body appoints three appraisers who assess damages and deduct the benefits and report the remainder of the total damages, if any, to the governing body. (13-1021) The report is filed with the city clerk. The governing body fixes a time for considering the report and hearing objections. Notice must be given to interested persons three consecutive days before the hearing. After it has approved the report the governing body orders the report spread upon the journal and the order is final and conclusive evidence of the validity, correctness and fairness of the appraisal and benefits. Thereupon the city must act within thirty days or rescind all the proceedings. No provision made for appeal.

13-1023. *Purposes for which private property may be condemned, first-class cities.* "Private property may be purchased or condemned for streets, alleys, levees, market houses, market places, depot grounds, bridges or approaches thereto, public buildings, sewers, to acquire stone quarries or other material for the improvement of the streets and alleys, or other public improvements, and for public parks within or without the city, as may be hereafter needed or required for the use of the city."

13-1025a Supp. *Viaducts and tunnels, cities between 45,000 and 65,000.* Any such city having power to require railroads to construct or reconstruct passage-

way over or under tracks may when deemed necessary abandon such passageways and construct same at new location. "All proceedings . . . including the appraisement, assessment and determination of damages . . . shall be governed by existing law in so far as it does not conflict with this act."

13-1025b to j Supp. *Interstate bridges, first-class cities.* Complete procedure is provided for acquiring bridge and land for approaches by condemnation or otherwise. (13-1025e) If land cannot be purchased, the governing body may petition the district court for appointment of commissioners (no number stated) "to appropriate said structure and the land and easements . . . and determine the value" thereof. Said commissioners must give twenty days' notice to owners of bridge and land by registered mail or otherwise. Owners file claims for value within thirty days. Depositions may be taken as to facts. Commissioners may make partial reports and upon completion of their duties shall make final report and file with clerk of district court. (13-1025f) Appeal may be had from the commissioners' award to the district court. (13-1025g) The city may also appeal, but is not required to make deposit of money, nor has it the right of possession, but must make final judgment, pay awards before right of occupancy. Instead of appealing the city may, within ten days after filing of commissioners' report, abandon the proceedings. (13-102h) The city must pay the award within ninety days after final determination. (13-1025i) The city may condemn necessary land after the bridge has been built.

13-1045 to 53. *Bridge or viaduct, cities over 85,000.* Condemnation proceedings "as in this act provided" for bridges, viaducts and approaches thereto. (13-1048) City passes ordinance declaring public necessity. Thereupon files application in district court praying for appointment of commissioners (no number stated) to appropriate said structure and lands and determine value. Commissioners shall give 20 days' notice to owners of record. They may make partial reports and upon completion shall file their final report with clerk of district court. (13-1049) City may pay award within ninety days of filing of the report and full title thereupon vests in the city. (13-1050) Owner may appeal, but the only question shall be as to damages and shall not affect the city's right to possession upon deposit of award. (13-1051) City may by resolution adopted within ten days after filing of report abandon the proceedings or may appeal from the award.

13-1055. *Storm drainage, cities over 50,000.* The proceedings for securing land for outlets for drainage of storm waters in such cities and the construction of same shall be the same as provided by law for cities in exercising the right of eminent domain.

13-1060. *Market houses, cities over 40,000.* Additional lands may be condemned for market houses in such cities. No provision as to procedure.

13-1311. *Parks and boulevards, cities over 65,000.* The board of park commissioners in such cities may purchase, condemn or otherwise acquire lands for parks, squares and boulevards and to establish, change or reestablish the grade of same. (13-1316) Such cities must maintain at least one park and may acquire land by purchase, condemnation or otherwise for parks, parkways and boulevards. 13-1326 to 8. Change of grade; appeal. The board of park commissioners shall ascertain and determine the damages to land affected by change of grade for park and boulevards, and shall file report thereof with city clerk. Board shall give notice of time for consideration of the report by publication for ten days. The board shall thereupon consider and decide same and its decision shall be final except claimants may appeal from the amount of damages. (13-1327) Board appoints three assessors to assess benefits to land or lots. (13-1328) Board gives notice of filing of assessors' report and fixes time to hear complaints, and its decision is final and conclusive.

13-1353 Supp. *Park lands outside cities, first class.* The board of park commissioners of any first-class city may acquire park lands by purchase, gift, condemnation or otherwise, not to exceed one mile from city limits; except that cities between 80,000 and 110,000 may go not to exceed five miles from the corporate limits.

13-1354. *Effect of above act.* This section saves the right of appeal from awards heretofore made by condemnation by boards of park commissioners.

13-13a13 Supp. *Municipal universities, cities between 70,000 and 110,000.* The board of regents of such universities has the same rights of securing land and other property by condemnation procedure as are vested in boards of education of cities of the same class.

13-1903. *Viaducts over or tunnels under streets; cities under commission government.* "The proceedings for such purpose shall be the same as provided by law for the purpose of determining damages to property owners by reason of the change in grade of a street, and such damage shall be paid by said railway companies."

13-2501. *Parks and parkways; commission government.* The board of commissioners has power to purchase and condemn land for such purposes "in the manner provided by law."

13-2502a, 13-2502c Supp. *Parks, parkways and playgrounds; cities between 40,000 and 75,000; commission government.* City commissioners may purchase and condemn lands for public parks, parkways and playgrounds and (13-2502c) all lands necessary for their improvement.

13-2504 to 5. *Land in annexed territory for parks, playgrounds and boulevards; commission government; cities under 58,000.* The city commissioners may purchase and condemn all lands in such territory for such purposes. (13-2505) After resolution declaring public necessity and description, the commission shall proceed to appropriate such land in the manner provided by law; except that in addition to duties imposed by law, the commissioners appointed by the judge shall assess the damages to land taken and damages to land not taken and fix the benefits to the remainder and to the city at large and fix the special benefits to lots and tracts and apportion the same separately.

13-2519. *Parks, parkways and boulevards, cities over 50,000; commission government.* City commissioners may acquire land for parks, parkways and boulevards by purchase or condemnation.

13-2527 to 9. *Same, change of grade.* The city commissioners shall determine the damages to lots and tracts affected, file report in city clerk's office, specifying the damages, fix time for consideration of the report and give notice by publication. The board's decision shall be final as to the proceedings, except an appeal to the district court is allowed as to amount of damages. (13-2528 to 9) Costs are then assessed against property benefited.

13-2536. *Same.* When property is to be appropriated for parks, parkways or boulevards, the city commission shall have competent engineer make survey and description and file same with city clerk, and thereupon makes order declaring necessity for the appropriation. They shall then proceed as provided by law for condemnation of lands in cities.

14-423. *Widening, opening, extending or vacation of streets; cities second class.* Before the city council shall open, widen or extend any street or alley it shall proceed to condemn the necessary lands as provided by law. Vacated streets shall revert to the adjacent owners.

14-428. *Hospitals and waterworks; cities second class.* The council may purchase or condemn lands for hospitals and waterworks within or without the city, but not to exceed twenty miles from the city limits. The condemnation of land outside the city shall be regulated in all respects as provided by law.

14-435. *Railroad right of way; markets; cities second class.* Private property may be taken for public use for the above purposes; "but in every case the city shall make the person or persons . . . injured adequate compensation to be determined in the manner provided by law." Benefits resulting to landowners shall be considered except in condemnation of rights of way for private corporations.

14-607. *Hospitals, second-class cities.* Land may be condemned for hospital purposes in the name of the city by the city attorney "under the provisions of the law in similar cases."

14-701 to 14-701j Supp. *Watercourse improvements; cities second class.* City may acquire by gift, purchase or condemnation proceedings lands for water supply and watercourse improvements within or without the city limits not to exceed five miles. Condemnation of property outside city limits must be done in manner provided by law. (14-701a) Provision for surveys, estimates, election, etc. (14-701b) Governing body appoints three appraisers who determine benefits to be assessed against property owners. (14-701c) For property taken within city, the city appoints three assessors to assess the damages after deducting the benefits. (14-701d to j) Notice and hearing of objections; appeal to district court by landowner from the award of damages by governing body.

14-1007a Supp. *Lands for cemetery; cities second class.* Lands may be acquired by purchase or condemnation for cemeteries in the manner "as now provided by law for the appropriation of private land for public use." A petition must first be signed by 10 per cent of the legal voters. Notice shall be given to the landowners the same as service of summons in civil cases. Appeal may be had as to value of cemetery or any other damages in same manner as "provided by law in connection with the appropriation of land for public use by the exercise of the right of eminent domain."

15-427. *Street improvements; third-class cities.* Damages sustained by property owners by the opening, widening, extending or otherwise improving streets or alleys "shall be ascertained in the manner provided by law."

15-439. *Lands for railroad right of way, market places, or any other necessary purpose; cities third class.* Eminent domain authorized for the above purposes. The city to make adequate compensation "to be determined in the manner provided by law, and appeals may be taken from such determination as provided by law."

17-618. *Sundry corporations.* Lands may be appropriated by certain corporations for certain uses set out in this section "in the same manner as is provided . . . for railway corporations so far as applicable." The corporations enumerated are: hospitals, hydraulic, irrigation, manufacturing, mills, oil and gas, pipe lines, plank roads, telegraph and telephone, macadam roads, and electrical and power transmission lines.

17-1315. *Cemetery corporations or associations.* Cemetery corporations or associations of individuals owning or holding burial grounds not in first-class cities may condemn lands for enlarging same "as provided by law."

17-1903. *Telegraph and telephone corporations.* Such companies may enter lands to make surveys and examinations and may appropriate so much of the land as may be necessary, and "may proceed to obtain the right of way, and to condemn lands . . . in the manner provided by law in case of railway corporations."

17-2103. *Waterworks corporations; dams.* A complete method of procedure is provided in this section for exercising right of eminent domain by water companies for erecting dams across watercourses for furnishing water to cities and towns except in counties between 12,000 and 14,000. The company first files a plat together with a petition in the district court. Bond must be filed to pay all costs of the proceedings, after which the court appoints three commissioners who shall publish a notice in a newspaper four weeks, stating when they will view the premises to make awards of damages. Right of appeal to district court is given to persons aggrieved as to awards of damages.

19-223. *Appeal from board of county commissioners.* This general section allowing appeal from decisions of the county board may sometimes prove of importance in condemnation proceedings. (See *Shurtleff v. Chase County*, 63 K. 645, 66 P. 654; also, R. S. 24-804.)

19-1501. *County buildings.* Board of county commissioners in any county authorized to condemn land or additional land for courthouse, jail or other county buildings "according to law."

19-1806. *Hospitals; counties under 40,000.* Any property for hospital purposes may be condemned by the county commissioners "under the provisions of the law in similar cases."

19-1825 Supp. *County tuberculosis hospitals in certain counties.* Any property for a tuberculosis hospital in certain counties where lead and zinc are produced may be condemned under the provisions of law in similar cases.

19-2623. *Right of a corporation to condemn land for water mains along highway or other property; counties.* A corporation which has been granted the right by a county to lay water mains may condemn any land, easement, railroad right of way, public highway or any property upon which it may be necessary to lay, maintain and operate water mains, laterals and equipment. "Said persons, partnerships or corporation shall follow the procedure that is now provided by law for the appropriation of land or other property taken for telegraph, telephone and railroad rights of way."

19-2707 and 19-2715 Supp. *Sewers; in counties between 21,000 to 70,000.* The county commissioners authorized to acquire property, both real and personal, by purchase or condemnation as may be necessary to provide adequate sewer system. (19-2715) Proceedings to be prosecuted "under the provisions of the law in similar cases."

24-201 to 16. *Township drainage works.* Complete procedure is provided for drainage within a township or through two or more townships. (24-201 to 2) A ditch, drain or watercourse may be established upon filing a petition with township clerk setting forth necessity and describing same, with a bond to pay expenses in case petition is refused by township trustee. Petitioner must notify landowners of time and place of hearing petition. (24-203) Landowners may file written claims for damages to lands appropriated, and failure to do so amounts to a waiver. (24-204) Hearings on petition are had before township trustee, who may view the premises and determine amounts of claims for damages. The clerk shall keep a full record of the proceedings. (24-205) Cost of the work is assessed against the property of those benefited. (24-207) Appeal from the award of damages may be taken to the probate court by giving written notice to the township clerk within five days after the trustee's decision on the petition and filing bond to pay all costs if defeated in the probate court. Transcript of the proceedings must be filed with the probate court. (24-208) A jury of six is provided for. Appellant must notify resident landowners and the probate judge notifies nonresidents by publication. Two or more appeals may be consolidated, in which event any one of the appellants may give said notices. (24-209) The jury act as viewers and determine the necessity, amounts of compensation, etc., and file their report within five days, which may be extended by the judge. (24-210) If the jury report favorably to the appellants the judge apportions the costs or damages to the several interested in the drainage project. (24-212) The proceedings are stayed on appeal to the probate court, but if no appeal taken the trustee shall proceed to let contracts for the work. (24-216) The widening or deepening of such drainage works is done by the same procedure as outlined above.

24-301 to 17. *County drainage of swamps or low lands.* A complete procedure is provided for in substantially the same manner as provided in R. S. 24-201 to 16 outlined above.

24-407 (6th cl.) Supp. *Drainage district within counties or cities.* Drainage districts authorized to condemn rights of way over railways and other railway lands to maintain levees along same "in the manner hereinafter provided" (see R. S. 24-438 to 46).

24-438 to 46. *Same; procedure.* The district may appropriate private property by filing a survey and description of such lands with the secretary of the drainage board. Thereupon the board may petition the district court or court of common pleas, describing the land and setting forth the necessity and asking for appointment of three commissioners to appraise and assess damages. (24-439) The commissioners must give ten days' notice to railroad and other

property owners of time and place of assessment of damages. The commissioners may make partial reports, but upon completion shall make a final report and file with the county clerk which (24-440) shall describe the lands appropriated and make separate appraisements of each landowner's damages. (24-441 to 2) Upon deposit of money with county treasurer within ninety days after report filed and filing of report within ten days with register of deeds the right to perpetual use of the lands shall vest in the district. (24-443) Appeal on the question of damages alone may be taken to the district court by the landowner and such district may take possession upon depositing amount of awards. (24-444) The district may also appeal from the awards. (24-445) Title to land and wrongful obstruction may be determined upon appeal as affecting right to compensation. (24-446) The commissioners are allowed \$3 per day.

24-463 to 7. *Enlargement of district.* This act is supplementary to the one shown above. Section 24-467 provides for condemnation of land for additional ditches, etc., in the same manner as provided in R. S. 24-439 to 46 outlined above.

24-470 to 80. *Same; harbor lines.* This act is supplemental to the procedure in R. S. 24-439 to 46 given above. It relates to the appropriation by a drainage district of land at harbor lines. It relates to a drainage district having \$40,000,000 of taxable property, which has deposited sufficient money for payment of claims of owners along harbor lines. The title upon proclamation of the governor vests in the state, but the governor may designate the drainage district as agent of the state to take and hold possession for the state. Section 24-474 provides an action by the attorney-general to ascertain ownership of and compensation of the land. Other sections provide concurrent remedies as to payment of damages and costs assessed, etc.

24-512 (5th cl.) *Drainage districts in valley of natural watercourse.* District has power "to condemn and take possession of all lands necessary to the construction of cut-offs, spillways, and auxiliary channels provided for in this act, upon proper compensation to the owner."

24-519 to 24. *Same; benefits and damages commission.* The benefits and damages commission appraises the amount of damages done and the value of land taken in making the improvements and apportions the benefits. Appeal may be made to the board of directors within twenty days after date of filing such awards and assessments with the county clerk. Section 24-524 provides for hearing of complaints. The board of directors fix time and place, and give complainants five days' notice of same. Their report of same is recorded with the county clerk and becomes an amendment of the report of the benefits and damages commission provided in R. S. 24-523.

24-612. *Drainage district in one or more counties; land for right of way.* Real estate, easements or franchises may be condemned for rights of way. Petition to district court describing lands needed praying for appointment of three appraisers. "Upon filing said petition the same proceedings for condemnation of rights of way for railroad corporations, the payment of damages and the rights of appeal shall be applicable . . ." District cannot enter until damages paid, and if not paid within two years the proceedings abate at cost of district. The district is given the additional right to condemn artificial or natural obstructions in any existing watercourse in the same manner as outlined above.

24-705 to 6. *Drainage on petition to court.* Section provides for paying damages to easements held by railroads or other corporations, including lands, rights or water power injuriously affected. It provides for a remonstrance in writing against the report of the drainage commissioners which shall be heard by the court as soon as possible after ten days from filing of the report. The court may set aside the report and refer the matter to the commissioners for a new report. 24-706 allows appeal to the supreme court.

24-801 to 7; 24-814. *Construction of levees by counties.* (24-801 to 7) A majority of the acreage owners may present petition to county commissioners

with a bond to pay costs of proceedings if disallowed. The county commissioners may act as viewers or may appoint three disinterested householders to act as such. The county commissioners fix a day for the view and notify landowners in writing of the time and place. The viewers mark and determine the boundaries of land to be taken and determine damages to owners claiming such. Benefits to remainder of land may be deducted. Appeal may be taken to district court as provided in R. S. 19-223. Section 24-814 provides for compensation for viewers and persons assisting.

24-1017 to 18 Supp. *Conservancy act*. The sections grant drainage districts under the conservancy act a "dominant right of eminent domain" over certain other public utilities. It provides that instead of having appraisals and assessments of the property by the board of appraisers, as provided in R. S. 1931 Supp. 24-1026 to 34, that the procedure may be as "provided by law for the appropriation of land or other property taken for railroad purposes." The entire act has been held unconstitutional. (See *Verdigris Conservancy District v. Objectors*, 131 K. 214, 289 P. 966.)

26-101 to 2. *Corporations: general procedure law*. General procedure provided for exercise of the right of eminent domain for all corporations except railroad and interurban railway corporations. Petition to district court giving purpose and description of land to be taken and names of record landowners. The court determines right and necessity of such condemnation as to whether it is for its lawful corporate purpose. Three appraisers are appointed to view the lands and make a sworn report and file with clerk of district court. Upon deposit of appraised amount and payment of court costs and fees of appraisers within thirty days, the petitioner is entitled to title and possession. Appeal from the appraisal may be taken by either party. Written notice thereof and bond for costs must be filed within thirty days.

26-201 to 10. *Condemnation in cities*. (26-201) Governing body authorized to condemn property or easements for city use for street or for any city purpose whatsoever. A survey and description of the property is made by competent engineer and filed with city clerk. Order is made by city setting forth the condemnation and for what purpose. Where property is specially benefited same is by ordinance designed a benefit district. After such order the city files a petition in district court describing land and praying for appointment of three appraisers, called commissioners. (26-202) The commissioners must give ten days' notice in writing to landowners of time and place of hearing at which lands are viewed, damages assessed, special benefits to all property apportioned. (26-203) Their reports shall be filed with city clerk and shall describe land, purpose of taking, name of owner and his damages. (26-204) After recording report of commissioners, the city may deposit amount of award and take possession. In case of parks and boulevards the title vests in city upon publication of the resolution of taking. The deposit of awards is with the city treasurer, who pays all parties so entitled. Awards are also deposited for benefit of unknown landowners. (26-205 to 7) The city may abandon the proceedings by resolution within ten days after the filing of the appraisers' report. Either party may appeal from the award by filing notice within thirty days after filing of the report and giving bonds for costs. Such appeal shall only affect amount of compensation, although (26-207) the city may contest the landowner's title on such appeal or show that the land is a street or way. Land outside city limits (26-208) is within scope of this act. The act is applicable to all city boards and commissions (26-210) having the power of eminent domain.

26-301 to 6. *Land of unusual historical interest*. Land of unusual historical interest to the state may be taken for its use and benefit by a joint resolution of the legislature declaring a specifically described tract of land to be of a certain described historical interest. A petition is filed by the attorney-general in the name of the state. Appraisers are appointed by the district court and notice by summons is given to landowners for a hearing on report of appraisers. The district court may approve, disapprove or modify the report. In other

respects the procedure and rules of practice conform to railway condemnation proceedings under chapter 66, article 9, of the Revised Statutes. The court enters an order that the proceedings are according to law. After a final order the clerk sends a certified transcript of all the proceedings to the auditor of state which, upon approval by the attorney-general, is filed by the auditor. The cost of the proceedings and damage claims are paid by legislative appropriation. (See R. S. 1931 Supp. 76-2008 to 11 for an exercise of this power.)

26-401 to 2. *Stone quarries.* The state may appropriate stone from quarries for public works in the same manner as condemnation of lands by railroad companies (R. S. 1923, ch. 66, art. 9). All assessed damages to be paid by the contractor.

27-101 to 2 Supp. *Federal acquisition of state land.* State consent is given to federal government to purchase or condemn land for governmental purposes in manner prescribed by law.

32-213 to 4 Supp. *Land and water rights: forestry, fish and game commission.* The same rights of eminent domain are given to the commission "as are conferred by law upon cities in the acquisition of land or water for water-works." The attorney-general proceeds upon request of the commission. Private fish lands and waters are exempted as are private recreational grounds.

32-221 to 2 Supp. *Same; additional lands adjoining state lakes and parks.* Additional lands for the protection of state lakes and parks may be purchased or condemned as in R. S. 1931 Supp. 32-213, except that no provision is made for action by the attorney-general. The act provides for zoning the land taken by restrictions on its use in deeds of resale.

42-109 to 18. *Taking of water; irrigating-ditch and canal corporations.* Complete procedure for taking of water rights by all irrigating-ditch and canal corporations for irrigation purposes. (42-110) Petition to district court setting out miles of ditches to be built, depth and width, amount of water to be taken, and from where, and asking for appointment of three commissioners. (42-111 to 14) Commissioners give notice by publication of time and place to hear claims for damages. Claims presented in writing are then heard and awards made. Report of commissioners filed within twenty days after hearing showing damages allowed and refused and number of inches of water condemned. (42-115 to 18) Right of appeal to district court from decision of commissioners upon filing appeal bond is given all parties. Trial *de novo* as to damages only. If no appeal the petitioner shall file a certified copy of report within sixty days after report of commissioners filed and pay the damages awarded. Order of condemnation or right to take water becomes absolute unless appeal taken.

42-120 (3d cl.) *Canal corporations; taking of land.* This clause grants a canal corporation power "to take as much more land as may be necessary for the proper construction and security of the canal or any of its branch ditches."

NOTE.—See, also, R. S. 17-618.

42-301 to 9. *Irrigation and industrial uses; waters west of 99th meridian.* Act provides that waters may be diverted for irrigation and industrial purposes west of 99th meridian, but that no vested right of appropriation shall be divested without "due legal condemnation of and compensation for the same." Section 42-309 provides that such rights may be condemned "in the same manner and under the same restrictions and regulations as govern the condemnation of other private property."

42-317 to 19. *Irrigation, domestic or industrial purposes; lands for site or way.* Lands for site or way or machinery may be condemned in the "manner prescribed by the laws regulating the exercise of the right of eminent domain, which are or may hereafter be in force, and shall be entitled to all rules, orders and other proceedings whatsoever prescribed by such laws.

42-320. *Same.* On abandonment of such right of way or site for two years, the same shall revert to the owners at the time of such reversion.



59-101 to 16. *Mills and power plant dams.* Any person, corporation or city desiring to erect a milldam or power-plant dam upon own land across any water may do so by petition (59-102) to the district court showing description of land, height of dam, names of owners and acres of land to be overflowed, the purposes and other facts necessary. (59-103) The court appoints three commissioners to meet at place of proposed erection on day named by the judge. The commissioners shall (59-104) take oath and (59-105) give notice to all persons named in the petition or whose land will be damaged and (59-108) shall within thirty days make a full report and return of their proceedings to the clerk of the district court. Section 59-109 prescribes the manner in which the damages shall be paid. Appeal (59-110) from the awards may be made to the district court as in civil cases. The (59-111) erection of the dam will not be delayed by appeal if bond to pay judgment is filed. An (59-112) appeal bond must be filed to pay costs, but no exemplary damages shall be allowed. All (59-114) actions for damages must be brought within two years after erection of dam. Section 59-116 sets out acts of omission which may entail forfeiture of rights. The order of condemnation or judgment on the verdict (59-113) is effected upon judgment entered, declaring that upon payment of award and costs, the right to erect the dam shall pass to and remain in the petitioner forever.

60-3823. *Application of code of civil procedure to eminent domain proceedings.* This section provides that the code of civil procedure shall not apply to condemnation proceedings unless the legislature so provides.

66-159 to 61. *Railroads; spurs, switches or tracks.* Section 66-159 provides that upon permission of the public service commission, land for spurs, switches or tracks may be condemned "to the same extent as is now enjoyed by railroad companies." (66-160) Necessity of switch connections and (66-161) crossings or uniting tracks with other railroads is determined by the public service commission. In the case of crossings and uniting tracks, application is made to the public service commission, which fixes a day for hearing testimony and, after a personal examination of the locality, determines the necessity and fixes terms. Either party may appeal, but only the question of compensation shall be affected and shall not delay the making of the crossing or connection.

66-403 to 4. *Railroads; map and profile of route; notice to occupants of lands.* The provisions contained in these sections as to maps, profiles and notice to land occupants are preliminary to but not absolutely essential to valid condemnation proceedings.

66-501 (5th cl.) *Railroads; crossings and connections.* This clause provides that a railroad may make crossings and connections, sidings, switches, etc., with other railroads, and if the two cannot agree as to the damages the same shall be determined by three commissioners appointed by the district court.

66-502. *Railroads; relocation of right of way.* Provision is herein made for change in right of way so long as the general route or terminus of the road is not changed. No provision as to procedure but presumably ch. 66, art. 9 of the Revised Statutes would apply. (See *Ritchie v. A. T. & S. F. Rly.*, 128 Kan. 637, 642, 279 Pac. 15, where railroad was held to have power to make appropriation for change of roadbed.)

66-901 to 11. *Railroads; condemnation of lands.* (66-901) Any duly chartered and organized railroad corporation may apply to the county commissioners of the county, or (66-907) to the district court, for a right of way and necessary lands and to conduct water by aqueducts and the making of proper drains. (66-902) The commissioners (appraisers), after notice of time and place of hearing, shall lay off the right of way by having a survey made, and shall appraise the value and assess the damages of the land taken and file a written report with the county clerk. (66-903) Ninety days after a copy of such report is filed by the county clerk in the county treasurer's office, and payment of the amount of the appraisement, the persons entitled to such damages are paid upon making demand to the county treasurer. (66-904) The

railroad company has the right to occupy land within ten days after recording copy of certified report in the register of deed's office and has perpetual use over such land where the railroad is constructed. (66-905) The company pays for the services of the commissioners. (66-906) Notice of the time and place of hearing by the commissioners is given thirty days prior to such hearing by publication. A copy of such notice is mailed to the owners of record, but in case of resident owners, personal service by summons is made as in civil cases before district court ten days before the hearing. Appeal from decisions of the commissioners on questions of compensation may be taken in the same manner as appeals from justices of the peace. (66-907) In lieu of applying to the county commissioners, the railroad may petition the district court for appointment of three commissioners to appraise and determine damage, who shall perform their duties as provided in case of application to county commissioners; and appeal may be taken in the same manner. (66-908) In 1903 an act was passed authorizing chartered and authorized railroads the same right to condemn unused state lands as they have for condemning private property. (66-909 to 10) The only change in procedure is that thirty days' notice of the time and place of meeting of the commissioners, including description of lands, be served upon the secretary of state; and the governor may appeal from the award. (66-911) In 1905 the legislature granted electric railways the same right of eminent domain as is allowed steam railways, including the same procedure.

68-102 to 68-102a Supp. *Laying out, opening and vacating roads.* (68-102) Applications for viewing, laying out, altering or vacating roads shall be by petition to the county commissioners and signed by twelve householders and upon filing a bond by one or more of such persons to pay costs and expenses in cases of failure of the proceedings. The 1931 amendment excepts certain vacation proceedings, as where the road has ceased to be a public utility. (68-102a) Proceedings for the award of damages and appeal therefrom without a petition, as provided in section 68-102, is made in the same manner as provided in R. S. 68-107. Applications for damages must be made within twelve months.

68-103 to 7. *Same; procedure on petition.* (68-103) The petition must give place of beginning, intermediate points and termination of road. (68-104) If the county commissioners find the petition a legal one and that proper bond has been filed, they shall appoint three commissioners to view the road with them. The county clerk publishes notice of petition for two weeks, and all parties shall be heard, the viewing and hearing not to be more than twenty days after the second publication. The county surveyor meets with the viewers. Where petition states the proposed improvement is upon or along a section line, the survey and viewing may be dispensed with upon agreement of landowners. (68-105) Six days' notice in writing to be given and served upon the landowners and county surveyor; also upon guardians and incompetents, if residents of the county. Copies of said notices and affidavits to be filed with county clerk before establishment of the road. (68-106) The commissioners or viewers shall only assess or award damages to owners notified and have presented written claims. Persons not notified may file claims within twelve months after location of road. Otherwise all claims are barred. The commissioners may direct surveyor to make survey and plat and deliver certified return to county clerk. The commissioners sign a certified opinion, and if they decide it is a public road they record the plat and survey in surveyor's office; but if they decide it is not, the bond is forfeited for costs. (68-107) If their decision is favorable on the certificate of view, they at same time make separate certificate of amount of damages assessed, stating to whom awarded, and submit also the written claim of applicant. Appeals from the awards may be made the same as appeals from justices of the peace in civil cases.

68-109. *Establishment of road on city or county line.* The procedure is practically the same as provided in §§ 68-102 to 7 outlined above.

68-110. *Same; compensation of viewers and assistants.* The viewers receive \$3 per day; chainmen and markers \$2 per day.

68-111 to 13. *State roads.* (68-111 to 12) Power given to vacate and alter state roads located under laws 1874, ch. 113, the same as other public highways. (68-113) May establish roads along state line as in laying out other public highways.

68-114. *Proceedings for changes in roads.* (68-114) When the county commissioners find it necessary to make changes to improve roads, or for extension of bridges or culverts, they shall determine the amount and location of land to be taken and publish notice in official county paper not more than twenty-five days nor less than fifteen days before date of view, and shall serve similar notice on actual occupants of land or agent of owner. If land is not already surveyed or located, the county engineer meets with them at the time and place stated in the notice. The county commissioners view the land, appraise its value and assess damages and file a copy of their findings with the county clerk, and also cause a plat of the changed road to be filed. Damage claims must be filed on or before the next regular session of the county commissioners. Whereupon they determine the damages to be paid. The right of appeal from such awards is the "same as is now provided by law in other road cases, but such appeal shall not delay any work upon or in relation to said roads."

68-115 to 17. *State, county, township, and semiprivate roads; opening.* (68-115) The county engineer shall open all state and county roads and the township trustees shall open all mail routes and township roads which have been laid out, first giving notice to owners of closed or cultivated lands and guardians of minors and incompetents to open such roads within ninety days after service of notice. Provision is made that such opening shall not be required during the busy season. If the persons notified do not open the road, the county engineer and township trustee shall respectively enter and open said roads and do all things to keep same in repair. The owner of sand and gravel or other road materials taken, or the owner of lands through which ditches are made, or owners of crops thereon, are to be allowed fair and reasonable compensation for damages. Such claims are "allowed and paid in the same manner as other ordinary claims . . . and the same right of appeal as is now provided by law in similar cases."

Section 68-116 provides that the viewers shall determine the width of county roads, taking into consideration the least damages to be caused to hedges and other improvements.

Section 68-117 makes provision for "roads" for access to public highways surrounded by adjoining lands. In such cases the county commissioners "proceed in accordance with the provision of the sections of the act to which this is amendatory to lay out such road, make returns of plats, and allow damages." The owners for whose benefit the road is established must pay all damages and expenses and forever keep same in repair.

68-137 to 8. *Condemnation of road materials from lands.* If the county commissioners are unable to purchase from the landowners sand and gravel and other road materials, they may condemn same and open necessary roads to such material. Notice of hearing shall be served upon landowners fifteen days before. If owners are nonresidents of the county the notice shall be served upon the occupants. On the day named the county commissioners shall view, appraise the value and assess the damages and file with the county clerk written report of findings. Claims for damages must be in writing and filed on or before the next regular session of the commissioners. Whereupon the damage claims are passed upon and amounts allowed to be paid out of special improvement fund or road fund. Right of appeal from awards same as provided by law in other cases.

Section 68-138 makes special provision for the county commissioners to appeal by resolution to state highway commission when such road materials are located in another county. Thereupon the state highway commission proceeds under R. S. 68-137 outlined above. The county to pay all expenses and damages.

68-413 Supp. *State highway system; lands, materials or interests therein; procedure.* The state highway commission may acquire title or interests or

right to land, water, gravel, stone, sand and other materials for its highway work in the manner provided in R. S. 26-101 to 2, "and in addition to the notice required therein, all lienholders of record of the condemned land must be notified." Provision is made for disposition of lands or interests so acquired.

68-502 (2d cl.) *Diversion of watercourses.* This clause, which authorized the county engineer to do "anything pertaining to rivers, streams or watercourses, for which the county pays any part of the cost thereof," confers power to acquire land, to divert a stream, and the landowner's remedy is to appeal from the award. (See *Breedlove v. Wyandotte County Comm'rs*, 127 Kan. 754, 275 Pac. 379.)

68-509. *Elimination of grade crossings.* It is the duty of the county commissioners to eliminate all grade crossings and other dangerous places on the highways. When the owners refuse to sell or donate land for this purpose, the county commissioners determine the nature of the change, the amount of land required and its location. Notice shall be published in the official county paper not less than fifteen days nor more than twenty-five days before the view and a similar notice served on the landowners. If owners are nonresidents the occupants or agents of owners are so served. If road is not already surveyed and located the county surveyor meets at such time and place with the commissioners. Thereupon the commissioners proceed to view all lands required, appraise the value, assess the damages and file a written report of their findings and a plat of the changed road with the county clerk. Written claims for damages must be filed on or before the next regular session of the commissioners. Whereupon the damages are determined and shall be paid from the general fund or road fund of the county. Right of appeal is "the same as is now provided by law in other road cases, but such appeal shall not delay any work upon or in relation to said road."

Other provisions are made for the appropriation of lands to avoid railroad crossings and payment of part of the cost by the railroad, as determined by the state highway commission. (See, also, R. S. 1931 Supp. 68-414.)

68-703 Supp. *Land for changes in benefit-district roads.* The county commissioners, after finding proposed improvements in benefit-district roads to be of public utility, may condemn land in the following manner: Determine nature of changes required and amount of land to be taken and time and place for viewing; then publish a notice in official county paper not less than fifteen nor more than twenty-five days before the view, serving similar notice on the landowners, but if the landowners do not reside in the county, notice to be served on occupants of land or agent of owner. The notice shall set out the time and place of view and give all a hearing. If road has not already been located and surveyed the county engineer shall meet with the commissioners at the view. Whereupon the commissioners shall view all the land required, appraise the value, assess the damages and file their report and a plat of such changed road with the county clerk. Claims for damages must be in writing filed with the county clerk on or before the first day of the next regular session of the county commissioners. Claims to be paid from a special fund provided. Right of appeal is the same as in other road cases, but no appeal shall delay the road work.

68-730 Supp. *Improvement of certain roads in counties over 20,000 in benefit districts.* The county commissioners in counties over 20,000 population may condemn land or rights of way over the same or any kind of property necessary for construction and maintenance of certain roads. The "proceedings shall be instituted by the board of county commissioners and prosecuted in the name of the county under the provisions of the law in similar cases."

68-733 Supp. *Improvement of certain roads in townships of over 6,000 in counties between 25,000 and 40,000 in benefit districts.* The county commissioners may condemn a right of way or easement for the improvement of certain roads in townships of over 6,000 located in counties between 25,000 and 40,000 and apportion the cost to the abutting landowners. The county commissioners must proceed as provided in R. S. 1931 Supp. 68-730, "in the name of the county under the provisions of the law in similar cases."

68-905. *Damming watercourses on public highways by counties.* Where a county has adopted the provisions of R. S. 68-901 to 8, it is provided that in the construction of a dam "condemnation proceedings may be had as is now provided by law in establishing roads and highways in this state, and the land so condemned shall be paid for out of the road fund of said county." This provision applies to the damming of watercourses as provided in R. S. 68-902 and 68-904.

72-503. *Condemnation of schoolhouse sites.* Any school district which cannot purchase schoolhouse sites or additional grounds for same at a reasonable rate "may proceed to condemn and acquire title to such real estate as provided by law."

NOTE.—See, also, R. S. 72-4702.

72-4110. *State school book commission; land for additional building for printing textbooks.* Under this section (included in Revised Statutes of 1923 by reference) the state school book commission was given the right to condemn land for additional buildings for printing textbooks. "Such proceedings may be initiated and carried to completion as nearly as may be, in the mode provided by article 9, chapter 23, Statutes of 1909" (R. S. 66-901 to 7).

72-4701 to 2. *Boards of education and school districts in cities.* The right of eminent domain is conferred upon boards of education of cities of the first and second class and upon any school district in which is located a third-class city to (72-4702) appropriate private property for building sites, playgrounds, agricultural, industrial or athletic purposes or additions thereto. After a survey, description and plat of the land has been filed with its clerk and an order made declaring the necessity of the appropriation and the purpose, such land "may be condemned according to law."

73-409. *War memorial sites.* The county commissioners or governing body of any city or township may acquire a site for war memorials by applying to the district court, asking for condemnation, and describing the same. Thereupon they "shall exercise the right of eminent domain in the manner provided by law."

NOTE.—This act originally directed the proceedings to be as provided in Laws 1889, ch. 110, which was repealed by the 1923 revision with the exception of R. S. 19-1501.

76-147. *Lands for state institutions.* The state board of administration or any board or commission in charge of any state institution may condemn lands or easements therein for erecting buildings and maintaining water mains, sewers, roads or any other necessary purpose "in the manner provided by law, said proceedings to be in the name of the state of Kansas. . . ."

NOTE.—This section originally was Laws 1881, ch. 46, § 1, and provided that the procedure should be the same as provided for railroads in condemning lands for rights of way and other purposes (R. S. 66-901 to 11).

76-2010 Supp. *Old Shawnee Mission.* Land constituting Old Shawnee Mission "taken for the use and benefit of the state of Kansas by condemnation as provided by law."

NOTE.—For procedure, see R. S. 26-301 *et seq.*

76-2433. *Coal lands at state penitentiary.* The board of administration may condemn the fee or right of user of coal lands adjoining state penitentiary land. The board, after giving notice of the proceedings, shall appraise the value, assess the damages to the residue of the tract; file written report, including the statement whether the fee or right to user only is taken, with the county clerk and register of deeds of the county. The board shall proceed "as near as may be," as is provided by law for appropriation of land by railway corporation, and shall be allowed the same right of appeal. The board, upon depositing the amount of award may take possession, notwithstanding pendency of any appeal. The state auditor draws his warrants to the board and the board pays the damaged landowner.

80-919. *Township cemetery chapels.* Any township board, after petition and election in favor of a cemetery chapel, may condemn not to exceed one

acre of land for a site, and pay for same by a tax levy. No provision is made for procedure.

82a-203 Supp. *State condemnation of new channels in navigable waters.* The state auditor may obtain title in fee to new channels of an altered navigable stream by condemnation "in the manner provided by law for condemning lands for public uses." The auditor shall pay for same out of proceeds from sale of the old channel. If such proceeds are insufficient the auditor shall abandon the condemnation proceedings.

---

## THE PROPOSED CODE OF PROBATE PROCEDURE.

Continuing our study of a code of procedure for probate courts we are printing herewith the tentative draft of a proposed bill providing for such a code. This tentative draft is largely the work of Judge Roscoe H. Wilson, who has given it considerable study. His duties have prevented his giving time to its preparation to the extent that he feels like offering it as a completed work, but in its present form it well may be the basis for the study of the draft of such a code. The principal features of the tentative draft may be summarized as follows:

The proceeding to administer upon the estate of a decedent, whether he left a will or not, or for the appointment of a guardian and handling the estate of an incompetent, shall be by an action in probate court begun by the filing of a petition by a party plaintiff and getting service of summons upon all necessary or proper parties to the proceeding, substantially the same as an action would be brought in district court. The provisions of the code of civil procedure relating to the issuance and service of summons or other process are incorporated in the code of probate procedure for that purpose. In passing a bill providing for the probate code the legislature, of course, in one short section, may incorporate all the appropriate provisions of the civil code relating to summons or other process by reference and without setting them out in full. They are set out in full, however, in the tentative bill here published in order that the bar may see their application. On being brought into court by a process any party may plead, raising such an issue as he desires the court to pass upon. When the issues are formed a time for hearing is to be set, for which the parties shall have notice. Hearings are before the court without a jury. The rulings of the court, except on the final disposition of the case, are referred to as orders. Any party aggrieved by an order of the probate court may appeal to the district court, where there is a trial *de novo* on the issue. Creditors or others claiming an interest in the estate, or some part thereof, not originally made parties to the action, may make themselves parties by filing their claim and a motion for its allowance in the action in court, such claims to be set for hearing, notice to interested parties given, and orders made thereon. On any hearing in the probate court the rules of evidence as outlined by the sections relating thereto in the code of civil procedure are to be applied. These are set out in full in the tentative draft for convenience of study, but the act of the legislature providing for the code may adopt them by reference. The provisions for appeal are simple, and it is provided that changes or additions may be made to the code by rules of the supreme court.

This general outline of probate procedure has the merit of simplicity. No one should have difficulty in becoming familiar with it. It has the further merit of getting everyone into court who can be affected by its orders and judgments and giving them an opportunity to be heard. This will avoid the many *ex parte* proceedings now so objectionable. It also has the merit of finality of decisions on orders and judgments of the court. Many of them now are tentative only, and that of itself causes much confusion.

In the preparation of this tentative draft Judge Wilson has carefully avoided including anything in the nature of the substantive law pertaining to estates. The sections of our present statute dealing with the substantive law should be rewritten, if for no other purpose than to eliminate from them provisions therein relating to procedure, and the procedural sections should be repealed.

It is a task to go through this entire subject thoroughly and prepare bills relating to the substantive law, and separately as to procedure, as should be done. We hope, with the aid of the attorneys and of judges, particularly probate judges, throughout the state to be able to do this in time to incorporate such bills in our December Bulletin. To assist us in doing that we shall be glad to have the views of lawyers and judges on the question.

AN ACT concerning the code of probate procedure.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. This act shall be known as the code of probate procedure of the state of Kansas.

SEC. 2. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. Its provisions, and all proceedings under it, shall be liberally construed, with a view to promote its object, and assist the parties in obtaining justice.

SEC. 3. The proceedings for the appointment of an administrator, and all matters necessary for the full and final administration of the estate of a decedent, shall constitute one action. The proceedings for the admission of a will to probate, the appointment of an executor or administrator thereunder; the distribution of property under the terms of such will, and all proceedings necessary for the full and final administration of the property of the testator, whether disposed of under the terms of the will or not, shall constitute one action. The proceedings for the appointment of the guardian of an incompetent person, and all matters connected with such guardianship, shall constitute one action.

SEC. 4. There shall be but one form of action under this code, which shall be called a probate action. In such action the party complaining shall be known as the plaintiff, and all other parties as defendants.

SEC. 5. A probate action may be commenced in the probate court by filing in the office of the clerk of the proper court a petition and causing a summons to be issued thereon.

SEC. 6. A copy of the petition need not accompany the summons, but the defendant or plaintiff shall be entitled to a copy of the petition, or any other paper filed in the action, upon application to the clerk therefor; and the costs of such copy shall be taxed among the costs in the action.

SEC. 7. An action shall be deemed commenced within the meaning of this article, as to each defendant, at the date of the summons which is served on him, or on a codefendant who is a joint contractor, or otherwise united in interest with him. Where service by publication is proper the action shall be deemed commenced at the date of the first publication. An attempt to commence an action shall be deemed equivalent to the commencement thereof within the meaning of this article when the party faithfully, properly and

diligently endeavors to procure a service; but such attempt must be followed by the first publication or service of the summons within sixty days.

SEC. 8. Every action must be prosecuted in the name of, and by, some person having a substantial interest in obtaining the relief demanded in the petition.

SEC. 9. The action of an incompetent person must be brought by his guardian or next friend. When the action is brought by his next friend the court has power to substitute the guardian, or any person, as the next friend.

SEC. 10. In any proper case service may be made on minors, insane and other incompetent persons by a summons personally served or by publication notice as provided in this code, the same as upon other persons defendants in action. If there be a natural or legally appointed guardian for such minor, insane or incompetent person, service shall also be made in the same manner upon such guardian. If there be no legally appointed guardian for such minor, insane or incompetent person, or if such guardian fail to appear and answer in the action within the time fixed by the summons or publication notice, the court shall appoint a guardian *ad litem* for such minor, insane or incompetent person and such guardian *ad litem* shall file proper pleadings in such cause, which shall include a general denial of the plaintiff's petition, as shall put the plaintiff to proof of his cause of action. Such guardian *ad litem* shall receive such reasonable compensation as the court or judge before whom the action is pending, or tried, may order, the same to be taxed and collected as costs in the action. The appointment cannot be made until after the service of the summons in the action, and no default judgment shall be rendered against such minor, insane or incompetent person.

SEC. 11. The appointment may be made upon the application of the infant, if he be of the age of fourteen years, and apply within twenty days after the return of the summons. If he be under the age of fourteen, or neglect so to apply, the appointment may be made upon application of any friend of the infant, or on that of the plaintiff in the action.

SEC. 12. All persons having an interest in obtaining the relief demanded may be joined as plaintiffs.

SEC. 13. In all actions for the appointment of an administrator and the administration of an estate, and in all actions for the admission of a will to probate and the administration of an estate, all persons who would inherit the property of the decedent under the law of descents and distribution of this state, together with all persons named as legatees or devisees in such will, shall be made defendants, except such of them as may be plaintiffs in the action. Any person who enters an appearance in any action shall be a party to such action for the purpose of determining his rights therein. In all actions for the appointment of a guardian for an incompetent person, the incompetent person shall be made the defendant. Any person may be made a defendant who has, or claims, an interest in any matter connected with the action, or who is a necessary party to its complete determination or settlement of all matters connected with the action.

SEC. 14. Actions for the appointment of an administrator, or for the admission of a will to probate, must be brought in the county in which the decedent was a resident at the time of his death. Actions for the appointment of a guardian for a minor must be brought in the county in which the minor is domiciled.

SEC. 15. The pleadings are the written statements by the parties of the facts constituting their respective claims and defense; the only pleadings allowed are the petition by the plaintiff; the answer by the defendant; the reply by the plaintiff.

SEC. 16. The petition must contain: *First*, the name of the court and the county in which the action is brought, and the names of the parties plaintiff and defendant, followed by the word "petition." *Second*: A statement of the facts constituting the cause of action in ordinary and concise language and



without repetition. *Third*: A demand for the relief to which the party supposes he is entitled.

SEC. 17. The answer shall contain: *First*: a general or specific denial of each material allegation of the petition controverted by the defendant. *Second*: A statement of any new matter constituting a defense; the defendant may set forth in his answer as many grounds of defense as he may have.

SEC. 18. The guardian of an incompetent person, or attorney for a person in prison, shall deny in the answer all of the material allegations of the petition prejudicial to such defendant.

SEC. 19. When the answer contains new matter the plaintiff may reply to such new matter, denying generally, or specifically, each allegation controverted by him. A defendant may, in his answer, request that he be given notice of any motions filed in said action, specifying particularly the matters regarding which he desires notice to be given, and in such event it shall be the duty of the clerk of said court to notify such defendant regarding such motions in the manner hereinafter provided for the giving of notice of motions.

SEC. 20. A motion is an application for an order addressed to a court or judge by any party to a suit or proceeding, or one interested therein, or affected thereby. All orders in probate actions subsequent to the appointment of an administrator or executor of the estate of a decedent, or subsequent to the appointment of a guardian for a minor, shall be made upon motion.

SEC. 21. Where notice of a motion is required it must be in writing and shall state the names of the parties to the action or proceeding in which it is made, the place where and the day on which it will be heard, and the nature and terms of the order or orders applied for. Such notice shall be served by depositing the same in the post office, not less than ten days before the time fixed for the hearing of said motion, addressed to the party to be notified, shall be sent by registered mail, and the receipt of the postmaster for such registered mail shall be *prima facie* evidence of service of such notice.

SEC. 22. The answer by the defendant shall be filed within twenty days after the day on which the summons is returnable. The reply to the answer shall be filed within thirty days after the day on which the summons was made returnable. The court or any judge thereof may, in his discretion and upon such terms as may be just, allow an answer or reply to be made, or other act to be done after the time limited by this act, or by an order to enlarge such time.

SEC. 23. Every pleading and motion must be subscribed and verified by the party or his attorney.

SEC. 24. All allegations contained in the petition shall be taken as true unless the denial of the same be verified by the affidavit of the party, his agent, or attorney.

#### SUMMONS.

(In an act by the legislature, Sections 25 to 47 as here printed, may be adopted by reference to the civil code.)

SEC. 25. The summons shall be issued by the clerk, upon a written præcipe filed by the plaintiff; shall be under the seal of the court from which the same shall issue, shall be signed by the clerk, and shall be dated the day it is issued. It shall be directed to the sheriff of the county, and command him to notify the defendant or defendants, named therein, that he or they have been sued. and must answer the petition filed by the plaintiff, giving his name, at a time stated therein, or the petition will be taken as true and judgment rendered accordingly.

SEC. 26. Where the action is rightly brought in any county, a summons shall be issued to any other county against any one or more of the defendants, on the plaintiff's præcipe.

SEC. 27. The style of all process shall be: "The state of Kansas." It shall be under the seal of the court from whence the same shall issue, shall be signed by the clerk, and dated the day it is issued.

SEC. 28. The summons shall be served and returned by the officer to whom it is delivered, except when issued to any other county than the one in which the action is commenced, within ten days from its date; and, when issued to another county, shall be made returnable in not less than ten or more than sixty days from the date thereof, at the option of the party having it issued.

SEC. 29. When a writ is returned "Not summoned," other writs may be issued until the defendant or defendants shall be summoned; and when defendants reside in different counties, writs may be issued to such counties at the same time.

SEC. 30. The summons shall be served by the officer to whom it is directed, who shall indorse on the original writ the time and manner of service. It may be also served by any person not a party to the action, appointed by the officer to whom it is directed. The authority of such person shall be indorsed on the writ. When the writ is served by a person appointed by the officer to whom it is directed, or when the service is made out of the state, the return shall be verified by oath or affirmation.

SEC. 31. The service shall be by delivering a copy of the summons to the defendant, personally, or by leaving one at his usual place of residence, at any time before the return day.

SEC. 32. In all cases the return must state the time and manner of service.

SEC. 33. An order for any process, in an action wherein the sheriff is a party or is interested, the process shall be directed to and executed by a person appointed, as provided in the next section.

SEC. 34. The court or judge, or clerk in the absence of the judge from the county, for good cause, may appoint a person to serve a particular process or order, who shall have the same power to execute it which the sheriff has. The person may be appointed on the application of the party obtaining the process or order, and the return must be verified by affidavit. He shall be entitled to the same fees allowed to the sheriff for similar services.

SEC. 35. The officer to whom the summons is directed must return the same within the time therein stated.

SEC. 36. An acknowledgment on the back of the summons, or the voluntary general appearance of a defendant, is equivalent to service.

SEC. 37. When a summons is issued to another county than that in which the action or proceeding is pending, it may be sent and returned by mail, and the sheriff shall be entitled to the same fees as if the summons had issued in the county of which he is sheriff.

SEC. 38. All and every process and notice whatever, affecting any city, shall be served upon the mayor, or, in his absence, upon the clerk of such city.

SEC. 39. A summons against a corporation may be served upon the president, mayor, chairman of the board of directors, or trustees, or other chief officer; or, if its chief officer is not found in the county, upon its cashier, treasurer, secretary, clerk or managing agent; or if none of the aforesaid officers can be found, by a copy left at the office or usual place of business of such corporation, with the person having charge thereof.

SEC. 40. In addition to the methods of service of summons now provided by law upon corporations or joint-stock companies organized under the laws of any other state or country and doing business in this state, if such corporation or joint-stock company have no office or place of business within this state, and service cannot otherwise be had upon it within the state, service of summons upon such corporation or joint-stock company may be made in any county of this state by the delivery by the sheriff thereof of a copy of such summons to any officer, agent or employee thereof who may be found by such sheriff actually engaged in the business of such corporation or joint-stock company within his county.

SEC. 41. Where the defendant is a foreign corporation, having a managing agent in this state, the service may be upon such agent.

SEC. 42. Service may be had by publication in either of the following cases: In all probate actions brought under this code against the unknown heirs, executors, administrators, devisees, legatees, trustees, creditors, or assigns of the decedent, or any or all unknown persons who claim as heirs, executors, administrators, devisees, legatees, trustees, creditors, or assigns of the decedent. In all probate actions brought under this code where any or all of the defendants reside out of the state, or where the plaintiff with due diligence is unable to make service of summons upon such defendant or defendants within the state. In all probate actions against a foreign corporation, or against a domestic corporation which has not been legally dissolved, where the officers thereof have departed from the state or cannot be found. In any of the actions mentioned in this section wherein the unknown heirs, executors, administrators, devisees, legatees, trustees, and assigns, or any of them, of any deceased person, or the unknown successors, trustees, or assigns, if any, of any dissolved corporation, are made defendants; or wherein the plaintiff upon diligent inquiry is unable to ascertain the whereabouts of a person named as a defendant or whether he is living or dead, and if dead, is unable to ascertain who are his heirs, executors, administrators, devisees, legatees, trustees, or assigns, if any, or their whereabouts; or wherein the plaintiff upon diligent inquiry is unable to ascertain whether a corporation, domestic or foreign, named as a defendant, continues to have legal existence or not, or has officers or not, or their names and whereabouts, and if dissolved, is unable to ascertain the names or whereabouts of the successors, trustees, or assigns, if any, of such corporation; or wherein the plaintiff cannot ascertain whether a person named as defendant is living or dead, or, if dead, the names of his heirs, executors, administrators, devisees, legatees, trustees, or assigns, if any; or cannot ascertain whether a corporation has been dissolved or not, or if dissolved, the names of its successors, trustees, or assigns; publication service may be upon such unknown party or in the alternative upon such person, if living, or corporation, if existing, and in the alternative if the person be dead, or the corporation dissolved, upon the unknown heirs, executors, administrators, trustees, devisees, legatees, and assigns, if any, of such deceased person, or the unknown successors, trustees and assigns of such dissolved corporation.

SEC. 43. Before service by publication can be made upon the unknown heirs, executors, administrators, devisees, legatees, trustees, creditors, or assigns of the decedent, or upon any unknown persons who claim as heirs, executors, administrators, devisees, legatees, trustees, creditors, or assigns of the decedent, an affidavit must be filed, stating that the plaintiff does not know and with diligence is unable to ascertain the names or whereabouts of any such heirs, executors, administrators, devisees, legatees, trustees, creditors, and assigns of the decedent, and of any such persons who claim as heirs, executors, administrators, devisees, legatees, trustees, creditors, and assigns of the decedent. Before service by publication can be made an affidavit must be filed stating the residence, if known, of the defendant or defendants sought to be served, and if not known, stating that the plaintiff has diligently inquired as to the residence of such defendant or defendants and has been unable to learn the place of such residence and that the plaintiff is unable to procure actual service of summons on such defendant or defendants within this state, and showing that the case is one of those mentioned in the preceding action. When such affidavit is filed the party may proceed to make service by publication. In actions against unknown heirs, executors, administrators, devisees, legatees, trustees, and assigns of any deceased person, or in the alternative against a person or his unknown heirs, executors, administrators, devisees, legatees, trustees, and assigns, or against a corporation or its unknown successors, trustees, and assigns, the affidavit shall state that the plaintiff does not know and with diligence is unable to ascertain the names or whereabouts of any such heirs, executors, administrators, devisees, legatees, trustees, or assigns or successors, trustees, or assigns, of a corporation, or with diligence is unable to ascertain whether a person named in the alternative is living or dead, or his whereabouts, and if he be dead, is unable to ascertain the names or where-

abouts of his heirs, executors, administrators, devisees, legatees, trustees, or assigns, or is unable to ascertain whether a corporation named in the alternative is legally existing or dissolved, and if not in existence is unable to ascertain the names or whereabouts of its officers, successors, trustees, or assigns, if any. When such affidavit is filed the party may proceed to make service by publication. Statements as to any and all kinds of defendants, natural or corporate, known or unknown, may be united in one affidavit for service by publication, and notice to all of them may be included in one publication notice.

SEC. 44. The publication must be made three consecutive weeks, in some newspaper authorized by law to publish legal notices, printed in the county where the petition is filed, if there be any printed in such county, and if there be not, in some such newspaper printed in this state of general circulation in that county. It shall state the court in which the petition is filed, the names of the parties, or where unknown shall describe them as the unknown heirs, executors, administrators, devisees, legatees, trustees, creditors, or assigns of the decedent, or the unknown persons who claim as heirs, executors, administrators, devisees, legatees, trustees, creditors, and assigns of the decedent, or the unknown heirs, executors, administrators, devisees, legatees, trustees, and assigns of such person, or the unknown successors, trustees, and assigns of such corporation, and must notify the defendants thus to be served that he or they have been sued and must answer the petition filed by the plaintiff on or before a time to be stated (which shall not be less than forty-one days from the date of the first publication), or the petition will be taken as true, and judgment, the nature of which shall be stated, will be rendered accordingly.

SEC. 45. Service by publication shall be deemed complete when it shall have been made in the manner and for the time prescribed in the preceding section; and such service shall be proved by the affidavit of the printer, or his foreman or principal clerk, or other person knowing the same. No judgment by default shall be entered on such service until proof thereof be made, and approved by the court, and filed.

SEC. 46. In all cases where service by publication is proper, personal service of a summons may be made out of the state by the sheriff, a deputy sheriff, or, in case there be no sheriff or deputy, then by the coroner of the county in which the defendant to be served may be found. Such summons shall be issued by the clerk under seal of the court, and directed to the defendant or defendants to be served, and shall notify him or them that he or they have been sued by the plaintiff or plaintiffs, naming him or them, and requiring the defendant or defendants to answer the petition filed by the plaintiff in the clerk's office of the court, which shall be named, within forty-one days from the day of service, or that the petition will be taken as true and a judgment rendered accordingly. Such service may be proved by the affidavit of the person making the same, before a clerk of a court of record, or other officer holding the seal thereof, or before some commissioner appointed by the governor of this state under an act providing for the appointment of commissioners to take depositions, etc.: *Provided*, That such service, when made and proved as aforesaid, shall have the same force and effect as service by publication in a case in which such service is authorized, and no other or greater force or effect.

SEC. 47. A party against whom a judgment or order has been rendered, without other service than publication in a newspaper, may, at any time within three years after the date of the judgment or order, have the same opened, and be let in to defend. Before the judgment or order shall be opened the applicant shall give notice to the adverse party of his intention to make such an application, and shall file a full answer to the petition, pay all costs, if the court require them to be paid, and to make it appear to the satisfaction of the court, by affidavit, that during the pendency of the action he had no actual notice thereof in time to appear in court and make his defense; but the title to any property, the subject of the judgment or order sought to be opened, which by it, or in consequence of it, shall have passed to a purchaser in good

faith shall, after expiration of six months, not be affected by any proceedings under this section, nor shall they after the expiration of six months affect the title of any property sold before judgment under an attachment. The adverse party, on the hearing of an application to open a judgment or order, as provided by this section, shall be allowed to present counter affidavits to show that during the pendency of the action the applicant had notice thereof in time to appear in court and make his defense.

#### EVIDENCE.

(In an act by the legislature, sections 48 to 127 may be adopted by reference to the civil code.)

##### (a) Competency of Witnesses.

SEC. 48. No person shall be disqualified as a witness in any civil action or proceeding by reason of his interest in the event of the same, as a party or otherwise, or by reason of his conviction of a crime; but such interest or conviction may be shown for the purpose of affecting his credibility.

SEC. 49. Any party to a civil action or proceeding may compel any adverse party or person for whose benefit such action or proceeding is instituted, prosecuted or defended, at the trial or by deposition, to testify as a witness in the same manner and subject to the same rules as other witnesses.

SEC. 50. No person shall be allowed to testify in his own behalf in respect to any transaction or communication had personally by such party with a deceased person, where either party to the action claims to have acquired title, directly or indirectly from such deceased person, or when the adverse party is the executor, administrator, heir at law, next of kin, surviving partner, or assignee of such deceased person, nor shall the assignor of a thing in action be allowed to testify in behalf of such party concerning any transaction or communication had personally by such assignor with a deceased person in any such case; nor shall such party or assignor be competent to testify to any transaction had personally by such party or assignor with a deceased partner or joint contractor in the absence of his surviving partner or joint contractor, when such surviving partner or joint contractor is an adverse party. If the testimony of a party to the action or proceeding has been taken, and he afterwards die, and the testimony so taken shall be used after his death, in behalf of his executors, administrators, heirs at law, next of kin, assignee, surviving partner or joint contractor, the other party, or the assignor, shall be competent to testify as to any and all matters to which the testimony so taken relates.

SEC. 51. The following persons shall be incompetent to testify: *First:* Persons who are of unsound mind at the time of their production for examination. *Second:* Children under ten years of age who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly. *Third:* Husband and wife, for or against each other, concerning any communication made by one to the other during the marriage, whether called while that relation subsisted or afterward. *Fourth:* An attorney, concerning any communications made to him by his client in that relation, or his advice thereon, without the client's consent. *Fifth:* A clergyman or priest, concerning any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs, without the consent of the person making the confession. *Sixth:* A physician or surgeon concerning any communication made to him by his patient with reference to any physical or supposed physical disease, defect, or injury, or the time, manner or circumstances under which the ailment was incurred, or concerning any knowledge obtained by a personal examination of any such patient, without the consent of the patient.

But if a person without objection on his part testifies concerning any such communication, the attorney, clergyman, priest or physician communicated with may also be required to testify on the same subject as though consent had been given within the meaning of the last three subdivisions.

*(b) Means of Producing Witnesses.*

SEC. 52. The clerks of the several courts and judges of the probate courts shall, on application of any person having a cause or any matter pending in the court, issue a subpoena for witnesses, under the seal of the court, inserting all the names required by the applicant in one subpoena, which may be served by the sheriff, coroner, or any constable of the county, or by the party or any other person. When subpoena is not served by the sheriff, coroner or constable, proof of service shall be shown by affidavit; but no costs of service of the same shall be allowed except when served by an officer.

SEC. 53. The subpoena shall be directed to the person therein named, requiring him to attend at a particular time and place to testify as a witness; and it may contain a clause directing the witness to bring with him any book, writing or other thing under his control which he is bound by law to produce as evidence.

SEC. 54. When the attendance of the witness before any officer authorized to take depositions is required, the subpoena shall be issued by such officer.

SEC. 55. The subpoena shall be served either by reading or by copy delivered to the witness, or left at his usual place of residence; but such copy need not contain the name of any other witness appearing on the original.

SEC. 56. A witness may be required to attend for examination on the trial of a civil action or for the purpose of taking his deposition in a county other than that in which he resides by tendering him the mileage allowed by law and the fee for one day's attendance; but the cost of witnesses attending from outside the county shall not be taxed against the opposing party unless by order of the court.

SEC. 57. A witness may demand his traveling fees and fee for one day's attendance, when the subpoena is served upon him; and if the same be not paid the witness shall not be obliged to obey the subpoena. The fact of such demand and nonpayment shall be stated in the return.

SEC. 58. Disobedience of a subpoena, or refusal to be sworn or to answer as a witness, or to subscribe a deposition, when lawfully ordered, may be punished as a contempt of the court or officer by whom his attendance or testimony is required.

SEC. 59. When a witness fails to attend in obedience to a subpoena (except in case of a demand and failure to pay his fees) the court or officer before whom his attendance is required may issue an attachment to the sheriff, coroner or any constable of the county, commanding him to arrest and bring the person therein named before the court or officer, at a time and place to be fixed in the attachment, to give his testimony and answer for the contempt. If the attachment be not for immediately bringing the witness before the court or officer, a sum may be fixed in which the witness may give an undertaking, with surety, for his appearance; such sum shall be indorsed on the back of the attachment; and if no sum is so fixed and indorsed it shall be one hundred dollars. If the witness be not personally served the court may, by a rule, order him to show cause why an attachment should not issue against him.

SEC. 60. The punishment for the contempt mentioned in section 59 shall be as follows: When the witness fails to attend, in obedience to the subpoena (except in case of a demand and failure to pay his fees) the court or officer may fine the witness in a sum not exceeding fifty dollars. In other cases the court or officer may fine the witness in a sum not exceeding fifty dollars, or may imprison him in the county jail, there to remain until he shall submit to be sworn, testify or give his deposition upon any competent and material matter. The fine shall be paid into the county treasury. The witness shall also be liable to the party injured for any damages occasioned by his failure to attend, or his refusal to be sworn, testify or give his deposition.

SEC. 61. A witness so imprisoned by an officer before whom his deposition is

being taken may apply to a judge of a court of record, who shall have power to discharge him, if it appears that his imprisonment is illegal.

SEC. 62. Every attachment for the arrest or order of commitment to prison of a witness by a court or officer, pursuant to this code, must be under the seal of the court or officer, if he have an official seal, and must specify, particularly, the cause of the arrest or commitment; and if the commitment be for refusing to answer a question, such question must be stated in the order. Such order of commitment may be directed to the sheriff, coroner or any constable of the county where such witness resides or may be at the time, and shall be executed by committing him to the jail of such county, and delivering a copy of the order to the jailer.

SEC. 63. A person confined to any prison in this state may, by order of any court of record, be required to be produced for oral examination in the county where he is imprisoned, but in all other cases his examination must be by deposition.

SEC. 64. While a prisoner's deposition is being taken he shall remain in the custody of the officer having him in charge, who shall afford reasonable facilities for the taking of the deposition.

(c) *Taking Depositions.*

SEC. 65. The deposition of any witness may be used only in the following cases: *First:* When the witness does not reside in the county where the action or proceeding is pending, or is set for trial by change of venue, or is absent therefrom. *Second:* When from age, infirmity or imprisonment, the witness is unable to attend court, or is dead. *Third:* When the testimony is required upon a motion, or in any other case where the oral testimony of the witness is not required.

SEC. 66. Either party may commence taking testimony by deposition at any time after service upon the defendant of summons or the date of first publication of notice.

SEC. 67. In any action now pending or hereafter instituted in any court of competent jurisdiction in this state, any party shall have the right to take the deposition of the adverse party, his agent or employee, and in case the adverse party is a joint-stock association, corporation or copartnership, then of any officer, director, agent or employee of any such joint-stock association, corporation or copartnership, when such adverse party, or officer, director, agent or employee of such adverse party is without the jurisdiction of the court or cannot be reached by the process of the trial court; and in case said adverse party, when duly served with notice of the taking of such deposition, as provided by the code of civil procedure for the taking of depositions, shall fail to appear at the place fixed in said notice, which place shall be in the city or county of the usual place of residence or place of business of said witness, and testify and produce whatever books, papers and documents demanded by the party taking such deposition, or shall fail to produce at the time and place specified in such notice such officer, director, agent or employee, the court before whom such action is pending may, upon application of the party seeking to take such deposition, and upon notice to the adverse party of such application, and upon hearing had to the trial court, strike the pleadings of such adverse party from the files and render judgment in favor of the party so seeking to take such depositions, in whole or in part, as prayed for in his pleadings.

SEC. 68. The provisions of this act shall be cumulative of all the laws of this state, and shall not be construed as repealing any other law relating to the taking of testimony or evidence, and shall be construed as providing an additional means of securing evidence.

SEC. 69. Depositions may be taken in this state before a judge or clerk of a court of record, before a county clerk, justice of the peace, notary public, mayor or chief magistrate of any city or town corporate, or before a master

commissioner, or any person empowered by a special commission; but depositions taken in this state, to be used therein, must be taken by an officer or person whose authority is derived within the state.

SEC. 70. Depositions may be taken out of this state by a judge, justice or chancellor of any court of record, a justice of the peace, notary public, mayor or chief magistrate of any city or town corporate, a commissioner appointed by the governor of this state to take depositions, or any person authorized by a special commission from this state.

SEC. 71. The officer before whom depositions are taken must not be a relative or attorney of either party, or otherwise interested in the event of the action or proceeding, or clerk or stenographer of either party or attorney of either party.

SEC. 72. Any court of record of this state, or any judge thereof, before whom an action or proceeding is pending, is authorized to grant a commission to take depositions within or without the state. The commission must be issued to a person or persons therein named, by the clerk, under the seal of the court granting the same; and depositions under it must be taken upon written interrogatories, unless the parties otherwise agree.

SEC. 73. Prior to the taking of any deposition, unless taken under a special commission, a written notice specifying the action or proceeding, the name of the court or tribunal in which it is to be used, and the time and place of taking the same, shall be served upon the adverse party, his agent or attorney of record, or left at his usual place of residence. The notice shall be served so as to allow the adverse party sufficient time by the usual route of travel to attend, and one day for preparation, exclusive of Sunday and the day of service; and the examination may, if so stated in the notice, be adjourned from day to day.

SEC. 74. At the close of each day's session a witness may demand his fees for the succeeding day's attendance in obedience to a subpoena; and if the same be not paid he shall not be required to remain.

SEC. 75. Before testifying the witness shall be sworn to testify the truth, the whole truth, and nothing but the truth. The mode of administering an oath shall be such as is most binding on the conscience of the witness. An interpreter may be sworn to interpret truly, whenever necessary.

#### (d) Mode of Taking Testimony.

SEC. 76. The testimony of witnesses is taken in three modes: *First*, by affidavit; *second*, by deposition; *third*, by oral examination.

SEC. 77. An affidavit is a written declaration under oath, made without notice to the adverse party.

SEC. 78. An affidavit may be made in and out of this state, before any person authorized to take depositions, and must be authenticated in the same way, except as provided for the verification of pleadings.

SEC. 79. A deposition is a written declaration under oath, made upon notice to the adverse party, for the purpose of enabling him to attend and cross-examine, or upon written interrogatories.

SEC. 80. An oral examination is an examination in the presence of the jury or tribunal which is to decide the fact or act upon it, the testimony being heard by the jury or tribunal from the lips of the witness.

SEC. 81. An affidavit may be used to verify a pleading, prove the service of a summons, subpoena, notice or other process in an action, to obtain a provisional remedy, an examination of a witness, a stay of proceedings, or upon a motion, or in any other case permitted by law. Affidavits may also be used on the trial of an action subject to the following conditions: The affidavit shall be filed in the office of the clerk of the court and a copy thereof served on the adverse party or his attorney of record at least ten days before the day of trial. If within five days after such service the adverse party gives notice in writing that he desires to cross-examine the witness whose affidavit has been filed, or that he denies the truth of the matter stated



in such affidavit, such affidavit shall not be admitted in evidence but the testimony of the witness must be given orally or by deposition. If such notice be not given the affidavit may be read in evidence at the trial. The court may tax the cost of the attendance or deposition of any witness against a party who needlessly or unreasonably causes such costs.

SEC. 82. When the party against whom the deposition is to read is absent from or a nonresident of the state, and has no agent or attorney of record therein, he may be notified of the taking of the deposition by publication. The publication must be made three consecutive weeks in some newspaper printed in the county where the action or proceeding is pending, if there be any printed in such county, and if not, in some newspaper printed in this state of general circulation in the county. The publication must contain all that is required in a written notice, and may be proved in the manner prescribed for service by publication at the commencement of the action.

SEC. 83. The deposition shall be written in the presence of the officer taking the same, either by the officer, the witness or some disinterested person, and subscribed by the witness.

SEC. 84. The deposition so taken shall be sealed up and indorsed with the title of the cause and the name of the officer taking the same, and addressed and transmitted to the clerk of the court where the action or proceeding is pending. It shall remain under seal until opened by the clerk by order of the court, or at the request of a party to the action or proceeding, or his attorney.

SEC. 85. The depositions taken pursuant to this article shall be admitted in evidence on the trial of any civil action or proceeding pending before any justice of the peace, mayor or other judicial officer, arbitrator or referee.

SEC. 86. When a deposition has been once taken, it may be read in any stage of the same action or proceeding, or in any other action or proceeding upon the same matter between the same parties, subject, however, to all such exceptions as may be taken thereto under the provisions of this article.

SEC. 87. Depositions taken pursuant to this article by any judicial or other officer herein authorized to take depositions, having a seal of office, whether resident in this state or elsewhere, shall be admitted in evidence, upon the certificate and signature of such officer, under the seal of the court of which he is an officer, or his official seal; and no further act of authentication shall be required. If the officer taking the same have no official seal, the deposition, if not taken in this state, shall be certified and signed by such officer, and shall be further authenticated either by parol proof adduced in court, or by the official certificate and seal of any secretary or other officer of the territory keeping the great seal thereof, or of the clerk or prothonotary of any court having a seal, attesting that such judicial or other officer was at the time of taking the same duly qualified and acting as such officer. But if the deposition be taken within this state by an officer having no seal, or within or without this state under a special commission, it shall be sufficiently authenticated by the official signature of the officer or commissioner taking the same.

SEC. 88. The officer taking the deposition shall annex thereto a certificate showing the following facts: That the witness was first sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition was reduced to writing by some proper person, naming him; and that the deposition was written and subscribed in the presence of the officer certifying thereto; and that the deposition was taken at the time and place specified in the notice.

#### *(e) When Depositions May Be Read.*

SEC. 89. When a deposition is offered to be read in evidence, it must appear to the satisfaction of the court that, for any cause specified in section 67, the attendance of the witness cannot be procured.

SEC. 90. Every deposition intended to be read in evidence on the trial must be filed at least one day before the day of trial.

SEC. 91. The following fees shall be allowed for taking depositions in this state: Swearing each witness, ten cents; for each subpoena, attachment, or order of commitment, fifty cents; for each hundred words contained in such deposition and certificate, fifteen cents, and no more; and such officer may retain the same until such fees are paid; such officer shall also tax the costs of the sheriff or other officer who shall serve the process aforesaid, and fees of the witnesses, and may, also, if directed by the person entitled thereto, retain such deposition until the said fees are paid.

SEC. 92. Exceptions to depositions shall be in writing, specifying the grounds of objection, and filed with the papers in the cause.

SEC. 93. No exception other than for incompetency or irrelevancy shall be regarded, unless made and filed before the commencement of the trial.

SEC. 94. The court shall, on motion of either party, hear and decide the questions arising on exceptions to depositions, before the commencement of the trial.

*(f) Documentary Evidence.*

SEC. 95. Either party may exhibit to the other or to his attorney, at any time before the trial, any paper or document material to the action, and request an admission in writing of its genuineness. If the adverse party or his attorney fail to give the admission in writing within four days after the request, and if the party exhibiting the paper or document be afterward put to any costs or expense to prove its genuineness, and the same be finally proved or admitted on the trial, such costs and expenses to be ascertained at the trial shall be paid by the party refusing to make the admission, unless it shall appear to the satisfaction of the court that there were good reasons for the refusal.

SEC. 96. Either party or his attorney may demand of the adverse party an inspection and copy, or permission to take a copy, of a book, paper or document in his possession or under his control containing evidence relating to the merits of the action, or defense therein. Such demand shall be in writing, specifying the book, paper or document with sufficient particularity to enable the other party to distinguish it; and if compliance with the demand within four days be refused, the court or judge, on motion and notice to the adverse party, may in his discretion order the adverse party to give to the other within a specified time an inspection and copy or permission to take a copy of such book, paper, or document; and on failure to comply with such order the court may exclude the paper or document from being given in evidence, or if wanted as evidence by the party applying may direct the jury to presume it to be such as the party by affidavit alleges it to be. This section is not to be construed to prevent a party from compelling another to produce any book, paper or document when he is examined as a witness.

SEC. 97. Either party or his attorney if required shall deliver to the other party or his attorney a copy of any deed, instrument or other writing whereon the action or defense is founded, or which he intends to offer in evidence at the trial. If the plaintiff or defendant shall refuse to furnish the copy or copies required the party so refusing shall not be permitted to give in evidence at the trial the original of which a copy has been refused. This section shall not apply to any paper a copy of which is filed with a pleading.

SEC. 98. Printed copies in volumes of statutes, codes or other written law, enacted by any other state or territory, or foreign government, purporting or proved to have been published by the authority thereof, or proved to be commonly admitted as evidence of the existing law in the courts or tribunals of such state, territory or government, shall be admitted by the courts and officers of this state, on all occasions, as presumptive evidence of such laws. The unwritten or common law of any other state, territory or foreign government may be proved as facts by parol evidence; and the books of reports of cases adjudged in their courts may also be admitted as presumptive evidence of such law.

SEC. 99. Copies of records and proceedings in the courts of a foreign country may be admitted in evidence, upon being authenticated as follows: *First*: By the official attestation of the clerk or officer in whose custody such records are legally kept. *Second*: By the certificate of one of the judges or magistrates of such court that the person so attesting is the clerk or officer legally intrusted with the custody of such records, and that the signature to his attestation is genuine.

SEC. 100. Copies of all papers authorized or required by law to be filed or recorded in any public office or of any record required by law to be made or kept in any such office duly certified by the officer having the legal custody of such paper or record under his official seal, if he have one, and the record of all papers authorized or required by law to be filed or recorded in any public office, may be received in evidence with the same effect as the original without proof that the original is not in the possession or is not under the control of the party desiring to use the same, but nothing in this act shall prevent the production of the original, and when produced the original shall prevail over the record or copy.

SEC. 101. The printed statute books of this state or of the territory of Kansas printed under authority shall be evidence of the private acts therein contained.

SEC. 102. Copies of any act, law or resolution contained in the printed statute books of the states and territories of the United States, purporting to be printed by authority, and which are now or may be hereafter deposited in the office of the secretary of this state and required by law to be kept there, certified under the hand and seal of office of the secretary of this state, shall be admitted as evidence.

SEC. 103. The printed books containing the acts of congress of the United States purporting to be published by authority of congress or by authority of the United States shall be evidence of the laws, public or private, general, local or special, therein contained.

SEC. 104. Public documents, purporting to be edited or printed by authority of congress, or either house thereof, shall be evidence to the same extent that authenticated copies of the same would be.

SEC. 105. Copies of proceedings before justices of the peace, certified by the justice before whom the proceedings are had, shall be evidence of such proceedings.

SEC. 106. Copies of proceedings had before a justice of the peace, where such justice is out of office, certified by the justice who is in possession of the docket and papers of such justice, shall be received in evidence in any court in this state.

SEC. 107. Printed copies of the ordinances, resolutions, rules, orders and by-laws of any city or incorporated town in the state, published by authority of such city or incorporated town, and manuscript copies of the same, certified under the hand of the proper officer, and having the corporate seal of such city or town affixed thereto, shall be received as evidence.

SEC. 108. When, by ordinance or custom of any religious society or congregation in this state, a register is required to be kept of marriage, births, baptisms, deaths or interments, such register shall be admitted as evidence.

SEC. 109. Copies of the register referred to in the preceding section, certified by the pastor or other head of such society or congregation, or by the clerk or other keeper of such register, and verified by his affidavit, shall be received in evidence.

SEC. 110. Whenever any written evidence in a cause shall be in a language other than the English, a written translation thereof in the English language, made by a competent translator, and verified by his affidavit, may be read in evidence instead of the original, if such original be competent evidence.

SEC. 111. The usual duplicate receipt of the receiver of any land office, or, if that be lost or destroyed, or beyond the reach of the party, the certificate

of such receiver that the books of his office show the sale of a tract of land to a certain individual, is proof of the title equivalent to a patent against all but the holder of an actual patent.

Sec. 112. Copies of all papers and documents lawfully deposited in the office of the United States within this state, and copies of any official letter or communication received by the register or receiver of any such land office from any department of the government of the United States, when duly certified by the register or receiver having the custody of such paper, document, letter or other official communication, shall be received in evidence in the same manner and with like effect as the originals.

Sec. 113. Exemplifications from the books of any of the departments of the government of the United States, or any papers filed therein, shall be admitted in evidence in the same manner and with like effect as the originals, when attested by the officer having the custody of such originals.

Sec. 114. The signature of the officer to any certificate or document hereinafter mentioned shall be presumed to be genuine until the contrary is shown.

Sec. 115. Entries in books and other writings intended as records of sales, purchases, receipts, payments, deliveries, weights, measures, time, transactions or events, made in the regular course of business of any person, firm, corporation or public officer, as a record of the matters to which they relate, at or near the time of the transaction or occurrence, shall be admissible in evidence on proof that they were so made. Where such entries are in the possession of the adverse party they shall be produced at the trial on reasonable notice, unless the court or judge excuse such production for good cause, and allow the substitution of a sworn copy thereof. Entries in possession of strangers to the suit, which are kept without the county in which the action is triable, may be proven by sworn copies.

Sec. 116. The books and records required by law to be kept by any probate judge, county clerk, county treasurer, register of deeds, clerk of the district court, justice of the peace, police judge, or other public officers, may be received in evidence in any court; and when any such record is of a paper, document, or instrument authorized to be recorded, and the original thereof is not in the possession or under the control of the party desiring to use the same, such record shall have the same effect as the original; but no public officer herein named or other custodian of public records shall be compelled to attend any court, officer or tribunal sitting more than one mile from his office with any record or records belonging to his office or in his custody as such officer.

*(g) Proceedings to Perpetuate Testimony.*

Sec. 117. The testimony of a witness may be perpetuated in the manner hereinafter provided.

Sec. 118. The applicant shall file in the office of the clerk of the district court a petition, to be verified, in which shall be set forth, specially, the subject matter relative to which testimony is to be taken, and the names of the persons interested, if known to the applicant; and if not known, such general description as he can give of such persons, as heirs, devisee, alienees or otherwise. The petition shall also state the names of the witnesses to be examined, and the interrogatories to be propounded to each; that the applicant expects to be a party to an action in a court of this state, in which such testimony will, as he believes, be material, and the obstacles preventing the immediate commencement of the action, where the applicant expects to be plaintiff.

Sec. 119. The court, or a judge thereof in vacation, may forthwith make an order allowing the examination of such witnesses. The order shall prescribe the time and place of the examination, how long the parties interested shall be notified thereof, and the manner in which they shall be notified.

Sec. 120. When it appears satisfactory to the court or judge that the parties interested cannot be personally notified, such court or judge shall appoint a competent attorney to examine the petition and prepare and file cross-interrogatories to those contained therein. The witnesses shall be examined upon

the interrogatories of the applicant, and upon cross-interrogatories where they are required to be prepared, and no others shall be propounded to them; nor shall any statement be received which is not responsive to some one of them. The attorney filing the cross-interrogatories shall be allowed a reasonable fee therefor, to be taxed in the bill of costs.

SEC. 121. Such depositions shall be taken before some one authorized by law to take depositions, or before some one specially authorized by the court or judge, and shall be returned to the office of the clerk of the court in which the petition was filed.

SEC. 122. The court or judge, if satisfied that the depositions have been properly taken, and as herein required, shall approve the same and order them to be filed; and if a trial be had between the parties named in the petition, or their privies or successors in interest, such depositions, or certified copies thereof, may be given in evidence by either party, where the witnesses are dead or insane, or where attendance for oral examination cannot be obtained or required; but such depositions shall be subject to the same objections for irrelevancy and incompetency as may be made to depositions taken pending an action.

SEC. 123. The applicant shall pay the costs of all such proceedings.

#### COSTS.

SEC. 124. On the filing of a petition plaintiff shall give security for costs, to be paid by him if the petition be not sustained.

#### CONTINUANCES.

SEC. 125. The court may for good cause shown continue an action at any stage of the proceedings upon such terms as may be just. When a continuance is granted on account of the absence of evidence, it shall be at the cost of the party making the application, unless the court otherwise order.

SEC. 126. A motion for a continuance on account of the absence of evidence can be made only upon affidavit, showing the materiality of the evidence expected to be obtained, and that due diligence has been used to obtain it, and where the evidence may be; and if it is for an absent witness the affidavit must show where the witness resides, if his residence is known to the party, and the probability of procuring his testimony within a reasonable time, and what facts he believes the witness will prove, and that he believes them to be true. If thereupon the adverse party will consent that on the trial the facts alleged in the affidavit shall be read and treated as the deposition of the absent witness, or that the facts in relation to other evidence shall be taken as proved to the extent alleged in the affidavit, no continuance shall be granted on the ground of the absence of such evidence.

#### TRIALS.

SEC. 127. Immediately after the issues are made up in any probate action the court shall set such action for trial at a time not less than ten days nor more than thirty days after such time, and shall give notice to all parties to such action in the manner herein prescribed for the giving of notice of the hearing of the motions.

SEC. 128. After a date has been fixed for the trial or hearing of a matter, and on or before such date, the court may, for good cause shown and upon such terms as it deems proper, continue the trial or hearing to some future date.

SEC. 129. All trials and hearings under the provisions of this code shall be by the court without a jury.

SEC. 130. The court shall, on timely request of any party, make findings of fact and conclusions of law, in writing, in any trial or hearing.

## JUDGMENTS AND ORDERS.

SEC. 131. A judgment is the order entered in an action which finally determines the rights of all the parties thereto.

SEC. 132. Every direction of a court or judge, made and entered in any action and not included in a judgment, is an order.

## APPEALS.

SEC. 133. Every judgment in a probate action, and every order which affects the substantial rights of a party, are appealable by a notice of appeal.

SEC. 134. All appeals from the probate court in probate actions shall be by notice of appeal, specifying the order, ruling, decision, or judgment complained of, and shall be filed in the court from which the appeal is taken within ten days from the date of such order, ruling, decision, or judgment.

SEC. 135. The party appealing shall file a good and sufficient bond in the court from which the appeal is taken to secure the costs of the appeal, unless, by reason of his poverty, he is unable to give security for costs, which fact shall be shown by affidavit filed in such court at the time the appeal is taken, and thereupon the appeal shall be deemed perfected.

SEC. 136. The judge from whose court the appeal is taken shall forthwith make up a complete transcript of all proceedings before him regarding the matter, or matters, appealed from, and transmit the same, together with all the papers in the case, to the clerk of the district court of his county. The district court shall try and determine the same as if originally filed therein, and may, in its discretion, order further or amended pleadings to be filed therein.

SEC. 137. The taking of the appeal provided for in this act shall not stay proceedings for the enforcement of the judgment or order appealed from unless the party appealing shall, within ten days from the date of the judgment or order, enter into an undertaking with at least one good and sufficient surety, to be approved by the judge of the probate court, and not less than double the amount of the judgment and costs, conditioned that he will prosecute the appeal without unnecessary delay and satisfy the judgment which may be rendered against him.

SEC. 138. The supreme court is authorized to change, modify, or add to any of the provisions of this code by rule of court.

SEC. 139. This act shall take effect and be in force from and after its publication in the statute book.





# KANSAS JUDICIAL COUNCIL BULLETIN

DECEMBER, 1932.

PART 4—SIXTH ANNUAL REPORT.

## TABLE OF CONTENTS.

	PAGE
LETTER OF TRANSMITTAL . . . . .	107
GROUP PORTRAIT OF JUDICIAL COUNCIL . . . . .	108
FOREWORD . . . . .	109
RULES OF PROCEDURE . . . . .	110
"MOTION DAYS" FOR 1933 . . . . .	112
SUPREME COURT: FIVE-YEAR SUMMARY . . . . .	119
DISTRICT COURTS: FIVE-YEAR SUMMARY . . . . .	121
PAROLES BY JUDGES OF DISTRICT COURTS . . . . .	133
A PROPOSED CONSTITUTIONAL AMENDMENT . . . . .	133
STATUTORY PROPOSALS RELATING TO—	
Courts Inferior to District Courts . . . . .	137
Books and Records of Courts . . . . .	140
Civil Code Amendments . . . . .	141
Criminal Code Amendments . . . . .	144
Pleadings in Actions for Divorce . . . . .	145
Jurors: Jury Trials . . . . .	146
Redemption of Real Property . . . . .	149
Eminent Domain . . . . .	152
Code of Probate Procedure . . . . .	159
CONCLUSION . . . . .	164

PRINTED BY KANSAS STATE PRINTING PLANT  
B. P. WALKER, STATE PRINTER  
TOPEKA 1933  
14-6523

Application at post office at Topeka, Kansas, for second-class matter.



## MEMBERS OF THE JUDICIAL COUNCIL.

---

W. W. HARVEY, Chairman.....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, Secretary.....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
ROSCOE H. WILSON.....	Jetmore.
Judge Thirty-third Judicial District.	
JOHN W. DAVIS.....	Dodge City.
Chairman Senate Judiciary Committee.	
GEORGE AUSTIN BROWN.....	Wichita.
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE:

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the  
state,

For the improvement of our Judicial System and its more  
efficient functioning.

## LETTER OF TRANSMITTAL.

---

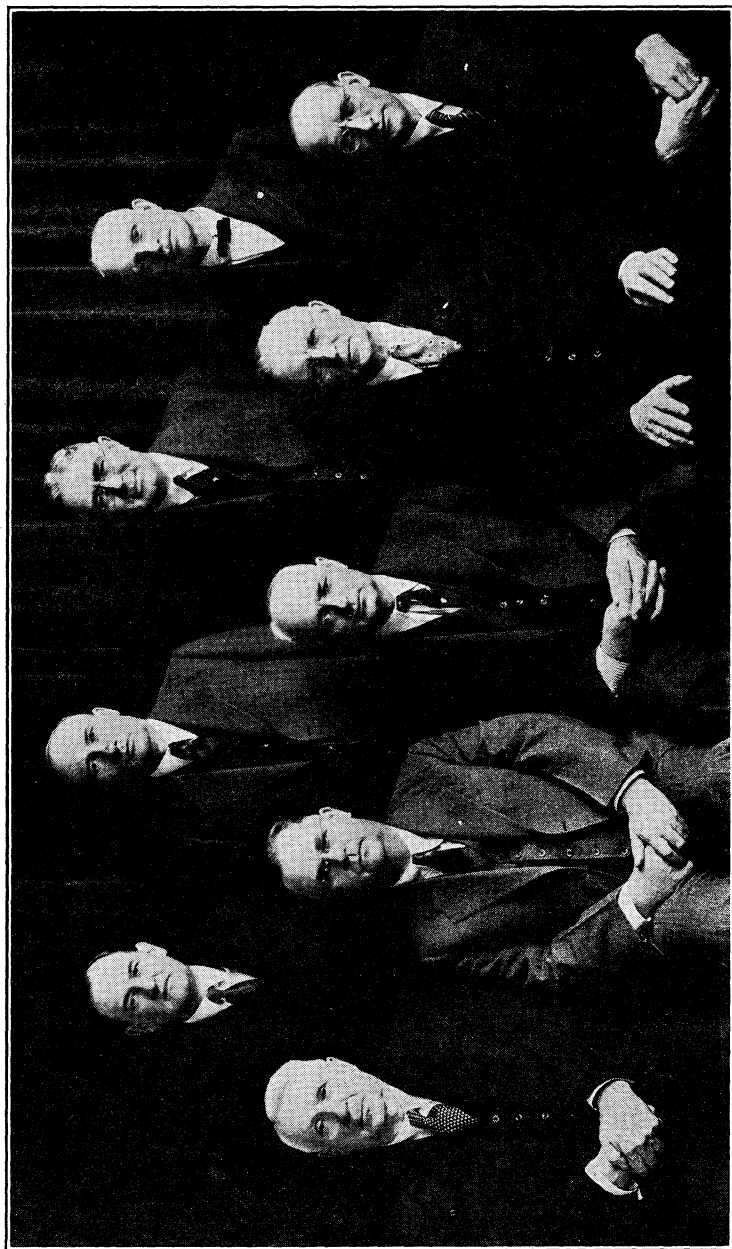
TOPEKA, KAN., December 1, 1932.

*To His Excellency, Harry H. Woodring, Governor of Kansas:*

In accordance with the provisions of chapter 187 of the Laws of Kansas, 1927, we herewith transmit to you the sixth annual report of the Judicial Council, in four parts.

W. W. HARVEY, *Chairman,*  
J. C. RUPPENTHAL, *Secretary,*  
EDWARD L. FISCHER,  
ROSCOE H. WILSON,  
JOHN W. DAVIS,  
GEORGE AUSTIN BROWN,  
CHARLES L. HUNT,  
ROBERT C. FOULSTON,  
CHESTER STEVENS,

*Members of the Judicial Council.*



THE JUDICIAL COUNCIL.

Top row (left to right): Robert C. Foulston, Charles L. Hunt, Chester Stevens, J. C. Ruppenthal.

Bottom row (left to right): John W. Davis, Roscoe H. Wilson, W. W. Harvey (Chm.), Edward L. Fischer, George Austin Brown.

## FOREWORD.

This is part four of our sixth annual report, and together with parts one, two and three, issued respectively in April, July and October, constitutes our report for this year. In this issue we print a group picture of the members of the Judicial Council. These men have been members of the Council since it was organized in June, 1927, except Judge Wilson and Mr. Brown who have served about two years. Neither Senator Davis nor Mr. Brown will be on the Council after the legislature meets. Their places will be taken by the new chairmen of the judiciary committees of the legislature. The members of the Council serve without pay, being reimbursed only for actual expenses of attending meetings of the Council. An appropriation is made to cover such expenses and to pay clerical help, postage and the like. Meetings of the Council are held on the call of the chairman. Recently meetings were held about every two months and for two days at a time. We find much more can be accomplished in a meeting of two days than in several meetings of one day each, and we effect a substantial economy in the expense of members attending meetings.

We had the clerk of the supreme court make a detailed report to us of the work of that court for the year ending June 30, 1932. This was published in our October BULLETIN. This is the fifth consecutive year we have obtained similar reports. Later herein are some general statistics taken from these reports, with some suggestions relating to the procedure therein.

For five consecutive years we collected detailed information from clerks of the district courts relating to the cases disposed of and pending in those courts. We did not collect such information this year for two reasons: First, we thought from the data collected we could make important recommendations to the legislature—perhaps as many as it would adopt; and, second, in view of the above, and considering the financial depression and the need for economy in governmental expenditures, we doubted the expediency of doing so. Last year, following the provisions of chapter 189, Laws 1931, our chairman issued certificates to clerks of the district courts by which they were paid by their respective counties sums aggregating \$3,712.10. The statute contemplated the counties would be reimbursed by fees taxed to litigants as costs, but the fee authorized to be taxed was inadequate for full reimbursement. In view of all the circumstances we did not feel justified in creating an expense of approximately \$3,700, irrespective of who had to pay it. Later herein we give some statistics gathered from reports received in the five-year period, and have framed some proposed bills prompted by the study of reports received.

In view of the approaching session of the legislature this BULLETIN is devoted primarily to proposed measures designed to improve the judicial system of our state and the more prompt and efficient conduct of business in our courts. It is not necessary to itemize these measures, or enlarge upon them here, as they will appear with appropriate explanatory discussions later herein.

### Rules of Procedure.

There is a growing sentiment among lawyers and judges throughout the state that matters relating purely to proceedings in the courts of the state should be governed by rules of court rather than by statutes enacted by the legislature.

We have discussed this question from some angle in each of our former reports and it has been pointed out that the clear authority of the supreme court to promulgate rules of procedure in trial courts is limited. Attorneys and judges who have given thought to the matter almost uniformly agree that this authority should be extended. Naturally the courts should not by rule make the substantive law which the people, through the legislature, should be free to establish, but rules of practice and those which relate purely to procedure can be formulated best by the courts and can be much more readily changed when the need therefor becomes apparent.

In addition to modifying some of its own rules at the informal suggestion of the Judicial Council, the supreme court, on the recommendation of the Judicial Council, has promulgated a few rules relating to procedure in district courts. Generally speaking these rules have become in general use and have proved decidedly beneficial. We feel safe in saying that the promulgation of these rules and the compliance with them has done more to improve the efficiency of the work of our district courts, and the promptness of the dispatch of business therein, than has resulted from all the changes made by the legislature in our code of procedure in more than twenty years. We hear of occasional instances when trial judges or attorneys have failed to comply with some one or more of the rules, and in every instance called to our attention the failure to comply with the rules has resulted detrimentally to one or more of the litigants. Since the rules were first promulgated some of them have been modified so as to improve their usefulness. The facility with which that can be and has been done meets the hearty approval of all those who have given it attention. For many months we have had no suggestions of modifications of any of the rules promulgated. Some rules have been added since our last annual report. For the convenience of the bar and the judges we set out the rules herewith, with the numbers assigned to them by the supreme court.

"No. 26. In judicial districts, or divisions, the judge shall designate at least one day in each calendar month, except July and August, in each county, and division, and place where court is held, for the purpose of hearing motions, demurrers and other law questions, and for the transaction of any other court business wherein a jury is not required. Such designation shall be made at the beginning of each calendar year. A copy of the order making such designation shall be filed with the clerk of the supreme court, and the clerk of each district court in the district.

"No. 27. Counsel filing a motion or demurrer or pleading subsequent to the petition shall, on the day the same is filed, deliver or mail a copy thereof to counsel of record for all adverse parties.

"No. 28. All motions and demurrers shall stand for hearing at the first motion day following the fifth day after the filing of the same and service of copy, as provided by rule 27.

"No. 29. All motions, demurrers, matters and causes submitted to the court shall be decided expeditiously, and in no event later than the *next mo-*

tion day, after they are submitted, unless the court for good cause shall order a postponement of the decision and shall enter the reasons therefor on the journal of the court.

"No. 30. When any matter or cause is submitted to the court and taken under advisement, the court, at the time of deciding the same, shall notify counsel of record in such time and manner as will enable counsel to take the necessary steps under the statute to protect their rights for review or otherwise.

"No. 31. In all causes or matters in which adverse counsel has appeared of record, no default judgment shall be rendered except upon motion and the giving of at least a three days' notice to such adverse counsel of the hearing thereof: *Provided*, This rule shall not apply to the first day of a regular term of court fixed by the statute.

"No. 32. When any motion or demurrer is ruled upon, or any cause decided, counsel for the prevailing party shall, within ten days, prepare a journal entry of the ruling or decision and present it to counsel for all adverse parties, who shall approve it or note their objections to it and return it the same or within five days. If approved by counsel it shall be forthwith presented to the judge of the court for his approval. If counsel cannot agree on the journal entry it shall be notice to be taken up by the court not later than the next motion day, and its form and contents determined.

"No. 33. When approved the journal entry shall be signed by the judge, filed with the clerk, and recorded at length on the journal.

"No. 34. In all actions in which a party shall enter his appearance solely by personally signing an instrument designed for that purpose, the court in which the action is pending shall not regard the appearance as valid unless the signature of the party to the instrument is acknowledged before an officer authorized by law to take acknowledgments.

"No. 35. In all cases tried before the court without a jury, where either party shall urge the application of a presumption of law, the trial judge, upon timely written request of the party setting forth the presumption of law which the party contends applies, shall file with the clerk, either separately or as part of his findings of fact and conclusions of law, a written statement as to whether, in deciding the case, he did or did not give effect to the presumption of law contended for.

"No. 36. In trials before the court, without a jury, where evidence is admitted over proper objections, and not stricken out on timely motion therefor, it shall be presumed that such evidence was considered by the court and entered into its final decision in the case."

## MOTION DAYS IN DISTRICT COURTS.

COUNTRY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Allen.....	Iola.....	Frank R. Forrest.....	N. C. Kerr.....	37	7 14 21 28	4 11 18 25	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24 30	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30		
Anderson.....	Garnett.....	Hugh Means.....	Tom Bowen.....	4	6	3	6	8	5	12	8	9	3	4		
Atchison.....	Atchison.....	William A. Jackson.....	Joe C. Seibel.....	2	7 14 21 28	4 11 18 25	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24 30	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30		
Barber.....	Medicine Lodge.....	George L. Hay.....	Edith Myers.....	24	5	13	4	24	12	9	9	23	9	8		
Barton.....	Great Bend.....	Ray H. Beals.....	Sam M. Kellam.....	20	7	4	7	1	6	6	2	2	1	9		
Bourbon.....	Fort Scott.....	W. F. Jackson.....	George T. Farmer.....	6	7 14 21 28	4 11 18 25	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24 30	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30		
Brown.....	Hiawatha.....	C. W. Ryan.....	H. N. Zimmerman.....	22	24	28	28	25	23	20	26	24	28	21		
Butler.....	El Dorado.....	A. T. Ayers, Geo. J. Benson.....	Charles G. Smith.....	13	7	4	6	7	6	12	2	7	13	5		
Chase.....	Cottonwood Falls.....	Lon C. McCarty.....	Erna Buffon.....	5	27	24	31	28	26	30	29	27	24	29		
Chautauqua.....	Sedan.....	A. T. Ayers, Geo. J. Benson.....	Bob Floyd.....	13	21	7	20	3	3	5	4	2	4	4		
Cherokee.....	Columbus.....	John W. Hamilton.....	Ernest Milton.....	11	3 5	7 9	7 9	4 6	2 4	6 8	5 7	3 5	7 9	5 7		
Galena div.....	Galena div.....				5	9	9	6	4	8	7	5	9	7		
Cheyenne.....	St. Francis.....	E. E. Kite.....	Minnie A. Lawless.....	17	21	17	27	3	22	6	16	7	27	4		

## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Clark.....	Ashland.....	Karl Miller.....	Amy Dugan.....	31	12	16	16	13	11	15	7	5	9	14		
Clay.....	Clay Center.....	Edgar C. Bennett.....	Annie L. Goheen.....	21	5	3	6	6	3	5	1	6	6	1		
Cloud.....	Concordia.....	Tom Kennett.....	Lawrence Johnston.....	12	2	4	7	3	2	6	25	14	21	18		
Coffey.....	Burlington.....	Lon C. McCarty.....	Bernice Thompson.....	5	30	27	27	24	29	26	25	30	27	26		
Comanche.....	Coldwater.....	Karl Miller.....	B. F. Arnold.....	31	11	15	15	12	10	14	6	4	8	13		
Cowley.....	Winfield.....	O. P. Fuller.....	Marie Snyder.....	19	2	6	6	3	1	5	4	2	6	4		
Crawford.....	Girard.....	L. M. Resler, Jo E. Gaitskill.....	Jean Bell.....	38	9	6	6	3	1	5	4	2	6	4		
Grand div.....	Grand div.....	.....	.....	16	16	20	20	17	8	19	18	16	20	18		
Pittsburg div.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....		
Decatur.....	Oberlin.....	E. E. Kite.....	Dorothy McGee.....	17	.....	27	17	12	8	3	14	3	10	12		
Dickinson.....	Abilene.....	C. M. Clark.....	Seth Barter, Jr.....	8	2*	17*	6†	15†	15*	5†	11*	13*	13†	16*		
Doniphan.....	Troy.....	C. W. Ryan.....	L. D. Swiggett.....	22	26	23	30	27	25	22	28	26	29	22		
Douglas.....	Lawrence.....	Hugh Means.....	John Callahan.....	4	7	6	4	1	1	3	9	7	6	2		
Edwards.....	Kinsley.....	Roscoe H. Wilson.....	C. E. Burke.....	33	7	7	9	6	8	5	7	7	1	7		
Elk.....	Howard.....	A. T. Ayers, Geo. J. Benson.....	Mary E. Johnson.....	13	2	6	18	1	1	1	18	2	1	2		
Ellis.....	Hayes.....	Herman Long.....	Leo J. Staab.....	23	13	6	31	14	15	16	15	16	18	14		
Ellsworth.....	Ellsworth.....	Dallas Grover.....	J. M. Wilson.....	30	23	27	25	24	26	5	2	9	18	26		
Finney.....	Garden City.....	H. E. Walter.....	Mrs. Walter Harvey.....	32	9	1	7	5	8	5	25	27	8	4		
Ford.....	Dodge City.....	Karl Miller.....	Susan A. Evans.....	31	9	13	13	10	8	12	4	2	6	11		
Franklin.....	Ottawa.....	Hugh Means.....	Mary O. Stewart.....	4	2	4	3	3	6	2	11	6	4	1		



## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Geary.....	Junction City.....	C. M. Clark.....	Geo. J. Webster.....	8	2†	17†	6*	15*	15†	5*	11†	13†	13*	16†		
Gove.....	Gove City.....	Herman Long.....	Grant W. Peterson.....	23	27	21	20	28	12	19	13	13	20	15		
Graham.....	Hill City.....	W. B. Ham.....	Elsie Parks.....	34	23†	1*	17†	28†	15*	17*	18*	10*	18†	16†		
Grant.....	Ulysses.....	F. O. Rindom.....	Inez McAtee.....	39	2†	3†	3*	10*	4†	5†	2*	2†	6†	4*		
Gray.....	Cimarron.....	Karl Miller.....	W. A. LeVan.....	31	14	18	18	15	13	17	9	7	11	16		
Greeley.....	Tribune.....	H. E. Walter.....	T. P. Tucker.....	32	11	13	11	7	3	3†	15	16	11	8		
Greenwood.....	Eureka.....	A. T. Ayers, Geo. J. Benson..	Clyde Divine.....	13	16	1	17	1	15	7	7	9	3	18		
Hamilton.....	Syracuse.....	H. E. Walter.....	Amelia J. Minor.....	32	21	27	9	8	6	1	8	23	18	9		
Harper.....	Anthony.....	George L. Hay.....	Ed. C. Wolf.....	24	9	2	3	10	11	19	8	9	8	7		
Harvey.....	Newton.....	J. G. Somers.....	Lloyd L. McMullen.....	9	5	15	17	6	8	9	21	26	13	8		
Haskell.....	Sublett.....	F. O. Rindom.....	Geo. A. Tyler.....	39	2*	3*	13*	5*	4*	5*	18*	2*	6*	1*		
Hodgeman.....	Jetmore.....	Roscoe H. Wilson.....	Frank Phillips.....	33	6	10	10	7	10	6	8	6	14	8		
Jackson.....	Holton.....	Lloyd Morris.....	H. E. Hostetter.....	36	9	2	2	3	1	24	7	2	10	7		
Jefferson.....	Oskaloosa.....	Lloyd Morris.....	Marguerite McCoy.....	36	4	7	6	7	5	5	8	6	6	8		
Jewell.....	Mankato.....	W. R. Mitchell.....	Bernice Howard.....	15	7	2	6	15	26	5	23	31	13	23		
Johnson.....	Olathe.....	G. A. Roberts.....	Mabel K. Adams.....	10	2	27	13	3	1	24	5	23	20	11		
Kearny.....	Lakin.....	H. E. Walter.....	Ella Smith.....	32	12	18	13	6	5	2	7	12	13	7		
Kingman.....	Kingman.....	George L. Hay.....	Neil H. Walter.....	24	7	4	27	8	13	5	25	7	10	11		
Kiowa.....	Greensburg.....	Karl Miller.....	Alonson H. Dent.....	31	10	14	14	11	9	13	5	3	7	12		

## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Lafayette.....	Oswego.....	L. E. Goodrich.....	H. L. Lane.....	16	27	24	24	28	26	23	22	27	24	22		
Oswego div.....					23	20	20	17	22	19	18	23	27	18		
Parsons div.....																
Lane.....	Dighton.....	H. E. Walter.....	Ora D. Snelzer.....	32	13	4	27	25	15	6*	11	13†	27	12*		
Leavenworth.....	Leavenworth.....	J. H. Wendorf.....	Max Freerick.....	1	7	4	4	1	6	3	2	7	4	2		
					21	18	18	15	20	17	16	21	18	16		
Lincoln.....	Lincoln.....	Dallas Grover.....	E. D. Harlow.....	30	14	20	4	15	15	3	16	14	13	29		
Linn.....	Mound City.....	W. F. Jackson.....	Roy Dalton.....	6	2	6	6	3	1	5	4	2	6	4		
					16	20	20	17	15	19	18	16	20	18		
Logan.....	Russell Springs.....	Herman Long.....	A. W. Rogge.....	23	26†	20†	17†	3*	26†	26†	4*	12†	16†	4*		
Lyon.....	Emporia.....	Lon C. McCarty.....	J. J. McClure.....	5	25	22	29	26	31	28	27-	25	29	27		
Marion.....	Marion.....	C. M. Clark.....	H. D. Cornelson.....	8	14*	6*	18*	10*	1*	17*	4*	2*	6*	23*		
Marshall.....	Marysville.....	Edgar C. Bennett.....	Wallace J. Koppes.....	21	6	6	3	7	1	2	8	2	3	8		
McPherson.....	McPherson.....	J. G. Somers.....	Donald Clark.....	9	6	17	13	7	12	5	22	27	17	4		
Meade.....	Meade.....	Karl Miller.....	Lotie W. Stamper.....	31	13	17	17	14	12	16	8	6	10	15		
Miami.....	Paola.....	G. A. Roberts.....	Charles W. Diediker.....	10	16	6	20	24	22	5	18	2	13	18		
Mitchell.....	Beloit.....	W. R. Mitchell.....	John W. Hayes.....	15	9	1	2	17	25	29	25	27	29	22		
Montgomery.....	Independence.....	Jos. W. Holdren.....	Clyde K. Gamble.....	14	7	4	4	1	6	3	2	7	4	2		
Independence div.....					21	18	18	15	20	17	16	21	18	16		
Coffeyville div.....																
Morris.....	Council Grove.....	C. M. Clark.....	A. J. Bruton.....	8	14†	18*	17*	3*	13*	18*	4†	14*	6†	4*		
Morton.....	Richfield.....	F. O. Rindom.....	Mrs. Ray Crawford.....	39	3†	13*	4*	6*	5†	6†	4*	3†	7†	2*		
Nemaha.....	Seneca.....	C. W. Ryan.....	Dorothy Ingalls.....	22	23	27	27	24	22	19	25	23	27	20		

## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Neosho.....	Erie.....	J. T. Cooper.....	Lloyd Brown.....	7	7	14	14	1	9	6	2	10	7	5		
Ness.....	Ness City.....	Roscoe H. Wilson.....	Laura Jackson.....	33	4	8	7	8	11	1	5	4	7	5		
Norton.....	Norton.....	E. E. Kite.....	Ethel Beech'dt.....	17	9 18	14	15	17	4	2	4 13	5	8	14		
Osage.....	Lyndon.....	Carey E. Carroll.....	Paul F. Cummings.....	35	2	6	14	3	1	13	5	2	14	4		
Osborne.....	Osborne.....	W. R. Mitchell.....	B. F. Beeson.....	15	5	6	3	13	8	30	21	16	28	21		
Ottawa.....	Minneapolis.....	Dallas Grover.....	Ray Jones.....	30	9	11	18	10	12	6	23	23	25	27		
Pawnee.....	Larned.....	Roscoe H. Wilson.....	Rose Mason.....	33	14	11	11	3	13	3	9	3	9	9		
Phillips.....	Phillipsburg.....	E. E. Kite.....	L. R. Halbert.....	17	17	6	16	13	1	1	12 18	4	9	13		
Pottawatomie.....	Westmoreland.....	Lloyd Morris.....	Charles S. Smith.....	36	13	3	3	4	4	23	5	5	9	5		
Pratt.....	Pratt.....	George L. Hay.....	Roy D. Skelton.....	24	6	3	13	7	15	10	11	6	13	9		
Rawlins.....	Atwood.....	E. E. Kite.....	Ivy Morton Yoos.....	17	20	16	14	11	15	5	15	6	7	15		
Reno.....	Hutchinson.....	J. G. Somers.....	Walter Mead.....	9	7 14 21 28	4 11 18 25	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24	16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30		
Republic.....	Belleville.....	Tom Kennett.....	Wm. R. Goodwin.....	12	3	6	4	4	1	3	19	16	18	19		
Rice.....	Lyons.....	Ray H. Beals.....	L. A. Holloway.....	20	3	6	6	4	1	3	5	7	4	2		
Riley.....	Manhattan.....	Edgar C. Bennett.....	C. E. Wood.....	21	2	2	2	3	4	1	4	5	2	7		
Rooks.....	Stockton.....	W. B. Ham.....	George F. Crane.....	34	9	11	17	1	1	3	4	7	4	14		

## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Rush.....	La Crosse.....	Roscoe H. Wilson.....	Edwin Popp.....	33	3	9	18	4	12	2	6	5	8	6		
Russell.....	Russell.....	Herman Long.....	George W. Brandt.....	23	2	22	30	13	1	15	14	2	17	13		
Saline.....	Salina.....	Dallas Grover.....	O. H. Ford.....	30	7	13	6	1	13	14	4	6	20	28		
Scott.....	Scott City.....	H. E. Walter.....	Mrs. C. A. Easley.....	32	14	3	10	10	4	6†	12	14	7	11		
Sedgwick.....	Wichita.....	Ross McCormick.....	A. E. Jacques.....	18	7	4	4	1	6	3	2	7	4	3		
First div.....	First div.....	R. L. NeSmith.....	1st and 24 divisions.....	.....	21	18	18	15	20	17	16	21	18	16		
Second div.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....		
Third div.....	.....	Grover Pierpont.....	3d and 4th divisions.....	.....	14	11	11	8	13	10	9	14	11	9		
Fourth div.....	.....	L. N. Williams.....	.....	.....	28	25	25	22	27	24	23	28	25	23		
Seward.....	Liberal.....	F. O. Rindom.....	H. W. Lane.....	39	9*	18*	18*	15*	22*	17*	16*	21*	13*	16*		
Shawnee.....	Topeka.....	Geo. A. Kline.....	Matilda Binger.....	3	21	11	4	15	6	17	9	21	11	2		
First div.....	.....	.....	.....	.....	.....	.....	25	27	27	.....	30	.....	.....	23		
Second div.....	.....	George H. Whitcomb.....	.....	.....	7	18	11	1	13	3	16	7	18	9		
Third div.....	.....	Otis E. Hungate.....	.....	.....	28	.....	.....	22	.....	24	.....	28	.....	30		
.....	.....	.....	.....	.....	14	4	18	8	20	10	2	14	4	16		
.....	.....	.....	.....	.....	.....	25	25	29	.....	.....	23	.....	25	.....		
Sheridan.....	Hoxie.....	W. B. Ham.....	Noah Turner.....	34	7	20	17	28	25	5	15	2	18	16		
Sherman.....	Goodland.....	W. B. Ham.....	William Mangus.....	34	6*	17†	20†	3*	26*	19†	16*	9†	20*	1*		
Smith.....	Smith Center.....	W. R. Mitchell.....	Ruth W. Cole.....	15	6	3	27	14	24	19	22	30	27	4		
Stafford.....	St. John.....	Ray H. Beals.....	Gertrude Bartle.....	20	2	7	4	3	2	5	4	3	2	1		
Stanton.....	Johnson.....	F. O. Rindom.....	Nelle Helmick.....	39	3*	27*	3†	5†	5*	6*	11*	3*	7*	1†		
Stevens.....	Hugoton.....	F. O. Rindom.....	John F. Fulkerson.....	39	23*	4*	27*	6†	3*	7*	2†	23*	8*	2†		

## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1933.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Sumner.....	Wellington.....	Wendell Ready.....	Jessie Haverstock.....	25	3	2	2	6	2	1	5	5	2	7		
Thomas.....	Colby.....	W. B. Ham.....	N. C. Kaudson.....	34	6†	17*	20*	27†	25†	19*	15†	9*	6*	15†		
Trego.....	Wakeeney.....	Herman Long.....	J. W. Bingham.....	23	14	18	6	15	13	5	16	14	6	16		
Wabaunsee.....	Alma.....	Carey E. Carroll.....	Lizzie M. Frey.....	35	6	7	3	7	2	2	1	3	3	1		
Wallace.....	Sharon Springs.....	Herman Long.....	Ida Ward.....	23	26*	20*	17*	17*	26*	26*	18*	12*	16*	18*		
Washington.....	Washington.....	Tom Kennett.....	J. W. Hatter.....	12	4	7	6	1	3	5	20	18	20	16		
Wichita.....	Leoti.....	H. E. Walter.....	Kate Elder.....	32	2	14	11	24	3	3*	11	13*	6	18		
Wilson.....	Fredonia.....	J. T. Cooper.....	W. H. Timmons.....	7	3	6	6	4	1	3	5	2	14	9		
Woodson.....	Yates Center.....	Frank R. Forrest.....	Kathryn Maxwell.....	37	6 13	24	3	7 10 14	5 9	2	1	6 13 10	3 10 8	1		
							17 21 24	21 24 28		16 23 30		27 20 24	17 15			
							31									
Wyandotte.....	Kansas City.....	E. L. Fischer.....	Pal E. Bush.....	29	7	4	4	1	6	3	2	7	4	2		
First div.....																
Second div.....		Clyde C. Glandon.....			14	11	11	8	13	10	9	14	11	9		
Third div.....		Wm. H. McCanish.....			21	18	18	15	20	17	16	21	18	16		
Fourth div.....		C. A. Miller.....			28	25	25	22	27	24	23	28	25	23		

\* a. m. † p. m.

Norma.—The four divisions of the court in Wyandotte county work with three jury divisions and one "Law Division," which is rotated among the judges. The "Law Division" has a motion day each week. The day of the week is designated by the judge at the beginning of the term. Except as modified by the work of the "Law Division," the motion days are as shown in the above tabulation.

Norm.—For the months of July and August, in the judicial districts having two or more divisions, one or more judges holds court for the hearing of matters needing prompt attention and in all the judicial districts some provision is made for the hearing of urgent matters. The days for such hearing are not stated in the above schedule. Parties interested should take the matter up with the judge or clerk of the court with respect to the time of hearing. In a few districts there is a publication, such as the "Legal News" in Shawnee county, in which notice is given of matters not covered by the above schedule.

**Supreme Court: Five-year Summary.**

In the five years the clerk of the supreme court has furnished us detailed information of the work of that court, it has disposed of 3,108 cases, of which 954 were dismissed before final submission, and 2,154 were submitted on the merits and written opinions filed. By years and classes of cases they are as follows:

## FIVE-YEAR SUMMARY, KANSAS SUPREME COURT.

Year ending June 30—	CASES.	Disposed of.	Dismissed.	Submitted.
1928.....	Appealed, civil.....	529	143	386
	Appealed, criminal.....	101	44	57
	Original.....	43	13	33
	Totals.....	673	200	473
1929.....	Appealed, civil.....	475	128	347
	Appealed, criminal.....	72	29	43
	Original.....	36	18	18
	Totals.....	583	175	408
1930.....	Appealed, civil.....	504	143	361
	Appealed, criminal.....	77	37	40
	Original.....	52	16	36
	Totals.....	633	196	437
1931.....	Appealed, civil.....	490	131	359
	Appealed, criminal.....	63	29	34
	Original.....	38	13	25
	Totals.....	591	173	418
1932.....	Appealed, civil.....	522	159	363
	Appealed, criminal.....	74	45	29
	Original.....	32	6	26
	Totals.....	628	210	418
	Grand totals.....	3,108	954	2,154

Of the 2,154 cases submitted, the written opinions were filed in 35 cases before the first regular opinion day; 1,971 on the first regular opinion day; 132 on the second; 12 on the third; 3 on the fourth and 1 on the fifth regular opinion day after they were submitted. The regular opinion day ordinarily is a month after the case is submitted, more accurately it is the Saturday of the week hearings are had the next month after the case is submitted.

The number of cases pending in the supreme court July 1, 1928, was 341; July 1, 1929, 376; July 1, 1930, 397; July 1, 1931, 393; July 1, 1932, 357. The following data may be of interest:

## APPEALED CIVIL CASES.

Time between date of judgment appealed from and notice of appeal filed in trial court.

Year ending June 30—	In 1 month.	1 to 2 months.	2 to 3 months.	3 to 4 months.	4 to 5 months.	5 to 6 months.	After 6 months.	Total.
1928.....	188	80	66	55	48	65	15	517
1929.....	163	102	50	40	40	45	21	461
1930.....	209	77	69	34	38	58	17	502
1931.....	178	87	65	41	31	50	24	476
1932.....	210	71	64	42	44	57	27	515
Totals.....	948	417	314	212	201	275	104	2,471

## APPEALED CRIMINAL CASES.

Time between date of judgment appealed from and filing notice of appeal in trial court.

Year ending June 30—	In 10 days.	10 to 30 days.	1 to 2 months.	2 to 3 months.	3 to 4 months.	4 to 5 months.	5 to 6 months.	After 6 months.	Total.
1928.....	62	14	7	3	2	4	0	6	98
1929.....	37	12	6	6	1	1	1	2	66
1930.....	53	8	8	3	1	0	0	0	73
1931.....	40	6	8	0	0	0	2	7	63
1932.....	26	25	12	4	3	1	0	3	74
Totals.....	218	65	41	16	7	6	3	18	374

## APPEALED CIVIL CASES.

Time between date notice of appeal was filed in trial court and date it was filed in supreme court.

Year ending June 30—	In 10 days.	10 to 20 days.	20 to 30 days.	1 to 2 months.	2 to 3 months.	3 to 4 months.	4 to 5 months.	5 to 6 months.	After 6 months.	Total.
1928.....	316	93	44	32	17	10	5	3	0	520
1929.....	244	108	37	47	11	19	0	0	0	466
1930.....	233	117	41	13	6	4	1	1	2	418
1931.....	300	82	31	28	13	12	2	1	2	471
1932.....	277	85	61	55	21	9	6	2	2	518
Totals....	1,370	485	214	175	68	54	14	7	6	2,393

## APPEALED CRIMINAL CASES.

Time between date notice of appeal was filed in trial court and date it was filed in supreme court.

Year ending June 30—	In 10 days.	10 to 20 days.	20 to 30 days.	1 to 2 months.	2 to 3 months.	3 to 4 months.	4 to 5 months.	5 to 6 months.	After 6 months.	Total.
1928.....	48	21	13	8	2	1	5	1	1	100
1929.....	33	28	15	12	2	2	0	0	0	92
1930.....	44	10	6	7	3	2	0	3	2	77
1931.....	29	6	4	10	5	8	0	0	1	63
1932.....	35	12	8	3	7	2	4	2	1	74
Totals....	189	77	46	40	19	15	9	6	5	406

There is no unnecessary delay in disposing of cases in the supreme court when the parties are ready to present them there. Three things may be done to increase the promptness in presenting appealed cases to the supreme court. First, the time in which to appeal civil actions may be shortened from six months to two months, as recommended in one of our bills. Second, clerks of court could be more prompt in transmitting to the supreme court notices of the appeal filed with them. Third, when a transcript of the testimony is necessary, particularly if it is large, delays are sometimes caused because the court reporter with his other work does not have time to prepare the transcript, sometimes for several months.

### District Courts: Five-year Summary.

In the five years the clerks of the district courts have furnished us detailed information of the work of the district courts throughout the state. As shown by such reports those courts have disposed of 55,794 civil actions, other than divorce cases, of which 18,170 were dismissed before trial on the merits, 33,900 were tried to the court, 3,584 to juries. A few were referred, and a few removed to federal court. They also disposed of 23,623 divorce cases, of which 6,279 were dismissed before trial on the merits, and 17,344 were tried to the court, of which trials 2,137 were contested. They also disposed of 19,510 criminal actions, of which 7,742 were dismissed before trial on the merits. In 8,872 cases there were pleas of guilty, and 3,196 cases were tried to juries.

The number of cases disposed of in district courts, as reported to us by the clerks, is shown by years and classes of actions for each county, and separately for each judicial district, in the following tables:



## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931.

COUNTY.	Year.	Civil (other than divorce).	Divorcee.	Criminal.	Total.
Allen .....	1927	122	49	35	206
	1928	226	46	48	320
	1929	170	46	43	259
	1930	136	27	18	181
	1931	145	34	34	213
Anderson .....	1927	111	21	5	137
	1928	71	20	11	102
	1929	70	30	10	110
	1930	73	24	11	108
	1931	88	19	15	122
Atchison .....	1927	111	51	68	230
	1928	126	76	145	247
	1929	150	81	108	339
	1930	157	95	60	312
	1931	159	78	75	311
Barber .....	1927	68	22	21	111
	1928	91	30	16	137
	1929	64	25	14	103
	1930	75	22	15	112
	1931	82	19	12	113
Barton .....	1927	74	44	36	154
	1928	74	50	35	159
	1929	105	47	47	199
	1930	75	54	34	163
	1931	103	47	24	174
Bourbon .....	1927	88	37	32	157
	1928	144	54	60	258
	1929	95	51	44	190
	1930	156	68	111	235
	1931	189	58	72	319
Brown .....	1927	81	18	27	126
	1928	75	35	50	160
	1929	75	29	34	138
	1930	69	20	33	122
	1931	119	38	61	218
Butler .....	1927	259	83	86	428
	1928	198	110	116	424
	1929	198	93	86	377
	1930	203	99	119	421
	1931	200	111	135	446
Chase .....	1927	38	7	15	60
	1928	48	8	7	63
	1929	52	4	4	60
	1930	34	8	10	52
	1931	70	11	5	86
Chautauqua .....	1927	42	18	8	68
	1928	32	14	26	72
	1929	30	25	20	75
	1930	42	19	22	83
	1931	30	17	22	69
Cherokee .....	1927	200	120	89	402
	1928	167	142	68	377
	1929	189	120	55	364
	1930	169	101	58	328
	1931	177	66	45	288
Cheyenne .....	1927	51	12	6	69
	1928	44	9	7	60
	1929	77	6	6	89
	1930	45	1	14	60
	1931	66	9	9	84

# Coffey County

27	74	18	11	103
28	78	19	6	103
29	36	9	13	58
30	86	18	20	124
31	83	25	11	119

BULLETIN

123

Y COUNTIES, 1927 TO 1931—CONTINUED.

		Civil er than orce).	Divorce.	Criminal.	Total.
		34	5	17	56
		46	9	29	84
		38	6	11	55
		46	8	13	67
		30	11	17	58
Clay.....	1927	40	30	5	75
	1928	42	26	6	74
	1929	48	21	8	77
	1930	47	17	5	69
	1931	52	18	11	81
Cloud.....	1927	74	18	11	103
	1928	78	19	6	103
	1929	36	9	13	58
	1930	86	18	20	124
	1931	83	25	11	119
Comanche.....	1927	42	5	6	53
	1928	30	13	4	47
	1929	32	6	10	48
	1930	27	5	14	46
	1931	30	5	3	38
Cowley.....	1927	254	128	94	476
	1928	201	116	103	420
	1929	283	73	81	437
	1930	216	106	75	397
	1931	345	136	111	592
Crawford.....	1927	86	208	79	373
	1928	258	209	70	537
	1929	224	43	45	312
	1930	297	109	57	463
	1931	337	200	72	609
Decatur.....	1927	28	8	3	39
	1928	49	8	3	60
	1929	51	15	17	83
	1930	51	10	6	67
	1931	48	10	10	68
Dickinson.....	1927	149	41	25	215
	1928	118	41	24	183
	1929	143	55	18	216
	1930	126	39	21	156
	1931	136	40	17	193
Doniphan.....	1927	78	17	19	114
	1928	92	19	14	125
	1929	72	27	9	108
	1930	85	24	14	123
	1931	96	22	17	135
Douglas.....	1927	136	69	88	293
	1928	102	64	75	241
	1929	116	64	46	226
	1930	100	52	45	197
	1931	182	90	85	357
Edwards.....	1927	57	13	22	92
	1928	36	15	5	56
	1929	54	18	7	79
	1930	54	24	23	101
	1931	48	18	20	86
Elk.....	1927	*	5	16	*21
	1928	41	8	11	60
	1929	74	15	8	97
	1930	58	4	13	75
	1931	75	10	24	109

\* Report not furnished, or incomplete.

	1929	92	5	21	115
	1930	103	10	9	121
	1931	38	17	40	95
Ellsworth.....	1927	74	9	15	98
	1928	60	10	7	77
	1929	54	15	21	90
	1930	54	20	10	84
	1931	64	13	13	90
Finney.....	1927	126	23	34	183
	1928	140	17	22	179
	1929	161	16	29	206
	1930	142	29	35	206
	1931	124	40	30	194
Ford.....	1927	130	52	36	218
	1928	144	58	33	235
	1929	150	62	51	263
	1930	189	87	65	341
	1931	189	80	63	332
Franklin.....	1927	133	49	58	240
	1928	133	61	50	244
	1929	69	51	39	159
	1930	174	70	52	296
	1931	119	79	46	244
Geary.....	1927	74	32	*.....	*106
	1928	82	43	22	147
	1929	59	35	22	116
	1930	70	41	26	137
	1931	84	36	20	140
Gove.....	1927	87	7	3	97
	1928	54	1	3	58
	1929	119	3	5	127
	1930	64	7	1	72
	1931	40	6	3	49
Graham.....	1927	38	11	12	61
	1928	112	8	8	128
	1929	119	12	10	141
	1930	71	6	12	89
	1931	32	6	15	53
Grant.....	1927	24	4	4	36
	1928	6	1	3	10
	1929	*.....	*.....	*.....	*.....
	1930	14	6	8	28
	1931	30	6	13	49
Gray.....	1927	55	6	0	61
	1928	43	7	4	54
	1929	37	10	13	60
	1930	57	10	14	81
	1931	52	18	20	90
Greeley.....	1927	82	4	2	88
	1928	41	1	0	42
	1929	61	4	*.....	*65
	1930	30	2	0	32
	1931	45	1	2	48
Greenwood.....	1927	162	74	48	284
	1928	185	63	51	299
	1929	137	62	49	248
	1930	104	52	50	206
	1931	160	42	47	249

\* Report not furnished, or incomplete.

## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931—CONTINUED.

COUNTY.	Year.	Civil (other than divorce).	Divorce.	Criminal.	Total.
Hamilton .....	1927	64	2	4	70
	1928	48	5	10	63
	1929	64	7	7	78
	1930	88	12	3	103
	1931	80	11	24	115
Harper .....	1927	91	23	31	145
	1928	103	28	20	151
	1929	56	20	43	119
	1930	56	23	34	113
	1931	71	14	25	110
Harvey .....	1927	41	4	15	60
	1928	48	33	15	96
	1929	98	31	11	140
	1930	86	61	13	160
	1931	72	41	48	161
Haskell .....	1927	22	2	4	28
	1928	27	2	0	29
	1929	25	2	*	*27
	1930	40	7	23	70
	1931	26	8	26	60
Hodgeman .....	1927	21	4	10	35
	1928	24	5	2	31
	1929	34	2	6	42
	1930	29	3	12	44
	1931	27	4	7	38
Jackson .....	1927	90	16	10	116
	1928	106	24	18	148
	1929	86	15	30	131
	1930	81	30	21	132
	1931	107	23	20	150
Jefferson .....	1927	67	14	41	122
	1928	84	18	20	122
	1929	65	19	24	108
	1930	70	20	19	109
	1931	74	20	22	116
Jewell .....	1927	95	18	7	120
	1928	97	6	5	108
	1929	97	22	15	134
	1930	96	22	8	126
	1931	70	15	10	95
Johnson .....	1927	173	47	72	292
	1928	173	48	103	324
	1929	172	56	77	305
	1930	208	58	122	388
	1931	113	43	73	229
Kearny .....	1928	23	3	2	28
	1928	32	4	10	46
	1929	20	9	7	36
	1930	65	8	12	85
	1931	34	4	4	42
Kingman .....	1927	114	11	30	155
	1928	88	10	20	118
	1929	76	9	16	101
	1930	84	15	16	115
	1931	68	13	15	96
Kiowa .....	1927	57	5	15	77
	1928	42	4	18	64
	1929	45	3	22	70
	1930	41	9	21	71
	1931	39	9	18	66

\* Report not furnished, or incomplete.

## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931—CONTINUED.

COUNTY.	Year.	Civil (other than divorce).	Divorce.	Criminal.	Total.
Labette.....	1927	119	104	*.....	*213
	1928	47	11	7	(1) 65
	1929	64	19	16	(1) 99
	1930	136	96	55	287
	1931	142	85	40	262
Lane.....	1927	17	3	0	20
	1928	29	5	4	38
	1929	*.....	*.....	*.....	*.....
	1930	32	5	5	42
	1931	35	8	6	49
Leavenworth.....	1927	185	160	112	457
	1928	111	113	130	354
	1929	130	213	148	491
	1930	140	187	130	457
	1931	181	153	193	527
Lincoln.....	1927	32	6	9	47
	1928	41	12	5	58
	1929	57	11	6	74
	1930	42	10	8	60
	1931	36	12	14	62
Linn.....	1927	68	6	29	103
	1928	59	23	40	122
	1929	33	13	19	64
	1930	65	10	32	107
	1931	73	14	28	115
Logan.....	1927	54	3	3	60
	1928	66	10	6	82
	1929	52	1	5	58
	1930	35	2	6	43
	1931	47	9	14	70
Lyon.....	1927	125	*.....	73	*198
	1928	92	73	48	213
	1929	108	70	55	233
	1930	164	92	53	309
	1931	216	49	50	315
Marion.....	1927	65	19	*.....	*84
	1928	81	13	1	95
	1929	103	12	19	134
	1930	63	12	20	95
	1931	106	16	29	151
Marshall.....	1927	89	10	7	106
	1928	101	37	12	150
	1929	111	26	16	153
	1930	79	34	13	126
	1931	69	44	12	125
McPherson.....	1927	70	10	14	94
	1928	78	19	35	132
	1929	73	23	21	117
	1930	168	28	48	224
	1931	130	34	50	214
Meade.....	1927	73	13	13	99
	1928	41	9	15	65
	1929	50	4	8	62
	1930	37	13	15	65
	1931	50	7	4	61
Miami.....	1927	175	34	18	227
	1928	175	61	26	262
	1929	120	44	34	198
	1930	128	58	33	219
	1931	143	34	52	229

\* Report not furnished, or incomplete. (1) One division only.

## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931—CONTINUED.

COUNTY.	Year.	Civil (other than divorce).	Divorce.	Criminal.	Total.
Mitchell.....	1927	50	5	22	77
	1928	75	29	23	127
	1929	69	18	25	112
	1930	51	21	23	95
	1931	70	25	10	105
Montgomery.....	1927	254	236	128	618
	1928	229	181	169	579
	1929	257	204	156	617
	1930	256	187	129	572
	1931	267	189	167	623
Morris.....	1927	69	22	7	98
	1928	37	15	11	63
	1929	50	8	7	65
	1930	38	21	6	65
	1931	53	20	9	82
Morton.....	1927	39	7	4	50
	1928	38	8	13	59
	1929	45	8	10	63
	1930	48	7	6	61
	1931	53	5	6	64
Nemaha.....	1927	58	13	33	104
	1928	95	10	27	132
	1929	148	9	25	182
	1930	180	18	19	217
	1931	127	13	26	166
Neosho.....	1927	21	18	18	57
	1928	60	76	41	177
	1929	92	56	37	185
	1930	76	64	18	158
	1931	114	48	35	197
Ness.....	1927	80	11	12	103
	1928	63	14	4	81
	1929	83	9	11	103
	1930	61	11	6	78
	1931	78	10	11	99
Norton.....	1927	35	19	9	63
	1928	62	25	2	89
	1929	58	24	5	87
	1930	70	22	10	104
	1931	63	14	8	85
Osage.....	1927	91	20	33	144
	1928	106	30	38	174
	1929	87	29	39	155
	1930	81	22	26	129
	1931	71	19	19	109
Osborne.....	1927	84	13	6	103
	1928	67	15	9	91
	1929	76	14	7	97
	1930	57	15	10	82
	1931	69	14	15	98
Ottawa.....	1927	87	18	9	114
	1928	35	14	9	58
	1929	70	9	19	98
	1930	42	8	22	72
	1931	61	15	23	99
Pawnee.....	1927	81	14	19	114
	1928	78	14	11	103
	1929	61	21	12	94
	1930	54	26	18	98
	1931	71	16	15	102

## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931—CONTINUED.

COUNTY.	Year.	Civil (other than divorce).	Divorce.	Criminal.	Total.
Phillips.....	1927	51	17	10	78
	1928	75	23	9	107
	1929	75	16	7	98
	1930	75	18	5	98
	1931	66	18	4	88
Pottawatomie.....	1927	132	10	22	164
	1928	135	12	23	170
	1929	119	26	30	175
	1930	149	28	17	194
	1931	128	17	12	157
Pratt.....	1927	52	46	17	115
	1928	81	38	20	139
	1929	42	39	24	105
	1930	92	42	21	155
	1931	61	33	24	118
Rawlins.....	1927	46	2	8	56
	1928	42	9	3	54
	1929	40	10	11	61
	1930	51	6	19	76
	1931	33	10	9	52
Reno.....	1927	417	176	31	624
	1928	301	195	112	608
	1929	312	181	162	655
	1930	393	185	141	719
	1931	315	179	144	638
Republic.....	1927	56	13	17	86
	1928	51	7	12	70
	1929	54	12	8	74
	1930	62	16	11	89
	1931	56	18	17	91
Rice.....	1927	108	28	19	155
	1928	39	17	21	77
	1929	49	16	20	85
	1930	108	21	18	147
	1931	80	25	26	131
Riley.....	1927	45	32	25	102
	1928	49	23	15	87
	1929	80	36	23	119
	1930	67	39	23	129
	1931	86	22	34	142
Rooks.....	1927	97	15	8	120
	1928	181	15	5	201
	1929	89	6	7	102
	1930	46	5	12	63
	1931	67	5	13	85
Rush.....	1927	25	10	6	41
	1928	35	9	3	47
	1929	40	5	5	50
	1930	35	9	7	51
	1931	29	6	6	41
Russell.....	1927	132	20	23	175
	1928	111	23	13	147
	1929	104	16	17	137
	1930	109	24	28	161
	1931	81	13	22	116
Saline.....	1927	165	61	38	264
	1928	185	69	47	301
	1929	178	89	53	320
	1930	199	88	60	347
	1931	176	81	57	314

## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931—CONTINUED.

COUNTY.	Year.	Civil (other than divorce).	Divorce.	Criminal.	Total.
Scott.....	1927	50	7	11	68
	1928	32	9	5	46
	1929	42	7	12	61
	1930	47	4	8	69
	1931	45	6	9	60
Sedgwick.....	1927	*	*	402	*402
	1928	*	*	*	*
	1929	1,083	961	1,044	3,088
	1930	940	816	666	2,422
	1931	1,119	1,012	628	2,759
Seward.....	1927	67	15	15	97
	1928	59	17	34	110
	1929	58	21	35	114
	1930	49	34	19	102
	1931	81	26	20	127
Shawnee.....	1927	729	452	376	1,557
	1928	662	444	300	1,406
	1929	737	595	595	1,927
	1930	637	505	495	1,637
	1931	673	549	528	1,750
Sheridan.....	1927	26	4	8	38
	1928	34	9	18	61
	1929	39	4	16	59
	1930	35	3	4	42
	1931	33	2	18	53
Sherman.....	1927	48	11	*	*59
	1928	41	8	3	52
	1929	*	*	8	*8
	1930	98	*	9	107
	1931	76	9	19	104
Smith.....	1927	60	14	11	85
	1928	44	16	4	64
	1929	68	23	10	101
	1930	48	17	8	73
	1931	31	17	9	57
Stafford.....	1927	64	15	19	98
	1928	49	11	30	90
	1929	68	21	13	92
	1930	81	18	32	131
	1931	74	19	45	138
Stanton.....	1927	33	1	19	53
	1928	30	0	3	33
	1929	29	2	*	*31
	1930	22	0	12	34
	1931	24	5	29	58
Stevens.....	1927	42	4	3	49
	1928	54	4	4	62
	1929	37	7	6	50
	1930	61	4	4	69
	1931	51	9	16	76
Sumner.....	1927	179	51	43	273
	1928	219	93	60	371
	1929	161	15	80	246
	1930	179	75	56	310
	1931	174	65	38	277
Thomas.....	1927	57	8	4	69
	1928	59	9	4	72
	1929	65	7	11	83
	1930	59	11	11	81
	1931	64	13	15	92

\* Report not furnished, or incomplete.



## CASES DISPOSED OF IN DISTRICT COURTS, BY COUNTIES, 1927 TO 1931—CONCLUDED.

COUNTY.	Year.	Civil (other than divorce).	Divorce.	Criminal.	Total.
Trego.....	1927	39	9	15	63
	1928	44	5	13	62
	1929	35	6	10	51
	1930	38	7	12	57
	1931	25	7	18	53
Wabaunsee.....	1927	36	10	33	79
	1928	53	12	15	80
	1929	34	11	16	61
	1930	47	13	12	72
	1931	57	13	3	73
Wallace.....	1927	43	6	5	54
	1928	53	8	3	64
	1929	38	4	7	49
	1930	38	7	3	48
	1931	36	16	14	66
Washington.....	1927	76	15	9	100
	1928	86	14	13	113
	1929	86	16	13	115
	1930	64	19	13	96
	1931	83	15	8	106
Wichita.....	1927	34	1	5	40
	1928	20	3	3	26
	1929	44	1	6	51
	1930	51	3	3	57
	1931	43	0	25	68
Wilson.....	1927	91	37	32	160
	1928	128	36	42	206
	1929	88	28	36	152
	1930	70	36	26	132
	1931	66	24	40	130
Woodson.....	1927	54	8	*.....	*62
	1928	76	4	6	86
	1929	61	14	*.....	*75
	1930	41	2	10	53
	1931	65	2	4	71
Wyandotte.....	1927	798	544	227	1,569
	1928	1,006	641	584	2,231
	1929	900	587	331	1,818
	1930	1,532	789	189	2,510
	1931	938	512	422	1,872

\* Report not furnished, or incomplete.

## CASES DISPOSED OF IN DISTRICT COURTS, BY DISTRICTS, 1927 TO 1931.

DISTRICT, WITH COUNTIES.	Number of judges.	1927.	1928.	1929.	1930.	1931.	Five- year total.	Five- year average per judge.
First district..... Leavenworth.	1	457	354	491	457	527	2,286	472
Second district..... Atchison.	1	230	247	339	312	311	1,439	288
Third district..... Shawnee.	3	1,557	1,406	1,927	1,637	1,750	8,277	552
Fourth district..... Anderson, Douglas, Franklin.	1	670	641	495	601	723	3,130	626
Fifth district..... Chase, Coffey, Lyon.	1	366	379	349	485	520	2,099	420
Sixth district..... Bourbon, Linn.	1	239	380	245	442	434	1,740	348
Seventh district..... Neosho, Wilson.	1	217	383	310	290	327	1,527	306
Eighth district..... Dickinson, Geary, Marion, Morris.	1	594	488	533	483	566	2,664	533
Ninth district..... Harvey, McPherson, Reno.	1	910	936	912	1,123	1,013	4,894	975
Tenth district..... Johnson, Miami.	1	475	586	511	604	458	2,654	531
Eleventh district..... Cherokee.	1	402	377	364	328	288	1,759	352
Twelfth district..... Cloud, Republic, Washington.	1	320	277	290	313	305	1,505	301
Thirteenth district..... Butler, Chautauqua, Elk, Greenwood.	2	800	855	797	795	863	4,110	411
Fourteenth district..... Montgomery.	1	618	579	616	571	623	3,007	602
Fifteenth district..... Jewell, Mitchell, Osborne, Smith.	1	384	390	422	376	355	1,927	386
Sixteenth district..... Labette.	1	223			287	267	777*	*259
Seventeenth district..... Cheyenne, Rawlins, Decatur, Norton, Phillips.	1	300	336	402	403	377	1,818	364
Eighteenth district..... Sedgwick.	4			3,088	2,422	2,759	*8,269	*689
Nineteenth district..... Cowley.	1	476	420	437	397	592	2,322	465
Twentieth district..... Barton, Rice, Stafford.	1	381	326	374	441	443	1,965	393
Twenty-first district..... Clay, Marshall, Riley.	1	293	311	367	324	348	1,643	329
Twenty-second district..... Brown, Doniphan, Nemaha.	1	344	417	428	462	519	2,170	434

\* Three-year total, or average.

## CASES DISPOSED OF IN DISTRICT COURTS, BY DISTRICTS, 1927 TO 1931—CONCLUDED.

DISTRICT, WITH COUNTIES.	Number of judges.	1927.	1928.	1929.	1930.	1931.	Five-year total.	Five-year average per judge.
Twenty-third district..... Ellis, Gove, Logan, Russell, Trego, Wallace.	1	597	528	502	503	446	2,576	515
Twenty-fourth district..... Barber, Harper, Kingman, Pratt.	1	529	545	420	495	437	2,426	485
Twenty-fifth district..... Sumner.	1	273	372	256	310	277	1,488	298
Twenty-ninth district..... Wyandotte.	4	1,569	2,231	1,831	2,510	1,872	10,013	501
Thirtieth district..... Ellsworth, Lincoln, Ottawa, Saline.	1	640	494	577	563	565	2,839	568
Thirty-first district..... Clark, Comanche, Ford, Gray, Kiowa, Meade.	1	516	549	571	671	645	2,952	590
Thirty-second district..... Finney, Greeley, Hamilton, Kearny, Lane, Scott, Wichita.	1	606	520	456	584	508	2,674	535
Thirty-third district..... Edwards, Hodgeman, Ness, Pawnee, Rush.	1	393	318	352	344	366	1,773	355
Thirty-fourth district..... Sherman, Thomas, Sheridan, Graham, Rooks.	1	347	514	415	400	418	2,094	419
Thirty-fifth district..... Osage, Wabaunsee.	1	281	254	216	201	182	1,134	227
Thirty-sixth district..... Jackson, Jefferson, Pottawatomie.	1	454	402	381	435	423	2,095	419
Thirty-seventh district..... Allen, Woodson.	1	326	406	354	234	284	1,604	321
Thirty-eighth district..... Crawford.	2	373	537	312	463	609	2,294	230
Thirty-ninth district..... Grant, Haskell, Morton, Seward, Stanton, Stevens.	1	309	303	285	364	434	1,695	339

We have 46 district judges in 36 judicial districts. It has been suggested we could get along without so many. It is possible some of the judicial districts in the state might be rearranged so as to reduce the number of district judges without impairing the efficiency of our district courts, and effect a saving to the state in the salaries of judges and court officials. But this is a task of the legislature—not for the Judicial Council. Its duties relate to improving the procedure of courts. If the task is undertaken it should be done with care, and any error in result should be on the side of too many rather than too few trial judges.

### **Paroles by Judges of District Courts.**

Clerks of the district courts reported to us that in the year ending June 30, 1927, district judges granted 564 paroles; in the year ending on the same day in 1928, 573 paroles were granted; in 1929, 650 paroles; in 1930, 729; and in 1931, 728. Several clerks were unable to give accurate reports because of imperfect records concerning paroles. These figures do not include, except in comparatively few instances, paroles granted by district judges in cases where the conviction or plea of guilty was in a court inferior to the district court, such as a justice of the peace, city, or county court. With respect to such paroles frequently there is no record in the district court. In most instances there is no record made of the discharge of a paroled person, as provided by Revised Statutes. Our inquiries further disclosed that as to fully a third of the persons paroled no attention was paid to the case or to the paroled person after the parole was granted.

Naturally the Judicial Council should not concern itself with whether a parole should be granted in a particular case, or with the number of paroles granted, or generally speaking with the terms on which they are granted, for these things in each case depend upon the circumstances peculiar to it. Two matters, however, about these paroles attract our attention. First, the lack of records in many instances, and imperfect records in others. We recommend that a complete record be kept in each parole case, including a record of the discharge of the paroled person, if he is discharged, for this may effect his future status, or his property rights. Second, the absence of supervision of the paroled person while on parole, where that is lacking. We understand the principal purpose of the parole law is to enable the paroled person to establish himself in industry and good citizenship, and to assist him in doing so. These purposes are lost when there is no supervision, and are partially lost when that is imperfectly done. In many counties and judicial districts the district judges give such supervision and assistance as fully and efficiently as they perform their other duties. In other judicial districts, including some of the larger centers of population we are told that cannot be done. The matter should receive legislative attention. We have not determined how it can best be handled. Perhaps a parole officer should be provided in some places.

---

### **A Proposed Constitutional Amendment.**

Soon after the Judicial Council was organized its study of the structure of our judicial system and the procedure therein led to the belief that while substantial improvement in the functioning of our courts could be brought about by rules of court and statutory changes, additional improvements could be accomplished by the rewriting of the judicial article of our constitution providing a more unified system of courts and removing some of the barriers to judicial improvement contained therein. There is a discussion of this in our 1928 report (pages 9 to 11) which sets out some of the points which should be borne in mind in rewriting the article. Further consideration was given to

the subject in our 1929 report (page 18), and as the time of the meeting of the next legislature approached we prepared a tentative redraft of the judicial article of our constitution which was printed in our 1930 report (pages 14 to 17) with some comments thereon. This draft was designed primarily as a basis for study rather than for immediate adoption. It was presented to the legislature of 1931 (Senate Concurrent Resolution No. 10) for that purpose, and further discussion of it is contained in our 1931 report (pages 18 to 21). It has received, first and last, a great deal of consideration by the Judicial Council, aided by suggestions from members of the bar. It is set out in our July BULLETIN of this year (pages 35 to 41) with an article by C. L. Hunt discussing its provisions, and with later modifications, and a similar article in our October BULLETIN (pages 62 to 66). Because of further study given to it and suggestions from attorneys a few other modifications of its provisions have been made. We now submit it to the legislature with the earnest recommendation that it be adopted in the form now drafted, or substantially so, and submitted to the people to be voted upon at the next general election. It reads as follows:

A PROPOSITION to amend article III of the constitution of the State of Kansas, relating to the Judiciary.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:*

SECTION 1. There is hereby recommended and submitted to the qualified electors of the state of Kansas, to be voted upon at the next general election for representatives, for their approval or rejection, a proposition to amend article III of the constitution of the State of Kansas, relating to the judiciary, so as to read as follows:

#### ARTICLE III.—THE JUDICIARY.

Section 1. All of the judicial power of this state shall be vested in a system of courts composed of a supreme court, county courts, and such other courts, inferior to the supreme court, as may be created by law.

Sec. 2. The supreme court, district courts, and county courts shall be courts of record and each shall have a seal to be used in the authentication of all process and records.

Sec. 3. The supreme court shall be the highest court in the judicial system of the state. It shall have original jurisdiction in actions and proceedings presenting questions of law only submitted on a written statement of agreed facts and in proceedings in quo warranto, mandamus and habeas corpus. It shall have appellate jurisdiction from the final decision of the district court in civil and criminal actions and special proceedings, and such other appellate jurisdiction as may be provided by law. It shall consist of seven justices until the number shall be changed by law. It may make rules for the practice and procedure in all state courts. It may designate any district judge to sit temporarily as judge of another district or division with the same power and jurisdiction as the regular judge. It may call a judge of a district court to sit on the supreme court in the event a member of that court be ill or disqualified. In original proceedings in the supreme court which involve controversies of fact the supreme court may direct a judge of a district court to hear the evidence and make findings of fact and conclusions of law and report them to the supreme court. The justices of the supreme court may sit separately in divisions with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division and

the concurrence of three shall be necessary to a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all of the justices, and the concurrence of a majority shall be necessary to a decision in cases so heard. The justice who is senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in years of these shall be the chief justice, and the presiding justice of each division shall be selected from the judges assigned to that division in like manner.

Sec. 4. Justices of the supreme court, judges of the districts courts, and judges of county courts may be removed from office by resolution of both houses of the legislature if two-thirds of the members of each house concur. But no such removal by such proceeding shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

Sec. 5. The supreme court, not more than two justices voting in the negative, after a hearing, on complaint and due notice, may ask the resignation of, or by order remove, a justice of that court or a judge of any court for the good of the service, and may prescribe rules of procedure therefor; and by like vote, after notice and hearing, may retire any justice of the supreme court or judge of a district court who shall have reached the age of seventy years, or whose physical or mental infirmities have rendered such retirement advisable. Such retirement shall be upon such conditions relating to pay or otherwise as may be provided by law.

Sec. 6. The supreme court shall appoint a reporter and a clerk for that court who shall hold office during the pleasure of the court and shall prescribe their respective duties.

Sec. 7. There shall be a district court in each county, but several counties may compose one district, and there may be divisions of the district court as the business therein may require. Judicial districts consisting of one or more counties, and the division of each district court and the number of judges therein, as they may exist at the time of the adoption of this amendment, shall continue to exist until changed by law. The district court shall be a court of original general jurisdiction for the trial of all civil and criminal actions and proceedings, except as the exclusive jurisdiction of any civil or criminal action or special proceeding is hereby vested in some other court, and shall have appellate jurisdiction in all civil and criminal actions and special proceedings originating in courts inferior to the district court, and before boards, commissions, officers and tribunals when exercising judicial functions, and such other jurisdiction as may be provided by law.

Sec. 8. There shall be a county court in each county, which shall have exclusive original jurisdiction for the probate of wills and in all matters relating to the estates of decedents, minors and incompetent persons, and shall have such jurisdiction in matters relating to the person of minors and incompetent persons, and in civil and criminal actions and special proceedings, as may be provided by law. The board of commissioners of the county shall establish such divisions of the county court as the condition of business therein requires. The judge or judges of such court shall be examining magistrates in prosecutions for felonies. There shall be at least one judge of the county court in each county, and such additional judges as may be provided by law. At the first session of the legislature following the adoption of this article the legislature shall provide for the organization of county courts in accordance with this section, the transferring to such courts of the records and pending business of trial courts inferior to the district court, and for the election of judges for such courts at the next general elec-

tion, so that such county courts may be fully organized and equipped to take care of the business on the second Monday in January following such general election.

Sec. 9. In each county there shall be a court clerk who shall be selected as provided by law and who shall act as clerk for both the district court and the county court in such county, and whose duties shall be prescribed by rule of the supreme court.

Sec. 10. To be eligible to hold the office of justice of the supreme court or judge of the district court a person must be duly admitted to practice law in this state, and shall be a citizen and resident of the state and district for which he is selected or appointed, and before taking such office must have been engaged in the active practice of law or shall have served as judge of a court of record, or both, in the aggregate as follows: For justice of the supreme court, ten years; for judge of the district court, five years. Additional requirements of eligibility may be provided by law. No person shall be ineligible to hold any judicial office in this state on account of his holding another judicial office therein at the time of his election or appointment. No person shall hold more than one judicial office concurrently. A justice of the supreme court, or a judge of the district court or county court, shall not be a candidate for a nonjudicial office, and in the event he files for, or accepts a nomination for, or an appointment to, a nonjudicial office, his office of justice or judge shall immediately become vacant.

Sec. 11. Justices of the supreme court and judges of the district courts and county courts shall be selected in such manner and shall hold office for such terms as may be provided by law, but terms shall not be less than six years for justices of the supreme court nor less than four years for judges of district and county courts.

Sec. 12. All appeals from county courts shall be to the district court, and all appeals from the district court shall be to the supreme court.

Sec. 13. The justices of the supreme court and judges of the district courts and county courts shall, at stated times, receive for their services such compensation as may be provided by law, but no such justice or judge shall receive any fee or perquisites, nor shall he practice law during his continuance in office.

Sec. 14. The several justices and judges of courts of record in this state shall have such jurisdiction at chambers as may be provided by rule of the supreme court.

Sec. 15. Provision shall be made by rule of the supreme court for the selection of a judge *pro tem.* of the district court or county court.

Sec. 16. In the event of a vacancy in the office of a justice or judge of any of the courts of record of this state the governor, with the written concurrence of a majority of the justices of the supreme court, shall appoint some eligible person to fill the position for the unexpired term and until his successor is selected and qualified as provided by law.

Sec. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the state. All process from any of the courts of the state shall be executed by a sheriff, undersheriff or deputy, or by the clerk of the district court if the sheriff be the party to be served.

Sec. 2. This proposition shall be submitted to the electors of the state of Kansas at the general election in 1934. The amendment hereby proposed shall be known on the official ballot by the title, "The Judiciary Amendment to the State Constitution," and the vote for and against such proposition shall be taken as provided by law.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

## STATUTORY PROPOSALS.

---

### Courts Inferior to the District Court.

Early in the consideration of the efficiency of our judicial system we gave attention to the structure of our courts. As that relates to our district courts and our supreme court no suggestions of changes were made. They appear to be adequate and efficient. As to courts inferior to our district court the structure of our judicial system is something of a hodgepodge. We are not speaking now of the police courts of cities, for their jurisdiction is limited to complaints charging violation of city ordinance. They are not state courts in the sense that they deal with complaints under the criminal statutes of the state or with rights of litigants under state law. We refer to the probate court, justices of the peace, and city and county courts created with limited jurisdiction in controversies arising under the laws of the state. Our constitution provides for a probate court in each county and for justices of the peace. We found that in most of the townships the people had ceased to elect justices of the peace or elected them intermittently. While in a few instances justices of the peace are regularly elected and perform fairly efficiently, considered as a whole, justices of the peace courts have outlived their usefulness in this state. Our people have tried to get away from them in various ways. First, by declining to elect them, which method removed all of the business which would naturally go to such court into the district court unless some other court was provided. Second, by special acts, applicable to certain cities only, city courts were created with a full equipment of offices—judge, clerk, marshal, etc. Most of these acts give to the city court a larger jurisdiction than the justices of the peace had, and so limit the jurisdiction of the justices of the peace of the city in which it is created so as practically to eliminate them as judicial officers, but left the justices of the peace outside of the cities with their former jurisdiction. A general legislative act was passed authorizing cities of a certain population to create similar city courts, and several have been organized under that statute. Twelve cities of the state have such city courts created either under such special acts or under the general law. Generally speaking they are efficient units in our judicial system. Certainly some of them, perhaps all of them, cost more to operate than is necessary to be expended to accomplish the same purpose. In any event the people in the counties outside of the cities are entitled to as good a court as the people in the cities have, and they are just as entitled to be relieved of the unsatisfactory justice of the peace courts. These things can be accomplished under a measure we propose. Third, under a general statute county courts may be created in any county when the board of county commissioners passes a resolution for that purpose. Then the probate judge becomes the judge of the county court, with the jurisdiction throughout the county of a justice of the peace and additional jurisdiction for a limited class of criminal and civil actions. In twenty-four counties of the state county courts have been organ-



ized under this statute, which does not limit the jurisdiction of justices of the peace where they are adopted, although the practical effect of adopting the statute is that business formerly taken before justices of the peace is taken to the county courts. The county court has been an efficient unit in our judicial system to the extent only that the judge of the court is a person capable of handling the business of the court.

What the people need in this respect is to have a court in each county always open to transact business and equipped, not only as to its structure, but as to the personnel of its officers, to handle the business coming before it promptly and efficiently. To accomplish this we prepared an act reorganizing our judicial system below the district court, creating a probate and county court in each county with the jurisdiction of the other courts mentioned, eliminating the offices of clerk, marshal, and constable, providing that the process from it should be served by the sheriff or his deputy, placing the peace officers of the county under a unit of organization, providing for magistrates to issue warrants in criminal cases and dispose of noncontested criminal or civil actions of a limited jurisdiction, and providing that the procedure therein be governed by rules of court.

We are confident that this measure, if adopted, would greatly simplify the structure of our judicial system and provide much better courts than now exist and at less expense than the present cost of such courts, and would enable the business within their jurisdiction to be handled much more promptly and efficiently than heretofore done. The salaries provided by section 5 of our proposed bill may need modification in view of present financial conditions, otherwise we recommend the bill as written. As the provisions of this bill have been studied it has constantly grown in favor. A copy of the bill is as follows:

AN ACT relating to the judiciary, creating courts inferior to the district court, limiting the jurisdiction of justices of the peace, and repealing all acts in conflict herewith.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In each county in the state there shall be a court known as a probate and county court, which is hereby created, and is to be organized so as to come into existence on the second Monday in January, 1935.

SEC. 2. The probate and county court shall be a court of record, and the court and the judge thereof shall have such jurisdiction as is now conferred upon probate courts and the judges thereof, and such jurisdiction as is now conferred upon justices of the peace, and in addition thereto shall have jurisdiction in civil actions for the recovery of personal property or money only where the amount claimed does not exceed one thousand dollars, and in proceedings for attachment and garnishment in such actions.

SEC. 3. The supreme court shall by rule prescribe the procedure for all actions and proceedings in the probate and county court and in appeals therefrom, which rules, when made, shall supersede any statutes relating thereto. When the volume of business in any probate and county court is sufficient to justify it the supreme court may by rule create divisions of the probate and county court, and when so created there shall be a judge for each division. The judges of the extra divisions so created shall, by virtue of their positions be judges *pro tem.* of probate court. The supreme court may by rule provide the procedure for designating a judge *pro tem.* for the probate and county court for temporary purposes. Where the centers of population in a county are such as to justify it the supreme court may by rule provide for the sitting

of the probate and county court at some place in the county in addition to the county seat, either for the trial of specific cases, or for permanent division of the court in such county. The supreme court shall, before the first Monday of March, 1934, designate divisions of the probate and county court in counties where such is deemed necessary, and the cities other than the county seat in which a division of the probate and county court shall sit, and changes in such divisions and places where the court shall sit shall not be made oftener than once in two years.

SEC. 4. The judges of the probate and county court shall be elected at the general election held biennially in November, the first election to be held in November, 1934, and shall hold their offices for a term of two years, beginning on the second Monday in January following such election. No one shall be qualified to act as judge of the probate and county court who is not regularly admitted to practice law in this state, or who has not served as a probate judge in this state for as long as two years prior to the beginning of his term as judge of the probate and county court. No judge of the probate and county court shall, while serving in this capacity, practice law in any of the courts of the state.

SEC. 5. The salary of the judge of the probate and county court in the various counties of this state shall be as follows: In counties with a population of less than five thousand, \$2,000; in counties with a population from five to ten thousand, \$2,400; in counties with a population from ten to twenty-five thousand, \$3,000; in counties with a population of more than twenty-five thousand and not more than sixty thousand, \$3,600; and in counties with a population over sixty thousand, \$4,000; the salaries to be paid by the county in monthly payments. All fees received by the judge of the probate and county court for services performed by virtue of his office, except fees for performing marriage ceremonies, shall be by him paid into the county treasurer and become a part of the general fund of the county. The county commissioners shall provide such facilities in the way of a court room, supplies and clerical and stenographic help as may be necessary properly to conduct the business of the court. The clerical help shall be appointed by the judge, or judges, of the probate and county court and hold their positions at the pleasure of the court.

SEC. 6. On or before the first Monday in March, 1934, the board of county commissioners in each county shall divide the county, outside of the county seat, into not fewer than three nor more than seven magistrate districts, having due regard for the centers of population in the county. There is hereby created in such magistrate districts a magistrate court, which shall be organized so as to come into existence on the second Monday of January, 1935. At the general election of 1934, and every two years thereafter, one magistrate shall be elected in each of such magistrate districts, which election shall be for a term of two years, beginning on the second Monday in January after such election.

SEC. 7. Magistrate courts shall have jurisdiction to entertain complaints charging offenses under the laws of the state and to issue warrants thereon, including peace warrants and warrants for search and seizure; and where the complaint charges an offense which is a misdemeanor under the laws of the state, and the defendant enters a plea of guilty thereon, to impose the punishment provided by statute. But in the event a plea of not guilty is made the cause shall be transferred by the magistrate to the probate and county court, where it shall be docketed and proceeded with as though originally brought in that court. Where the magistrate shall issue a warrant for an offense charging a felony he shall promptly send the complaint on which the warrant was issued, together with a statement that the warrant was issued, giving the date, to the probate and county court, and the person arrested under such warrant shall be brought before the probate and county court, which shall handle the action as though the complaint had been originally filed and the warrant issued by that court. And the magistrate court shall have jurisdiction

in civil actions only for the recovery of money where the amount claimed does not exceed \$100, and to issue garnishment or attachment in such cases, and to render judgment in the event there is no contest. But in the event the defendant contests the claim of the plaintiff on the merits, or contends that property sought to be taken by garnishment or attachment is exempt in whole or in part, the action shall be transferred to the probate and county court, where it shall be docketed and proceeded with as though originally brought in that court.

SEC. 8. The supreme court shall by rule prescribe the procedure in magistrate courts and in appeals therefrom.

SEC. 9. Each magistrate shall receive a salary, to be paid by the county and to be determined by the board of county commissioners, and which shall not exceed \$120 per year, payable in monthly payments. All fees received by the magistrate by virtue of his official position shall be paid into the county treasury, to become a part of the general fund of the county.

SEC. 10. All process issued by the probate and county court, or magistrate court, shall be executed by the sheriff.

SEC. 11. On and after the first Monday in January, 1935, justices of the peace in this state shall have no jurisdiction in any case, civil or criminal, except in civil actions for the recovery of money only in which the amount claimed does not exceed one dollar.

SEC. 12. The following statutes are hereby repealed, the repeal to take effect on the second Monday of January, 1935: Sections 20-801 to 20-819, inclusive, and sections 20-1401 to 20-2025, inclusive, 80-204, and 80-701 to 80-707, inclusive, of the Revised Statutes of Kansas 1923, and all acts and parts of acts in conflict herewith. Courts existing under statutes repealed by this section shall cease to function at the time the repeal goes into effect, and the dockets, records and files of such courts shall be transferred to and become a part of the records and files of the probate and county court, and all actions then pending in such courts shall proceed in the probate and county court as though ordinarily brought in that court.

SEC. 13. This act shall take effect and be in force from and after its publication in the statute book.

---

### **Books and Records of Courts.**

In undertaking to collect data relating to business transacted and pending in the courts of record of the state we discovered a lack of uniformity among the district courts, not only of the books used for records, but of the entries made therein. We discovered instances of the lack of records of important matters, and even more frequently what seemed to be unnecessary delay in completing records of the business of the courts. This lack of uniformity of records and absence of complete records was more prevalent in probate courts than in district courts. We take it all will agree that at least fairly complete records should be made, with reasonable promptness, of all business transacted in courts of record. Our present statutes relating to those matters appear to be imperfect and quite indefinite. For the purpose of correcting imperfections in this regard we prepared a proposed measure authorizing the supreme court, by rule, to provide a uniform system of dockets, records and bookkeeping for the district courts and probate courts and for the making of entries therein. Naturally it is not important that this be accomplished by rule of the supreme court. We simply propose that as a way to get it done. If the legislature (or some member or committee of it) would take the time to make the necessary investigation and pass a statute governing this matter the Judicial

Council and the supreme court would be glad to have it done that way. But it is quite a task, and perhaps no member or committee of the legislature would undertake it. For that reason we recommend the proposed bill, which is as follows:

AN ACT relating to books and records of courts of record, authorizing the supreme court to promulgate rules relating thereto, and repealing sections 60-3801, 60-3802, 60-3803, 60-3804, 60-3805, 60-3811, 60-3812, 60-3813 of the Revised Statutes of Kansas of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. The supreme court may by rules of the court provide a uniform system of dockets, records and bookkeeping for the district courts, probate courts, and other courts of record of the state, with rules for the making of entries therein to apply to judges, clerks, sheriffs and other court officials.

SEC. 2. It shall be the duty of the judge of any court of record in this state to see that the books and records of the court are kept as prescribed by the rules of the supreme court, and that the clerk and other court officials promptly make the proper entries therein.

SEC. 3. The clerks of the district court and the clerks of other courts of record shall preserve the records and books and papers of their respective courts and shall record the judgments, decrees, orders and proceedings thereof, and perform such other clerical duties relating to the administration of justice by the court as may be prescribed by uniform rules of the supreme court, or in default thereof by rule or direction of the court for which he is clerk.

SEC. 4. That Revised Statutes of Kansas of 1923, 60-3801, 60-3802, 60-3803, 60-3804, 60-3805, 60-3811, 60-3812 and 60-3813, be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its publication in the statute book.

---

### Civil Code Amendments.

We proposed a bill to amend several sections of our civil code to correct defects therein which have been called to our attention. Our present statute (R. S. 60-3001) defines a new trial to be a reëxamination in the same court of "issues of fact" which were determined in the trial of the case. This definition seems inconsistent with the definition of a trial (R. S. 60-2901) as an examination of the issues, "whether of law or fact"; also to be inconsistent with the grounds for a new trial which may be "erroneous rulings or instructions of the court" (R. S. 60-3001), and when a new trial is granted the issues determined are of law or fact as in a trial (R. S. 60-3901). Our proposed bill changes this definition of a new trial to be a reëxamination of "issues of law or of fact" which arose or were determined in the action. The present statutory definition of a new trial has led to much confusion, as will be noted by an examination of the decisions of the court cited under the section. Even in recent years some of the better lawyers of the state have been unable to determine under our statutes and decisions whether a motion for a new trial was necessary in a particular case, with the result that their cases have been dismissed for lack of it. Perhaps the proposed change would require a motion for a new trial in every case that is appealed, and to that extent it may be broader than is absolutely necessary. To avoid that perhaps there should be a section providing just when a motion for a new trial is not necessary, as on a demurrer to pleadings, a motion for judgment on pleadings, or on the answer to special

questions by a jury, or where the case has been submitted on an agreed statement of facts. We think it important that a motion for a new trial should be required when a demurrer is sustained to evidence, for if the supreme court reverses the ruling of the court below in such a case the only relief it can grant is to direct a new trial, and where a demurrer is sustained to evidence and plaintiff on appeal contends that proper evidence offered was erroneously excluded by the trial court, that question can be examined in the supreme court only when the motion for a new trial has been filed and the excluded evidence placed upon the record by the affidavit, deposition or testimony of a witness. (R. S. 60-3004.)

The next section of the proposed bill reduces the time for appealing civil actions to two months, which under the present law is six months. Approximately fifty-five per cent of civil actions are appealed within sixty days. We think this affords ample time, and for the more prompt disposition of business this limitation should be made. It may be noted that under our present statute certain insurance companies must appeal within sixty days (R. S. 1931 Supp. 40-713), workmen's compensation cases must be appealed within twenty days (R. S. 1931 Supp. 44-556), and an appeal from an order granting a divorce must be taken within ten days (R. S. 60-1512). We have not heard it seriously contended that litigants have been unduly deprived of their rights by these limitations, and we think litigants in civil actions generally would be deprived of no substantial right by being required to appeal within sixty days.

The third section of the proposed bill is designed to clarify our statute concerning the time of filing abstracts in appealed cases. Perhaps it would be as well to repeal our present statute sought to be amended by this section, for, because of the confusion in the statute, the supreme court has promulgated rules covering the subject, which rules are now being followed.

The fourth section of the proposed bill requires notice of a cross-appeal to be filed within twenty days after notice of appeal. Under the present provisions this notice of cross-appeal may be given in the brief filed by appellee. At times that works to the disadvantage of the appellant.

The fifth section covers a matter long regarded as important.

The proposed bill is as follows:

AN ACT relating to civil procedure, amending sections 60-3001, 60-3309, 60-3312, 60-3314 of the Revised Statutes of 1923, and repealing said original sections, and also repealing section 60-3313 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-3001 of the Revised Statutes of 1923 be amended so as to read as follows: A new trial is a reëxamination in the same court of issues of law or of fact which arose, or were determined, in the trial of the case, after a verdict by a jury, report of a referee, or a decision by the court. The former verdict, report or decision shall be vacated and a new trial granted, on the application of the party aggrieved, when it appears that the rights of the party are substantially affected:

*First.* Because of abuse of discretion of the court, misconduct of the jury or party, or accident or surprise which ordinary prudence could not have guarded against, or for any other cause whereby the party was not afforded a reasonable opportunity to present his evidence and be heard on the merits of the case.

*Second.* Erroneous rulings or instructions of the court.

*Third.* That the verdict, report or decision was given under the influence of passion or prejudice.

*Fourth.* That the verdict, report or decision is in whole or in part contrary to the evidence.

*Fifth.* For newly discovered evidence material for the party applying, which he could not, with reasonable diligence, have discovered and produced at the trial.

*Sixth.* That the verdict, report or decision was procured by the corruption of the party obtaining it. In this case the new trial shall be granted as a matter of right, and all the costs made in the case up to the time of granting the new trial shall be charged to the party obtaining the decision, report or verdict.

SEC. 2. That section 60-3309 of the Revised Statutes of 1923 be amended so as to read: The appeal shall be perfected within two months after the rendition of the judgment or order appealed from, and security for costs in cases appealed to the supreme court shall be given within such time and in such manner as such court, by rule or special order, may provide: *Provided, however,* That appeals from judgments and appealable orders entered or rendered before this act shall take effect may be perfected within two months from the date of such judgment or order.

SEC. 3. That section 60-3313 of the Revised Statutes of 1923 be amended so as to read: In all cases in which a transcript of the evidence is not necessary in order to review the questions presented on appeal, the abstract of appellant shall be served on the opposing party or his counsel and filed in the supreme court within thirty days after the notice of appeal is filed with the clerk of the trial court, and in all cases in which a transcript of the testimony is necessary to present the questions presented on appeal the abstract of appellant shall be so served and filed within four months after the notice of appeal is filed with the clerk of the trial court. The abstract of the appellant shall contain a synopsis of so much and of such parts of the pleadings, record, evidence and proceedings in the case as appellant deems necessary for the consideration of the court. If appellee deems the abstract of appellant to be insufficient to present the questions for review he may, within thirty days after the service upon him of appellant's abstract, serve upon appellant, or his counsel, and file with the clerk of the supreme court a counter abstract. Abstracts not challenged shall be deemed accurate and sufficiently complete to present the questions sought to be reviewed. In the event the accuracy of any abstract is challenged the court shall make such an order as the nature of the case and justice warrant. Abstracts shall be printed unless, on application therefor and for good cause shown, the court orders that they be presented otherwise. The abstract may be bound separately or with the brief, as the party presenting the same desires.

SEC. 4. That section 60-3314 of the Revised Statutes of 1923 be amended so as to read: When notice of appeal has been served in a case and the appellee desires to have a review of rulings and decisions of which he complains, he shall, within twenty days after the notice of appeal is filed with the clerk of the trial court, give notice to the adverse party, or his attorney of record, of his cross-appeal and file the same with the clerk of the trial court, who shall forthwith forward a duly attested copy of it to the clerk of the supreme court.

SEC. 5. When a party appeals from a final judgment he may have reviewed any ruling adverse to him which was made at any time in the case.

SEC. 6. That sections 60-3001, 60-3309, 60-3312, 60-3313 and 60-3314 of the Revised Statutes of 1923 be and the same are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its publication in the official state paper.

### Criminal Code Amendments.

Our attention has been called to several sections of the code of criminal procedure which we think it would be well to amend, and we have prepared a bill for that purpose. Section 1 provides the number of peremptory challenges of jurors defendant may have in criminal cases and the next section provides that the prosecution may have the same number. Section 3 relates to persons who may be retained as jurors in criminal cases and the fourth section relates to the competency of certain classes of witnesses. The principal change in the last section is that the violation of the last proviso therein shall require the granting of a new trial. Our information is that this proviso is frequently violated clearly by indirection or devise. To place the burden on defendant of showing that he is prejudiced thereby is in effect to afford him no relief. Perhaps the proviso should be taken out of the statute, but if it is permitted to remain some effective relief should be given for its violation. The proposed bill is as follows:

AN ACT relating to procedure in criminal cases, amending sections 62-1402, 62-1403, 62-1405, 62-1420 of the Revised Statutes of 1923, and repealing said original sections, and repealing section 62-1404 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1402 of the Revised Statutes of 1923 be amended so as to read as follows: Each defendant in an indictment or information shall be entitled to peremptory challenge of jurors as follows:

*First*, If the offense charged is murder, to the number of nine, and no more.

*Second*, If the offense charged is a felony other than murder, to the number of six, and no more.

*Third*, If the offense charged is a misdemeanor, to the number of three, and no more.

SEC. 2. That section 62-1403 of the Revised Statutes of 1923 be amended so as to read as follows: In all criminal trials the state may challenge peremptorily the same number of jurors allowed the defendant, or defendants, by the preceding section.

SEC. 3. That section 62-1405 of the Revised Statutes of 1923 be amended so as to read as follows: No person shall be retained as a juror whose answers to questions propounded by counsel or the court discloses that he has any opinion, bias or prejudice which would prevent him from giving both to the prosecution and to the defendant a fair and impartial trial, or whose physical infirmity or lack of knowledge of the English language would prevent him from comprehending the business being conducted in court.

SEC. 4. That section 62-1420 of the Revised Statutes of 1923 be amended so as to read as follows: No person shall be rendered incompetent to testify in criminal causes by reason of his being the person injured or defrauded, or intended to be injured or defrauded, or that would be entitled to satisfaction for the injury, or is liable to pay the costs of the prosecution; or by reason of his being the person on trial or examination; or by reason of his being the husband or wife of the accused; but any such facts may be shown for the purpose of affecting his or her credibility: *Provided*, That no person on trial or examination, nor wife or husband of such person, shall be required to testify except as a witness on behalf of the person on trial or examination: *And further provided*, That the neglect or refusal of the person on trial to testify, or of a wife to testify in behalf of her husband, shall not raise any presumption of guilt, nor shall that circumstance be referred to by any attorney prosecuting in the case, nor shall the same be considered by the court or jury before whom

the trial takes place. The violation of this proviso shall require the granting of a new trial.

SEC. 5. That sections 62-1402, 62-1403, 62-1404, 62-1405 and 62-1420 of the Revised Statutes of 1923 be and the same are hereby repealed.

SEC. 6. This act shall take effect and be in force from and after its publication in the official state paper.

---

### Pleadings in Action for Divorce.

Our present statutes relating to pleadings as applied to actions for divorce or alimony appear to require that the facts constituting the grounds or cause of action be set forth in the petition. This frequently results in placing scandalous matter relating to one of the parties on the permanent records, or in the files of the court. This should be avoided, particularly if there are children of the union. In addition to that we are advised that threats of filing scandalous charges sometimes are made for the purpose of forcing an unreasonable settlement of property rights or the custody or maintenance of children. Sometimes charges of this kind are made unjustly, but publicity is given to them to the disgrace frequently of innocent parties. The importance of the matter is further disclosed by the fact that our records show approximately thirty per cent of all civil actions disposed of by our district courts are divorce cases. To avoid this we have prepared and recommended the passage of a bill, as follows:

AN ACT relating to procedure in actions for divorce or alimony, or both, and supplementing section 60-1501 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That in all actions for divorce, or for alimony, or for both divorce and alimony, the petition, or cross-petition, shall allege the causes relied upon, as nearly as possible in the language of the statute (R. S. 60-1501), and without detailed statement of facts. If the opposing party desires a statement of facts relied upon the same shall be furnished to him by the petitioner or cross-petitioner in a bill of particulars. A copy of this bill of particulars shall be furnished to the court and shall constitute the specific facts upon which the action is tried. The statements therein shall be regarded as being denied by the adverse party, except as they may be admitted. The bill of particulars shall not be filed with the clerk of the district court, nor become a part of the records of such court, but if the action be appealed, and the question sought to be reviewed relate to the facts set forth in the bill of particulars, it shall be embodied in the abstract for the supreme court.

SEC. 2. This act is supplemental to section 60-1501 of the Revised Statutes of 1923.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.



### Jurors—Jury Trials.

We have considered, first and last, numerous suggestions for the improvement of the efficiency and the reduction of the expense of jury trials. In our 1928 report (page 8) we considered suggestions that the jury might return a verdict agreed upon by less than the entire number of jurors. From the investigation made and information then at hand we concluded we were not justified in making recommendations of that character. Perhaps the great lack of efficiency in our jury trials results from an imperfect system of selecting persons for jury service. The list now is made up in the first instance by the township trustees and mayors of cities without any instructions to them with regard to the class of persons who should be selected, and frequently it is done in a very inefficient manner. In the two largest counties of the state the judges of the district court are authorized by statute (R. S. 43-135) to prepare the lists of persons for jury service, but frequently in doing so they have but little information concerning the persons other than the fact that their names were on the tax roll of the preceding year. Thinking perhaps the legislature would not care to disturb the method of selecting jurors in those counties, but deeming it necessary that provision should be made for a more intelligent selection of persons for jury service, we have drafted a measure which we are confident would effect that purpose, and with no additional expense from the method now used. The proposed bill for that purpose is as follows:

AN ACT relating to the selection of jurors, creating a board of jury commissioners, and repealing sections 43-101, 43-102, 43-103 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That in all counties of this state having a population of less than 90,000 there is hereby created a board of jury commissioners which shall be composed of the judge of the district court, the county clerk, the clerk of the district court and the probate judge. Such jury commissioners shall, prior to November first of each year, advise the trustee of each organized township and the mayor of any city not included in any corporate limits of any township, either orally or in writing, as to the duties of such officers in compiling the list of jurors hereinafter provided for. Pursuant to such instructions and advice each of such trustees and mayors in each county shall, during the month of November of each year, make a list of persons to serve as jurors for the ensuing year as hereinafter provided.

SEC. 2. They shall select from those assessed on the assessment roll for the current year suitable persons having the qualifications of electors, and in making such selection they shall choose only those who are not exempt from serving on juries and who are possessed of good moral character and of proved integrity, in possession of their natural faculties, with a good knowledge of the English language, who are not infirm or decrepit, and who are well informed and free from legal exceptions. Such selection shall be in the proportion of two persons for each fifty inhabitants of such township or city: *Provided*, That no person shall be selected as such juror who, either in person or by any other means, shall solicit his selection as such.

SEC. 3. In making such selection each person who shall have served as a juror in a court of record within the year next preceding such selection shall be excluded from a list of jurors for the then ensuing calendar year, and if any such person shall be selected or drawn it shall be the duty of the court to which such juror shall be summoned to strike the names of such persons from the list of jurors, and it shall be good cause of challenging any juror that such juror shall have served as a juror in any court of record during the year pre-

ceding any such selection, and no juror called or summoned who shall have so served during such preceding year shall draw any pay for more than one day during the term of court to which he shall be so summoned. A list of the persons so selected shall be immediately after such selection certified by the officers making the same to the county clerk of such county. Such lists shall be accompanied by a written statement made by the officer preparing the same, setting forth the correct name, age, occupation and general characteristics of each person whose name shall appear on such lists, together with such other information as such officer may deem of value in determining the fitness and qualification of such person as a juror. Within thirty days after the certification of such list, the board of jury commissioners shall examine the same, inquire into the qualifications and general fitness of such persons as jurors, and shall select therefrom the name of one person for each fifty inhabitants of each township and each city not included in any corporate limits of any township in the county, and such list shall be filed with the county clerk, and the same shall constitute the list of jurors for the year beginning January first thereafter.

SEC. 4. That sections 43-101, 43-102 and 43-103 of the Revised Statutes of 1923 be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its publication in the statute book.

In more recent months we have had our attention called to the expense to the counties, particularly in the larger counties in the state, of the per diem and mileage of jurors. For the purpose of getting something tangible as a basis for recommendation we have collected the information of the amount paid in the several counties for jury service for the year beginning July 1, 1930, and ending June 30, 1931. The reports of the various counties are as follows:

Allen, \$3,266.40; Anderson, \$1,277; Atchison, \$743.30; Barber, \$793.30; Barton, \$1,770.50; Bourbon, \$2,627.90; Brown, \$1,391.90; Butler, \$6,891.04; Chase, \$748.90; Chautauqua, \$2,344.90; Cherokee, \$3,878.70; Cheyenne, \$1,159.47; Clark, \$393; Clay, \$1,422.55; Cloud, \$668.50; Coffey, \$1,431.30; Comanche, \$440.65; Cowley, \$6,296.55; Crawford, \$6,186.05; Decatur, \$391.20; Dickinson, \$1,160.35; Doniphan, \$1,383.35; Douglas, \$2,031.70; Edwards, \$1,620.80; Elk, \$491.45; Ellis, \$1,295.72; Ellsworth, \$1,510.40; Finney, \$2,669.60; Ford, \$1,945.80; Franklin, \$2,649.75; Geary, \$1,390.65; Gove, \$400.10; Graham, \$770.50; Grant, \$1,199.30; Gray, \$681.90; Greeley, \$627.85; Greenwood, \$2,165.75; Hamilton, \$1,012.69; Harper, \$1,573.40; Harvey, \$1,007.55; Haskell, \$623.35; Hodgeman, \$507.60; Jackson, \$1,066.44; Jefferson, \$1,353.70; Jewell, \$568.90; Johnson, \$3,734.15; Kearny, \$250; Kingman, \$1,277.80; Kiowa, \$748; Labette, \$1,442.80; Lane, \$750.40; Leavenworth, no report; Lincoln, \$1,534.80; Linn, \$1,223.85; Logan, \$663.80; Lyon, \$934.30; Marion, \$1,133.15; Marshall, \$3,388.90; McPherson, \$2,226.45; Meade, \$204.60; Miami, \$3,793.10; Mitchell, \$1,709; Montgomery, \$9,585.10; Morris, \$3,762.80; Morton, \$714.15; Nemaha, \$1,735.85; Neosho, \$1,922.80; Ness, \$1,236; Norton, \$683.40; Osage, \$1,793.65; Osborne, \$574.20; Ottawa, \$1,614.85; Pawnee, \$930.10; Phillips, \$579.35; Pottawatomie, \$1,968.80; Pratt, \$483.45; Rawlins, \$18.80; Reno, \$5,608.20; Republic, \$913.60; Rice, \$1,999.10; Riley, \$3,566.30; Rooks, \$1,441.35; Rush, \$14.25; Russell, \$798.70; Saline, \$4,652.25; Scott, \$638.60; Sedgwick, \$31,325.40; Seward, \$1,703.20; Shawnee, \$19,323.93; Sheridan, \$1,600.55; Sherman, \$3,159.70; Smith, \$1,215.10; Stafford, \$2,145.05; Stanton, \$795.20; Stevens, \$861.50; Sumner, \$3,699.55; Thomas, \$1,201.10; Trego, \$1,756; Wabaunsee, \$529.90; Wallace, \$169.20; Washington, \$1,398.70; Wichita, \$127.45; Wilson, \$3,171.20; Woodson, \$1,571.15; Wyandotte, \$29,745.80. Total, \$253,582.14.

It has been suggested that this expense might be materially reduced if juries of six were used where the parties consent to it. A few of our district judges have experimented with this suggestion and advise us that when an intelligent selection of persons for jury service is made, the results of the trials are as satisfactory to the litigants as when a jury of twelve is used; that there is some saving of time in the trial, and a substantial saving of expense to the county. To enable that to be done we need change but one section in the statute relating to civil procedure and another section of the statute relating to criminal procedure. Appropriate bills for that purpose are as follows:

AN ACT relating to civil procedure, amending section 60-2903 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-2903 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: 60-2903. Issues of fact arising in actions for the recovery of money or of specific real or personal property shall be tried by jury, unless a jury trial is waived or a reference be ordered as hereinafter provided. All other issues of fact shall be tried by the court, subject to its power to order any issue or issues to be tried by a jury or referred as provided in this code. *Unless a jury of twelve be demanded by either party within ten days after the issues are joined the trial shall be by six jurors.*

SEC. 2. That section 60-2903 of the Revised Statutes of Kansas of 1923, and all acts or parts of acts in conflict herewith, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

---

AN ACT relating to criminal procedure, amending section 62-1401 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1401 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: 62-1401. The defendant and prosecuting attorney, with the assent of the court, may submit the trial to the court, except in cases of felonies. All other trials shall be by jury, to be selected, summoned and returned as prescribed by law. *In all misdemeanor cases, unless a jury of twelve be demanded by the defendant or complainant or prosecuting attorney before the case is called for trial, they shall be tried by six jurors.*

SEC. 2. That section 62-1401 of the Revised Statutes of Kansas of 1923, and all acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

### Redemption of Real Property.

Following the discussion of this subject (page 21, April BULLETIN; page 66, October BULLETIN) we have completed the draft of a bill modifying our present statute concerning the redemption of real property sold on execution or orders of sale. Briefly, it provides that the sale shall be had at the end of the redemption period rather than at the beginning. It makes more certain just what is being sold, especially under general execution. It does not shorten the period of redemption now provided by statute. It results in economy in handling this class of cases, and we think it fully protects the rights of all parties even better than our present law, and it will eliminate controversy over some troublesome questions which now arise. The proposed bill as we have prepared it is as follows:

AN ACT relating to the sale of property on general execution, special execution, and order of sale and the redemption thereof, and amending sections 60-3408, 60-3416, 60-3438, 60-3455, 60-3457, 60-3459, 60-3460, 60-3461, 60-3462, 60-3465, and 60-3466 of the Revised Statutes of 1923, and sections 60-3430 and 60-3443 of the 1931 Supplement to the Revised Statutes of 1923, and repealing sections 60-3408, 60-3416, 60-3438, 60-3440, 60-3441, 60-3442, 60-3444, 60-3445, 60-3446, 60-3447, 60-3448, 60-3449, 60-3450, 60-3452, 60-3455, 60-3456, 60-3457, 60-3459, 60-3460, 60-3461, 60-3462, 60-3463, and 60-3466 of the Revised Statutes of 1923, and sections 60-3439 and 60-3443 of the 1931 Supplement to the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-3408 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3408. The officer to whom a writ of execution is delivered shall proceed immediately to levy the same upon the goods and chattels of the debtor; but if no goods and chattels can be found the officer shall indorse on the writ of execution "No goods," and forthwith levy the writ of execution upon the lands and tenements of the debtor which may be liable to satisfy the judgment; the officer shall make a return showing the lands and tenements of the debtor levied upon, and the judgment creditor shall file an application with the court describing the lands and tenements levied upon and the court shall fix the date after which an order of sale may issue, and the court shall make an order making known and unknown persons claiming or having an interest in the property levied on, parties to the proceeding, and shall determine the interest of the execution debtor in the lands and tenements levied upon. If any of the lands and tenements of the debtor so levied upon shall be encumbered by mortgage or any other lien or liens, such lands and tenements may be levied upon and sold subject to such lien or liens.

SEC. 2. That section 60-3416 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3416. Lands and tenements taken on execution or to be sold on order of sale shall not be sold until the expiration of the date fixed by the court after which an order of sale may issue. After the date so fixed, on the præcipe of a party to the action, an order of sale shall issue to the sheriff who shall cause public notice of the time and place of sale to be given for at least thirty days before the day of sale, by advertisement in some newspaper regularly printed and published and having a general circulation in the county, to be designated by the party ordering the sale, or in case no newspaper be printed in the county, in some newspaper in general circulation therein. All sales made without such advertisement shall be set aside on motion by the court to which the execution is returnable. And no greater sum shall be taxed as costs for advertising in any case than the amount received or to be received by the publisher, printer, or editor of the

paper doing the printing, and which shall not exceed the amount prescribed by law for such publication.

SEC. 3. That section 60-3439 of the 1931 Supplement to the Revised Statutes of 1923 is hereby amended to read as follows: Section 60-3439. The defendant owner may redeem any real property sold under execution, special execution, order of sale, for the amount sold for, together with interest, cost and taxes, as provided in this act at any time within ten days from the day of sale as provided herein, and shall in the meantime be entitled to possession of the property, and the date after which an order of sale may issue shall not be fixed at less than eighteen (18) months from the date of the judgment or date of levy, except where the court or judge shall find that the lands and tenements have been abandoned or not occupied in good faith, then, in that event, the court may fix the date not less than six months from the date of judgment or date of levy: *Provided*, That oil and gas leases or oil and gas leasehold estates may be sold immediately after judgment or levy, and in all sales of oil and gas leases under order of sale or levy the property shall be appraised and sold for not less than two-thirds of its appraised value: *And provided further*, That any contract and any mortgage or deed of trust agreeing to the sale of the real property within any period less than eighteen (18) months from the date of the judgment or waiving the ten-days' period of redemption after the sale shall be null and void, except that any corporation organized under the laws of the United States, the District of Columbia or any state of the United States, may, as mortgagor, agree in the mortgage instrument to a sale being made at a shorter period than eighteen (18) months after the date of judgment or may consent to a sale of the property being made immediately after the judgment as against said corporation mortgagor owner, and all such agreements when so made shall be fully binding on such mortgagor.

SEC. 4. That section 60-3443 of the 1931 Supplement to the Revised Statutes 1923 is hereby amended to read as follows: Section 60-3443. During the period allowed between the date of judgment or the date of levy and the date fixed after which an order of sale may issue, the judgment creditor may pay the taxes on the land and tenements ordered sold or levied on, the insurance premium on the buildings thereon, and interest or sums due upon any prior lien or encumbrance thereon, and may move to have the sums so paid added to his judgment, and upon due notice and hearing the court may adjudge such sums with interest at the rate of six per cent since their payment to be added to the amount of the judgment previously rendered. The order of sale when issued shall include the sums so adjudged to be added. If the property is sold, the debtor shall have the right to redeem the property at any time within ten days after the sale by paying to the clerk of the district court the sum for which the property was sold with interest at six per cent from the day of sale and the costs of redemption, and the property shall not be subject to further sale to satisfy the judgment or any sums allowed herein.

SEC. 5. That section 60-3455 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3455. That the lands and tenements levied on, or sold on order of sale, may be sold or transferred by the defendant owner, and the transferee may have the same rights as the defendant owner, but the property levied on or ordered sold shall not be subject to levy or sale on execution after the date of judgment or after the court fixes the date for sale on execution, and the defendant owner or his transferee shall be entitled to possession and all the rents and profits therefrom until expiration of the ten-day period of redemption, and the rents and profits therefrom for such time shall be exempt from levy or sale on execution.

SEC. 6. That section 60-3456 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3456. The holder of the legal title at the time of the issuance of the execution or order of sale shall have the same right to pay the judgment and other sums due the judgment creditor upon the same terms and conditions as the defendant in execution, and also shall be entitled to the possession of the property the same as the defendant in execution as herein provided.

SEC. 7. That section 60-3457 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3457. If the defendant in execution or order of sale or his transferee or the owner of the legal title, fail to redeem, the sheriff shall, at the end of the period of redemption herein provided upon the confirmation of the sale by the court, execute a deed to the purchaser or his assignee. If the person entitled to the deed be dead, the deed shall be made to his heirs or devisees; but the property will be subject to all liens or to the payment of all debts of such deceased person in the same manner as if acquired during his lifetime.

SEC. 8. That section 60-3459 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3459. The purchaser or party entitled to a deed under sale as herein provided, may, after the deed is made to him by the sheriff, recover damages for any injury or waste permitted upon the property purchased after date of judgment or after the time is fixed for sale on execution and before possession is delivered under the conveyance.

SEC. 9. That section 60-3460 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3460. The land and tenements once sold upon order of sale, special execution or general execution shall not again be liable for sale for any balance due upon the judgment or decree under which the same is sold, or any judgment or lien inferior thereto: *Provided, however*, If the real property sells for more than enough to satisfy the judgment or decree, any inferior judgment or lien shall be a lien upon the excess proceeds.

SEC. 10. That section 60-3461 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3461. After the date of judgment or after the time fixed for the sale on execution the judgment creditor shall be entitled to prevent any waste or destruction of the premises purchased, and for that purpose the court, on proper showing, may issue an injunction; or, when required to protect said premises against waste appoint and place in charge thereof a receiver, who shall hold said premises until such time as the purchaser is entitled to a deed and shall be entitled to rent and control and manage the same; but the income during said time, except what is necessary to keep up the repairs and prevent waste, shall go to the owner or defendant in execution or the owner of its legal title.

SEC. 11. That section 60-3463 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3463. The sheriff shall at once make a return of all sales made under this act to the court; and the court, if it find the proceedings regular and in conformity with law and equity, shall confirm the same and shall order the sheriff to make the purchaser a deed as provided for herein, and shall direct the clerk to make an entry of such findings and order on the journal.

SEC. 12. That section 60-3466 of the Revised Statutes of 1923 be and the same is hereby amended to read as follows: Section 60-3466. Whenever a lien shall be given for the purchase price of any real estate, and default shall be made in the conditions of the mortgage or instrument giving such lien before one-third of the purchase price of said real estate shall be paid by the purchaser thereof, such purchase-money lien may be foreclosed by the legal holder thereof in the manner now provided by law for the foreclosure of other mortgages, and such real property may be sold on judgment of foreclosure as now provided by law: *Provided*, That whenever any such purchase-money lien is foreclosed the court shall fix the date of sale six months from the date of judgment, and if said property is not redeemed as herein provided within ten days after the date of sale the purchaser shall be entitled to a deed.

SEC. 13. That sections 60-3408, 60-3416, 60-3438, 60-3440, 60-3441, 60-3442, 60-3444, 60-3445, 60-3446, 60-3447, 60-3448, 60-3449, 60-3450, 60-3452, 60-3455, 60-3456, 60-3457, 60-3459, 60-3460, 60-3461, 60-3462, 60-3463 and 60-3466 of the Revised Statutes of 1923, and sections 60-3438 and 60-3443 of the 1931 Supplement to the Revised Statutes of 1923, are hereby repealed.

SEC. 14. That this act shall take effect and be in force from and after its publication in the statute book.

## EMINENT DOMAIN.

### The Administrative and Judicial Methods of Procedure.

By CHESTER STEVENS.

The Judicial Council has been making a study of the constitution and the statutes relative to the appropriation of private property under the power of eminent domain. In the April, 1932, BULLETIN the subject was generally discussed, attention being directed primarily to the lack of uniformity in the statutes authorizing the exercise of the power. In the July issue a proposed act concerning the exercise of the power of eminent domain, and attempting to outline a code of procedure following the administrative method, was published. In the October issue this proposed act was further discussed, and through the courtesy of Franklin Corrick a synopsis of the numerous statutes in Kansas pertaining to eminent domain was included. The utter lack of uniformity, ambiguity in practically all of the statutes conferring the power of eminent domain, and the almost total absence of provision for procedure are strikingly illustrated. This compilation refers to 113 sections of the Revised Statutes relating in some manner or to some extent to the power of eminent domain and the method of its exercise.

The necessity for the elimination of these numerous and scattered sections, and the adoption of a uniform code of procedure applicable and workable for all purposes of condemnation and procedure is certainly beyond dispute.

Mr. Corrick has prepared a proposed act concerning the exercise of the power of eminent domain, and establishing a code of procedure for the exercise of the same following the judicial method.

Two methods of procedure are quite well defined and recognized. One is known as the administrative procedure and the other as the judicial procedure. The first obviates the necessity of proceedings in the courts except upon appeal. The second takes the matter directly to the court in the first instance, and all proceedings from the institution to the conclusion are matters of judicial action and record. The proposed bill by Mr. Corrick is excellently drawn and outlines a very definite procedure by the judicial method.

The attention of the bench and bar of Kansas is particularly desired as to the merits of the two methods of procedure, or a blending of the two methods whereby one uniform, plain and simple code can be devised for this state covering the whole field of eminent domain.

The power of eminent domain is inherent in sovereignty. It is sovereign power. This power is vital to the very existence of sovereignty. It was an incident of sovereignty prior to written constitutions and is not dependent upon constitutions for its exercise or recognition. It is dormant until it is invoked, and method of its exercise is prescribed by the law-making body. Therefore it follows that the state must prescribe how it may be exercised.

The merits of the administrative method are largely in its simplicity and the expeditious manner in which it may be exercised, appropriations effected, damages paid, and possession or right to use secured. It naturally is less expensive than the judicial method, but, unless carefully safeguarded, lacks the certainty of adjudication of the rights of all parties interested in the land and the finality which characterizes the judicial method.

In the judicial method outlined, the proceeding originates in the court designated by the statute. The proposed bill largely follows the procedure of the civil code concerning the institution of civil actions. Application is made by the filing of a petition and the issuance of summonses, and authorizes publication service where the parties interested are nonresidents of the state. Provision is made for joining of issues, trial on the merits, and the rendition of judgment from which an appeal is allowed to the supreme court. The judgment of the court is final unless appealed from, as authorized. The method naturally involves a careful examination of the title to the land, making all persons interested in the land in any manner parties defendant to the action.

The Judicial Council desires to recommend legislation on this subject and seeks the help and cooperation of the bench and bar in the preparation and presentation of a proposed act which will most effectually accomplish the enactment of a law providing for the most desirable, expeditious and inexpensive procedure.

The Judicial Council plans to have a meeting early in the legislative session, at which time it hopes, with the aid of suggestions of attorneys and others interested, to be able to put in final form a proposed bill for the exercise of the right of eminent domain, broad enough in its scope to be applicable to all cases, simple in its procedural provisions, and yet definite enough to give full protection to the respective parties and to embody the elements of finality of determination. As a basis for that study we are printing both of the bills heretofore referred to. The one proceeding on the administrative method is as follows:

AN ACT concerning the power of eminent domain, and providing a code of procedure for the exercise thereof.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. Any person, copartnership, corporation and the state, including its municipal subdivisions, may exercise the power of eminent domain only in accordance with the provisions of this act.

SEC. 2. No right of way shall be appropriated to the use of any corporation until full compensation therefor first be made in money or secured by a deposit of money to the owner irrespective of any benefit from any improvement proposed by such corporation.

SEC. 3. The right to take private property shall depend solely upon the public use of the property sought to be taken, and if the use will be beneficial to the public the power may be invoked in accordance with the provisions of this act.

SEC. 4. Any person, copartnership, corporation, the state or any of its municipal subdivisions shall file in the office of the clerk of the district court of the county in which the land proposed to be taken is located an application in writing, duly verified, stating the name of the petitioner, and if the state or municipality is the petitioner, a certified copy of the resolution, ordinance or other proceedings authorizing the same, a description of the lands involved and the exact boundaries of the part sought to be taken and the extent and character of the use to which the petitioner proposes to subject the land.

SEC. 5. Said application shall be presented to the judge of the district court of said county, and in his absence or inability to act, the same may be presented to the probate judge of such county, who shall examine said application, and if said proposed purpose is impressed with public use or benefit the district judge or probate judge, as the case may be, thereupon shall appoint three competent disinterested householders of such county as commissioners, upon actual view, to proceed to lay off and condemn the lands sought to be taken as described in the application. If the judge shall deny said application the petitioner forthwith may file with the clerk of the district court a notice of



appeal, and thereupon the clerk forthwith shall certify the same to the supreme court for immediate decision.

SEC. 6. The appointment of the commissioners shall be in writing and signed by the judge and filed with the clerk of the district court. The commissioners forthwith shall take an oath honestly and faithfully to discharge their duties as such commissioners, and thereupon shall proceed to an actual view of the lands sought to be taken and shall appraise the same at its actual cash value and shall assess the damages to those parts, portions and parcels not taken, the valuation and assessment of damages to be allotted to the respective owners of such lands. Except in cases of condemnation of rights of way for corporations, the commissioners shall offset against the damages allowed to those portions of the several tracts, portions or parcels not taken, such benefits as they shall determine will result to the owner or respective owner of the lands affected, but in no event shall the allowance of benefits exceed the amount of damages. The commissioners shall embody their doings in a written report to which their oath shall be attached, sign and file the same with the clerk of the district court.

SEC. 7. If the petitioner desires immediately to occupy the lands proposed to be taken, he thereupon shall pay to the clerk of the district court the respective sums allowed to the respective owners as compensation for the land taken, and damages, if any, to the lands not taken, and shall execute and file with the clerk, to be approved by the clerk, a good and sufficient bond in a sum equal to the allowance made by the commissioners to indemnify the respective land-owners for additional compensation and all damages which may be allowed in the event of an appeal, as hereinafter provided, and thereupon the petitioner may enter into the possession of the land.

SEC. 8. Upon the filing of the report of the commissioners the clerk of the district court shall issue a summons to each of the owners of the property affected by the condemnation proceedings, if their residence is within the state of Kansas and known, such summons to be directed to such owner and delivered or sent to the sheriff of the county of such owner's residence to be served by such sheriff and return made thereof as in case of summons in civil actions. If service of summons cannot be made upon such owners within the state of Kansas, or if their whereabouts or residence is unknown, such owners and all nonresident owners of the state of Kansas thereupon shall be notified of said condemnation by said clerk by publication of a notice once each week for four consecutive weeks in some newspaper published and of general circulation in such county, or if none be published therein then one of general circulation in such county, which notice shall state the name of the petitioner, a description of the several tracts and parcels of land owned by such unknown or nonresident owners, and an accurate description of the several parts thereof sought to be taken, together with the amount of compensation allowed for the part or parts taken, the amount of damages assessed and the amount of benefits, if any, deducted, and which notice further shall notify such owners that unless they shall appeal from the award of said commissioners on or before a certain date therein specified, which shall be twenty days after the last publication, said award will become binding and final on them. Proof of publication shall be made and filed as in other cases.

SEC. 9. Any owner affected by such condemnation proceedings upon whom service of summons has been made by the sheriff as in the last preceding section provided within ten days after the return day of said summons may appeal to the district court of the county wherein said lands are situated by filing with the clerk of the district court a written notice, stating his name, a description of the land which he claims to own and which is affected by said condemnation proceedings, and stating that he appeals to the district court from the award of the commissioners, and thereupon the clerk shall docket the appeal as in other cases.

SEC. 10. If the petitioner shall feel aggrieved by the award of the commissioners as to any particular tract or parcel of land affected by the condemnation proceedings, he may enter into the occupancy of the land by complying with the provisions of section 7, and filing with the clerk of the district court within

twenty days after the filing of the report of the commissioners with said clerk, a notice of appeal, stating his name, the name of the owner or owners of the tract or tracts affected, and stating that he appeals to the district court from such award, and the clerk shall thereupon docket said appeal as in other cases.

SEC. 11. All such appeals shall be tried as other civil actions.

SEC. 12. Either party may appeal from the district court to the supreme court as appeals are taken in civil cases under the code of civil procedure.

SEC. 13. In all proceedings in the district court the code of civil procedure shall govern the same.

SEC. 14. All costs and expenses of filing the application and appointment of the commissioners, of the report, and of all summons issued and served and all notices published, as in this act provided, and the fees of the commissioners to be fixed by the judge, shall be paid by the petitioner, and in all appeals from the award of the commissioners the party appealing shall make security for costs as provided in the code of civil procedure.

SEC. 15. Upon final payment of the award or in case of appeal, on final judgment, the petitioner thereupon shall become vested with the fee-simple title to the lands taken under the condemnation proceedings.

SEC. 16. All statutes relating to condemnation proceedings now in force in this state are hereby repealed: *Provided, however,* That any and all condemnation proceedings instituted or commenced and not completed before the publication of this act shall be in accordance with the statutes now in force.

SEC. 17. This act shall take effect and be in force from and after its publication in the official state paper.

The one proceeding upon the judicial method is as follows:

AN ACT concerning the power of eminent domain and providing a uniform code of procedure for the exercise thereof.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. Any person, copartnership, corporation and the state, including its political and municipal subdivisions, having the power of eminent domain, may exercise such power only in accordance with the provisions of this act.

SEC. 2. The right to take private property under the power of eminent domain shall depend solely upon the public use of the property sought to be taken, and if the use will be beneficial to the public the power may be invoked in accordance with the provisions of this act.

SEC. 3. For the purpose of obtaining information as to the advantages and disadvantages of the land and the amount of land that may be required, the condemning party may, upon proper notice to the landowner, enter upon the land for the purpose of surveying such land and for locating the improvement. The manner of making the survey shall be compatible with the greatest public benefit and the least injury to private property. Such entry shall constitute no cause of action in favor of the owner except for actual damages for injuries resulting from negligence, wantonness or malice.

SEC. 4. Any person, copartnership, corporation and the state, including its political and municipal subdivisions, desirous of exercising its right of eminent domain must bring its proceedings in the district court of the county in which the property or some part thereof is situated. Such proceedings shall be commenced by filing a petition the same as an ordinary civil action under the code of civil procedure. The petition may be filed in vacation as well as in term time. The district court shall be open at all times for hearing and determining such actions, and the time for pleading and for hearing may be advanced so as to give precedence over other actions.

SEC. 5. The following matters shall be set forth in the petition: (1) The name of the condemning party as plaintiff and the names of the owners or parties having an interest in the property as defendants, including all lien holders of record, as shown by the records of such county. (2) A description of each lot and parcel of land sought to be condemned, and, where a right of way is sought, a map thereof shall be attached as an exhibit. (3) An allega-

tion of the purpose for which the property is sought, with facts showing that it is necessary for such purposes. (4) A statement that the plaintiff has been unable to agree with the owner or owners as to the price of the property sought. (5) Facts showing that all preliminary proceedings required by law have been taken. The form of the petition shall in all respects, so far as possible, be the same as in ordinary civil actions.

Sec. 6. Upon the filing of the petition the clerk of the district court shall issue a summons to each of the owners or persons owning any interest in the property, including holders of liens thereon, named in the petition as defendants, if their residence is within the state of Kansas and known, such summons to be directed to such owners or lienholders and delivered and sent to the sheriff of the county of such owner's or lienholder's residence to be served by such sheriff and return made thereof as in case of summons in civil actions. If service of summons cannot be made upon such owners or lienholders within the state of Kansas, or if their whereabouts or residence is unknown, such owners or lienholders and all nonresident owners or lienholders of the state of Kansas thereupon shall be notified of said petition by said clerk by publication of a notice once each week for two consecutive weeks in some newspaper published and of general circulation in such county, or if none be published therein then one of general circulation in such county, which notice shall state the name of the petitioner, a description of the several tracts and parcels of land of such unknown owners or lienholders or nonresident owners or lienholders, and an accurate description of the several parts thereof sought to be taken. Proof of publication shall be made and filed as in other cases.

Sec. 7. Any person having an interest in the property sought to be condemned, though not named in the petition, may apply to be made a party and may appear, plead and defend in respect to his own interest, in the same manner as if named in the petition.

Sec. 8. Any city seeking condemnation of property within its territorial limits shall, by ordinance or resolution, determine necessity for the proposed improvement and the necessity of taking the particular property. As soon as practicable after the adoption of such ordinance or resolution the city shall file a petition in the district court as in this act provided. In all other cases plaintiff's allegations as to the necessity of taking property for a designated public use shall be taken as true unless issues are joined on that question, in which case the necessity shall be determined by the court without a jury.

Sec. 9. The plaintiff may, after the action is commenced and necessity has been determined, upon proper notice to the owner, apply to the court for a right to occupy the premises proposed to be taken and begin the improvements thereon pending the action. On the hearing of the application, proof by affidavit or otherwise shall be taken as to the reason for requiring a speedy occupation and the damages likely to accrue from such condemnation, and the application shall be granted or refused according to the equities of the case. The application shall not be granted unless the plaintiff shall execute a good and sufficient indemnity bond, with sureties, in a penal sum to be fixed by the court at not less than double the amount of damages likely to result from the condemnation; but such amount shall be determined for the purposes of the application only and shall be inadmissible in evidence on the final hearing. Such a bond shall not be required of the state and its municipal subdivisions, but in lieu thereof the state or any of its municipal subdivisions shall deposit the amount of damages likely to accrue with the clerk of the district court. In case of substantial building or buildings situated on the land or valuable business being conducted in building or buildings thereon, the application may be granted only on condition that the plaintiff waive his right to abandon the proceedings. In case the application provided for in this section is granted the plaintiff shall proceed with all diligence to carry the proceedings to final judgment.

Sec. 10. The assessment of damages shall be determined by such three disinterested persons as may be agreed upon by the parties. If the parties do not agree on all the commissioners they shall be appointed by the court, giving preference to those agreed upon by the parties. The appointment of the com-

missioners shall be in writing signed by the judge and filed with the clerk of the district court. Said commissioners shall take an oath to honestly and faithfully perform and discharge their duties as such commissioners, and upon actual view shall proceed to lay off and condemn the land sought to be taken as described in the petition. The commissioners shall be allowed such compensation for their services as the court may deem just and proper, which shall be taxed as part of the costs in the case.

SEC. 11. Said commissioners shall appraise the property sought to be condemned at its actual cash value and shall assess the damages to those parts, portions and parcels not taken, the valuation and assessment of damages to be allotted to the respective owners of such lands. Except in cases of condemnation of rights of way for corporations, the commissioners shall offset against the damages allowed to those portions of the several tracts, portions or parcels not taken, such benefits as they shall determine will result to the owner or respective owners of the property affected, but in no event shall the allowance of benefits exceed the amount of damages. The commissioners shall embody their doings in a written report to which their oath shall be attached, sign and file the same with the clerk of the district court.

SEC. 12. Unless written exceptions to the commissioners' report are filed with the clerk of the district court within 30 days after the filing of such report a personal judgment shall be rendered by the court in accord with said report. Upon the filing of exceptions to the commissioners' report by either party the question of damages shall be tried as other civil actions by the court without a jury, except that the court may refer the report back to the same or different commissioners for a reassessment. The court may modify, alter or change the report and may diminish or increase the damages, and its decree shall be final unless appealed from. In other cases the power of the court shall be the same as in ordinary civil actions.

SEC. 13. For the purpose of assessing compensation and damages the right thereto shall be deemed to have accrued at the date of issuance of process or other commencement of the action and its actual value at that date shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken but injuriously affected, in all cases where such damages are allowed, as provided in sec. 11 of this act: *Provided*, That in any case in which the issue is not tried within one year after the date of the commencement of the action, unless the delay is caused by the defendant, the compensation and damages shall be deemed to have accrued at the date of the trial: *Provided further*, That nothing in this section shall be construed or held to affect litigation pending at the date this act becomes effective. Where it appears that the plaintiff is unreasonably delaying the prosecution of the action the court shall, on motion of the defendant, dismiss the action, awarding to defendant his costs and expenses. If the plaintiff is permitted to occupy the premises pending the action, as in this act provided, the compensation and damages shall draw interest from the date of the order of possession.

SEC. 14. The plaintiff must, within 30 days after final judgment, pay to the parties entitled thereto, the sum of money assessed. Where the plaintiff is the state of Kansas, or a political or municipal subdivision thereof, and it appears by affidavit or other evidence that benefits are to be assessed and collected, or that bonds of said state or subdivision thereof must be issued and sold in order to provide the money for payment of the award, the sum may be paid at any time within one year from date of such judgment: *Provided*, That if the sale of any such bonds cannot be had by reason of litigation affecting the validity thereof, then the time during which such litigation is pending shall not be considered a part of the one year's time in which payment must be made. If for any reason it is impossible or unsafe for the plaintiff to make payment to any defendant entitled thereto, the sum or sums may be deposited in court and shall be distributed under the direction of the court. If the money be not so paid or deposited the defendant may have execution as in civil cases, and if satisfaction cannot be had thereon the court, upon a showing to that effect, shall set aside and annul the entire proceedings and restore

possession of the property to the defendant, if possession has been taken by the plaintiff under the provisions of sec. 9 of this act.

SEC. 15. When payments have been made, as provided in sec. 14 of this act, the court shall make a final order of condemnation which shall describe the property condemned and the purposes of such condemnation. Thereupon a certified copy of the order shall be filed in the office of the register of deeds of the country in which the property is located and a copy served upon the owner, thereby vesting title to the property described therein in the plaintiff.

SEC. 16. When title or right of possession has passed to the plaintiff, and after service of a copy of the order of condemnation has been made upon the defendant, if he refuses to deliver possession of the property described in the order to the plaintiff on demand, the plaintiff may apply to the court for writs of assistance. Upon such application, and after proof of service of the order of condemnation and of the demand and the noncompliance of the defendant therewith, the court shall issue writs of assistance directing the sheriff of the county to put the plaintiff into possession of said property.

SEC. 17. The estates and rights in lands, subject upon final order of condemnation to be taken for public use, are as follows: (1) A fee simple when the property is taken for public buildings or grounds, for reservoirs and dams and permanent flooding occasioned thereby. (2) An easement when the property is taken for any other purpose: *Provided*, That when the taking is by a municipal corporation a fee simple may be taken if the governing body of such municipal corporation shall by ordinance or resolution determine the taking thereof to be necessary. (3) The right of entry upon and occupation of lands and the right to take therefrom such earth, gravel, stones, trees, and timber as may be necessary for some public use.

SEC. 18. If the title to the property sought to be condemned is found to be defective from any cause, the plaintiff may institute new proceedings to acquire the same in the manner prescribed by this act.

SEC. 19. Pending an appeal from the judgment of the district court to the supreme court, when the plaintiff shall have paid into court, for the defendant, the full amount of the judgment, and such further sum as may be required by the court as an indemnity fund to pay any further damages and costs that may be recovered in said proceeding, as well as all damages that may be sustained by the defendant, if, for any cause, the property shall not finally be taken for public use, the district court in which the proceeding was tried may by order authorize the plaintiff to take possession of the property, or, if already in possession, to continue in possession pending final determination of the litigation. In ascertaining the amount to be paid into court, the court shall take care that the same be sufficient and adequate.

The defendant, who is entitled to the money paid into court for him upon any judgment, shall be entitled to demand and receive the same at any time thereafter upon obtaining an order therefor from the court. It shall be the duty of the court upon application being made by such defendant to order and direct that the money so paid into court for him be delivered to him upon his filing a satisfaction of the judgment, or upon his filing a receipt therefor with the clerk of the district court, and an abandonment of all defenses to the action or proceeding except his claim to greater damages or compensation.

SEC. 20. The provisions of article 33 of chapter 60 of the Revised Statutes of Kansas of 1923 relative to appeals, except in so far as they are inconsistent with the provisions of this act, shall apply to the proceedings under this act, subject to the following provisions: (1) Either party may appeal to the supreme court from the final judgment of the district court, but such appeal shall be perfected within 30 days from the date of the rendition of such judgment. (2) Such appeal shall be heard, determined and reviewed on its merits by the supreme court without reference to technical assignments of error, and final judgment may be entered doing justice to the parties.

(DRAUGHTSMAN'S NOTE.—If a provision containing this subdivision, in substance, is adopted it is suggested that in section 12, in the sixth line after the word "actions," the words "by the court without a jury," be inserted, since the rights of the parties would be amply protected without authorizing a resubmission of the assessment of damages to a jury. In this manner a small assessing tribunal would always be used, and thus the proceedings would be more speedily determined.)

(3) In other respects the power of the court over the report shall be the same as in ordinary civil actions.

SEC. 21. The costs of the proceedings in the district court shall be paid by the plaintiff. The costs of appeal shall be taxed against such party or parties as the court shall direct, as in ordinary civil actions.

SEC. 22. The plaintiff may abandon the proceedings at any time after filing the petition and before the expiration of 30 days after final judgment by filing in court and serving upon the defendant a written notice of such abandonment upon such terms as to the court shall seem just and which shall not be inconsistent with the provisions of this section. The failure to make payment or deposit within the prescribed time, as provided in sec. 14 of this act, shall constitute an implied abandonment of the proceedings. Upon such abandonment, express or implied, on motion of the defendant, the court shall enter a judgment dismissing the proceedings and shall award the defendant his costs and expenses incurred in preparing for trial, including a reasonable attorney's fee, and all damages caused by any possession of the plaintiff. Such judgment dismissing the proceedings shall state whether or not a new proceeding to acquire the same property for the same use shall be permitted and upon what terms same may be allowed, and the good faith of the plaintiff shall be taken into consideration by the court in determining same.

SEC. 23. In all cases where the costs of the improvement are to be paid for, in whole or in part, by means of apportionment of benefits on all property benefited, such assessment shall be levied and collected as the statutes now authorize, or may hereafter authorize the plaintiff to assess, levy and collect the expense of public improvements, and such special assessments shall be no part of the condemnation proceedings.

SEC. 24. All courts, in which condemnation actions to enforce the right of eminent domain under the provisions of this act are pending, shall give such actions preference over all other civil actions therein, in the manner of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined.

SEC. 25. This act shall be known as the Uniform Code of Eminent Domain Procedure of the State of Kansas.

SEC. 26. Any and all condemnation proceedings under the right of eminent domain instituted or commenced and not completed before this act takes effect shall proceed under and be in accordance with the statutes in force prior to the enactment of this act.

SEC. 27. All acts and parts of acts relating to condemnation procedure under the right of eminent domain in conflict with the provisions of this act are hereby repealed.

SEC. 28. This act shall take effect and be in force from and after its publication in the official state paper.

---

### Proposed Code of Probate Procedure.

The proposed code of probate procedure printed in our October BULLETIN, following the previous discussion upon the subject, has aroused much interest. We have received a number of letters pertaining to it from lawyers and judges throughout the state. The consensus of opinion appears to be that something of this kind is badly needed. Some think the proposed code cumbersome and that it may result in additional expense in administering upon estates. We are confident a full consideration of it will convince one that it is not open to either of these objections. The largest part of it as printed is that taken from the civil code concerning the issuance and service of summons or other process and relating to rules of evidence on the hearing of any contested matter. In the bill providing for the code of probate procedure these pro-

visions may be adopted by reference. They are familiar to the bar and to the courts and will cause little, if any, confusion. With these provisions eliminated the proposed code of probate procedure is comparatively brief, and its provisions when clearly understood are quite comprehensive. The code is limited to establishing a procedure for administering upon the estates of deceased or incompetent persons. The first step in the procedure is to file a petition and to bring into court, by appropriate summons or other process, all necessary parties. Thereafter, the probating of a will, if there is one, the allowance of claims, and the collection and distribution of property, shall be by orders of the court on appropriate motions therefor, of which the necessary parties have notice. Such orders of the court and the judgment determining to whom the estate should be distributed, and making the distribution, are each final unless appealed from within the time provided. The procedure for appeal is simple, and on appeal the question determined by the order or judgment appealed from is tried *de novo*. The more we study this proposed code the more clearly we see its simplicity, its comprehensiveness and its inherent fairness. No doubt some modification of its provisions are yet to be made. We will appreciate suggestions respecting them and inquiries concerning the proposed measure. With it, of course, should be an act rewriting many of the sections of our statute embodying the substantive law relating to estates of deceased or incompetent persons. Work is now progressing on that matter. Possibly it can be completed in time to present to the legislature, soon to meet. We plan to have a meeting of the Judicial Council January 20 and 21, and prior to that time will be glad to have suggestions as to the substantive law as well as to procedural provisions. For the purpose of aiding this study we print the proposed code of probate procedure, with some modifications of the former text and including by reference the provisions of the civil code relating to the issuance and service of process and the rules of evidence, as follows:

AN ACT concerning the code of probate procedure.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. This act shall be known as the code of probate procedure of the state of Kansas.

SEC. 2. The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. Its provisions, and all proceedings under it, shall be liberally construed, with a view to promote its object, and assist the parties in obtaining justice.

SEC. 3. The proceedings for the appointment of an administrator, and all matters necessary for the full and final administration of the estate of a decedent, shall constitute one action. The proceedings for the admission of a will to probate, the appointment of an executor or administrator thereunder, and all proceedings necessary for the full and final administration of the property of the testator, whether disposed of under the terms of the will or not, shall constitute one action. The proceedings for the appointment of the guardian of the property of an incompetent person, and all matters connected with such guardianship, shall constitute one action.

SEC. 4. There shall be but one form of action under this code, which shall be called a probate action. In such action the party complaining shall be known as the plaintiff, and all other parties as defendants.

SEC. 5. A probate action may be commenced in the probate court by filing in the office of the clerk of the proper court a petition and causing a summons to be issued thereon.

SEC. 6. A copy of the petition need not accompany the summons, but the

defendant or plaintiff shall be entitled to a copy of the petition, or any other paper filed in the action, upon application to the clerk therefor; and the costs of such copy shall be taxed among the costs in the action.

SEC. 7. An action shall be deemed commenced within the meaning of this article, as to each defendant, at the date of the summons which is served on him, or on a codefendant who is a joint contractor, or otherwise united in interest with him. Where service by publication is proper the action shall be deemed commenced at the date of the first publication. An attempt to commence an action shall be deemed equivalent to the commencement thereof within the meaning of this article when the party faithfully, properly and diligently endeavors to procure a service; but such attempt must be followed by the first publication or service of the summons within sixty days.

SEC. 8. Every action must be prosecuted in the name of, and by some person having a substantial interest in obtaining the relief demanded in the petition.

SEC. 9. The action of an incompetent person must be brought by his guardian or next friend. When the action is brought by his next friend the court has power to substitute the guardian, or any person, as the next friend.

SEC. 10. In any proper case service may be made on minors, insane and other incompetent persons by a summons personally served or by publication notice as provided in this code, the same as upon other persons defendants in action. If there be a natural or legally appointed guardian for such minor, insane or incompetent person, service shall also be made in the same manner upon such guardian. If there be no legally appointed guardian for such minor, insane or incompetent person, or if such guardian fail to appear and answer in the action within the time fixed by the summons or publication notice, the court shall appoint a guardian *ad litem* for such minor, insane or incompetent person and such guardian *ad litem* shall file proper pleadings in such cause, which shall include a general denial of the plaintiff's petition, as shall put the plaintiff to proof of his cause of action. Such guardian *ad litem* shall receive such reasonable compensation as the court or judge before whom the action is pending, or tried, may order, the same to be taxed and collected as costs in the action. The appointment cannot be made until after the service of the summons in the action, and no default judgment shall be rendered against such minor, insane or incompetent person.

SEC. 11. The appointment may be made upon the application of the infant, if he be of the age of fourteen years, and apply within twenty days after the return of the summons. If he be under the age of fourteen, or neglect so to apply, the appointment may be made upon application of any friend of the infant, or on that of the plaintiff in the action.

SEC. 12. All persons having an interest in obtaining the relief demanded may be joined as plaintiffs.

SEC. 13. In all actions for the appointment of an administrator and the administration of an estate, and in all actions for the admission of a will to probate and the administration of an estate, all persons who would inherit the property of the decedent under the law of descents and distribution of this state, together with all persons named as legatees or devisees in such will, shall be made defendants, except such of them as may be plaintiffs in the action. Any person who enters an appearance in any action shall be a party to such action for the purpose of determining his rights therein. In all actions for the appointment of a guardian for an incompetent person, the incompetent person shall be made the defendant. Any person may be made a defendant who has, or claims, an interest in any matter connected with the action, or who is a necessary party to its complete determination or settlement of all matters connected with the action.

SEC. 14. Actions for the appointment of an administrator, or for the admission of a will to probate, must be brought in the county in which the decedent was a resident at the time of his death. Actions for the appointment of a guardian for the property of an incompetent person must be brought in the county in which the incompetent person is domiciled.

SEC. 15. The pleadings are the written statements by the parties of the facts constituting their respective claims and defense; the only pleadings



allowed are the petition by the plaintiff; the answer by the defendant; the reply by the plaintiff.

SEC. 16. The petition must contain: First, the name of the court and the county in which the action is brought, and the names of the parties plaintiff and defendant, followed by the word "petition." Second: A statement of the facts constituting the cause of action in ordinary and concise language and without repetition. Third: A demand for the relief to which the party supposes he is entitled.

SEC. 17. The answer shall contain: First: A general or specific denial of each material allegation of the petition controverted by the defendant. Second: A statement of any new matter constituting a defense; the defendant may set forth in his answer as many grounds of defense as he may have.

SEC. 18. The guardian of an incompetent person, or attorney for a person in prison, shall deny in the answer all of the material allegations of the petition prejudicial to such defendant.

SEC. 19. When the answer contains new matter the plaintiff may reply to such new matter, denying generally, or specifically, each allegation controverted by him. A defendant may, in his answer, request that he be given notice of any motions filed in said action, specifying particularly the matters regarding which he desires notice to be given, and in such event it shall be the duty of the clerk of said court to notify such defendant regarding such motions in the manner hereinafter provided for the giving of notice of motions.

SEC. 20. A motion is an application for an order addressed to a court or judge by any party to a suit or proceeding, or one interested therein, or affected thereby. All orders in probate actions subsequent to the appointment of an administrator or executor of the estate of a decedent, or subsequent to the appointment of a guardian for a minor, shall be made upon motion.

SEC. 21. Where notice of a motion is required it must be in writing and shall state the names of the parties to the action or proceeding in which it is made, the place where and the day on which it will be heard, and the nature and terms of the order or orders applied for. Such notice shall be served by depositing the same in the post office, not less than ten days before the time fixed for the hearing of said motion, addressed to the party to be notified, shall be sent by registered mail, and the receipt of the postmaster for such registered mail shall be *prima facie* evidence of service of such notice.

SEC. 22. The answer by the defendant shall be filed within twenty days after the day on which the summons is returnable. The reply to the answer shall be filed within thirty days after the day on which the summons was made returnable. The court or any judge thereof may, in his discretion and upon such terms as may be just, allow an answer or reply to be made, or other act to be done after the time limited by this act, or by an order to enlarge such time.

SEC. 23. Every pleading and motion must be subscribed and verified by the party or his attorney.

SEC. 24. All allegations contained in the petition shall be taken as true unless the denial of the same be verified by the affidavit of the party, his agent, or attorney.

SEC. 25. The provision of the code of civil procedure relating to the issuance and service of summons, or other process upon defendants in a civil action, shall be used and applied to the issuance and service of summons or other process upon defendants in a probate action.

SEC. 26. Issues of fact on the trial of a probate action, or the determination of any controverted matter there, shall be in accordance with the rules of evidence provided for civil actions by the code of civil procedure.

SEC. 27. On the filing of a petition plaintiff shall give security for costs, to be paid by him if the petition be not sustained.

SEC. 28. The court may, for good cause shown, continue an action at any stage of the proceedings upon such terms as may be just. When a continuance is granted on account of the absence of evidence, it shall be at the cost of the party making the application, unless the court otherwise order.

SEC. 29. A motion for a continuance on account of the absence of evidence can be made only upon affidavit, showing the materiality of the evidence expected to be obtained, and that due diligence has been used to obtain it, and where the evidence may be; and if it is for an absent witness the affidavit must show where the witness resides, if his residence is known to the party, and the probability of procuring his testimony within a reasonable time, and what facts he believes the witness will prove, and that he believes them to be true. If thereupon the adverse party will consent that on the trial the facts alleged in the affidavit shall be read and treated as the deposition of the absent witness, or that the facts in relation to other evidence shall be taken as proved to the extent alleged in the affidavit, no continuance shall be granted on the ground of the absence of such evidence.

SEC. 30. Immediately after the issues are made up in any probate action the court shall set such action for trial at a time not less than ten days nor more than thirty days after such time, and shall give notice to all parties to such action in the manner herein prescribed for the giving of notice of the hearing of the motions.

SEC. 31. After a date has been fixed for the trial or hearing of a matter, and on or before such date, the court may, for good cause shown and upon such terms as it deems proper, continue the trial or hearing to some future date.

SEC. 32. All trials and hearings under the provisions of this code shall be by the court without a jury.

SEC. 33. The court shall, on timely request of any party, make findings of fact and conclusions of law in writing in any trial or hearing.

SEC. 34. A judgment is the order entered in an action which finally determines the rights of all the parties thereto.

SEC. 35. Every direction of a court or judge, made and entered in any action and not included in a judgment, is an order.

SEC. 36. Every judgment in a probate action, and every order which affects the substantial rights of a party, is appealable by a notice of appeal.

SEC. 37. All appeals from the probate court in probate actions shall be by notice of appeal, specifying the order, ruling, decision, or judgment complained of, and shall be filed in the court from which the appeal is taken within ten days from the date of such order, ruling, decision, or judgment; except, if the appeal be from an order admitting a will to probate the notice of appeal may be filed within six months from the date of such order.

SEC. 38. The party appealing shall file a good and sufficient bond in the court from which the appeal is taken to secure the costs of the appeal, unless, by reason of his poverty, he is unable to give security for costs, which fact shall be shown by affidavit filed in such court at the time the appeal is taken, and thereupon the appeal shall be deemed perfected.

SEC. 39. The judge from whose court the appeal is taken shall forthwith make up a complete transcript of all proceedings before him regarding the matter, or matters, appealed from, and transmit the same, together with all the papers in the case, to the clerk of the district court of his county. The district court shall try and determine the same as if originally filed therein, and may, in its discretion, order further or amended pleadings to be filed therein.

SEC. 40. The taking of the appeal provided for in this act shall not stay proceedings for the enforcement of the judgment or order appealed from unless the party appealing shall, within ten days from the date of the judgment or order, enter into an undertaking with at least one good and sufficient surety, to be approved by the judge of the probate court, and not less than double the amount of the judgment and costs, conditioned that he will prosecute the appeal without unnecessary delay and satisfy the judgment which may be rendered against him.

SEC. 41. The supreme court is authorized to change, modify, or add to any of the provisions of this code by rule of court.

SEC. 42. This act shall take effect and be in force from and after its publication in the statute book.

### Conclusion.

This completes our sixth annual report. The members of the Judicial Council have done a great deal of work endeavoring to ascertain facts, in studying the data collected, and in making recommendations for the improvement of the functioning of our judicial system. Recommendations made directly to the courts, in the main, have been adopted, although at times with some reluctance, due in part to inertia and the natural hesitancy about changing from a customary method of transacting business to another one, even though it may be an improved one. Our recommendations to the legislature have not received the attention they deserve. Perhaps this is because of the comparatively short time of the session and the many other things presented for the consideration of legislators. We hope this defect can be overcome to a substantial degree at the approaching session. We are making a number of important recommendations which require legislative action to be carried out. In making them we have studied primarily the needs of the people. The recommendations, if carried out, will unify our system of courts, simplify procedure therein, prevent overlapping of jurisdiction, result in substantial economy, and enable the business of the courts to move more promptly and with more efficient results.



# KANSAS JUDICIAL COUNCIL BULLETIN

APRIL, 1933.

PART 1—SEVENTH ANNUAL REPORT.

## TABLE OF CONTENTS.

	PAGE
FOREWORD .....	3
ACTS OF THE RECENT LEGISLATURE RELATING TO POWERS OF A COURT OF EQUITY IN CONFIRMING JUDICIAL SALES IN MORT- GAGE FORECLOSURE CASES AND EXTENDING CERTAIN PERIODS OF REDEMPTION ON ACCOUNT OF THE BANK MORATORIUM. By <i>Schuyler C. Bloss</i> .....	6
NEW LEGISLATION RELATING TO ATTORNEYS, COURTS AND PRO- CEDURE .....	11
SUGGESTED REDRAFT OF PROBATE LAW. <i>Comments by Samuel E. Bartlett</i> .....	16

PRINTED BY KANSAS STATE PRINTING PLANT  
B. P. WALKER, STATE PRINTER  
TOPEKA 1933  
14-7778

Application at post office at Topeka, Kansas, for second-class matter.

## MEMBERS OF THE JUDICIAL COUNCIL.

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER .....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
ROSCOE H. WILSON .....	Jetmore.
Judge Thirty-third Judicial District.	
HAL E. HARLAN .....	Manhattan.
Chairman Senate Judiciary Committee.	
SCHUYLER C. BLOSS.....	Winfield.
Chairman House Judiciary Committee.	
CHARLES L. HUNT .....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the  
state,

For the improvement of our Judicial System and its more  
efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

---

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kan.

APRIL, 1933.

---

## FOREWORD.

Since our last Bulletin was issued there has been a change in the personnel of the Judicial Council. Hon. John W. Davis, state senator from the thirty-seventh senatorial district, who has been a member of the Judicial Council since it was organized, by virtue of the fact that he was chairman of the judiciary committee of the Senate, declined to be a candidate for reelection at the last general election. His place on the Council has been taken by Hon. Hal E. Harlan, of Manhattan, the present chairman of the judiciary committee of the Senate. Senator Harlan is engaged in the practice of law at Manhattan. He was a member of the House of Representatives in 1929 and was a member of the Tax Code Commission, which made an exhaustive study of the question of taxation in this state and submitted a report to the governor in December of that year. He was also a member of the House of Representatives in 1931 and the speaker of the House for that session. We hope to print his picture and publish an article by him on some phase of the Judicial Council work in our July BULLETIN.

Hon. George Austin Brown, of Wichita, a member of the Council by virtue of being chairman of the judiciary committee of the House for the session of 1931, declined to be a candidate for reelection last fall. He has been succeeded on the Council by Hon. Schuyler C. Bloss, of Winfield. Judge Bloss has had a long and varied experience in the practice of law as well as in legislation. He was a member of the House of Representatives for the sessions of 1929, 1931 and 1933. He is a student of law and procedure and the principles which underlie them. In this issue we print his picture and an article by him which we are sure will be of interest.

The legislature at its recent session enacted some, but not all, of the measures advocated by the Judicial Council. We regret, and in a sense are disappointed, that some of the measures on which we spent a great deal of time and which we sincerely believed would be beneficial did not receive legislative approval. But, all things considered, perhaps we have no just reason to complain. The legislature met at a time of extraordinary stress. Economic questions, as related to our government, pressed themselves for solution. How to conduct our government at less cost without seriously affecting its efficiency, and how to relieve our people of some of the burdens of taxation, presented problems uppermost in the minds of the legislators. On the whole it was a sincere, intelligent, hard-working group of men, desirous of doing the best they could for the people of our state under the conditions confronting them. Many meritorious measures could not be fully considered for lack of time. While some of the measures advocated by the Judicial

Council would have resulted in substantial economy, a point which in some instances seemed to be overlooked, for the most part they had to do with the more prompt and efficient administration of justice in our courts. We are confident that when a legislature has time to do so these measures, and others having a similar purpose, will receive more careful and more favorable consideration.

The legislature passed an act creating a Legislative Council and prescribing its powers and duties. It is composed of ten members of the Senate and fifteen members of the House. The president of the Senate is *ex officio* member and chairman, and the speaker of the House is *ex officio* member and vice-chairman. Lieutenant Governor Charles W. Thompson, president of the Senate, appointed as the members of the Legislative Council from the Senate the following: Senator Thale P. Skovgard, Greenleaf; Senator Harry Warren, Fort Scott; Senator Joseph S. McDonald, Kansas City; Senator Dallas W. Knapp, Coffeyville; Senator Ralph G. Rust, Parsons; Senator Clyde W. Coffman, Overbrook; Senator Claude O. Conkey, Newton; Senator Claud Hansen, Jamestown; Senator C. B. Dodge, Salina; Senator Jess C. Denious, Dodge City.

Hon. W. H. Vernon, speaker of the House of Representatives, appointed the following members of the House: Hon. C. V. Cochran, Topeka; Hon. Oscar P. May, Atchison; Hon. John O. Morse, Mound City; Hon. W. G. Fink, Fredonia; Hon. Charles H. Palmer, Parsons; Hon. S. C. Bloss, Winfield; Hon. Matt Guilfoyle, Abilene; Hon. John H. Riddle, Marion; Hon. R. A. Cox, Augusta; Hon. John W. Blood, Wichita; Hon. H. S. Buzick, Jr., Sylvan Grove; Hon. Edmund J. Kirchner, Atwood; Hon. W. A. Doerschlag, Ransom; Hon. Clarence G. Nevins, Dodge City; Hon. Ray Smith, Hoisington.

The Legislative Council is to meet at least once each quarter, and as often as it may be necessary to perform its duties, which, generally speaking, are to collect information concerning the government, examine questions of statewide interest and to outline a legislative program in the form of bills, or otherwise, for the next session of the legislature. This is a splendid move and should result in acquiring much information useful to a legislature which it cannot have time to collect and arrange during the session. We hope to cooperate with this body of workers to as full an extent as the nature of our respective duties will permit.

The Judicial Council will proceed with the study of measures tending to improve the judicial system of our state. We will collect from the clerks of the district courts data with respect to business transacted in those courts for the year ending July 1, 1933, and pending on that date. We will also collect some data from other courts. This will all be classified, tabulated and published in bulletins to be issued later this year. We are glad to report that the legislature did not repeal the statute providing for clerks of the district court to receive a small remuneration for compiling reports for the Judicial Council. While this item is first paid by the county, it is reimbursed by fees taxed to litigants and does not come from a property tax. The amount taxed in each case is small, and neither the litigants nor their counsel complain if it.

While other matters will receive our attention, the efforts of the Council primarily will be directed to two matters of real importance. First, the revision of our statutes concerning the exercise of the power of eminent domain.

We have heretofore pointed out that there were 110 sections of our statute dealing with that subject. The recent legislature has added a few more. Considerable confusion exists, with the result that in some instances it is difficult to know how to proceed. We think it possible to outline a general law pertaining to this subject which will simplify the procedure and tend to promote fairness in the exercise of this important power. We have already done considerable work on this question, but find it quite a task to formulate it in a way to make it as simple and as equitable as it should be.

The second major question receiving our attention is the formulation of a code of procedure for our probate courts. The need of this is well recognized. The formation of such a code requires the rewriting of many of the sections of our statute dealing with the substantive law of the state, and that matter is being undertaken. In this the Judicial Council is being assisted by the officials and committees of the Northwestern and of the Southwestern Kansas Bar Association. We have heretofore published a tentative draft of the probate code of procedure. In this issue we publish a tentative draft of the measure, rewriting the substantive laws pertaining to estates. For this we are largely indebted to Samuel E. Bartlett, of Ellsworth, who has taken a keen interest in the subject. We find some other states confronted with the same problem we have in this respect. We have the final report of the special committee on the revision of the Ohio probate laws, also the proposed Florida probate act, published in the March, 1933, issue of the *Florida State Bar Association Law Journal*. These and other works will be considered in the final preparation of this measure.

The Bar Association of the state of Kansas will meet at Topeka on May 26 and 27. Every attorney in the state should be a member of the State Bar Association and receive its journal, which is now being published quarterly. On the two days preceding that meeting the Judicial Council will meet—May 24 and 25. We will be glad to have suggestions and communications by the bar, or others interested on the improvement of our judicial system, for consideration at that meeting.



**Acts of the Recent Legislature Relating to Powers of a Court of Equity in Confirming Judicial Sales in Mortgage Foreclosure Cases and Extending Certain Periods of Redemption on Account of the Bank Moratorium.**

By SCHUYLER C. BLOSS.

When the legislature of 1933 convened early in January there were many reports of so-called mass meetings in various parts of Kansas for the purpose of preventing deficiency judgments upon mortgage foreclosure sales. In neighboring states such meetings were reported where neighbors assembled in



SCHUYLER C. BLOSS.

large numbers to prevent the purchaser at the mortgage sale from obtaining immediate possession of the property sold and conveyed.

Numerous bills were introduced, commonly called mortgage moratorium bills. In these bills, as introduced, provision was made for the court, upon the application of the defendant or upon its own motion, to continue the case, generally for a period of two years.

Confronted with the situation as above disclosed the committees on judiciary of the House and Senate began a consideration of the question generally of what legislation, if any, there should be in Kansas relating to mortgage fore-

closures. It appeared to many members of the committee that our eighteen months redemption statute—severely criticized by some lawyers in past years—was now a means of avoiding many of the uprisings reported in other states on account of the result of a foreclosure which put a borrower out of possession of a farm occupied by him as a home for many years, and which neither he nor his neighbors, on account of the value of the farm, had any thought of losing at the time the loan was made. No trouble was reported arising out of the loss of possession of a farm by reason of the expiration of the period of redemption, but it was considered by the committee that in some instances injustice might be claimed where a mortgage was foreclosed on property appraised for more than twice the value of the mortgage at the time it was made, and the property sold for much less than the mortgage debt and the sale confirmed, leaving a large deficiency judgment against the borrower.

It was recognized that in corporate foreclosures where railroad or utility properties were sold, usually under order of the federal courts, in the order of sale an upset price was fixed representing a fair value of the property to be sold. In some instances the fixing of an upset price was founded upon an agreement in the corporate mortgage. In other cases the fixing of the upset price was an exercise of an equity power of the court where it should appear that the property extended through numerous jurisdictions and where there was no market value for the property to be sold, nor probability, from the nature, value and extent of the property, that there would be no competitive bidding.

The committees considered decisions of our own court dealing with the power of the court to refuse to confirm a sale where made for a sum which the court might consider unfair either to the debtor or creditor, and as to the power to require a release of deficiency judgments.

In Pratt county a mortgage was foreclosed sometime prior to 1899, the real estate sold for a small part of the mortgage debt and the sale confirmed. Thereafter the district judge ordered a release of the deficiency judgment.

In *Whitmore v. Stewart*, 61 Kan., page 254, 59 Pac. 261, it was held that the order releasing the deficiency judgment was absolutely void. It will be noted that in this case the sale had been regularly confirmed and no question raised as to the fair value of the property sold at the time the order confirming the sale was entered. In the opinion by Mr. Chief Justice Johnston this significant language is used (page 256):

"If there had been gross inadequacy of price in connection with some irregularity in the sale proceedings the court might perhaps have refused to confirm the sale unless a fair price for the property was allowed and credited on the judgment; but no such claim was made, and the court specifically found that the sale was made in all respects in conformity to law."

In *Farmers Life Insurance Company v. Stegink*, 106 Kan., page 730, it is said in the syllabus:

"Where a sale of mortgaged property has been conducted in substantial conformity with law, but the sale price was greatly below its true value, the trial court is authorized to withhold confirmation of the sale and to set it aside as inequitable, under section 500 of the civil code—following *Bank v. Murray*, 84 Kan. 524, 528, 114 Pac. 847; *Robinson v. Kennedy*, 93 Kan. 514, 516, 144 Pac. 1002; *Anschutz v. Steinwand*, 97 Kan. 89, 90, 154, Pac. 252; *Norris v. Evans*, 102 Kan. 583, 590, 171 Pac. 606."

In the opinion by Mr. Justice Dawson (page 731) it is said:

"Prior to 1893, when the original code section 458 (Gen. Stat. 1868) was amended, this court had repeatedly held that mere inadequacy of price was not a sufficient reason for refusing to confirm a sheriff's sale under a mortgage foreclosure, nor sufficient to require that the sale be set aside. (*Capital Bank v. Humtoon*, 35 Kan. 577, 591, syl. ¶5, and citations, 11 Pac. 369; *Beverly v. Barnitz*, 55 Kan. 466, 484, 42 Pac. 725), yet even before that amendment very slight circumstances in addition to inadequacy of price were sometimes held sufficient to justify the trial court in setting aside the sale. (*Dewey v. Linscott*, 20 Kan. 684, syl. ¶3; *Means v. Rosevear*, 42 Kan. 377, syl. ¶1, 22 Pac. 319; *Fowler v. Krutz*, 54 Kan. 622, 38 Pac. 808; *Wolfert v. Milford Savings Bank*, 5 Kan. App. 222, 47 Pac. 175.)

"The revised code now provides:

"The sheriff shall at once make a return of all sales made under this act to the court; and the court, if it finds the proceedings regular *and in conformity with law and equity*, shall confirm the same, and direct that the clerk make an entry upon the journal that the court finds that the sale has in all respects been made in conformity to law, and order that the sheriff make to the purchaser the certificate of sale or deed provided for in this act.' (Civ. Code, § 500; Gen. Stat. 1915, § 7404.)

"In later cases, where this subject has required this court's attention, due significance has been given to the broader equity powers which the revised code seems to indicate that the trial court should exercise. Thus in *Robinson v. Kennedy*, 93 Kan. 514, 516, 144 Pac. 1002, it was said:

"The court has a discretion whether to order the sale confirmed or not, but the discretion must be exercised upon equitable principles, and not arbitrarily. (*Bank v. Murray*, 84 Kan. 524, 114 Pac. 847.)'

"Again in *Anschutz v. Steinwand*, 97 Kan. 89, 90, 154 Pac. 252, it was said:

"Under the present statute a sale may be set aside, although regularly made in accordance with law, upon equitable grounds. (*Bank v. Murray*, 84 Kan. 524, 114 Pac. 847.)'

"In *Bank v. Murray*, just cited, the court said:

"Prior to 1893 the statute required confirmation when the sale had in all respects been made "in conformity to the provisions of this article." (Gen. Stat. 1868, ch. 80, § 458; Gen. Stat. 1889, § 4556.) But the legislature of 1893 amended this section and provided that the sale shall be confirmed if the court "finds the proceedings regular and in conformity with law and equity." (Laws 1893, ch. 109, § 26, Code 1909, § 500.)'

"In *Norris v. Evans*, 102 Kan. 583, 590, 171 Pac. 606, it was said:

"Since the procedure in confirmation of sales was amended in 1893 (Laws 1893, ch. 109, § 26; see Civ. Code, § 500), the trial court is not expected to close its ears to all equitable considerations and confirm a sale as a matter of course, merely because the record shows no irregularity in the movement of the judicial machinery by which the sale was accomplished.'

"From this review of this court's decisions (which only cites a typical few), it may be said that, with the aid of the revised code, section 500, the law now is that a wide discretion is conferred on the trial court touching the confirmation or setting aside of sheriff's sale in foreclosure; and the old rule that mere inadequacy of price is insufficient to set aside a sale or withhold confirmation is largely abrogated by the later rule of the code which charges the

trial court, before confirming a sale, to determine whether the proceedings were not only regular but 'in conformity with law and equity.'"

While the judiciary committees were considering what legislation, if any, there should be with reference to deficiency judgments, the supreme court of Wisconsin, on February 6, 1933, decided the case of *Suring State Bank v. Giese et al.*, now reported in 246 N. W. at page 556. In this case it was the contention of the plaintiff that it was entitled to a deficiency judgment as a matter of course. The opinion of the Wisconsin court contains an interesting discussion of the theory whereby under certain conditions the court may, in ordering the sale of real property upon a mortgage foreclosure under its general equity powers, fix an upset price. We quote the syllabi:

"EVIDENCE. Court judicially notices fact that present economic depression has affected realty values and caused almost complete absence of market for realty.

"MORTGAGES. Without statute, equity court may decline to confirm foreclosure sale where bid is inadequate and economic conditions prevent competitive bidding.

"MORTGAGES. Court in ordering foreclosure sale or resale may in its discretion take notice of economic emergency and fix minimum price at which premises must be bid in if sale is confirmed.

"Court may after proper hearing fix minimum or upset price at which premises must be bid in if sale is to be confirmed; this being a power that courts of equity ordinarily exercise in cases of foreclosure of corporate property which is of such size and character as to preclude establishment of fair price by competitive or cash bidding.

"MORTGAGES. On application to confirm foreclosure sale, court may establish property's value and require that it be credited on judgment, giving mortgagee option to accept or not.

"If court has not previously fixed an upset price, and, on application to confirm sale, adopts procedure of conducting hearing and establishing value of property and, as condition to confirmation, requiring that fair value of property be credited on foreclosure judgments, mortgagee should be given option to accept or reject it, and, in event of its rejection, resale of property should be ordered."

It is also said in Ruling Case Law, volume 19, at page 670:

"If mortgaged property is of sufficient value to pay the mortgage debt, and the mortgagee permits the property to be sold under foreclosure in order that his representative may purchase it for less than its fair market value, such mortgagee is equitably estopped from recovering the balance due on the mortgage note."

The committees on judiciary concluded that the Wisconsin case was sound law and, in fact, did nothing more than amplify and apply to the present emergency in Kansas, with reference to the sale of real property, the principles heretofore enunciated by our own supreme court in the cases above cited and in numerous other cases dealing with the subject.

As the judicial council was in session the matter of deficiency judgments was considered during the course of the day by this body. It was considered that for the purpose of making the equity power of the court to appear more plainly with reference to the power of district courts to deal with the present emergency, a new section should be added to our real-estate mortgage-fore-

closure act. Following this conclusion such a section was drafted, approved by the committees on judiciary of the Senate and House, and is now in effect.

It was deemed that a separate section was advisable, for the reason that if it should be held unconstitutional the mortgage foreclosure act as a whole would not be affected. The new section is as follows:

"The court in determining whether or not the proceedings in judicial sales are regular and in conformity with law and equity as expressed in section 60-3463 of the Revised Statutes of Kansas of 1923, may decline to confirm the sale where the bid is substantially inadequate, or in ordering a sale or a resale may, in its discretion, if conditions or circumstances warrant and after a proper hearing, fix a minimum or upset price at which the premises must be bid in if the sale is to be confirmed, or the court may, upon application for the confirmation of the sale, if it has not theretofore fixed an upset price, conduct a hearing to establish the value of the property, and as a condition to confirmation require that the fair value of the property be credited upon the judgment, interest, taxes and costs. A sale for the full amount of the judgment, taxes, interest and costs shall be deemed adequate. This act is intended as declaratory of the equity powers now existent in the courts under section 60-3463 of the Revised Statutes of Kansas of 1923."

#### AS TO THE EXTENSION OF THE PERIOD OF REDEMPTION.

When, during the first days of March, the banking situation throughout the United States became such that it was deemed necessary for the Kansas legislature to place within the power of the governor and banking commission the declaring of a "bank moratorium," and when the legislature had also provided for a moratorium upon the payment of life insurance premiums and the making of loans upon life insurance policies, or, in other words, what was commonly called an insurance company moratorium, it was considered that the real-estate owner holding the property under right of redemption, and where the redemption period should expire during the bank moratorium, was also entitled to some relief. The legislature deemed it necessary to consider the case where the period of redemption expired and the purchaser had a right to a deed and a writ of assistance for possession. It was considered that even though the money was in the bank to make redemption, on account of the bank moratorium the redemption could not be made, nor if arrangements for refinancing the loan had been made, such arrangements, on account of the bank moratorium, could not be carried out. Live stock or other property could not be marketed or funds procured to make redemption. Inasmuch as the legislature had given the banks a moratorium, the land owner was justly entitled to an extension during the term of the bank moratorium and a reasonable time thereafter in order to make or exercise his right of redemption.

After consideration of this question by the committees on agriculture and of the judiciary of the Senate and House, a measure was agreed upon which declared a moratorium upon all periods of redemption from judicial sales which were running at the beginning of the bank moratorium for a period of six (6) months from March 4th, 1933. The constitutionality of this joint resolution, or its applicability under the constitution to existing contracts, was not long debated or considered by the committees. It was an emergency measure intended to prevent wide dissatisfaction if some owner should be dispossessed through no fault of his own on account of the failure of banks or other public or quasi public agencies to function.

The joint resolution is as follows:

"SECTION 1. A moratorium is hereby declared upon all periods of redemption from judicial sales which were running at the beginning of the present emergency created by the bank moratorium under federal and state orders and which expire during the moratorium as defined in section 2 hereof. All such periods of redemption as provided by law shall be extended until the conclusion of said moratorium and no writ of assistance shall be issued or served, and no sheriff's deed shall be issued or delivered during such moratorium.

SEC. 2. Said moratorium shall extend for six months from and after the 4th day of March, 1933: "Provided, In case at or before the expiration of the six-months period, it shall in the judgment of the governor of the state of Kansas, be necessary for the preservation of the public peace, health and safety so to do, and in case in his judgment said emergency still exists, then the governor of the state of Kansas is hereby authorized to extend said moratorium for a period of not exceeding six months.

"SEC. 3. Wherever a receiver has heretofore been appointed or may hereafter be appointed in a proceeding to foreclose any lien upon real estate, such appointment shall be set aside during said moratorium, except that a receiver, at the discretion of the court having jurisdiction thereof, may be appointed in cases of waste or where necessary for the preservation of the property.

"SEC. 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist by reason whereof this resolution shall take effect and be in force from and after its publication in the official state paper."

---

### **New Legislative Acts Relating to Attorneys, Courts, and Procedure.**

The recent session of the legislature passed a number of acts relating specifically to attorneys, to our courts and to the procedure therein. We set these out herewith in the order of the sections of the statute referred to, where that is shown by the legislative act, with a brief statement of the measure, where that is deemed sufficient, but otherwise setting it out in full.

R. S. 7-110, requiring the supreme court to enter an order disbarring an attorney convicted of a felony or of a misdemeanor involving moral turpitude, was repealed by House bill No. 468, effective on publication in the statute book.

R. S. 1931 Supp. 9-130 was amended by House bill No. 730, effective on publication in the official state paper, and relates, among other things, to receivers for failed banks and to the performance of their duties under the supervision of the district court, upon proper application.

By Senate bills Nos. 310, 311, 322 and 613 the Corporation Commission was created, which took over the duties of the Public Service Commission and the administration of the securities act, with special reference to the provisions of R. S. 1931 Supp. 17-1229, 17-1236 and 17-1238, which sections were amended.

House bill No. 352 amends R. S. 1931 Supp. 19-246, effective when published in the official state paper, so as to authorize the board of county commissioners of any county having a population of 137,000 to appoint a county counsellor.

Senate bill No. 573 amended R. S. 19-1102, effective when published in the statute book, so as to read:

"The probate judge shall be his own clerk, except in counties where additional clerical assistants may be allowed him by law and provided by the board of county commissioners; he shall keep a record of all business done by or before him, which record shall be open to inspection by all persons, without charge. He shall receive only such compensation as may be provided by law."

Senate bill No. 65 amended R. S. 20-111, relating to syllabi of the supreme court, so as to omit from the section the following:

"And it shall be the duty of the clerk, at the close of each term, or oftener if convenient, to publish the syllabus of each case so delivered, in some paper of general circulation in the state, not to exceed three times."

In compliance with this amendment the syllabi of the supreme court is no longer being published in the official state paper.

House bill No. 241 amended R. S. 20-306, 20-309 and 20-311, effective when published in the official state paper, relating in selection of judge *pro tem*, so as to read as follows:

"SECTION 20-306. Such selection shall be made by the members of the bar of this state present, and shall be by ballot, under the direction of the judge, or, in his absence, of the clerk. Any member of the bar of this state, or the judge or any other judicial district of this state, may be selected as judge *pro tem*."

"SECTION 20-309. The judge *pro tem*. shall have the same power and authority as the regular judge while holding court, and in respect to cases tried before him, or in which he may have been selected to act and in case the judge shall be sick or absent at the commencement of the term, or shall be sick or absent himself during any term and thus by reason thereof be unable to serve, a judge *pro tem*. selected as hereinbefore provided, shall have the same authority with respect to all cases pending and at issue, or which shall be at issue during said term as the regularly selected judge of said court would have. In the event there shall be a vacancy in the office of judge by reason of the death of the regularly selected judge, a judge *pro tem*. shall be selected as hereinbefore provided who shall have the same authority as a judge *pro tem*. selected because of the illness or absence of the regularly selected judge. The judge selected for the term as herein provided, if not already holding the office of district judge, shall receive as compensation, while actually holding court the sum of ten dollars per day to be paid by the county in which said term of court is held."

"SECTION 20-311. In any civil or criminal case before a district court of this state, if any attorney of record is related, by blood or marriage to the district judge before whom the same is pending, as near as cousins of the first degree, the adverse parties shall be entitled, on making application therefor, to have all proceedings in such case heard by a *pro tem*. judge upon filing written consent either that said judge *pro tem*. may be selected by the judge of said district or by the chief justice of the supreme court, from the district judges of any of the judicial districts of this state, and upon the filing of such application and such consent the district judge so related to such attorney shall be disqualified from trying any such cases, over the objection of said adverse parties."

House bill No. 600, effective on publication in the official state paper, amends R. S. 20-2001, 20-2015, 20-2016, 20-2017 and R. S. 1931 Supp. 20-2018, pertaining to city courts in certain cities. It relates to the officers, their terms of office, and their salaries and duties.

House bill No. 601, effective on publication in the statute book, relates to city courts in certain cities and amends R. S. 20-2101.

Senate bill No. 73, effective on publication in the official state paper, repealed R. S. 22-526 and 22-531, relating to the compromise and settlement of claims due estates, and enacted the following:

"SECTION 1. Whenever it shall appear to any executor or administrator that it is to the best interest of the estate represented by him that a compromise of any debt due the estate represented by him, whether maturing before or after the death of the person whose estate is in administration, should be made, said executor or administrator may make and file, under oath, in the probate court having original jurisdiction of the administration of said estate, an application for authority to compromise such debt. Upon the filing of such application the probate court shall, without delay, inquire into the facts and circumstances with reference to such proposed compromise, and if the court finds that such proposed compromise is to the best interest of the estate, shall make an order authorizing the executor or administrator to compromise such debt upon such terms and conditions as the court may direct.

"SEC. 2. Any person interested in said estate may appeal from the decision of the probate court approving or disapproving such proposed compromise, within thirty days from the date of the order of the probate court, to the district court of the county. Any such appeal shall be determined by the judge of the district court without a jury, and the judge of the district court shall have authority to approve or disapprove the order of the probate court. If no such appeal is taken within said time the order of the probate court shall be final, and no executor or administrator or his bond shall be liable for any loss or damage to any person on account of such compromise."

Senate bill No. 76 amended R. S. 22-702, effective when published in the statute book, so as to read:

"All demands against the estate of persons deceased not exhibited as set forth in Laws 1925, chapter 161, section 1, within one year shall be forever barred, including any demand arising from or out of any statutory liability of decedent as surety, guarantor or indemnitor; saving to infants, persons of unsound mind, imprisoned or absent from the United States, one year after the removal of their disabilities."

House bill No. 125 amends R. S. 60-942, relating to bond in garnishment proceedings, so as to read:

"The order of garnishment shall not be issued by the clerk until an undertaking on the part of the plaintiff has been executed by one or more sufficient sureties, approved by the clerk and filed in his office, in a sum not exceeding double the amount of the plaintiff's claim, to the effect that the plaintiff shall pay to the defendant all damages which he may sustain by reason of such garnishment if the order be wrongfully obtained; but no undertaking shall be required where the party or parties defendant are all nonresidents of the state or a foreign corporation, or when garnishment is issued on a judgment rendered in that action."

House bill No. 152 amends R. S. 60-1502, effective when published in the statute book, relating to residence of plaintiff in an action for divorce, by adding to the section as it now stands the following:

"*Provided*, That any person who has been a resident of any United States army post or military reservation within the state of Kansas for one year next preceding the filing of the petition may bring an action for divorce in any county adjacent to said United States army post or military reservation."

House bill No. 197 amended R. S. 60-3332, effective when published in the statute book, relating to the stay of execution upon appeal, so as to read:

"No appeal from any judgment or final order rendered in any court from which an appeal may be taken except as provided in the next section and



the fourth subdivision of this section, shall operate to stay execution, unless the clerk of the court in which the record of such judgment or final order shall be, shall take a written undertaking, to be executed on the part of the appellant to the adverse party, with one or more sufficient sureties, as follows:

*"First.* When the judgment or final order sought to be reversed directs the payment of money, the written undertaking shall be in double the amount of the judgment or order, to the effect that if the judgment or order appealed from, or any part thereof, be affirmed or the appeal be dismissed, the appellant will pay the amount directed to be paid by the judgment or order, or the part of such amount as to which the judgment or order is affirmed, if affirmed only in part and all damages and costs which may be awarded against the appellant upon the appeal, and that if the appellant does not make such payment within thirty days after the filing of the mandate from the supreme court in the office of the clerk of the court from which the appeal is taken, judgment may be entered, on motion of the appellee in his favor, against the sureties, for such amount together with the interest that may be due thereon, and the damages and costs which may be awarded against the appellant upon the appeal.

*"Second.* When it directs the execution of a conveyance or other instrument, the undertaking shall be in such a sum as may be prescribed by any court of record in this state or any judge thereof, to the effect that the appellant will abide the judgment if the same shall be affirmed, and pay the costs.

*"Third.* When it directs the sale or delivery of possession of real property, the undertaking shall be in such sum as may be prescribed by any court of record in this state or any judge thereof, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon, and if the judgment be affirmed he will pay the value of the use and occupation of the property from the date of the undertaking until the delivery of the possession pursuant to the judgment, and all costs. When the judgment is for the sale of mortgaged premises and the payment of a deficiency arising from the sale, the undertaking must also provide for the payment of such deficiency.

*"Fourth.* When it directs the assignment or delivery of documents, they may be placed in the custody of the clerk of the court in which the judgment was rendered, to abide the judgment of the appellate court, or the undertaking shall be in such sum as may be prescribed as aforesaid, to abide the judgment and pay costs, if the same shall be affirmed."

Senate bill No. 583 defines the powers of the court of equity under R. S. 60-3463. It is published in the article herein by Judge Bloss.

House bill No. 47, relating to laying out and the opening of roads, allowing damages and awarding benefits, amends and repeals R. S. 68-107. It is important here only as it relates to the procedure in eminent domain.

Senate bill No. 39, effective on publication in the statute book, amended R. S. 73-126, relating to appeal in soldiers' compensation cases, by adding to the original section the following:

*"Provided,* That in any case in which the board has disallowed a claim previous to the taking effect of this act, notice of appeal shall be filed within ninety days after the taking effect of this act."

House bill No. 117 amends R. S. 79-2901, relating to the payment, under certain circumstances by the mortgagee, of taxes on the real property mortgaged and his right to recover the taxes paid with eight per cent interest in the event of foreclosure.

Senate bill No. 62, effective when published in the statute book, amended

R. S. 80-205, relating to bonds of justices of the peace, so as to read as follows:

"Every justice of the peace before he enters upon the duties of his office, and within the time limited by law for filing his oath of office, shall give a bond to the state of Kansas in a sum not exceeding \$5,000, nor less than \$500, such bond to be signed by two or more sureties residing in the proper township, or by some surety company authorized to do business in the state of Kansas, the amount and sufficiency of the bond to be approved by the board of county commissioners, conditioned for the safekeeping and paying over to the proper person or authority all moneys which may be collected or received by him, or which may otherwise come into his hands by virtue of his office, and for the due, honest and faithful discharge and performance of all and singular his duties as such justice of the peace according to law during his continuance in office, which bond shall be filed in the office of the county clerk."

House bill No. 115 relates to judicial districts in certain counties and abolishes the second division therein and repeals article 4, chapter 20, of the Revised Statutes of 1931 and of the 1931 Supplement to the Revised Statutes. Perhaps it affects the district court only in Crawford county.

Senate bill No. 202 revised the statute relating to city courts in cities of the first and second class with less than 18,000 population. Perhaps this applies only to city courts in Pittsburg and Arkansas City.

Senate bill No. 265 provides for the convening of a grand jury each year. It applies only to counties having more than 130,000 population and an assessed valuation of less than \$160,000,000.

House bill No. 289, effective on publication in the statute book, provides for aid in carrying out court decrees for the distribution of water for irrigation, by the Division of Water Resources of the State Board of Agriculture under the direction of its chief engineer and its other officers and employees.

Senate bill No. 351 authorized counties having a population of more than 135,000 and an assessed valuation of less than \$160,000,000 and cities of the first and second class in such counties to install radios to aid in the suppression of crime.

House bill No. 506, effective on publication in the statute book, providing for the dissolution of corporations under certain circumstances, reads as follows:

"SECTION 1. Any coöperative corporation, company or association heretofore organized under article 15, chapter 17, of the Revised Statutes of Kansas of 1923, and chapter 150 of the Laws of 1931, which has for a period of three years ceased to engage, in good faith, in the primary business for which said corporation or association was organized, shall be dissolved by order of the district court having jurisdiction, on petition of the attorney-general, supported by affidavit, and if the court shall find the petition is true, it shall appoint a receiver to wind up the affairs of said corporation and decree its dissolution."

House bill No. 561, effective on publication in the official state paper, concerning the power of irrigation districts, authorizes them, among other things, to exercise the right of eminent domain, "according to the procedure provided by law for the appropriation of land or other property taken for railroad purposes."

House bill No. 752, effective May 1, 1933, relating to the transportation of liquid fuels, provides, among other things, that all motor trucks and other vehicles used for the unlawful transportation of liquid fuel are declared to be common nuisances and contraband, and shall be seized, confiscated and sold

in the same manner and under the same procedure as now provided by law for such vehicles used in the unlawful transportation of intoxicating liquor.

House joint resolution No. 18, relating to a moratorium in mortgage foreclosures, is set out in Judge Bloss' article herein.

## Suggested Redraft of Probate Law.

(Comments by SAMUEL E. BARTLETT.)

### GENERAL PROVISIONS.

SECTION —. Every executor, administrator (except special administrator), and guardian appointed in a probate action shall, within thirty days from the time of his appointment and qualification as such, cause notice of his appointment to be published for three consecutive weeks in some newspaper of the county authorized by law to publish legal notices.

SECTION —. In all public sales of real property by an executor, administrator or guardian appointed in any probate action, such executor, administrator or guardian shall give notice containing a particular description of the real estate to be sold, and stating the time, terms, and place of sale, by advertising the same in the manner prescribed by law for the sale of real estate upon execution, but without equity of redemption.

SECTION —. Where any other notice by publication of any hearing is required, the person required to give such notice shall cause the same to be published for — days before the day of hearing in some newspaper of the county authorized by law to publish legal notices.

SECTION —. Such publication shall be proved by the affidavit of the printer or other person knowing the same; and such affidavit shall be filed in said cause.

COMMENT: On hearings to sell real property to pay debts of the deceased there should be a general notice of the hearing. On hearings to sell real property of minors or incompetents, the registered mail notice would afford little protection, and there should be a general notice of the hearing. The foregoing sections will solve this problem, eliminate repetitions, and procure uniformity.

SECTION —. All proceedings had under R. S. 22-101 to 22-1318, both inclusive, and amendments thereto, and — shall be governed by the code of probate procedure of the state of Kansas.

COMMENT: It should be made certain as to what part of the probate practice the proposed probate code is to apply, and in what cases it shall govern.

In later comments, the words "probate code" are often used. They refer to the proposed code of probate procedure as published in the Kansas Judicial Council Bulletin (October and December, 1932).

### CHAPTER 22—DECEDENTS' ESTATES.

22-101 to 22-110. Retained.

22-111. Revised to read:

"The court shall fix the time for making the allotment, and direct that notice thereof be given by publication to all parties interested."

COMMENT: I have revised this section to make the provision for notice conform to the general provisions. I take it that notice by publication or

other notice prescribed may be given as the court directs under the circumstances.

COMMENT on 22-108 to 22-116: These sections contain provisions that are procedural in their nature, but they are not inconsistent with the probate code. They supplement it, and are desirable. The application, if made after the estate is closed, would constitute a probate action. 22-110 provides: "The application for such allotment by commissioners may be made at any time after twenty days, and within five years after the death of the husband. . . ." If the application is made while the probate action (for the probate of the will or appointment of administrator) is pending, it would of course be made on motion with the usual notice. But the application may be made at any time within five years. The original probate action is likely to be ended in a year. Then the application would be made in another probate action brought for that specific purpose, with the usual notice (summons).

22-112 to 22-114. Retained.

22-115. Revised to read:

"Such confirmation, after the lapse of ten days, unless appealed from according to law, shall be binding and conclusive as to the allotment; and she may bring suit to obtain possession of the land thus set apart for her."

COMMENT: "Ten days" is substituted for "thirty days," to conform to the provisions of the probate code relating to appeals.

22-116 to 22-133. Retained.

22-201 to 22-212. Retained.

COMMENT on 22-207 to 22-211: These sections contain provisions that are procedural in their nature, but they should be allowed to stand. Such action as herein contemplated might constitute a separate probate action, and might be necessary before a probate action for the probate of the will could be instituted. An action under these provisions might be combined with and constitute a part of the probate action for the probate of the will. These sections define the powers of the court and are desirable.

22-213. Repealed.

COMMENT: This section, and other sections following, provide for the preservation of the testimony. The probate court has no official reporter. A question arises whether this section and similar sections ought to be retained. In view of the fact that the proceedings are adversary, they might be omitted. Ample provision is made in the proposed probate code for the taking of testimony, and I have omitted them.

22-214 to 22-215. Retained.

22-216. Repealed.

COMMENT: This section should be repealed. It is fully covered by the probate code. Section 72 provides: "Any court of record of this state, or any judge thereof, before whom an action or proceeding is pending, is authorized to grant a commission to take depositions within or without the state. The commission must be issued to a person or persons therein named, by the clerk, under the seal of the court granting the same; and depositions under it must be taken upon written interrogatories, unless the parties otherwise agree."

22-217 to 22-219. Retained. (22-219. *Recording of will*. Omit "together with the testimony.")

COMMENT on 22-218: It seems that there ought not to be an admission of a will to probate by default. This section prevents such, and solves that problem.

22-220. Repealed.

COMMENT: This section is a duplication and is unnecessary. It is covered by section 100 of the probate code.

22-221. Retained.

22-222 (1931 Supp.). Retained.

22-223 (1931 Supp.). Retained.

22-224. Retained.

COMMENT: When the probate code was being drafted I raised this question as to section 13 of the proposed code: How will this provision affect the law relating to the contest of wills? It occurred to me that the question might be *res adjudicata*. I presume these sections would prevent it from so becoming until the expiration of a year. If 22-223 relating to the contest of wills is retained, 22-224 should also be retained.

22-225. Repealed.

COMMENT: This section is covered by the probate code and the general rules of evidence. Under the section, as it stands, testimony taken in an *ex parte* proceeding may be used in an adversary proceeding. This part of the section is rendered obsolete by the use of actions to probate wills, such proceedings being adversary.

22-226 to 22-227. Retained.

COMMENT: 22-226 protects the rights of persons under legal disability. I presume it gives the right to contest a will if the action is brought one year after the legal disability is removed, and for that reason have retained it.

22-228. Revised to read:

"A will executed, proved and allowed in any state or country other than the United States and territories thereof, according to the laws of such foreign state or country, may be allowed and admitted to record in this state."

COMMENT: The last line of the original section, "in the manner and for the purpose mentioned in the following sections," is omitted. The following sections prescribe a special procedure, which is omitted.

22-229. Revised to read:

"A copy of the will and probate thereof, duly authenticated, shall be attached to the petition and such action shall be brought in the probate court of the county in which there is any estate upon which the will may operate."

COMMENT: The provision for a special procedure is omitted.

22-230 to 22-249. Retained.

COMMENT ON 22-245 to 22-248: These sections prescribe the manner in which an election may be made by the widow, are consistent with the probate code, and supplement it. They are desirable.

22-250. Repealed.

COMMENT: This section prescribes the procedure, including notice, to establish a lost will. It is governed by the probate code, including summons. The section is therefore omitted.

22-251. Repealed.

COMMENT: See 22-213.

22-252. Revised to read:

"If the court upon proof shall be satisfied that such last will and testament was duly executed in the mode provided by the law in force at the time of its execution, that the contents thereof are substantially proven, and that the same was unrevoked at the death of the testator, and has been lost, spoliated or destroyed subsequently to the death of such testator, such court shall find and establish the contents of such will as nearly as the same can be ascertained." (See Probate Code on Records.)

COMMENT: The words "such" and "and the testimony taken in the case" are omitted.

22-253 to 22-264. Retained.

22-265. Revised to read:

"All cases arising under this act in which a devisee or legatee may be required to contribute to make up the share of any child born after the execution of the will, or of a child absent and reported to be dead, or of a witness to a will, or in which contribution is to be made among devisees, legatees and heirs, or any of them, may be heard and determined by the court."

COMMENT: The procedural part and provisions for appeal in the last two lines are omitted.

22-266 to 22-271. Retained.

22-272. Revised to read:

"The said probate court may, when necessary, appoint a trustee to carry into effect a trust created by a foreign will, which trustee, before entering upon his trust, shall give bond with such security and in such amount as such court shall direct."

COMMENT: The procedural part is omitted. The appointment should require an action and not be *ex parte*. See R. S. 20-1107 relating to jurisdiction of probate courts over trusts in favor of minors.

22-273 and 22-274. Retained.

22-301 to 22-311. Retained.

22-313 to 22-328. Retained.

COMMENT on 22-319 and 22-323: These sections provide for citation and attachment. They are auxiliary proceedings in connection with the probate action. The sections are desirable and should be permitted to stand.

22-329 and 22-330. Repealed.

COMMENT: The provisions of these sections are included in a general provision relating to the publication of notice by executors, administrators and guardians.

22-331 (1931 Supp.). Retained.

22-401 to 22-408. Retained.

22-409 (1931 Supp.). Retained.

22-501 to 22-611. Retained.

COMMENT ON 22-504: This section should be revised, but it is no part of the procedural problem, and no attempt is being made in this restatement to restate the substantive law. It is also modified by R. S. 79-1510.

22-6a01 (1931 Supp.). Retained.

22-6a02 (1931 Supp.). Revised to read:

"That in order to obtain such authority the executor or administrator shall file his application in the court which issued his letters testamentary or of administration. The application shall set forth the amount of debts due from the deceased, as nearly as they can be ascertained, and the amount of charges of administration, the value of the personal estate and effects and a description of the real estate to be leased for oil and gas purposes."

COMMENT: The word "application" is substituted for the word "petition" in this section and other sections following. The probate code gives the word "petition" a specific and definite meaning. It is the first pleading filed in the probate action. Section 20 of the probate code states: "A motion is an application for an order, addressed to a court or judge by any party to a suit or proceeding, or one interested therein or affected thereby. All orders in probate actions subsequent to the appointment of an administrator or executor of the estate of a decedent, or subsequent to the appointment of a guardian for a minor, shall be made upon motion."

"Application" is a general term, and the application may be contained in the petition, in an answer, or in a motion. "Application" therefore seems to be the proper term to be used here, and it is for that reason substituted.

22-6a03 (1931 Supp.). Revised to read:

"That the court shall require notice of the application and of the time and place of hearing the same to be given by publication."

COMMENT: "Application" substituted for "petition." Notice by publication to conform to the general provision.

22-6a04 (1931 Supp.). Retained.

22-6a05 (1931 Supp.). Revised to read:

"That if the court finds at the time of hearing that it is necessary to lease said real estate for oil and gas purposes for the payment of debts, and further that interest of said estate will be promoted thereby, it shall order the real estate described in the application to be leased by the executor or administrator for cash in hand."

COMMENT: "Application" substituted for "petition."

22-6a06 (1931 Supp.) and 22-6a07 (1931 Supp.). Retained.

22-701 (1931 Supp.) and 22-702 (1931 Supp.). Retained.

22-703 to 22-706. Retained.

22-707 (1931 Supp.). Retained.

22-708 to 22-712. Retained. (22-708. Revised.)

COMMENT ON 22-712: This section seems to be a duplication, but I have permitted it to stand.

22-713 (1931 Supp.). Repealed.

22-714. Retained.

22-715 to 22-718. Repealed.

COMMENT: These sections relate to the manner of hearing claims, and are supplanted by the general provisions of the probate code.

22-719. Retained.

22-720. Repealed.

COMMENT: This section relates to costs. All the provisions relating to costs should be gathered together in one section in the probate code or otherwise.

22-721 to 22-724. Retained.

22-725. Repealed.

COMMENT: This section is rendered obsolete by 1931 Supp. 22-702.

22-726. Retained.

22-727 (1931 Supp.) to 22-729 (1931 Supp.). Retained.

22-730 and 22-731. Retained.

22-732 (1931 Supp.). Retained.

22-733. Retained.

22-734 (1931 Supp.). Retained.

22-801. Retained.

22-802. Revised to read:

"In order to obtain such authority the executor or administrator shall file his application in the court which issued his letters testamentary or of administration."

COMMENT: "Application" substituted for "petition."

22-803. Retained.

22-804. Revised to read:

"The application shall set forth the amount of debts due from the deceased, as nearly as they can be ascertained, and the amount of charges of administration, the value of the personal estate and effects, and a description of the real estate to be sold."

COMMENT: "Application" substituted for "petition."

22-805. Revised to read:

"The court shall require notice of the application, and of the time and place of hearing the same, to be given by publication."

COMMENT: "Application" substituted for "petition." Notice by publication to conform to the general provisions.

22-806. Revised to read:

"An order for the sale of the real estate shall not be granted if any of the persons interested in the estate shall give bond to the executor or administrator, in a sum and with sureties to be approved of by the court, with condition to pay all the debts mentioned in the application that shall eventually be found due from the estate, with the charges of administering the same so far as the personal estate of the deceased shall be insufficient therefor."

COMMENT: "Application" substituted for "petition."

22-807. Revised to read:

"If the court is satisfied that it is necessary to sell real estate of the deceased to pay his debts, it shall order the real estate described in the application, or so much thereof as may be necessary for the payment of the debts, to be sold at public or private sale, as the court may direct, by the executor or adminis-



trator, for cash in hand, or upon deferred payments not exceeding two years with interest, as shall be ordered by the court."

COMMENT: "Application" substituted for "petition."

22-808. Revised to read:

"If it shall be represented in such application, and shall appear to the court, that it is necessary to sell some part of the real estate, and that by such partial sale the residue of the estate, or some specific part or piece thereof, would be greatly injured, the court may order the sale of the whole of the estate, or such part thereof as the court shall think necessary and most beneficial to the interest of all concerned therein."

COMMENT: "Application" substituted for "petition."

22-809. Retained.

22-810. Revised to read:

"If there should be in the last will of the deceased any disposition of his estate for the payment of his debts, or any provision that may require or induce the court to distribute the assets in any manner different from that which the law would otherwise prescribe, such devises or parts of the will shall be set forth in the application, and a copy of the will shall be exhibited to the court unless filed or recorded therein; and the assets shall be distributed accordingly, so far as it can be done consistently with the rights of the creditors."

COMMENT: "Application" substituted for "petition."

22-811. Repealed. (Relates to costs.)

22-812 to 22-815. Retained.

22-816. Repealed.

COMMENT: This is covered by a general provision relating to the public sale of real property.

22-817 to 22-826. Retained. (22-819. Revised.)

22-827. Revised to read:

"If any testator or intestate shall have entered in to a contract in writing for the conveyance of any real estate, and shall not have executed the same in his lifetime, nor given power by will to execute the same, the other party wishing a specific execution of such contract may file an application to the probate court setting forth the facts, and praying that an order may be made that the executor or administrator execute such contract specifically by executing to him a deed for the same."

COMMENT: "Application" substituted for "petition."

22-828. Revised to read:

"Such applicant shall annex to his application an affidavit to the truth thereof, and stating that no part of such contract has been satisfied, except as stated in the application."

COMMENT: "Applicant" substituted for "petitioner" and "application" for "petition."

22-829. Revised to read:

"A notice of such application and a copy thereof shall be served upon the executor or administrator, stating the time and place of the hearing thereof."

COMMENT: "Application" substituted for "petition" and section made to conform to general provision for notice.

22-830 to 22-903. Retained.

22-904. Revised to read:

"The court shall determine who are the heirs, devisees, and legatees of the deceased. (See records in probate code.)

22-904a (1931 Supp.). Retained.

22-905 and 22-906. Retained.

22-907 (1931 Supp.) and 22-908 (1931 Supp.). Retained.

22-909 to 22-914. Retained.

22-915. Repealed.

COMMENT: The provision in the probate code for the opening of a judgment applies here. (See section 47 of probate code.)

22-916 to 22-920. Retained.

22-921 (1931 Supp.). Retained.

22-922 and 22-923. Retained.

22-924. Repealed.

COMMENT: They are all parties to the suit and have been duly notified. This provision is unnecessary.

22-925 to 22-1006. Retained.

22-1007 (1931 Supp.). Revised to read:

"It shall be lawful for any probate court, for good cause shown, to reduce the amount of the bond of any executor or administrator of any deceased person, or to release the surety of the executor or administrator of any such surety from the bond with such executor or administrator, and it shall be lawful for the principal on any executor's or administrator's bond of any deceased person, or for the executor or administrator of any such principal, or for any surety of any executor or administrator of any such surety, at any time to make application to the probate court to reduce the amount of such bond with such executor or administrator by filing his written application therefor with the court and giving notice, in writing, to such principal or executor or administrator; and when such court is of the opinion that there is good reason therefor, it shall reduce the amount of such bond or release such surety; and if such executor or administrator fail to give a new bond as by such court directed, he shall be removed and his letters revoked; but such original surety shall not be released until such executor or administrator so gives bond, and such original surety shall be liable only for the acts of such executor or administrator from the time of the execution of the original bond to the filing of the second bond. The cost of such reduction of such bond or of the release of such surety shall be paid by the person applying for the reduction of said bond or the release of the surety therefrom, unless it shall appear to the court that the administrator or executor is insolvent, incompetent or is wasting the assets of the estate."

COMMENT: "Application" substituted for "request;" "at least five days" eliminated.

22-1008. Retained.

22-1101 to 22-1108. Repealed.

COMMENT: Sections 133 to 137 of the probate code cover all appeals; and these provisions should be omitted.

22-1201 to 22-1206. Retained.

22-1301 to 22-1318. Retained.

COMMENT on 22-1307: This section should be revised, but it is no part of the procedural problem. See R. S. 20-1108 *et seq.*

## ADOPTION OF MINORS.

(R. S. 38-105 *et seq.*; 1931 Supp. 38-117 to 38-119.)

SECTION —. The proceedings for the adoption of a minor child or minor children, and all matters connected with such adoption shall constitute one action.

SECTION —. Such action may be brought in the county where the plaintiff or plaintiffs reside or where the minor child is domiciled.

COMMENT: The foregoing section does not state the law as it now exists. An accurate statement of the law of venue, as it now exists, would be: "Such action shall be brought in the county where the plaintiff or plaintiffs reside: *Provided*, That such action may be brought in the county in which the state orphans' home is located or in the county in which the principal office of any orphans' home, children's society, or association incorporated under the laws of the state of Kansas and under supervision of the state board of administration of the state of Kansas, having authority to place out children in private homes for adoption, is located, for the adoption of any minor child or children, for the adoption of which the consent of the superintendent or chief executive officer of any such institution is required." This statement of venue is cumbersome, and may be confusing. What we desire is simplicity. I can see no objection to the simpler statement and prefer it.

SECTION —. All persons from whom consent in writing is or may be necessary for the adoption of any minor child shall be made defendants.

SECTION —. The petition shall state:

1. The name, age, and residence of the plaintiff or plaintiffs.
2. The name, age, and domicile of the minor or minors to be adopted.
3. The consent of the parent or parents, or other person or persons, or institution, from whom consent is necessary for adoption.
4. The consent of the plaintiff or plaintiffs to adopt such minor or minors.
5. That the plaintiff or plaintiffs are fit and financially able properly to assume the relation of parent or parents to such minor or minors.
6. The relationship, if any, existing between the plaintiff or plaintiffs and the child.
7. And generally, all facts which should appear or which indicate that the adoption is for the best interest of the child.

COMMENT: Section 16 of the probate code may be sufficient to cover all matters that should be stated in the petition for adoption, and the foregoing may be unnecessary.

Service of summons may be had by publication in the case of nonresident parents and parents that have disappeared and cannot be found by diligent search. Section 42 of the probate code is sufficient to cover this.

38-105. Revised to read:

"Any parent may, with the approval of the court, relinquish all right to his or her minor child or children to any other person or persons desirous of adopting the same, and shall not, after such adoption, exercise any control over such child or children so relinquished; and the person or persons so adopting such child or children shall exercise all the rights relative thereto that they would be entitled to were such child or children the legitimate offspring of said person or persons so adopting the same."

38-106. Revised to read:

"The court shall investigate the matter, and may require the minor to appear or be brought before the court. If the court on investigation finds that the person offering to adopt such minor child is unfit, or financially unable, properly to assume the relation of parent to such minor, such court shall refuse to permit such adoption to be made. Before judgment shall be rendered for the adoption of any minor, consent thereto in writing, duly executed and freely and voluntarily given, shall first be obtained, and filed in said cause, from the said minor's parents, if living and having the legal custody of said minor, from the guardian (if any) of the said minor, or from such institution or corporation as may have the legal custody thereof, and a relinquishment thereto as provided by statute. If either parent be dead, proof thereof shall be duly made. If the parents of the minor child have been divorced, the consent of the parent to whom custody of such child shall have been awarded shall be necessary to authorize an order of adoption, but the consent of the other parent, though desirable, shall not be necessary. No probate court shall permit the adoption of any minor child sent into this state by or through or under the auspices of any association, society or organization incorporated or having its headquarters in any other state, until, in addition to all the other requirements of this section, all provisions of section 15 of chapter 106, Laws of 1901, shall have been fully complied with. Adoptions may also be permitted where ample proof is made that parents have disappeared for more than two years and cannot be found by diligent search. Such person so adopting such minor child shall be entitled to exercise any and all rights of a parent, and be subject to all the liabilities of that relation."

38-107. Retained.

38-112. Retained.

38-113. Retained.

38-114. Revised to read:

"Such corporations shall have the legal custody of all children which have heretofore been received into such home, or as shall hereafter be committed to it by the legal or natural guardian or guardians of such children, or by any magistrate of any county in which such home is located, with the consent of the board of directors of such home; and in any of the above cases such corporation, through its directors or president, shall have and possess over such children all the rights appertaining to the natural or legal guardians; and the board of directors of such corporation may, in their discretion, make any suitable or proper provision for the care and custody of such children for a term of years, or until such children reach their majority; and the president of the board of directors of any such corporation may appear in the probate court of any county, without the consent of either parent or guardian, and consent to the adoption of such children conformably to the laws of the state."

38-117 (1931 Supp.). Retained.

38-118 (1931 Supp.). Repealed.

## ESTATES OF MINORS.

(R. S. 38-201 to 38-234.)

SECTION —. The action of an infant must be brought by his guardian or next friend. When the action is brought by his next friend, the court has power to substitute the guardian of the infant, or any person, as the next friend.

SECTION —. The proceedings for the appointment of a guardian of the estate of a minor, or of the estate and person of a minor, and all matters connected with such guardianship, shall constitute one action.

38-201 to 38-210. Retained.

38-211. Revised to read:

"When a minor owns property in this state such property, or any interest of the minor therein (when not in contravention of the terms of a will), may be sold or mortgaged, either when such sale or mortgage is necessary for the minor's support or education or when his interest will be promoted by the sale thereof because of the unproductiveness of the property or its being exposed to waste or other peculiar circumstances making it to the interest of the minor to have the property sold or mortgaged. If upon the hearing the court is satisfied that it is necessary and to the best interest of the minor that the property or any part thereof or the interest of the minor therein be sold or mortgaged as prayed for, the court shall order such property or any part thereof or any interest of the minor therein sold at public or private sale for cash in hand or upon deferred payments for such time and upon such security with interest as the court may direct, or mortgaged for such sum and upon such terms and for such time as the court may by order direct. When it shall be made to appear to the satisfaction of the probate court that the real estate of a minor or in which the minor has an interest or any part thereof will be materially benefited by having the same platted and laid out as a town site, or as an addition to any city or town, said court shall order the guardian of such minor to make, acknowledge and file for record a plat for that purpose in all respects as provided in G. S. 1868, chapter 78, and Laws 1872, chapter 160 and amendatory acts, concerning the plats of cities and towns."

COMMENT: The procedural parts have been omitted. "For cash in hand or upon deferred payments" is not sufficient. It often happens that it is desirable to take property in exchange—especially as undivided interest in property in which the minor also has an undivided interest in exchange for the interest the minor is giving up and in which the purchaser has an undivided interest. Probate courts have held that this may be done, but the substantive law should be revised to remove the doubt. I have not undertaken to revise it, but point out the defect.

38-212. Revised to read:

"The application for that purpose must state the grounds of the application, must be verified by oath, and a copy thereof, with a notice of the time at which such application will be made to the court, must be served, and notice of such application shall also be given by publication."

38-213. Retained.

38-214. Retained.

38-215. Revised to read:

"The court in its discretion may direct a postponement of the matter, and may order notice by publication or otherwise, as it may deem expedient."

38-216 and 38-217. Retained.

38-218. Repealed. (Relates to costs.)

38-219 to 38-221. Retained.

38-222 (1931 Supp.). Retained.

38-223 and 38-224. Retained.

38-225. Revised to read:

"He shall file an authenticated copy of the order for his appointment; and he shall thereupon qualify like other guardians, except as in the next succeeding section is prescribed."

38-226 and 38-227. Retained.

38-228. Repealed. (Relates to appeals.)

38-229. Retained.

38-230. Revised to read:

"Such discharge shall not be made unless the guardian appointed in another state or territory shall apply to the probate court in this state which made the former appointment, and file therein an exemplification of the record of the court making the foreign appointment, containing all the entries and proceedings in relation to his appointment, and his giving of bond, with a copy thereof and of the letters of guardianship, all authenticated as required by the act of congress in that behalf; and before such application shall be heard or any action taken therein by the court, notice shall be served on the guardian appointed in this state, specifying the object of the application and the time when the same will be heard: *Provided further*, That the court may in any case deny the application unless satisfied that the discharge of the guardian appointed in this state would be to the interest of the ward."

COMMENT: Special notice is eliminated, to conform to the general provision of the probate code.

38-231. (1931 Supp.). Revised to read:

"Sureties upon the bond of any guardian may be released upon the application of either guardian or of the surety filing a request therefor with the court and giving notice in writing to the other party; and when the court is of the opinion that there is good reason therefor he shall release such surety: *Provided*, Such guardian shall have filed a new bond to be approved by the court, but such original surety shall not be released until such new bond has been filed and approved by the court. The cost of such release shall be paid by the party applying for the same."

COMMENT: Special provision as to notice omitted.

38-232. Retained.

38-233. Retained.

38-234. Retained.

20-1107. Retained.

"That probate courts shall have jurisdiction over trusts created by deeds of trust, declarations of trust, wills, or otherwise, in favor of minors, and shall have jurisdiction of the accounts of trustees for minors; and such trustees for minors shall be subject to the existing provisions of law relative to guardians. The same proceedings may be had with reference to such trustees as may now be had relative to guardians of minors. Nothing in this act shall be construed to impair or affect the present jurisdiction of the district court in such cases."

COMMENT: The foregoing section is set forth in connection with this restatement of the statutes relating to minors for the reason that the appointment and accounting of trustees for minors is governed by the statutes relating to guardians of minors.

### ESTATES OF INCOMPETENTS.

(R. S. 39-201 to 39-239.)

SECTION —. In all actions for the appointment of a guardian for an incompetent person, such person shall be made the defendant.

SECTION —. Actions for the appointment of a guardian for an incompetent person must be brought in the county in which such person is a resident.

COMMENT: An action for the appointment of a guardian for an insane or other incompetent person should be provided for in this code. The action should be brought in the county where the incompetent person is a resident. R. S. 76-1201 *et seq.* should remain intact except that 76-1215 should be modified to conform to the provisions of the probate code.

It often happens that the patient, a resident of the state, is in a private sanitarium, and the proceedings under R. S. 76-1201 *et seq.* are had in the probate court where the patient is at the time located instead of the county of the residence of the patient. It is not clear whether the guardian should be appointed in such cases by the probate court where such proceedings are had or in the county where the patient resides. *Trust Co. v. Allen*, 110 Kan. 484, does not seem to settle this question.

We understand the practice to be to file a duly authenticated copy of the proceedings had under R. S. 76-1201 *et seq.* in the probate court of the county of residence and procure the appointment there. We believe that the action should be governed by this code, and that the procedural parts of R. S. 39-201 *et seq.* and R. S. 76-1215 relating to the appointment of such guardians should be supplanted by the probate code. A duly authenticated copy of the proceedings in which the person is adjudged insane and by which such person is confined to a state hospital should be attached to the petition; and the question of insanity need not be again adjudicated.

39-201. Repealed.

39-202. Repealed.

39-203. Revised to read:

"When the probate court shall find that anyone in its county is insane, a lunatic, an idiot, an imbecile, a distracted person, a feeble-minded person, a drug habitue, or an habitual drunkard, and for any of these reasons is incapable of managing his affairs, and that it is necessary that a guardian be appointed for his person or estate, or both, a guardian shall be appointed."

39-236. Revised to read:

"It may also direct a reference to a commission of two qualified physicians, or one qualified physician and one clinical psychologist, to be chosen by the court on account of their known competency and integrity, who shall make a personal examination of the person whose condition is to be inquired into, and shall file with the probate court a report in writing, verified by affidavit, of the results of their inquiries, together with their conclusions and recommendations."

COMMENT: This section properly belongs here. The commission should not be confined exclusively to cases of feeble-mindedness.

39-204. Repealed.

COMMENT: There should be a section in the probate code covering all questions of costs in all probate actions. The sections on costs should be repealed and the subject fully covered in the code. Appeals are provided for in the probate code.

39-205. Repealed.

39-206 to 39-210. Retained.

39-211 (1931 Supp.). Retained.

39-212. Revised to read:

"The application shall set forth the particulars of the amount of the estate.

real and personal, of such person, and of the debts by him owing, accompanied by a full, true and perfect account of the guardianship of the applicant, showing the application of the funds which may have come into his hands. Notice of the filing of such application, of the nature of the order applied for, describing the lands to be sold, and specifying the time and place of hearing, shall be given by publication."

39-213. Retained.

39-214. Retained.

39-215. Revised to read:

"No real estate, nor any title or interest therein, shall be sold at private sale for less than three-fourths of its appraised value, to be ascertained by three disinterested householders of the county in which it lies."

39-216 and 39-217. Retained.

39-218. Revised to read:

"The foreign guardian of any such nonresident person may be appointed the guardian of such person in any county wherein he may have any property, for the purpose of selling or otherwise controlling any property of such person within this state. He shall thereupon qualify like other guardians, except as hereinafter prescribed. Upon the filing of any authenticated copy of the bond and the inventory rendered by the guardian in the foreign state, if the probate court is satisfied with the sufficiency of the amount of security, it may dispense with the filing of an additional bond; and such guardian so appointed shall have and exercise the same rights, powers, and duties as are prescribed by law in cases of resident guardians of the estate."

39-219 and 39-220. Retained.

39-221 (1931 Supp.). Retained.

39-225. Revised to read:

"On judgment against such person, or his guardian as such the execution shall be against his property only, and in no case against his body, nor against the body or estate of such guardian, unless he shall have rendered himself liable thereto."

39-226. Revised to read:

"If any person shall make application, verified by oath or affirmation, that any such person for whom a guardian has been or may be appointed under the provisions of this act, has been restored to his right mind or to temperate habits, the court by which the proceedings were had shall cause the facts to be inquired into."

39-227. Revised to read:

"If the court finds that any such person for whom a guardian has been or may be appointed under the provisions of this act has been restored to his right mind or to temperate habits, he shall be discharged from care and custody, and the guardian shall immediately settle his accounts and restore to such person all things remaining in his hands belonging or appertaining to him."

39-228 to 39-231. Retained.

39-232 (1931 Supp.). Retained.

39-233. Retained.

39-234. Repealed. (Relates to appeals.)

39-235. Retained.



COMMENT: An additional clause should be added to the foregoing section, reading: "Provided, such appointment shall be made by the court of the county in which such incompetent person is a resident."

39-236. (Revised and placed as the second section in this restatement).

39-237 to 39-239. Retained.

#### ESTATES OF IMPRISONED CONVICTS.

(R. S. 62-2001 *et seq.*)

This provision may be added to the code: "The proceedings for the appointment of a trustee for the estate of an imprisoned convict, and all matters connected with trusteeship, shall constitute one action."

In view of the interpretation of 62-2001, 62-2002 should be revised to read as follows:

"Whenever any person shall be imprisoned in the penitentiary, a trustee to take charge of and manage his estate may be appointed by the probate court of the county in which said convict last resided, or if he have no known place of abode, then by the court of the county in which the conviction was had."

COMMENT: "For a term less than life" is omitted; and anyone who can qualify under the probate code may bring the action.

62-2003 may be repealed.

62-2004 to 62-2007 may be retained.

The following may be substituted for the remainder of the article:

"The laws relating to the estates of incompetents, guardians thereof, and their powers, duties and liabilities in connection therewith, are hereby adopted for and shall govern in the estates of imprisoned convicts, trustees thereof, and their powers, duties and liabilities in connection therewith. Upon the death of the imprisoned convict or his lawful discharge from his imprisonment the said trustee shall make a final report and accounting as required of guardians upon the death or restoration of such incompetent person."



---

# KANSAS JUDICIAL COUNCIL BULLETIN

---

JULY, 1933

PART 2—SEVENTH ANNUAL REPORT

---

## TABLE OF CONTENTS

	PAGE
FOREWORD .....	35
A SYNOPSIS OF THE KANSAS SUPREME COURT DECISIONS RELAT- ING TO EMINENT DOMAIN AND CONDEMNATION PROCEDURE.	
By <i>Franklin Corrick</i> .....	36
I. Definitions of Power of Eminent Domain.....	36
II. Constitutionality .....	37
III. General Rights and Liabilities in Condemnation Proceedings .....	39
IV. City Condemnations .....	45
V. County, Township and Drainage District Con- demnations .....	49
VI. Roads, Highways and Bridges.....	51
VII. State and Federal Condemnations.....	57
VIII. School Condemnations .....	58
IX. Private Corporations, Associations and Persons Authorized to Condemn.....	60
X. Railroad Condemnations .....	62

---

PRINTED BY KANSAS STATE PRINTING PLANT

W. C. AUSTIN, STATE PRINTER

TOPEKA 1933

15-162

---

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
ROSCOE H. WILSON.....	Jetmore.
Judge Thirty-third Judicial District.	
HAL E. HARLAN.....	Manhattan.
Chairman Senate Judiciary Committee.	
SCHUYLER C. BLOSS.....	Winfield.
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the  
state,

For the improvement of our Judicial System and its more  
efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

---

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kansas

JULY, 1933

---

## FOREWORD

We devote this issue of the BULLETIN to a synopsis of the decisions of the supreme court respecting the right of eminent domain and the exercise of that right by condemnation proceedings. This includes all of the decisions on that question of the supreme court of our state since its organization. It was compiled for the Judicial Council by Mr. Franklin Corrick, assistant to A. Harry Crane, revisor of statutes. For more than a year the Judicial Council has given quite a little attention to this subject, and previous articles concerning it have appeared in our BULLETINS. We had compiled and previously published a synopsis of the sections of our statute dealing with this subject. That, together with the present compilation, will prove of valuable assistance to the members of the bar and the legislators in an effort to simplify and make more general, uniform and effective our statutes on this important subject.

The Judicial Council is continuing its study of a revision of laws pertaining to estates and procedure in probate courts. We are compiling, and hope to have prepared in time for our next BULLETIN, a synopsis of our decisions pertaining to those matters similar to the one relating to eminent domain we are now publishing. At the recent meeting of the Northwestern Kansas Bar Association at Ellsworth, and of the Southwestern Kansas Bar Association at Scott City, our statutes relating to estates, probate courts and procedure therein formed the principal basis of discussion.

We are compiling data received from the clerks of the district courts and of the supreme court of business transacted in those courts within the year ending July 1, 1933, and pending on that date. These reports are reaching us with unusual promptness, and those received appear to be more than usually complete and accurate. Synopses and tables will be prepared from these reports for publication in our December BULLETIN.

## A Synopsis of the Kansas Supreme Court Decisions Relating to Eminent Domain and Condemnation Procedure

By FRANKLIN CORRICK

(JULY, 1933)

### I. DEFINITIONS OF POWER OF EMINENT DOMAIN

SEC. 1. *Definitions.* The right to take private property for public use or to authorize such taking inheres in a sovereign state, and any property within its jurisdiction may be taken for the public good. The right to take property under the right of eminent domain is statutory, and it is fundamental that "no man can be divested of his land, or any part thereof, or interest therein, through the exercise of the power of eminent domain, or of any other power, except under the provisions of express and positive constitutional or statutory law; and he cannot be divested through the exercise of such power of any more or greater interest in his land than the constitution or statutes expressly provide for." (*Shawnee County v. Beckwith*, 10 Kan. 603; see, also, *Martin v. Loun*, 111 Kan. 752, 208 Pac. 565; *Chicago R. I. & P. Rly. Co. v. Public Utilities Commission*, 111 Kan. 805, 208 Pac. 576.) As defined by Justice Brewer, the power or right of eminent domain inheres in every state by virtue of its sovereignty and may be exercised whenever the public necessities require, in such manner as the legislature prescribes, subject to the constitutional restrictions as to the time, kind and amount of compensation. The legislature may provide for a jury trial of the damages or may leave it to any commissioners or court, and may make the award of the commissioners final and conclusive, giving to neither party the right to appeal or review, as was done by Laws 1864, chapter 124. (*Central Branch Union Pac. R. Co. v. A. T. & S. F. R. Co.*, 28 Kan. 453.)

The Kansas statutes relating to condemnation procedure now provide for the right of appeal from the award, but such an appeal, unless the statute provides otherwise, is not an ordinary action at law or a suit in equity, but is quasi judicial and governed by the statute prescribing the methods of exercising the right of eminent domain (*Todd v. Atchison T. & S. F. Rly. Co.*, 134 Kan. 459, 7 P. 2d 79); and "Where a statutory procedure has been marked out, it is exclusive, and resort can be had to no other" (Johnston, J., in *Union T. Rld. Co. v. Rld. Comm'rs*, 54 Kan. 360, 38 Pac. 290). The person having the power and desiring to exercise it must proceed as the statute provides, such as application to the court or county commissioners for appointment of appraisers, and while the landowners have no right to have the land appraised or condemned, a statute may so provide (see Laws 1870, ch. 76); but, even so, such remedy will not exclude other remedies, such as trespass (*Atchison, T. & S. F. Ry. Co. v. Weaver*, 10 Kan. 344).

During the first two or three decades of the history of Kansas statehood the line where the right of a private citizen to hold and enjoy his property ended and the right of a corporation to appropriate it for its purposes began was more closely guarded then than in later years. (*Howard v. Schwartz*, 77 Kan. 604, 95 Pac. 559, 18 L. R. A., n. s., 356, 59 A. L. R. 21.)

SEC. 2. *Same; taxation distinguished.* The power of eminent domain is clearly distinguishable from taxation. As, for example, dogs not licensed according to law, although property, may be summarily destroyed without compensating the owner. (*State v. Topeka*, 36 Kan. 76, 12 Pac. 310, 59 Am. Rep. 529; Nichols on Eminent Domain, pp. 50, 283.)

SEC. 3. *Same; police power distinguished.* The true distinction between the police power and eminent domain is that under the police power private

property, or the use thereof, may be limited, controlled or destroyed in the protection of public morals, health, or safety, without compensation; while under the power of eminent domain property cannot be taken for public or private use without compensation. (*Balch v. Glenn*, 85 Kan. 735, 119 Pac. 67, 43 L. R. A., n. s., 1080, Ann. Cas., 1913A 406.)

In a condemnation proceeding by a drainage district which made it necessary for a gas company to lower its pipe lines because of the deepening of the watercourse under which the pipe lines were laid, it was held that the pipe lines could not be treated as an obstruction so as to authorize their removal under the police power without compensation. (*Cities Service Gas Co. v. Riverside Drainage Dist.*, 137 Kan. 410, 20 P. 2d 520.) In this case, Mr. Chief Justice Johnston said: "Property cannot be appropriated without compensation under the guise of the police power. If the requirements are unreasonable and arbitrary and operate to deprive an owner of his property within the purview of the law of eminent domain, they will not be upheld." It has been held that the Public Service Commission may order improvement in intrastate telegraph service without power of eminent domain, as such is not a taking of property without compensation. (*Chicago, B. & Q. R. Co. v. Reed*, 114 Kan. 190, 217 Pac. 322.) Recent decisions have held that zoning laws do not violate constitutional provisions forbidding the taking of private property without compensation. (*Ware v. City of Wichita*, 113 Kan. 153, 214 Pac. 99.)

SEC. 4. *Same; public use defined.* It is difficult to define what is a public use. The words *ex vi termini* imply the interest of the public therein. Necessity is not definitive of a public use. As to the relative powers of courts and legislatures it has been said that courts determine what is a public use, and the legislature when the power of eminent domain may be exercised in its promotion. (*Lake Koen Irrigation Co. v. Klein*, 63 Kan. 484, 65 Pac. 684.) In the case just cited the question was as to whether or not an irrigation company could use the right of eminent domain in aid of a private use. It was held that it could, if such private use was only incidental to the public use. The public use must always remain the principal purpose of the corporation.

The courts do not attempt to give a conclusive definition of the term "public use." Changing conditions may make a different decision necessary from the one originally given. The trend of court decisions is away from any general or exact definition of the term. Nor is the fact that the public may be benefited the proper test, since public use and public benefit are not synonymous terms. In short, the public must have an exceptional and peculiar interest, and one which it might, on proper occasion, control and manage in the interest of the public. (See 54 A. L. R. 7.) The legislature may itself determine whether a use is public, or it may delegate the power to some tribunal. When the action of the legislature or its agency is challenged, the question becomes one of law as to whether it is actually a public use. (*State, ex rel., v. Kemp*, 124 Kan. 716, 261 Pac. 556, 59 A. L. R. 940; affirmed, 278 U. S. 191, 49 S. Ct. 160, 73 L. Ed. 259.) The court, in holding the early statute relating to condemnation for mill dams valid, questioned the public use but preferred to be in line with the action of other courts in holding it valid. The court held that it did not include the right to overflow or obstruct a highway. (*Vernard v. Cross*, 8 Kan. 248.) The main use of the property taken must be for the public good, and if the principal use is a public one, the fact that part of the land taken will incidentally be used for a private purpose, such as ingress and egress to private property of another affected by the proceedings, will not destroy the public use. (*Smouse v. Kansas City S. Ry. Co.*, 129 Kan. 176, 282 Pac. 183.)

## II. CONSTITUTIONALITY

SEC. 5. *Kansas constitution, article 12, section 4.* Where the taking is by a corporation for right-of-way purposes, full payment of security by deposit is required before the taking, and benefits accruing to remaining portion of the land not taken cannot be deducted in such cases. However, the right of

eminent domain is not granted by this section, but is only a restriction upon such right (*Challis v. A. T. & S. F. Ry. Co.*, 16 Kan. 117); and it has been held not to apply to roads and highways, but only to canals, railroads and other similar cases in which some corporation takes a use or benefit in the proposed way other than that enjoyed by the general public (*Comm'rs of Pottawatomie Co. v. O'Sullivan*, 17 Kan. 58).

A railroad company obtains no rights in the land until payment or deposit is made and has not the right of possession until full compensation or deposit is made. (*Atchison, T. & S. F. Ry. Co. v. Weaver*, 10 Kan. 344; *St. Joseph & D. C. Ry. Co. v. Callender*, 13 Kan. 496.) Likewise a deposit after trespasses are committed does not bar an action thereon. (*Missouri, etc., Ry. Co. v. Ward*, 10 Kan. 352.) "Just compensation" is not limited to property actually taken, but means damage (*Atchison, T. & S. F. Ry. Co. v. Blackshire*, 10 Kan. 477); and compensation for a right of way includes not only property taken, but also the loss sustained in value of property by being deprived of a portion of it (*Reisner v. Union Depot & Rld. Co.*, 27 Kan. 382).

The constitutional provision says nothing as to right of possession. A statute (now R. S. 66-901 to 907) giving railroad right of possession pending appeal was held valid. (*Central Branch U. P. Ry. Co. v. A. T. & S. F. Ry. Co.*, 28 Kan. 453.)

A city ordinance authorizing the construction of a railroad over a street or highway without providing compensation for property owners does not violate this section or the fifth amendment to the United States constitution, which declares that property shall not be taken without compensation. The reason is that the land is not directly taken, as the fee was already in the public and the injury to private property is indirect or remote. (*Ottawa O. C. & C. G. Ry. Co. v. Larson*, 40 Kan. 301, 19 Pac. 661, 2 L. R. A. 59.)

This section of our constitution was held not to apply to municipal corporations acting in behalf of the state in condemnation proceedings, consequently a city may take possession before assessing the damages (*St. Joseph, etc. Ry. Co. v. City of Hiawatha*, 95 Kan. 471, 148 Pac. 744), or even without condemnation proceedings or making compensation or providing assessment of damages (*Sullivan v. City of Goodland*, 110 Kan. 359, 203 Pac. 732).

SEC. 6. *Same; notice to landowner.* No notice to the landowner is required by any provision in the Kansas constitution, and where the statute relating to procedure does not require it, no notice is necessary. The landowner is entitled to full compensation, but this does not mean that he must be notified, so far as the constitution is concerned. (*Buckwalter v. School District*, 65 Kan. 603, 70 Pac. 605, 4 L. R. A., n. s., 170n.; Ann. Cas. 1913A 1256.)

SEC. 7. *Same; deduction of benefits.* As to railroad rights of way the commissioners must appraise the land, irrespective of benefits (*Hunt v. Smith*, 9 Kan. 137), and the court has always held that damage to lands taken by a railroad for a right of way must be paid for irrespective of any benefits or set-offs resulting from such improvement (*Le Roy & W. Rld. Co. v. Ross*, 40 Kan. 598, 20 Pac. 197, 2 L. R. A. 217), and that the constitutional restriction (Kan. const., art. 12, sec. 4) as to deduction of benefits extends to the residue of the land damaged by the taking (*Inter-State Consolidated Rapid Transit Ry. Co. v. Simpson*, 45 Kan. 714, 26 Pac. 393). But the constitutional provision does not apply to additional grounds outside of railroad right of way condemned for shops and terminal facilities, and the benefits should be deducted from damages to lands not actually taken. (*Smith v. Mo. P. Ry. Co.*, 90 Kan. 757, 136 Pac. 253.)

Benefits to land not actually taken for roads may be deducted. (*Comm'rs of Pottawatomie Co. v. Sullivan*, 17 Kan. 58.) Article 12, sec. 4, of the Kansas constitution was said in the above case not to apply to roads but only to certain corporations taking a way other than that enjoyed by the general public.

SEC. 8. *United States constitution, amend. 5.* The drainage act of 1897 (R. S. 24-201 to 15) was held valid, the court saying that "it seems to have

been the intention to place it under the police power." (*Griffith v. Pence*, 9 Kan. App. 253, 59 Pac. 677.) The contention was made that it violated amendment 5 of the federal constitution. However, the fifth amendment is not a limitation upon the states in regard to taking property under eminent domain. (*State, ex rel., v. Kansas City*, 125 Kan. 88, 90, 262 Pac. 1062.)

### III. GENERAL RIGHTS AND LIABILITIES IN CONDEMNATION PROCEEDINGS

Sec. 9. *Scope.* No attempt is made under this heading to give all the Kansas decisions relating to rights and liabilities arising under condemnation proceedings. Only a brief outline is herein given of a few of the Kansas supreme court decisions which appear to have general application to the various eminent domain statutes. The decisions construing the law of eminent domain in this state are separately grouped, under the main headings or chapters immediately following, into the different governmental subdivisions, such as cities, drainage, etc., as well as railroads and other private corporations and individuals authorized by statute to exercise the right of eminent domain. It is hoped that this plan will prove of some value in the task of eliminating the confusing diversity of present methods of condemnation procedure. The reason for this method of approach is mainly due to the fact that there are in Kansas more than eight special methods of condemnation procedure and one general method authorized. The general method (R. S. 26-101 to 2) was meant to apply to all corporations, except railroad and interurban-railway corporations. Special methods are provided for cities (R. S. 26-201 to 10), land of historical interest (R. S. 26-301 to 6), railroads (R. S. 66-901 to 11), milldams and power-plant dams (R. S. 59-101 to 16), right to take water (R. S. 42-109 to 18), roads (R. S. 1931 Supp. 68-102 to a; R. S. 68-103 to 10), road materials (R. S. 68-137 to 8), township drainage works (R. S. 24-201 to 16 and 24-301 to 17), and other statutes setting up procedure such as change of street grade in cities of first class (R. S. 13-1020 to 2). In several instances the condemnor has a choice of one of two methods. (See *Knox v. Great Lakes Pipe Line Co.*, 135 K. 170, 9 P. 2d 650.) A synopsis of the statutory provisions relating to eminent domain and condemnation procedure in Kansas has already been prepared by the writer (see October, 1932, BULLETIN, Kansas Judicial Council, pp. 72 to 87.) For an excellent collection of judicial statistics on condemnation procedure in all the states, by Roy Robert Ray, see the First Report of the Judicial Council of Michigan, Jan. 1931.

Sec. 10. *Nature of condemnation proceedings.* It has been said in railroad cases that condemnation proceedings are essentially *in rem*. (*Kansas & C. P. Ry. Co. v. Phipps*, 4 Kan. App. 252, 45 Pac. 926; affirmed, 58 Kan. 142, 48 Pac. 573.) They cannot be used to quiet title or compel specific performance of contracts already owned or entered into. (*Florence, etc., Rld. Co. v. Selders*, 4 Kan. App. 497, 44 Pac. 1012.)

The proceedings in Kansas are what are sometimes referred to as the judicial type as distinguished from the administrative type. Under the administrative method the proceedings are *ex parte* so far as the taking of the land and awarding damages, and the landowner is not a party, but if dissatisfied with the award may institute proceedings in court for a new award, and a personal judgment is rendered, and there can be no abandonment of the proceedings by the condemnor. (Nichols, Em. Dom., secs. 369, 370.) Under the judicial method, as used in Kansas, the corporation or other party having power of eminent domain first complies with the statutory preliminaries, then institutes proceedings in court or before a governing body, such as the board of county commissioners, and the landowners are served with notice of the petition or proceeding and a hearing is had. The land is appraised by commissioners appointed either by the court or governing body, as the statute provides. The value of the land is determined and assessed and award of damages to the landowners made in the report of the appraisers. Except where the statute provides (see R. S. 26-102; *Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708) a personal judgment cannot be rendered on



appeal from the award. Therefore the proceedings may be abandoned by the condemnor, even after judgment rendered, if the condemnor has not taken possession and title has not passed. The proceedings on appeal are quasi-judicial since the condemnation procedure is special and in the nature of an inquest (*State Highway Commission v. Griffin*, 132 Kan. 153, 155, 294 Pac. 872) unless, as above stated, the statute providing for the appeal from the award makes it an ordinary action under the code of civil procedure.

SEC. 11. *Notice to landowner.* Since no provisions of the constitution requires notice to the landowner, if the statute does not provide for it no notice need be given. (*Buckwalter v. School District*, 65 Kan. 603, 70 Pac. 605; 4 L. R. A., n. s., 170n; Ann. Cas. 1913A, 1256.) Where a statute (now R. S. 66-906) was silent as to who should give notice, it was held as sufficient for the appraiser to give it. (*Clement v. Wichita & S. W. Ry. Co.*, 53 Kan. 682, 37 Pac. 133.) If there are two sections of the statute providing for different kinds of notice, one notice is sufficient if intended as a substitute for the other. (*Harrison v. Newman*, 71 Kan. 324, 80 Pac. 599.) It has been held that where the notice fails to fix the time when the commissioners will commence to condemn, the proceedings are void. (*Missouri Pac. Ry. Co. v. Houseman*, 41 Kan. 300, 304, 21 Pac. 284.)

SEC. 12. *Validity of the proceedings.* Condemnation statutes and the proceedings thereunder are void unless compensation to the landowner is provided for. (*Carbon Coal & Mining Co. v. Drake*, 26 Kan. 345.) To acquire rights under a condemnation statute setting out the complete steps as to procedure, the act must be complied with. (*Atkins v. Davis*, 11 Kan. 580.) The question as to which procedural statute is applicable often arises. Indefinite words, such as "according to law" or "so far as applicable," are frequently used. The words "so far as applicable" used in the statutes (see R. S. 17-618) relating to procedure under a different statute than the one granting the power has been interpreted as meaning that a definite width or extent of land taken for a pipe line need not be determined the same as required for railroad right of ways. (R. S. 66-901 *et seq.*; *Love v. Empire Natural Gas Co.*, 119 Kan. 374, 239 Pac. 766.) So far as questioning the validity of the proceedings is concerned it would seem that in all cases it is waived if the parties go to trial on the merits on an appeal from the award (See *Commis. of Lyon Co. v. Kiser*, 26 Kan. 279; *Atchison T. & S. F. Ry. Co. v. Patch*, 28 Kan. 470); or they may agree to waive all defects in the proceedings (*Allen County Commis. v. Boyd*, 31 Kan. 765, 3 Pac. 523); also, the filing of a claim for damages would seem in all cases to waive right to notice and other irregularities in the proceedings (*Meehan v. Barber Co. Commis.*, 108 Kan. 251, 194 Pac. 916).

SEC. 13. *Enjoining the proceedings.* A proper way to test right to take property is a suit to enjoin the taking, since under the statutes an appeal is a waiver of the validity of the proceedings. (*A. T. & S. F. Ry. Co. v. K. C. M. & O. Ry.*, 67 Kan. 581, 73 Pac. 899.) This is true when no other adequate remedy at law is available to protect the landowner's rights, especially where there is a special injury and statutory provisions are not strictly complied with. (*Euler v. Rossville Drainage District*, 118 Kan. 363, 235 Pac. 95.) Abutting property owners usually may enjoin the vacation or closing of roads or streets in such cases. As to who, other than abutting owners, may enjoin, see 68 A. L. R. 1285n; see, also, *Bolmar v. City of Topeka*, 122 Kan. 272, 252 Pac. 229.

An injunction will not lie because of irregularities in the proceedings unless the landowner is deprived of right to compensation (*Brookings v. Riverside Drainage Dist.*, 135 Kan. 234, 9 Pac. 2d 656); but it is a proper remedy when the landowner's land is being taken ostensibly for a lawful purpose but in reality for an unlawful one, such as a private use (*Smouse v. Kansas City S. Ry. Co.*, 129 Kan. 176, 282 P. 183).

The state is undoubtedly vested with the power to enjoin the taking of public and private property where same is done without a contract or condemnation proceedings. (*State, ex rel., v. Drainage District*, 123 Kan. 46, 393, 254 Pac. 366.)

SEC. 14. *Partial reports by the commissioners.* The commissioners or appraisers may make a partial report of their findings on the view and still retain jurisdiction to hear claims and make awards for lands subsequently taken. (*Sicks v. Allen County Commissioners*, 126 Kan. 643, 270 Pac. 607.) An appeal from such partial reports of the commissioners, if made within the statutory time, is valid and will not be set aside, even though a final report is afterwards filed. (*Lotz v. Kansas City*, 108 Kan. 25, 193, Pac. 1051.)

SEC. 15. *Appeal from the award.* An appeal from the award of damages allowed by the appraisers has been held to be limited to property shown in the commissioners' report, and that other property will not be affected on the appeal. (*Chicago, K. & W. Ry. Co. v. Grovier*, 41 Kan. 685, 21 Pac. 779); but the landowner may appeal from the award, even though he is not named in the report of the commissioners making the award. This is true where the statute does not make the landowners party to the proceedings.

Usually the sole question on the appeal from the award is the amount of damages (*Briggs v. Labette County Commis.*, 39 Kan. 90, 17 Pac. 331); but the statute may give the right to inquire into other questions, such as title as affecting right to compensation (R. S. 24-445); or the burden may sometime be on the person claiming as owner to show title or adverse possession (*Chicago, K. & N. Ry. Co. v. Cook*, 43 Kan. 83, 22 Pac. 988). The landowner who does not have title to the land may recover only for the damage to his particular interest in the land. (*Chicago, K. & W. Ry. Co. v. Hurst*, 41 Kan. 740, 21 Pac. 781.) Written pleadings upon appeal are discretionary with the judge under most of the statutes. Of course, the court under those statutes does not render a personal judgment, but only an award of damages and costs. (*Kansas City W. & N. W. Rld. Co. v. Kennedy*, 49 Kan. 19, 30 Pac. 126.)

SEC. 16. *Same; appeal bond.* The fact that an appeal bond does not include all the lands damaged will not prevent recovery of damages thereon on appeal. (*Chicago, K. & W. Rld. Co. v. Brunson*, 43 Kan. 371, 23 Pac. 495.) A defective appeal bond is not void where the owners have joined in it (*Wood v. School District*, 102 Kan. 78, 169 Pac. 555); but where only the surety signs, it is void and the appeal fails (*St. L. K. & S. W. Ry. Co. v. Morse*, 50 Kan. 99, 31 Pac. 676; see, also, *Lotz v. Kansas City*, 108 Kan. 25, 193 Pac. 1051). Practically all the cases as to defective appeal bonds are reviewed in a late decision in which it was held that a single bond filed by the owner of separate lots, on appeal from condemnation award, will give a court jurisdiction, even though lots were separately set out in the petition and separate appraisement values put thereon. (*Burke v. Missouri-K.-T. Rld. Co.*, 132 Kan. 625, 296 Pac. 380.) In a later case in which only a part of the owners who were tenants in common signed the appeal bond, it was held that the bond gave the court jurisdiction and the ruling of the district court allowing amendment of the bond so as to include all the tenants in common was upheld. (*Sinclair v. Missouri Pac. Rld. Co.*, 136 Kan. 764, 18 P. 2d 195.) Mr. Justice Harvey, speaking for the court in the case just cited, said: "Perhaps in the light of the authorities above mentioned it could have been determined for the benefit of all under that bond (the original bond), but we do not need to decide that question."

A bond is void so as to destroy a court's jurisdiction on appeal if it runs to an entire stranger (*Lovitt v. Wellington & W. Rld. Co.*, 26 Kan. 297); but if the context describes the condemnation proceedings and obligates the maker to pay judgments and costs on appeal, it is not void and may be amended. (*Sheridan v. Phillips Pipe Line Co.*, 134 Kan. 260, 5 P. 2d 817.) The fact that an appeal bond was not double the amount of the award according to statutory requirement has been held not to destroy the court's jurisdiction. (*Chicago, K. & W. Ry. Co. v. Abilene*, 42 Kan. 97, 104, 21 Pac. 1112.)

SEC. 17. *Statutes applicable.* Where the condemnor may proceed under more than one statute, he should indicate in his petition which one he is proceeding under; and if he fails to do so the landowner may effect an appeal under any one of the available statutes. (*Knox v. Great Lakes Pipe Line Co.*, 135 Kan. 170, 9 P. 2d 650.) It should be under one or the other, since a judg-

ment rendered under two different statutes would be questionable, said the court in the case just cited. Unless two statutes are in irreconcilable conflict with each other, a later statute will not repeal a former one. It has been held that R. S. 26-101 to 2 did not repeal other corporation condemnation statutes, where the only difference is in the place of filing report or time of effecting appeal, etc. (*Brookings v. Riverside Drainage District*, 135 Kan. 234, 9 P. 2d 656.)

SEC. 18. *Nature of judgment rendered on appeal.* In an appeal from an appraisement of land for state highway purposes it was questioned whether a personal judgment could be rendered under R. S. 26-101 to 2, as prior to this statute, passed in 1923, such personal judgment could not be rendered on an appeal taken. The court indicated that it could not, but found it unnecessary to decide the question, since the appeal had not been taken within the statutory 30-day period from date of filing of the appraisement. (*In re Condemnation of Land for State Highway Purposes*, 132 Kan. 153, 294 Pac. 872.) It has since been held, however, that a personal judgment is rendered where the appeal from the award is under R. S. 26-102, since the appeal is the same as any other action under the code of civil procedure. (*Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708.)

It is said that the reason the statutes did not provide for a personal judgment on appeal from the award is that an owner of land would not want to take a judgment against an irresponsible and insolvent person as payment for his land; nor would the condemnor want to pay an enormously excessive award. (*St. L. & D. Rld. Co. v. Wilder*, 17 Kan. 239; see, also, *Lawrence & T. Ry. Co. v. Moore*, 24 Kan. 323; *Florence, etc., Ry. Co. v. Lilley*, 3 Kan. App. 588, 43 Pac. 857.)

SEC. 19. *Damages, elements and measure of.* The owner's right to damages to his property taken under eminent domain is not questioned. Even though only an easement is taken, it has been held that the owner may recover the full value of the land (*Dethample v. Lake Koen Irrigation Co.*, 73 Kan. 54, 84 Pac. 544); but the purpose of the taking is not to be considered by the jury in determining the damages (*Atchison T. & S. F. Ry. Co. v. Blackshire*, 10 Kan. 477).

While owners are entitled to the right to be compensated for injuries resulting from property taken, it has been held that the fact that a statute makes no provision for a suit for consequential damages does not give the owner the right to enjoin the proceedings. (*Mayfield v. Board of Education*, 118 Kan. 138, 233 Pac. 1024.) Whether or not consequential damages can be recovered on appeal from award would depend upon the circumstances concerning such damages. It has been held that an owner is not entitled to consequential damages to the entire tract where part of it is separated by another railroad. (*Kansas C. M. & O. Ry. v. Littler*, 70 Kan. 556, 79 Pac. 114.) Where damages are speculative, as the extra care required for live stock liable to be frightened by trains, they cannot be considered. (*Atchison & D. Rly. Co. v. Lyon*, 24 Kan. 745; *Florence, E. & W. V. Rld. Co. v. Pember*, 45 Kan. 625, 26 Pac. 1; *St. Louis, K. & S. W. Ry. Co. v. Hammers*, 51 Kan. 127, 32 Pac. 922; *Southwestern M. Rly. Co. v. Harvey*, 8 Kan. App. 489, 57 Pac. 550.) A rule for measuring damages is said to be "the difference, if any, between the value of the lands before and immediately after they were appropriated." (*Wood v. School District*, 108 Kan. 1, 193 Pac. 1049.) That is, any legitimate use to which it may be applied, including that most advantageous to the owner, may be considered. In an early case relating to milldams it was held that the measure of damages is the difference between the value of property without the dam and the value with the dam (*Harding v. Funk*, 8 Kan. 315); but what is perhaps the standard rule for the measure of damages in condemnation cases is to the effect that the measure was the value of the land actually taken, and the difference in value of the remainder of the tract immediately before and after the taking (*Emery v. Riverside Drainage District*, 132 Kan. 98, 294 Pac. 888); and where there is depreciation in value of the remainder of a tract of land taken, the court, in instructing

the jury as to the damages to the land actually taken and as to the difference in value of the entire tract before and after the taking, should make reference as to damages to the entire tract, that the "entire tract" means the remainder, so that the land actually taken will not be assessed twice. (*Laptad v. Douglas County Commr's*, 130 Kan. 564, 287 Pac. 255.)

Sometimes on appeal the question arises as to whether or not the jury should be permitted to view the premises. This is in the discretion of the trial judge. The supreme court has said that there is no abuse of such discretion when the trial court refused a view of the premises because the property had been improved in part by the creation of a filling station. (*Fitch v. State Highway Comm.*, 137 Kan. 584, 21 P. 2d 318.)

In the same case above cited the owner claimed that the most advantageous use to which his land could be put was truck farming and gardening. For this reason it was held that the admission of evidence in regard to the amount of earth fill required for bringing the land to highway levels was erroneous.

As to the elements that go to make up the damages to the property taken, there are many different kinds, depending more or less upon what use the property has been and is to be put. These will be given under the particular heads, such as railroads, etc. An example of what evidence is not competent, the court has held that fear in the minds of prospective purchasers of the possible breaking and falling of high-tension wires used for transforming electrical power is not a proper element as to the remainder of the tract in determining its market value. (*Yagel v. Kansas Gas & Electric Co.*, 131 Kan. 267, 291 Pac. 768.) Nor is evidence as to a mere offer to purchase proper to prove value. (*St. Joseph & D. C. R. R. Co. v. Orr*, 8 Kan. 419.) The court, in a later decision, said that such an offer could not be much evidence of value unless the court went behind the motive to find the elements prompting the offer. (*State v. Nelson*, 126 Kan. 1, 266 Pac. 107.)

SEC. 20. *Tort action not maintainable, when.* Where the property is not taken by condemnation proceeding an action in tort cannot be maintained against the governmental agency in the absence of a statute giving such right of action. (*Isham v. Montgomery County Commr's*, 126 Kan. 6, 266 Pac. 655.) But where an action is founded upon a quasi-contractual obligation and no trespass or wrongful taking is alleged, the landowner may recover from the county the reasonable value, even though the taking is without condemnation proceedings. The real reason for the distinction appears to be in that the county is not liable for the tortious conduct of its agents. (*Webb v. Crawford County Commr's*, 127 Kan. 547.)

SEC. 21. *Deduction of benefits to remainder of land.* The only restriction on the deduction of benefits arising from the constitution (Kan. const., art. 12, § 4) is as to rights of way appropriated to the use of any corporation. (*Lee v. Missouri Pac. Rld. Co.*, 134 Kan. 227, 5 P. 2d 1122.) This restriction as to deduction of benefits extends to the residue of the land damaged by the taking. (*Inter-State Consolidated Rapid Transit Ry. Co. v. Simpson*, 45 Kan. 714, 26 Pac. 393.)

Where special benefits may be deducted, an instruction stating that all benefits that are the direct and special result of the improvement, that will increase the actual and usable value of the land as well as the market and sale value, may be considered as proper if there is a further instruction that those benefits must be peculiar to such land and not common to the lands generally affected by the improvement. (*Emery v. Riverside Drainage District*, 132 Kan. 98, 294 Pac. 888.) To this effect it was early held, under the milldam act, that the general benefits to the public in the vicinity could not be deducted from the damage caused by the overflowing of the land. (*Marcy v. Fries*, 18 Kan. 353.)

SEC. 22. *Damage in the nature of interest.* Statutes providing for damages are broad enough to include interest from date of condemnation (*Calkins v. Salina N. Ry. Co.*, 102 Kan. 835, 172 Pac. 20); the general rule being that the landowner is entitled to damages in the nature of interest between the time of the appropriation and the time of rendition of judgment (*Flemming v. Ellsworth County Commr's*, 119 Kan. 598, 240 Pac. 591). However, interest

is not proper where, on appeal, the landowner recovers less than the award of the appraisers. (*Lee v. Missouri Pac. Rld. Co.*, 134 Kan. 225, 5 P. 2d 1102.)

SEC. 23. *Extent of right or title taken by the condemnor.* The rights and easement acquired by the condemning party must be definitely and specifically shown in the proceedings. The condemnation proceedings must show what is taken and what the landowner parts with. In other words, nothing will be taken by implication or intendment under the eminent-domain statutes (*State v. Armell*, 8 Kan. 288) was a holding in one of our earliest decisions relating to this subject (but, see *Cowan v. St. Louis & S. F. Ry. Co.*, 51 Kan. 451, 460, 33 Pac. 99). It has been held that in the case of a city condemning land for parks, parkways and boulevards, under R. S. 26-204, that the unqualified fee-simple title vests in the city immediately upon the condemnation. This is because of the special provisions of the statute. (*Skelly Oil Co. v. Kelly*, 134 Kan. 176, 5 P. 2d 823.) The fee in lands condemned for a gravel pit does not pass to the county under R. S. 68-107. (*Kingman County Commr's v. Hufford*, 126 Kan. 106, 266 Pac. 932.)

SEC. 24. *Additional servitudes.* A street-car track in a city street is not an additional servitude so as to give lot owner action for damages. (*Phillips v. Arkansas V. Interurban Ry. Co.*, 89 Kan. 835, 133 Pac. 429.) And it was also held that the placing of telephone lines on highways is not an additional burden for which the landowner may recover (*McCann v. Telephone Co.*, 69 Kan. 210, 76 Pac. 870); but where an easement is granted to lay pipes, the digging of a ditch in lieu thereof cannot be done without condemnation or paying for same (*Ralens v. City of Hutchinson*, 83 Kan. 618, 112 Pac. 129). As to railroads, it is held that they cannot close up valuable crossings left at the time of the condemnation proceedings without becoming liable in damages. (*Atchison, T. & S. F. Ry. Co. v. Davenport*, 65 Kan. 206, 69 Pac. 195.)

SEC. 25. *Abandonment of the proceedings.* The statutory provisions for abandonment must be compiled with, such as the passing of a resolution as required in R. S. 26-206. (*State v. Nelson*, 126 Kan. 1, 266 Pac. 107.) The condemnor has the right under most statutes to abandon the proceedings at any stage. And where the appeal is from the award and the jury acts as appraisers, the proceedings may be abandoned after their verdict, since such verdict is not a personal judgment. So, in cases appealed under R. S. 66-906, where title has not passed under the provisions of other sections of that act, and the statute only provides that an appeal may be taken, the result of the action is not construed as a personal judgment so as to prevent abandonment of the proceedings. (*Todd v. Atchison, T. & S. F. Ry. Co.*, 134 Kan. 459, 7 P. 2d 79.) But where the appeal is under R. S. 26-102, which provides that on appeal the action shall be tried and docketed like other actions, and the title has passed to the condemnor under R. S. 26-101, it is held that such condemnor cannot abandon the proceedings after the case has been submitted to the court or jury on an appeal from the award. The reason for this is that under R. S. 26-102, the case is tried under the general code of civil procedure and the action cannot be dismissed without prejudice after final submission to the court or jury. (R. S. 60-3105; *Stewart v. Marland Pipe Line Company*, 132 Kan. 730, 297 Pac. 708.)

SEC. 26. *Statute of limitations.* Before the limitations statute begins to run, the judgment of award must become final on appeal. (*Schmick v. M. K. & T. Ry. Co.*, 87 Kan. 152, 123 Pac. 887.)

SEC. 27. *Exhaustion of the power.* A railroad has been held not to exhaust its power to further condemn land to straighten its right of way by the first exercise of its power (*Ritchie v. A. T. & S. F. Ry. Co.*, 128 Kan. 637, 279 Pac. 15); and the fact that a city has previously exercised the right in condemning for water purposes does not preclude it from again using the right where the public interest so requires it (*Wallace v. City of Winfield*, 98 Kan. 651, 159 Pac. 11; see, also, same, 96 Kan. 35, 149 Pac. 693).

SEC. 28. *Order of condemnation.* The title will be transferred by the

condemnation proceedings themselves in the absence of express statutory provision as to the order of condemnation. (*Dye v. Midland V. Rld. Co.*, 77 Kan. 488, 94 Pac. 785.)

SEC. 29. *Writs of assistance.* There is no provision in any of the condemnation statutes for writs of assistance for compelling the owner to surrender possession of the property after condemnation. An act (Laws 1897, ch. 82, § 12) providing that upon application of the condemning city, "writs of assistance shall be granted by said district court directing the sheriff of the county to put such city into possession," was held void because of defect in title of the act. (*City of Enterprise v. Smith*, 62 Kan. 815, 62 Pac. 324.)

SEC. 30. *Nonuser by condemnor.* Nonuser of the property by the condemning party will not of itself work as an extinguishment of the right in absence of statute (*Hamlin v. Kansas Rly. Co.*, 73 Kan. 565, 85 Pac. 602); and if the statute provides that the unqualified fee-simple title shall vest in the condemnor, as in the case of parks, parkways and boulevards in cities, under R. S. 26-204, it is of no concern to the landowner what use is made of the land in the absence of bad faith on the part of the condemnor. In such cases the condemnor may sell the property, there being no possibility of reverter to the original owner. (*Skelly Oil Co. v. Kelly*, 134 Kan. 176, 5 P. 2d 823.)

#### IV. CITY CONDEMNATIONS

(For eminent domain statutory provisions relating to cities, see: R. S. 1931 Supp. 3-115; R. S. 12-622 to 3; R. S. 12-632 to 4; R. S. 1931 Supp. 12-635; R. S. 12-663, 12-809 to 10, 12-811, 12-820, 12-844 to 7, 12-1306, 12-1401, 12-1633 to 4, 13-404, 13-414, 13-443, 13-1014 to 6; R. S. 1931 Supp. 13-1018 to 13-1018d, 13-1018f; R. S. 13-1020 to 2, 13-1023; R. S. 1931 Supp. 13-1025a to 13-1025j; R. S. 13-1045 to 53, 13-1055, 13-1060, 13-1311; R. S. 1931 Supp. 13-1353; R. S. 13-1354; R. S. 1931 Supp. 13-13a13; R. S. 13-1903, 13-2501; R. S. 1931 Supp. 13-2502a, 13-2502c; R. S. 13-2504 to 5, 13-2519, 13-2527 to 9, 13-2536, 14-423, 14-428, 14-435, 14-607, R. S. 1931 Supp. 14-701 to 14-701j, 14-1007a; R. S. 15-427, 15-439, and 26-201 to 10.)

SEC. 31. *Methods of procedure in cities.* A number of special procedural methods for condemning property by cities are authorized, as a glance at the statutes will reveal. In the 1923 revision it was the intention to combine all the methods into one. (See Report of Commission to Revise the General Statutes, Dec. 1922, page 11.) Chapter 86 of the Session Laws of 1913 was revised in part to make the procedure therein applicable whenever the governing body of any city deems it necessary to condemn private property or easements therein for the use of the city for any purpose whatsoever. (R. S. 26-201.) However many of the statutes granting the power still provide for the various steps in the procedure.

SEC. 32. *Constitutionality.* Article 12, section 4, of the state constitution does not apply to municipal corporations acting as agencies of the state, and consequently a city need not assess the damages before placing a sewer on the land (*St. Joseph etc. Ry Co. v. City of Hiawatha*, 95 Kan. 471, 148 Pac. 744); and it has been held property may be appropriated without condemnation proceedings and without first making compensation or providing for assessment of damages (*Sullivan v. City of Goodland*, 110 Kan. 359, 203 Pac. 732). A zoning ordinance passed under R. S. 12-701 to 6 is a valid exercise of the police power and does not violate any constitutional provision as to taking property without compensation. (*Ware v. City of Wichita*, 113 Kan. 153, 214 Pac. 99.)

SEC. 33. *Public use.* The courts will not sit in judgment on the motives of city authorities in appropriating property to public use. Where mayor and councilmen pass an ordinance and afterwards repeal it and pass a new ordinance to meet later statutory amendments (L. 1917, ch. 108), the proceedings will be considered as an entirety. (*De Priest v. City of Salina*, 101 Kan. 810, 168 Pac. 872; see, also, sec. 4 above, for definitions of public use.)

It has been held that injunction will lie to prevent interference or encroach-

ments upon land condemned for public use, even though the city has allowed some buildings on such land. In such case it will be presumed that there was a necessity for appropriating the land. (*City of Hutchinson v. White*, 117 Kan. 622, 233 Pac. 508.)

The fact that private property is the principal beneficiary of a flood-control project (see R. S. 1931 Supp. 12-635) does not render such project one of mere private concern nor forbid the power of eminent domain to accomplish it. (*Putnam v. City of Salina*, 136 Kan. 637, 17 P. 2d 827.) In such instances the court in the Putnam case said, both private and public property must be fairly charged and assessed for the benefits and burdens accruing thereto. For other cases on public use see section 4 above.

SEC. 34. *Notice to landowner.* A notice to the landowner was required under condemnation proceedings generally (L. 1903 ch. 122 sec. 161a) and a different notice by the appraisers (same, sec. 160). It was held that the notice by the appraisers was sufficient if it appears that such notice was intended to be a substitute for the other. (*Harrison v. Newman*, 71 Kan. 324, 80 Pac. 599.) Where under Laws 1887, ch. 102, sec. 4 (now superseded by R. S. 12-623) it was held that if the known resident riparian owner has not been notified, he may recover damages for pollution of water from sewers. (*Long v. Emporia*, 59 Kan. 46, 51 Pac. 897.) For other cases concerning notice, see section 11 above.

SEC. 35. *Statutes applicable.* If more than one condemnation statute is applicable (see *Evel v. City of Utica*, 103 Kan. 567, 175 Pac. 635) the condemnor or petitioner must choose the act under which the proceedings are to be brought. (*Enterprise v. Smith*, 62 Kan. 815, 62 Pac. 324.)

If statutes are not in irreconcilable conflict with each other the later act will not repeal the former. (*Brookings v. Riverside Drainage Dist.* 135 Kan. 234, 9 P. 2d 656.) It has been held that there is no conflict where an ordinance of legislative character is passed which also provides for condemning private property for widening streets and payment of costs. (*State v. Jacobs*, 135 Kan. 513, 11 P. 2d 739.)

A condemnation statute, unless it so expressly provides, will not exclude a city from paying part of the cost of an improvement under other statutes giving it the right to issue bonds, and it was held that R. S. 12-1633 is not an exclusive method of constructing viaducts and tunnels, etc. (*State v. Atherton*, 127 Kan. 449, 273, Pac. 905.) It has been held that R. S. 3-110 (now repealed) was not broad enough to authorize the condemnation of land for an airport beyond the city limits, but a city could, under R. S. 12-1301, acquire same for parks and use a portion of it for airports and maintain it out of city funds under R. S. 1931 Supp. 13-1353. (*City of Wichita v. Clapps*, 125 Kan. 100, 263 Pac. 12.)

SEC. 36. *Appeal bonds.* It the bond given on an appeal from the award is not absolutely void it may be amended, and the court's jurisdiction is not lost. (See cases cited under sec. 16.)

Even though the surety does not sign the body of the bond, but qualifies as a surety by signing an affidavit, the district court's jurisdiction is not defeated if the city does not object. (*Lotz v. Kansas City*, 108 Kan. 25, 193 Pac. 1051.) Under Laws 1907, ch. 115, sec. 42 (now R. S. 26-205 as revised), an undertaking on appeal, running to the park board instead of to the city, may be amended. (*Kelchner v. Kansas City*, 86 Kan. 762, 121 Pac. 915.) It was held that under a statute (now R. S. 14-423) which did not require bond to be approved by the city clerk, that the appraisers acted as a "justicer of the peace," and it was their function to approve the bond, that the bond was valid even though the appraisers did not assemble formally and approve the bond. (*Epstein v. City of Caney*, 87 Kan. 329, 124 Pac. 421.)

SEC. 37. *Damages, elements and measure of.* Damages to individuals sometimes occur where the land is taken without condemnation proceedings. There are certain conditions precedent to an action for damages against a city where such is done. (See R. S. 12-105.) In such cases, where a city takes property, such as obstructing ingress and egress without condemnation, the statute re-

quires the claimant to file a written statement of the injuries within three months after the taking. (*Nelson v. City of Ottawa*, 125 Kan. 482, 264 Pac. 1049.)

A city may not make a contract to compensate the owner except as provided by statute. So a contract to maintain a bridge as partial compensation for lands for drainage, under R. S. 13-1055, is void. (*Mathewson v. City of Wichita*, 117 Kan. 455, 232 Pac. 233; see, also, *Haucke v. Morris County*, 115 Kan. 659, 224 Pac. 64.) A city is not liable to a lot owner for permitting a railroad in a street under a statute (now R. S. 14-434) which allows it "to provide for the passage of railways through the city." (*Hedrick v. Olathe*, 30 Kan. 348.)

When an appeal from the award is taken, unless the statute should so provide, the owner of the land need not state he is the owner, but if such owner dies and the action is revived the new party must allege and prove he is the proper person. (*Medicine Lodge v. Horner*, 7 Kan. App. 652, 53 Pac. 883.)

As to the elements and measure of the damages on appeal from the award, it was held that, under Laws 1907, ch. 115, §§ 37 to 44 (now superseded by R. S. 26-202 *et seq.*), it was not error to admit evidence of rents received in good faith within a reasonable time. (*Kelchner v. Kansas City*, 86 Kan. 762, 121 Pac. 915; but, see *Hall v. Kansas City L. & T. E. Rld. Co.*, 89 Kan. 70, 130 Pac. 664.) In condemning land to widen a drainage canal, where items enumerated in the special questions to the jury do not make up the claimant's entire damages, but are considered as a part thereof in ascertaining the ultimate damage, it is not error to submit same to the jury. (*In re Sidles*, 125 Kan. 1, 262 Pac. 550.) Where practically the entire value of land taken for a flood prevention project is composed of commercial sand and gravel, the quantity of the sand in the tract is the material factor in determining compensation, and an arbitrary finding as to the amount of sand, which is not supported by evidence, will be set aside. (*City of Wichita v. Ferriter*, 126 Kan. 648, 270 Pac. 592.) In cases where land is taken for a street from cemetery grounds, and a zoning ordinance did not specifically restrict the use of the district for an existing cemetery, it is held that damages could be based on the use of the land for cemetery purposes. (*City of Wichita v. Schwertner*, 130 Kan. 397, 286 Pac. 266.)

Under Laws 1872, ch. 100, §§ 54, 65 (now R. S. 14-423, 14-435), it was held that persons incidentally damaged by a change of an established grade are not entitled to damages, as the statute only provided for injury to property taken (*Methodist E. Church v. Wyandotte*, 31 Kan. 721, 3 Pac. 527); and under Laws 1881, ch. 37, sec. 8 (now R. S. 13-1019 to 20, as amended), the measure of damages is the difference in market value brought about by reason of the change, but when property is not injured he will not be entitled to recover anything (*Parker v. City of Atchison*, 46 Kan. 14, 26 Pac. 435). No damages allowed where grade is first established, as under G. S. 1889, par. 562; Laws 1881, ch. 37, sec. 18; it was only when the grade was changed that damages could be allowed. (*Inter-State R. T. Ry. Co. v. Early*, 46 Kan. 197, 26 Pac. 422.)

SEC. 38. *Streets and alleys.* In condemning land for widening of streets, under R. S. 26-201 *et seq.*, the commissioners may make partial reports of their awards and the landowners may appeal within the statutory time for appealing from such awards, and the validity of such appeal is not affected by the filing of a final report, because such partial reports are final as to particular lands so taken. (*Lotz v. Kansas City*, 108 Kan. 25, 193 Pac. 1051.) Where a street extends across a railroad right of way, the city may compel the railroad to construct a subway under an elevated track without compensation. (R. S. 12-1633, 13-404, 13-1903, 26-201.) But these statutes do not apply where a street has never been laid out or established across a railroad right of way. (*City of Wichita v. Wichita Union Terminal Ry. Co.*, 137 Kan. 855, 275 Pac. 171.)

A city may not obstruct access to a street by dumping soil from a drainage canal onto it. While the city has control over the streets, the closing or obstruction must be according to law. The proper proceeding would be to



acquire more land for the canal. (*Burger v. City of Wichita*, 132 Kan. 105, 294 Pac. 670.)

SEC. 39. *Same; injunction.* While injunction is a proper remedy to prevent taking of property without compensation in certain cases, it will not lie to prevent passing of an ordinance vacating an alley merely on the ground that it would cut off the owner's access to the rear of the premises, where they have reasonable means of ingress and egress to their property. (*Foster v. City of Topeka*, 112 Kan. 253, 210 Pac. 341.) As to who are entitled to injunctive relief other than abutting owner, see 68 A. L. R. 1299n. Under R. S. 13-443 a city may vacate a street without assessment and payment of damages, and such vacation makes the city liable to one thereby deprived of ingress and egress. (*Bolmar v. City of Topeka*, 122 Kan. 272, 252 Pac. 229.) A history of the case just cited shows that injunction may lie where a county attempts to vacate a street marking the city limits, since there is no provision in the act (R. S. 12-504) for damages, as counties are under no liability for vacation of roads. (See, R. S. 68-106; *Sample v. Jefferson County*, 108 Kan. 498.) Cities are, however, liable, in a proper case, for damages caused by vacation of streets. (*City of Belleville v. Hollowell*, 41 Kan. 192, 195; 13 R. C. L. 71; see, also, 68 A. L. R. 1285n as to right of nonabutting property owner to enjoin vacation of roads or streets.)

SEC. 40. *Park, parkways and boulevards.* The question as to the title or extent of interest taken arose under R. S. 26-204, where land may be taken for parks, parkways and boulevards. Under the express provision of the statute it was held that the fee simple title immediately vests in the city upon publication of the resolution of condemnation. In the absence of bad faith of the city it is of no concern to the landowner what use is made of the land, and there is no possibility of reverter. (*Skelly Oil Co. v. Kelly*, 134 Kan. 176, 5 P. 2d 823.)

SEC. 41. *Water supply and waterworks.* A city has no power to take water from a stream and sell it to inhabitants without compensating those entitled to such water rights. It may, however, use the water for ordinary purposes, and second-class cities, under R. S. 14-428, may exercise eminent domain to furnish water to inhabitants, and the fact that it has previously condemned property for that purpose does not preclude it from again using the right if the public interests so require it. (*Wallace v. City of Winfield*, 98 Kan. 651, 159 Pac. 11. See, also, same, 96 Kan. 35, 149 Pac. 693.) It has been held that a third-class city has the power to condemn land for obtaining a water supply, either under R. S. 12-809 or R. S. 15-439, and may, under R. S. 12-845, go outside of the city limits. (*Evel v. City of Utica*, 103 Kan. 567, 175 Pac. 635.) As to procedure R. S. 12-809 goes only so far as to provide for a petition to the district court. (See R. S. ch. 26, art. 2.) Under the provisions of Laws 1872, ch. 100, § 60 (now R. S. 14-428), the city condemned land on the banks of a river and attempted to divert water from the stream. The court held an injunction would lie, because the city must first condemn the water. (*City of Emporia v. Soden*, 26 Kan. 492.) Where a city makes a contract with a water company, granting it the right to furnish water for twenty years, and prescribed a certain manner in which it may acquire the plant after expiration of twenty years, and such contract is validated by the legislature (see Laws 1883, ch. 34), and later an act gives the city the right to condemn water works (Laws 1891, ch. 73, secs. 3, 4,) after a continuance of a contract for over twenty years, held, that the later act applies only to contracts made after its enactment. The city was enjoined from proceeding to acquire the plant in any other manner from that prescribed in its contract. (*Leavenworth v. Water Co.*, 69 Kan. 82, 76 Pac. 451.)

Section 12 of chapter 82 of Laws of 1897 was held unconstitutional, because the word "purchasing" in the title did not authorize condemnation proceedings. This act was repealed (Laws 1903, ch. 122, § 168), and the power is now exercised under art. 2. of ch. 26, Revised Statutes of 1923. The act of 1897, section 12, contained some interesting provisions which do not appear in the act which is now on the statute book. (R. S. ch. 26, art. 2; but see R. S. 12-811). One

provided that the judge appoint one of the three commissioners to determine the value of the property, the other two to be named by the county commissioner, all three to be nonresidents of the city. Another provision was the granting by the court of writs of assistance directing the sheriff to put the city in possession. In the case holding this act (Laws 1897, ch. 82, § 12) void because of the title it raised, but did not decide, the question of whether only a part of a waterworks system could be condemned. (*Enterprise v. Smith*, 62 Kan. 815, 62 Pac. 324.) This would seem to be taken care of by R. S. 26-201 and 26-208.

SEC. 42. *Possession pending appeal.* It was held that under Laws of 1871, ch. 60, § 65 (now R. S. 15-439, as revised) that a landowner had the right to possession pending appeal from the award. (*Kansas City v. Kansas P. Rly. Co.*, 18 Kan. 331.)

SEC. 43. *Additional servitudes.* Where an easement is granted to lay pipes, a city cannot open ditches in lieu of the pipes without condemning or paying for the additional burden, even though such ditches might prove beneficial to the landowner. (*Rolens v. City of Hutchinson*, 83 Kan. 618, 112 Pac. 129. For other cases, see section 24 above.)

## V. COUNTY, TOWNSHIP AND DRAINAGE DISTRICT CONDEMNATIONS

(For statutory provisions relating to eminent domain in counties, townships and drainage districts, see: R. S. 1931 Supp. 2-135; R. S. 19-223; 19-1501, 19-1806; R. S. 1931 Supp. 19-1825; R. S. 19-2623; R. S. 1931 Supp. 19-2707, 19-2715; R. S. 24-201 to 16, 24-301 to 17; R. S. 1931 Supp. 24-407, 6th cl.; R. S. 24-438 to 46, 24-463 to 7, 24-470 to 80; 24-512, 5th cl., 24-519 to 24, 24-612, 24-705 to 6, 24-801 to 7, 24-814; R. S. 1931 Supp. 24-1017 to 18; R. S. 26-101 to 2, 80-919, and sections cited under the heading of Roads, Highways, and Bridges, chapter VI, below.)

SEC. 44. *Scope.* This chapter deals mainly with the actions arising under the laws giving the power to acquire land and rights for drainage purposes. The bulk of the decisions concerning condemnation by counties and townships are under proceedings arising out of the establishment and change of roads, highways and bridges. Since the state also has power to condemn for road purposes, the decisions relating to roads, etc. are grouped below under the head of "Roads, Highways, and Bridges." (See chapter VI.)

SEC. 45. *Constitutionality.* Article 2, chapter 24, Revised Statutes of 1923, is not unconstitutional as taking private property without just compensation under the eminent domain clause of amendment 5 of the federal constitution. The court said, however, that "it seems to have been the intention of our legislature to place our drainage act under the police power of the state." (*Griffith v. Pence*, 9 Kan. App. 253, 59 Pac. 677.) However, the fifth amendment to the United States constitution is not a limitation upon the power of the state, as was recently said by our court. (*State, ex rel., v. Kansas City*, 125 Kan. 88, 90, 262 Pac. 1062.) The state may make regulations as to waters and water courses and though such statutes (R. S. 24-105 to 6) deprive a landowner of his common-law right to repel surface waters from other land, they do not take property without compensation. (*Skinner v. Wolf*, 126 Kan. 158, 266 Pac. 926.) The court in the above case adopted the civil-law rule governing the disposition of surplus waters, as laid down by the statute, following the decision in *Martin v. Lown*, 111 Kan. 752, 208 Pac. 565. Under R. S. 24-407 (4th cl.), which gives a drainage district police power to "condemn and cause obstructions in water courses to be removed," such power does not include a direct interference with interstate commerce. Therefore it cannot require the elevation of railroad bridges without condemnation or payment of compensation. (*Kansas City S. Ry. Co. v. Kaw Valley Drainage Dist.*, 233 U. S. 75, 34 S. Ct. 564, 58 L. Ed. 857, reversing, 87 Kan. 272, 123 Pac. 991.)

SEC. 46. *Public use.* The language of R. S. 24-801 indicates that the taking

of land for levees could be sustained under the police power (see Nichols, Em. Dom., sec. 90). Under this act (R. S. 24-801 *et seq.*) the court has held the construction of a levee along a river bank is a public use, in aid of which the power of eminent domain may be invoked. (*Missouri, K. & T. Ry. Co. v. Cambern*, 66 Kan. 365, 71 Pac. 809.)

SEC. 47. *Statutes applicable.* Where the last expressions of the legislature are irreconcilable with former statutes the former statutes are repealed. The question arose as to whether the general condemnation statute relating to certain corporations (R. S. 26-101 to 2) repealed a statute governing certain drainage districts (R. S. 24-438 to 46) the court held there was no such irreconcilable conflict where the only differences between the two is in filing the report, payment of the money and procedure on appeal. (*Brookings v. Riverside Drainage Dist.*, 135 Kan. 234, 9 P. 2d 656.)

SEC. 48. *Enjoining the proceedings.* While injunction is a proper test by landowners of the right to take property by condemnation (*A. T. & S. F. Ry. v. K. C. M. & O. Ry.*, 67 Kan. 581, 73 Pac. 899), an individual cannot challenge the corporate existence of a drainage district but may enjoin the taking until all the statutory provisions are complied with. (*Euler v. Rossville Drainage District*, 118 Kan. 363, 235 Pac. 95.) It is very clear that the state may enjoin the unlawful construction of dikes across natural water courses, thereby diverting water upon public and private property, without contracting with owners outside the district or by condemnation proceedings, although the district has authority, under R. S. 24-407, to change the course within the district; but they cannot by dikes prevent the ordinary flow entering their district, (*State, ex. rel., v. Drainage District*, 123 Kan. 46, 393, 254 Pac. 366.) A landowner has no right to enjoin the proceedings because of irregularities in taking the preliminary steps, unless he is deprived of his right to proper compensation. (*Brookings v. Riverside Drainage Dist.*, 135 Kan. 234, 9 P. 2d 656.)

SEC. 49. *Damages, elements and measure of.* The occupant of land under an optional contract of purchase is entitled, under R. S. 24-475, to damages caused by construction of a levee. (*Dreier v. Drainage District*, 117 Kan. 403, 232 Pac. 600.) An appropriation of streets for levees, under R. S. 24-816, gives the city no right to damages, since the city has control over the streets merely as agent for the state and has no proprietary right of action. Under the above statute, however, the city is liable for benefits. (*State v. Shawnee Co. Commissioners*, 83 Kan. 199, 110 Pac. 92.)

As to the elements and measure of damages, it was held that a destruction of a private milldam by a drainage district, under R. S. 24-601 *et seq.*, must be compensated for as to its value as a going concern before and after its removal. (*Piazzek v. Drainage District*, 119 Kan. 119, 237 Pac. 1059.) It is proper on appeal to consider all of the most advantageous uses of the land, and damages to the remainder of the tract may be assessed, even though the assessment is made by the jury on the basis that it is most valuable for city-residence purposes. (*McKnight v. Wichita*, 83 Kan. 7, 109 Pac. 994.) A gas company may recover, not only for value of the land appropriated by a drainage in deepening a watercourse channel, but also the reasonable cost of lowering and relocating its pipe line. (*Cities Service Gas Company v. The Riverside Drainage Dist.*, 137 Kan. 410, 20 P. 2d 520.) An instruction setting out the standard rule applicable to condemnation cases—that the measure of damages was the value of the land actually taken, and the difference in value of the remainder of the tract, immediately before and after the taking—is proper. The jury need not be told that it was difference between the value before the taking and immediately after the dike was completed. (*Emery v. Riverside Drainage District*, 132 Kan. 98, 294 Pac. 888.)

SEC. 50. *Deduction of benefits to remainder of land.* Benefits that are direct and special, as the result of building of an embankment or dike, which increase the actual usable value as well as the market and sale value may be deducted. (*Emery v. Riverside Drainage District*, 132 Kan. 98, 294 Pac. 888.)

SEC. 51. *Title or extent of interest taken.* The fee title to land appropriated by a drainage district remains in the landowner, and he may use it in any manner that does not interfere with the drainage district. (*Raney v. North Topeka Drainage District*, 84 Kan. 688, 115 Pac. 399.)

SEC. 52. *Additional grounds for county courthouse.* Additional grounds for a courthouse may be taken under R. S. 19-1501, and this may include the landowner's homestead. The question as to whether additional grounds for the protection of county buildings could be taken was squarely before the court in 1894, and it was decided in the affirmative. (*Jockheck v. Shawnee Co. Commissioners*, 53 Kan. 780, 37 Pac. 621.) For a similar statute passed in 1931, see R. S. 1931 Supp. 32-221 to 2, relating to the acquisition of additional lands adjoining state lakes and parks. As to the constitutionality of R. S. 1931 Supp. 32-221 to 2, see section 80 below.

## VI. ROADS, HIGHWAYS AND BRIDGES

(For eminent domain statutory provisions relating to roads, highways and bridges, see: R. S. 1931 Supp. 68-102 to 68-102a; R. S. 68-103 to 17, 68-137 to 8; R. S. 1931 Supp. 68-413; R. S. 68-509; R. S. 1931 Supp. 68-703, 68-730, 68-733, R. S. 68-905 and L. 1933, ch. 234, § 1 amending R. S. 68-107.)

SEC. 53. *Methods of procedure.* The county commissioners, upon application of at least twelve householders, are authorized to lay out, open or vacate roads, and constitute the tribunal having jurisdiction. Complete procedural method is provided, with right of appeal, the same as in justice-of-the-peace cases. The county commissioners may, on their own determination, condemn lands and materials for changes and improvements in roads. The State Highway Commission is authorized, under R. S. 1931 Supp. 68-413, to exercise the right of eminent domain under the procedure provided in R. S. 26-101 to 2.

SEC. 54. *Constitutionality.* The constitutionality of road-condemnation proceedings has seldom been challenged. In 1874 an act (Laws 1874, ch. 112) was passed providing for the opening of private roads by eminent-domain proceedings and for the payment of all the expense by the person for whose benefit the road was located. The act was held unconstitutional for the reason that private property could not be so taken for private use. (*Clark v. Mitchell County Commissioners*, 69 Kan. 542, 77 Pac. 284.)

Chapter 229, Laws of 1889, declaring all section lines in certain counties public highways, held constitutional, as it provides for the tribunal for assessing damages to landowners, and notice is provided for as in what is now R. S. 66-115 (*State v. Spencer*, 53 Kan. 655, 37 Pac. 174.)

SEC. 55. *Public use.* The power to determine the public utility of a proposed road is in the viewers and county commissioners, and the parties cannot by agreement confer such power upon the district court. (*Van Bentham v. Osage County Commissioners*, 49 Kan. 30, 30 Pac. 111.) It has been held that "the fact that a road has no outlet or egress at one end, and that it primarily benefits only a single individual, does not destroy its character as a public highway nor prevent the public from taking private property for it." (*Masters v. McHolland*, 12 Kan. 17, syl. ¶ 5.)

SEC. 56. *Notice to landowner.* Where no notice of the view was set up as required by Laws 1874, ch. 108, sec. 3, but the landowner presented his claim of damages to the board, appealed and recovered upon his claim, he was held to have waived notice of the meeting of the owners. (*Ogden v. Stokes*, 25 Kan. 517.) Likewise, notice and other irregularities in the proceedings is waived by filing claim for damages within the twelve months allowed in R. S. 68-106. (*Meehan v. Barber County Commissioners*, 108 Kan. 251, 194 Pac. 916.) The failure to give all the notices as required by R. S. 68-104, although jurisdictional, cannot be objected to by one who participated in all the proceedings. (*Akin v. Riley County Commissioners*, 36 Kan. 170, 13 Pac. 2.)

In an independent action it was held that a landowner may recover for damage if he had no actual notice of the view, even though the cause of action

was barred by the statute (Laws 1874, ch. 108, sec. 5). (*Board of Commissioners of Chase County v. Allen*, 25 Kan. 616.)

SEC. 57. *Freeholder*. The statute says that the petition for the road shall be signed by twelve householders. (R. S. 1931 Supp. 68-102.) It has been held that a husband living on a homestead owned by his wife is a freeholder. (*Hughes v. Milligin*, 42 Kan. 396, 22 Pac. 313.)

SEC. 58. *Validity of proceedings*. If the county commissioners go to trial on the merits of an appeal from an award, they waive the question of the validity of the establishment of the road. (*Commissioners of Lyon County v. Kiser*, 26 Kan. 279.) The parties may agree to waive all irregularities and defects in the proceedings, and on an appeal as to damages the court will presume all such prior proceedings regular. (*Allen County Commissioners v. Boyd*, 31 Kan. 765, 3 Pac. 523.) And where a county has laid out a road by statutory condemnation, under R. S. 68-106 to 7, it is estopped on an appeal from the award from saying that the road was previously dedicated by prescription over the same route. Nor can parol evidence be used to modify the records of the condemnation proceedings on file, as required by statute (R. S. 19-304 to 5; 68-106 to 7). (*Flemming v. Ellsworth County Commissioners*, 119 Kan. 598, 240 Pac. 591.)

SEC. 59. *Same; vacation of roads*. Authority to vacate roads is conferred on the county commissioners by R. S. 19-212, and any person may appeal from any decision of the commissioners under R. S. 19-223. The procedure for vacating is the same as for laying out a road, even though there is no statutory provision for an order vacating a road (R. S. 68-106). Since counties are under no liability for vacating a road (*Sample v. Jefferson County*, 108 Kan. 498, 196 Pac. 440), where there is legal objection to vacating a road because a landowner's property would be taken without compensation, the statute (R. S. 68-106) must be construed as providing for an order to vacate, and an appeal may be taken to the district court to determine the legal objection, passed upon by the county commissioners, as to whether property would be taken without compensation and without remedy of compensation. (*Heatherman v. Kingman County Commissioners*, 123 Kan. 77, 254 Pac. 321.)

SEC. 60. *Same; diversion of watercourses*. In straightening a watercourse so that it would not cross a proposed highway (R. S. 68-502, 2d cl.) gives a county power to condemn land for that purpose, under the provision that the county engineer may act for the county to do anything pertaining to rivers, streams or watercourses for which the county pays any part of the cost thereof. (*Breedlove v. Wyandotte County Commissioners*, 127 Kan. 754, 275 Pac. 379.) In such an action it would, of course, be necessary for the county to proceed under the condemnation sections. In the Breedlove case above cited the county acted under R. S. 68-703 (now R. S. 1931 Supp. 68-703). The court also cited R. S. 68-114 to 5 as giving the court power to do what is essential in the construction of the road, saying (p. 757) that "no limitation is placed on the powers of the board in respect to land over which a waterway or creek may flow."

SEC. 61. *Same; partial reports of commissioners*. Where the commissioners make only a partial report and leave for future determination claims for damages to lands not yet appropriated, they may retain jurisdiction to consider such claims, and the failure of the landowner to appeal from such partial award does not defeat a claim for land subsequently taken. (*Sicks v. Allen County Commissioners*, 126 Kan. 643, 270 Pac. 607.)

SEC. 62. *Same; removal of bridge*. It has been held that the removal of a bridge, otherwise useless, except that it furnishes ingress and egress to particular land, will be enjoined, since there is no statutory authority for paying damages to the owner where his access is thus cut off (R. S. 68-117). (*Sample v. Jefferson County Commissioners*, 108 Kan. 498, 196 Pac. 440.) This is, of course, a rare circumstance, but when it arises it may become necessary for the county to maintain a costly bridge at great expense for the benefit, to all practical purposes, of only one or a few individuals.

SEC. 63. *Enjoining the proceedings.* The legislature, as a general rule, has full discretion as to opening, improving and vacating streets and highways. Equity will sometimes intervene to restrain the vacation of a road or street, as where it would interfere with a special interest of a property owner, but such interest must be directly injured by the vacation. (*Heller v. A. T. & S. F. Rly. Co.*, 28 Kan. 625); as to who, other than an abutting owner, may enjoin, see 68 A. L. R. 1298n. But the county commissioners will not be enjoined in the exercise of their discretion as to the necessity for the appropriation, in the absence of fraud, abuse of discretion or other gross impropriety. (*Breedlove v. Wyandotte County Commissioners*, 127 Kan. 754, 275 Pac. 379.)

Injunction will, of course, lie where the statute under which the county is operating is involved, as where an act (Laws 1866, ch. 103) failed to provide for compensation to the landowners and was therefore void, and the owner could enjoin the opening of the road (*Carbon Coal & Mining Co. v. Drake*, 26 Kan. 345); and where vital parts of the statutory provisions are not complied with, as where no viewers were appointed and no notice given owner of the taking of his land and opening of a road, the proceedings may be enjoined (*Hughes v. Milligin*, 42 Kan. 396, 22 Pac. 313); but, on the other hand, a landowner cannot enjoin the maintenance of an insufficient culvert unless such culvert causes his land to be flooded so as to result in substantial injury to his land (*Scott v. Glenwood Township*, 105 Kan. 603, 185 Pac. 731).

SEC. 64. *Appeal from the award.* Usually appeals from the award are taken under the provisions laid down in the condemnation statute itself. Before any road condemnation statute was passed in this state, a person aggrieved by any decision of a board of county commissioners could within 30 days thereafter appeal to the district court. (R. S. 19-223.) The question as to whether a later act allowing appeal in condemnation cases repealed this general act arose in 1877. It was held that they were not in such irreconcilable conflict, and that appeals from the award of damages in the establishing of a road may be made under either section. (*Wilson v. Cowley County Commissioners*, 18 Kan. 575.) As to who may appeal, see Ann. Cas. 1914Dn 1139. The question as to whether an appeal from the award, made under R. S. 19-223, might ripen into a personal judgment which would preclude abandonment of the proceedings seems not to have arisen. (See *Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708; *In re Condemnation of Land for State Highway Purposes*, 132 Kan. 153, 294 Pac. 872.) The question would likely never arise, since, even under R. S. 19-223, it seems necessary that claims for damages must be presented. Under a statute (now R. S. 68-106) providing that application for damages shall be made, an appeal was taken by a mortgagee who had never filed a claim for damages. It was held that there was no right of appeal under a statute (now R. S. 19-223) allowing an appeal to any person aggrieved or affected by the decision of the board of county commissioners. (*Shurtleff v. Chase County*, 63 Kan. 645, 66 Pac. 654.) It will be noted that the appeal was being attempted under the provisions of a different statute (now R. S. 19-223) from the condemnation statute (now 68-107), which itself contained practically the same words as the section under which the appeal was taken. But the court in that case based its decision on the fact that plaintiff mortgagee was not "aggrieved under the statute, since he had no interest in claims filed by the mortgagor and he had failed to file any claim himself."

Any person who has an interest in the land taken may appeal from the award under R. S. 68-107, and where the notice to the landowner is given to an agent he may appeal on behalf of himself and those he represents. (*May v. Riley County Commissioners*, 117 Kan. 57, 230 Pac. 74.) Also, the fact that the viewers allowed damages to the husband of the owner will not prevent the real owner from recovery on appeal even though she has presented no claim, where the notice of the appeal and bond refer to the proceedings of the board. (*Brown County Commissioners v. Burkhalter*, 75 Kan. 321, 89 Pac. 655.)

The State Highway Commission must appeal under R. S. 26-102. The appeal must be taken within thirty days from the date the appraisal is filed with the clerk of the district court, and if not so taken personal judgment

against the petitioner is void. The court in this case questions whether a personal judgment could be rendered on an appeal from the award, but decides it on the above point—that the appeal had not been taken within the statutory time. (*In re Condemnation of Land for State Highway Purposes*, 132 Kan. 153, 294 Pac. 872.) In a case decided in the same term of court the supreme court held that a personal judgment is rendered under R. S. 26-102 on an appeal from the award, since the appeal is “docketed and tried the same as other actions.” (*Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708.)

On appeal from the award the only question the court has jurisdiction to hear and determine is the amount of damages. (*Wabaunsee County Commissioners v. Bisby*, 37 Kan. 253, 15 Pac. 241; *Briggs v. Labette County Commissioners*, 39 Kan. 90, 17 Pac. 331.) In the Wabaunsee county case, cited above, it was held that it was no defense that a public road had been previously laid out and established over the same right-of-way. And it is error on appeal from the award to permit evidence of prior establishment of a highway by act of legislature declaring all highways on section lines to be highways. (*Nelson v. Butler County Commissioners*, 82 Kan. 364, 108 Pac. 797.)

Written pleadings are discretionary with the court on appeal, and, although no petition is required on appeal, if a petition is filed and alleges facts which defeat any part of his claim, such facts are effective against the landowner who filed such petition, even though the county commissioners could not plead such facts as a defense. (*Walbridge v. Russell County Commissioners*, 74 Kan. 341, 86 Pac. 473.)

Appeal from award where road is on a county line, the appeal must be taken within the statutory time (see R. S. 68-107), and since the county commissioners of the two counties act separately, the appeal must be made without regard to the time when final action is taken by the other county commissioners. (*Rennick v. Lyon County Commissioners*, 45 Kan. 442, 25 Pac. 856.)

Where the statute (R. S. 68-502, 2d cl.) confers power to acquire land to divert a stream, the landowner's only remedy is to appeal from the award, in the absence of fraud or abuse of discretion on the part of the county commissioners. (*Breedlove v. Wyandotte County Commissioners*, 127 Kan. 754, 275 Pac. 379.)

SEC. 65. *Same; partial reports of commissioners.* The commissioners may make partial reports and adjourn from time to time, and where a partial report of the commissioners is made and the landowner is allowed damage, his failure to appeal does not prevent an appeal from a subsequent award, where such commissioners have retained jurisdiction to consider claims for lands taken after such partial awards. (*Sicks v. Allen County Commissioners*, 126 Kan. 643, 270 Pac. 607.)

SEC. 66. *Damages.* The landowner must enforce his right to compensation, pursuant to the statute authorizing the condemnation (*Masters v. McHolland*, 12 Kan. 17), and if a claim is disallowed and no appeal taken the right to damages is ended, and the county is not authorized thereafter to create an obligation, such as maintaining a passageway under the road. (*Zahn v. Ottawa County Commissioners*, 108 Kan. 741, 196 Pac. 1060.) The landowner must describe the land in his application, under R. S. 68-106, and is not entitled to damages to any land not described. (*Flemming v. Ellsworth County Commissioners*, 119 Kan. 587, 240 Pac. 591.) After a claim has been presented, under R. S. 68-107, the statutory remedy is exclusive, and the claimant must appeal from the decisions of the commissioners and cannot recover in an independent action for damages. This is true, even though he had no notice, but filed his claim within twelve months, as provided in R. S. 68-106, thereby waiving notice and irregularity on the proceedings. (*Meehan v. Barber County Commissioners*, 108 Kan. 251, 194 Pac. 916.) A landowner entitled to the compensation money deposited with the treasurer is estopped from claiming the warrant made out to him, when he submits the question to the county board as to whether he or his grantee is entitled to it. (*Lillard v. Johnson County Commissioners*, 102 Kan. 822, 172 Pac. 518; same, 106

Kan. 479, 188 Pac. 223.) Where a road statute provides a reasonable manner for making compensation, it may also provide that a failure to so seek compensation shall be deemed a waiver of all claims therefor. (*Shearer v. Douglas County Commissioners*, 13 Kan. 145.) Likewise, it is too late, on an appeal, to revoke a waiver of damages because the waiver was by parol and not binding on landowner. (*Buller v. Morris County Commissioners*, 42 Kan. 416, 22 Pac. 421.)

As to *ultra vires* contracts with the landowner, it has been held that express statutory authority must be given before a public official may make a binding contract to compensate the owner. Therefore a county board cannot agree to build and maintain a passageway for stock across a road in satisfaction of the landowner's damages. (*Haucke v. Morris County*, 115 Kan. 659, 224 Pac. 64; see, also, *Mathewson v. City of Wichita*, 118 Kan. 455.)

SEC. 67. *Same; elements and measure of damages.* The elements of damages to the landowner are whatever tends to make the land less valuable and may include additional fence and repairs, separating the land, inconvenience in going from and going to tract separated by the road and the like (*Dickinson County Commissioners v. Hagan*, 39 Kan. 606); and where laying out of highway causes landowner to build an entire new fence, he may recover full compensation therefor and for damage to hedge fence (*Shawnee County v. Beckwith*, 10 Kan. 603); also, as in case of tenants in common under a contract to furnish water for cattle, it has been held that several owners of one tract of land made less valuable by a road may have damages for such loss (*Smith County Commissioners v. Labare*, 37 Kan. 480, 15 Pac. 577); and the cost of maintaining new fences is a proper element to be considered by the jury (*Van Bentham v. Osage County Commissioners*, 49 Kan. 30, 30 Pac. 111). Improvements made, even with intent to prevent laying out road, must be compensated for. (*Briggs v. Labette County Commissioners*, 39 Kan. 90, 17 Pac. 331.)

Where a highway is widened, the cost of building a retaining wall is a proper element, although the expense of moving buildings in lieu of constructing the wall would probably not be proper. The owner is entitled to the market value of land taken and the difference in value of the remainder, before and after, which would result, excluding any enhancement in value likely to result from the improvement. (*Smith v. Wyandotte County Commissioners*, 113 Kan. 244, 214 Pac. 104.) In instructing the jury as to the damages to the land actually taken and as to the difference in value of the entire tract before and after the taking, a reference should be made as to damages to entire tract that the "entire tract" means the remainder so that the land actually taken will not be assessed twice. (*Laptad v. Douglas County Commissioners*, 130 Kan. 465, 287 Pac. 255.)

The landowner's evidence as to compensation must not be inconsistent with his claim. As, for example, if the owner claims that the most advantageous use to which his land can be put is truck farming or truck gardening, it is erroneous to admit testimony relating to the amount of earth fill necessary to bring the land to the highway level. (*Fitch v. State Highway Comm.*, 137 Kan. 584, 21 P. 2d 318.)

In the Fitch case, cited above, the question arose whether the trial court had abused its discretion in denying the jury a view of the premises. The reason for not permitting the view was that the property had been improved in part by the building of a filling station thereon. The court said that the jury in such a case might have been properly permitted to view the premises, but that it was discretionary with the trial court.

SEC. 68. *Same; tort actions and quasi-contractual obligations.* In the absence of statute an action in tort will not lie against a county for unlawfully taking property without condemnation proceedings. The landowner in such a case has no remedy against the board of county commissioners in their official capacity. (*Isham v. Montgomery County Commissioners*, 126 Kan. 6, 266 Pac. 655.) Though a county is not liable for the tortious conduct of its agents, the owner of the land taken may recover the reasonable value from



the county upon a quasi-contractual basis. That is, he must not allege trespass or wrongful taking on the part of the county officials where the land is taken without the statutory condemnation proceedings. Thus it was held that where materials were taken from another county, under R. S. 68-136 to 7, and the owner sues for the reasonable value without alleging trespass, he may recover. (*Webb v. Crawford County Commissioners*, 127 Kan. 547, 274 Pac. 249.)

SEC. 69. *Deduction of benefits to remainder of land.* Special benefits, excluding any indirect and general benefits, which result to public as whole, may be deducted from damages to portion of land not actually taken. (*Commissioners of Pottawatomie County v. Sullivan*, 17 Kan. 58.) Increased value of land caused by the location of the road, being the direct and special result thereof, is a proper set-off against the damages. (*Fabie v. Brown County Commissioners*, 20 Kan. 14.) All direct and special benefits accruing which are not in common with the whole community may be deducted from damages. (*Roberts v. Brown County Commissioners*, 21 Kan. 247.) In determining damages from a county road a direct benefit not shared by adjoining landowners may be used as a set-off. (*Trosper v. Saline County Commissioners*, 27 Kan. 391.)

Under R. S. 68-703 no benefits may be deducted from the damages where land is appropriated for an improved highway. The court, in stating its reason, said that R. S. 68-703 does not provide for any reduction for benefits, but that R. S. 68-706 provides that the cost of the road, when completed, shall be levied in part upon the property benefited. (*Anderson v. Douglas County Commissioners*, 107 Kan. 655, 193 Pac. 329.) And under R. S. 68-115 relating to drainage of a road and state highway it was held the assumption by the court in its instruction that some damage was caused was not error, because the county in its award had so admitted there was damage, where the court further instructed as to deduction of benefits. The supreme court said: "We think of such benefits only as proper to reduce plaintiff's damages, although they might in some cases reduce it to a minimum or entirely exhaust it." (*Laptad v. Douglas County Commissioners*, 130 Kan. 564, 287 Pac. 255.)

SEC. 70. *Damages in the nature of interest.* It is held that damages in the nature of interest, which in reality amounts to the same thing as interest, for the delay in payment between time of the taking and the time judgment is rendered may be allowed under the statute (R. S. 68-106 to 7) providing for the allowance of full compensation. (*Flemming v. Ellsworth County Commissioners*, 119 Kan. 598, 240 Pac. 591; see, also, section 22 above.)

SEC. 71. *Additional lands for roads.* While it is the duty of the township board to make and keep township roads safe for the public (R. S., ch. 68, art. 5), the county commissioners have the power to condemn additional land for such roads (R. S. 68-114) and such power is not limited by R. S. 68-137 providing for condemnation of road materials. (*Balliet v. Harner*, 115 Kan. 99, 222 Pac. 132.)

SEC. 72. *Extent of interest or title acquired by public.* In an early case it was held that the public acquires only an easement in roads and highways, and that the fee remains in the original owner. (*Shawnee County v. Beckwith*, 10 Kan. 603; see, also, *Martin v. Lown*, 111 Kan. 753, 208 Pac. 565.)

In a case arising after condemnation of land for gravel pits, it was held that since the fee title does not pass to the county under R. S. 68-107, therefore the landowner may continue to farm his land or use it in any other manner that does not interfere with the county's dominant right without attorning to the public board, and the county has no right to rent money. (*Kingman County Commissioners v. Hufford*, 126 Kan. 106, 266 Pac. 932; see, also, section 23 above.)

SEC. 73. *Additional servitudes.* Placing telephone poles and wires upon highway right of way on county roads does not create an additional servitude for which the landowner is entitled to compensation. (*McCann v. Telephone Co.*, 69 Kan. 210, 76 Pac. 870, 66 L. R. A. 171.) While the fee in county roads remains in the landowner, subject to the easement, the fee in city streets in theory remains in the county; but this distinction is not approved, perhaps

because the damage caused by the telephone lines on country roads is slight and in cities the damage is much greater; so, therefore, if no damage is collectable in cities, *a fortiori* none should be collected in the country. (See Nichols Em. Dom., sec. 186.) The statute (R. S. 17-903) amply provides for condemnation proceedings but, under the decision of the court, such are seldom necessary.

## VII. STATE AND FEDERAL CONDEMNATION

(For statutes providing for state and federal exercise of eminent domain, see: R. S. 26-201 to 10, 26-301 to 6, 26-401 to 2; R. S. 1931 Supp. 27-101 to 2; 32-213 to 4, 32-221 to 2; R. S. 68-111 to 13; R. S. 1931 Supp. 68-413; R. S. 72-4110, 76-147; R. S. 1931 Supp. 76-2010; R. S. 76-2433; R. S. 1931 Supp. 82a-203.)

SEC. 74. *Scope.* This chapter does not include the decision as to state highway condemnations, as the same comes more logically under Roads, Highways and Bridges. (See chapter VI above.)

SEC. 75. *Patriotic and historical property.* "Public use" has been construed to include property possessing unusual historical interest to the state. The term "public use" is not capable of exact definition (see 54 A. L. R. 7 and sec. 4 above.) Public needs multiply, and it is not possible to mark the limit as to what the state may or may not take under the power of eminent domain. R. S. 26-301 extends the power to take any land that possesses unusual and historical interest. R. S. 1931 Supp. 79-2008 declares that old Shawnee Mission possesses such historical interest, and the subsequent sections provide for condemning it for the use of the state, but does not say as to what special use the property is to be put. In an appeal by the landowner from the judgment of condemnation it was held that the public use was sufficiently specified; that the state may determine the question whether a use is public, and that no special tribunal need be established for that purpose where interested parties may be heard. The question of law is, then, whether such use so declared is a public one, and it was held that the preservation of Shawnee Mission as a place of unusual historical interest was clearly a public use. (*State, ex rel., v. Kemp*, 124 Kan. 716, 261 Pac. 556; 59 A. L. R. 940; writ of error dismissed, 278 U. S. 191, 49 S. Ct. 160; 73 L. Ed., 259.)

SEC. 76. *State institutions.* It has been held that where the statute does not give the alternative right to purchase, and only the power to condemn, that those acting on behalf of the public have no power to agree as to the compensation to be given to the owner, but must proceed to condemn. (*Hornaday v. State*, 62 Kan. 828, 62 Pac. 329; same, 63 Kan. 499, 65 Pac. 656.)

The present statute (R. S. 76-147) relating to acquisition of lands for buildings, etc., does not provide for purchase, but only for the condemnation of such lands. It will be noted that in the acquisition of land adjoining the state penitentiary for mining coal, the State Board of Administration may not only condemn, but it may secure same by contract or purchase. (R. S. 76-2433.) Most likely this power is granted, or would be implied, in all the other statutes granting the right to condemn. (See R. S. 72-4701 to 2; *Nelson v. School District*, 100 Kan. 612, 164 Pac. 1075.)

SEC. 77. *Public forestries, recreational grounds, fish and game preserves, state lakes and parks.* Under R. S. 1931 Supp. 32-213 to 14 the State Forestry, Fish and Game Commission is authorized to carry out the public policy of the state in the protection and propagation of fish, bird life (other than predatory and destructive), game and fur-bearing animals of the state and to establish refuges and preserves therefor (commonly known as state lakes and parks). For these purposes the commission may condemn, as cities may do in the acquisition of land or water for waterworks. The court has held that the condemnation procedure comes under R. S. 26-201 to 10. (*State v. Nelson*, 126 Kan. 1, 266 Pac. 107.)

SEC. 78. *Same; abandonment of proceedings.* Under R. S. 26-206, providing for the abandonment of the condemnation proceedings by resolution by the

Forestry, Fish and Game Commission, it is not an abandonment within the meaning of the statute where, in the absence of such a resolution, the commission's attorney files a notice of abandonment within the statutory ten days. (*State v. Nelson*, 126 Kan. 1, 266 Pac. 107.)

SEC. 79. *Elements and measure of damages.* Testimony of an offer of purchase made to the land condemned is not admissible to prove value. The court has said that it would not be much evidence of value unless the court tried out all the elements that prompted the offer and the motive behind it. (*State v. Nelson*, 126 Kan. 1, 266 Pac. 107; see, also, *St. Joseph & D. C. R. Rld. Co. v. Orr*, 8 Kan. 419.) For other cases as to the measure and elements of damages, see section 19 above.

SEC. 80. *Additional lands for state lakes, parks and recreational grounds.* The court has not yet been called upon to pass on chapter 190, Laws 1931, (R. S. 1931 Supp. 32-221 to 2) providing for the acquisition of additional lands adjoining state lakes and parks and to resell same with a protective restriction in the deeds. As to the taking, however, the court has held that additional ground may be taken for the protection of county buildings, under section 19-1501 of the 1923 Revised Statutes (*Jockheck v. Shawnee County Commr's*, 53 Kan. 780, 37 Pac. 621); but as to the resale of the land with restrictions in the deeds (R. S. 1931 Supp. 32-222), which is in effect a zoning of the property, although there is no provision for any zoning ordinance or regulation to be made, the supreme court in this state has not yet spoken, so far as the eminent-domain question is here concerned. Whether this is a constitutional public use, even though the statute expressly says so (*Lake Koen Irrigation Co. v. Klein*, 63 Kan. 484, 65 Pac. 684), is questionable. At least it seems to be a new step in public policy in taking private property under the power of eminent domain, since present eminent-domain statutes contemplate possession, or the right to occupy, and not that it shall be resold and be in absolute possession of another person.

The resale feature of the act appears to be mandatory, so the property could not be held by the commission. Can this be done? Mr. Justice Story, speaking for the supreme court of the United States in 1829, said: "We know of no case in which a legislative act to transfer the property of A to B without his consent has ever been held a constitutional exercise of legislative power in any state of the Union. On the contrary it has been constantly resisted as inconsistent with just principles by every judicial tribunal in which it has been attempted to be enforced." (*Wilkinson v. Leland*, 2 Pet. 658, 7 L. Ed. 553.)

It is to be noted that the resale need not be made to the condemnee or person from whom it is taken. Such a provision in the act might cure the possibility of its being held unconstitutional; or, a provision for the taking of an easement for the purpose of protecting, adding to, and improving state lakes, parks, and recreational grounds, which will prevent the loss of large expenditures of the state's money and prevent the disfigurement of the beauty of the grounds, which seems to have been the real intention of the legislature in enacting R. S. 1931 Supp. 32-221 to 2. (See *Nichols Em. Dom.*, sections 57 and 58; also, *Pennsylvania Mut. L. Ins. Co. v. Philadelphia*, 242 Pa. 47, 88 Atl. 904, 49 L. R. A., n. s., 1062; and *Salisbury Land & I. Co. v. Massachusetts*, 215 Mass. 371, 102 N. E. 619, 46 L. R. A., n. s., 1196.)

## VIII. SCHOOL CONDEMNATIONS

(See R. S. 1931 Supp. 13-13a13; R. S. 72-503, 72-4110, and 72-4701 to 2 for statutes relating to right of eminent domain for school purposes.)

SEC. 81. *Methods of procedure.* The statute (R. S. 72-4110) providing that the State School Book Commission may condemn for additional buildings for printing textbooks makes the procedure under the railroad statute (R. S. 66-901 to 7.) With this exception, the other school condemnation statutes say that it shall be as provided by law, and with the statute concerning municipal universities (R. S. 1931 Supp. 13-13a13) saying that the procedure shall be as that vested in boards of education of cities of the same class.

As to what statute to proceed under, it was said in the arguments in a case that has been decided since the Revised Statutes of 1923 went into effect, that "a note at the beginning of chapter 72, article 47, refers us to chapter 26, R. S. 1923, eminent domain, and there is set out in detail the procedure that must be followed. Appellants admit that the appellee has proceeded according to law." (Brief of appellee in *Mayfield v. Board of Education*, 118 Kan. 138, 233 Pac. 1024.)

SEC. 82. *Constitutionality.* The fact that the statute (R. S. 72-4702) makes no provision for recovery of consequential damages does not make such statute unconstitutional, because the Kansas constitution does not require such payment. (*Mayfield v. Board of Education*, 118 Kan. 138, 233 Pac. 1024; see, also, *Buckwalter v. School District*, 65 Kan. 603, 70 Pac. 605.)

SEC. 83. *Same; notice to landowner.* A condemnation proceeding under Laws 1874, ch. 122 sec. 3 (now R. S. 72-503), divests the owner of title, even though no notice was given or security for compensation made, it being held that the right of appeal from the award satisfied all constitutional provision for due process of law. (*Buckwalter v. School District*, 65 Kan. 603, 70 Pac. 605; see 4 L. R. A., n. s., 170n and Ann. Cas. 1913A 1256.)

SEC. 84. *Validity of proceedings.* Boards of Education in cities were not authorized under Laws 1909, ch. 86, sec. 2 (now R. S. 72-4702 as amended), to acquire lands for teaching practical agriculture to pupils of the public schools of the city. There was no express statutory provision for it, and it could not be implied from such statute authorizing acquisition of sites, etc. for schools. (*Board of Education v. Davis*, 90 Kan. 621, 135 Pac. 604.) The power to do so was given by an amendment in 1917. (Laws 1917, ch. 273, sec. 1.) Under Laws of 1917, ch. 273 sec. 1 (now R. S. 72-4702, as revised), it was held that a school district may acquire more than one schoolhouse site where same is necessary in the district. The statute places no restriction or limit upon the amount of ground that may be acquired for sites for school buildings, playgrounds, agricultural, industrial, athletic or enlargement purposes. (*Griebel v. School District*, 110 Kan. 317, 203 Pac. 718.)

SEC. 85. *Same; statutes controlling.* School districts with third-class cities may vote to change its schoolhouse site, under R. S. 72-501, and may then proceed to condemn for a playground under R. S. 72-4702. So far as school districts in which are located cities of the third class are concerned, there is room for both laws to operate, although R. S. 72-503 says nothing about playgrounds. (*Nelson v. School District*, 100 Kan. 612, 164 Pac. 1075.)

SEC. 86. *Same; offer to purchase before condemnation.* Although a school board was apparently proceeding under a statute (now R. S. 72-4701 to 2) which did not require an offer to purchase before condemning, it was held that, without citing the statute (now R. S. 72-503) making such requirement, such offer was not necessary if the owner refused to convey or donate the land. (*Nelson v. School District*, 100 Kan. 612, 164 Pac. 1075.)

SEC. 87. *Same; appeal bond.* A defective appeal bond may be amended where the owners themselves have joined in the one given. (*Wood v. School District*, 102 Kan. 78, 169 Pac. 555.) Where, however, only the surety signs, there is no jurisdiction and the appeal fails. (*St. L. K. & S. W. Ry. Co. v. Morse*, 50 Kan. 99, 31 Pac. 676. See, also, *Lotz v. Kansas City*, 108 Kan. 25, 193 Pac. 1051; and *Burke v. Mo.-K. T. Rld. Co.*, 132 Kan. 625, 296 Pac. 380, where the decisions as to defective appeal bonds are reviewed.) See, also, section 16 above.

SEC. 88. *Elements and measure of damages.* In condemning lands (see R. S. 72-503) where there are valuable deposits of gravel, it was held proper, in the instructions, on appeal from the award, to use the words "actual," "market" and "fair and reasonable value" as equivalent, where the jury understands that they are to find the difference, if any, between the value of the lands before and immediately after they were appropriated. (*Wood v. School District*, 108 Kan. 1, 193 Pac. 1049.)

## IX. PRIVATE CORPORATIONS, ASSOCIATIONS AND PERSONS AUTHORIZED TO CONDEMN

(For statutory provisions relating to private corporations and persons other than railroads, see: R. S. 17-618, 17-1315, 17-1903, 19-2623, 26-101 to 2, 42-109 to 18, 41-120 (3d cl.), 42-301 to 9, 42-317 to 20, 59-101 to 16, L. 1933, ch. 155, § 3 (future citation; R. S. 1933 Supp. 17-627); for statutory provisions granting the right to railroads, see heading "Railroad Condemnation," chapter X, below.)

SEC. 89. *Methods of procedure.* There are several special methods of procedure provided for private corporations and individuals in the exercise of the right of eminent domain. For example there are special methods for mill and power-plant dams, right to take water, and for railroad corporations. More than one method is in some cases authorized for the same purpose. (Compare, for example, R. S. 17-618 and R. S. 26-101.)

SEC. 90. *Milldams and power dams.* It has been said that not until 1868 was the right of eminent domain conferred upon any corporation other than railroads (G. S. 1868, ch. 23, sec. 88, now R. S. 17-618, as amended), except that in 1867 (L. 1867, ch. 87, sec. 1, now R. S. 59-101, as amended) any "person" could exercise the right in overflowing lands for milldams. (See *Howard Milling Co. v. Schwartz*, 77 Kan. 605, 95 Pac. 559, 18 L. R. A., n. s., 356; 59 A. L. R. 21.)

SEC. 91. *Same; public use.* It was held in the case cited in section 90, above, that under Laws of 1863, chapter 39 (repealed by the 1923 revision because no business has been transacted under it for many years), declaring "gristmills" to be public mills, that a flour- and feed-mill corporation was not such a public mill as to empower it to exercise the right of eminent domain. The court reviewed the history of the statute and showed that at the time of its passage the right of eminent domain was not intended, as at that time (1863) no corporation, other than railroads, had such a right. (*Howard Mills Co. v. Schwartz*, 77 Kan. 599, 95 Pac. 559, 18 L. R. A., n. s., 356; 59 A. L. R. 21.) The early milldam act was held not to include the right to overflow or obstruct a highway. The court rather reluctantly held the act valid, preferring to stay in line with the decisions of other courts. The court questioned the public use. (*Vernard v. Gross*, 8 Kan. 248.)

SEC. 92. *Same; validity of proceedings.* The milldam statute must be complied with to give rights thereunder, since the statute sets out the complete steps as to procedure. (*Atkins v. Davis*, 11 Kan. 580.)

SEC. 93. *Same; damages, measure and elements of.* Where the proceedings of the commissioners or persons so acting under the milldam act (now R. S. 59-101 to 16) are irregular, and no part of the award has been paid, the owners of overflowed lands may recover for injuries caused thereby. (*Atkins v. Davis*, 11 Kan. 580.)

As to the measure of damages it was held to be the difference between the value of property without the dam and the value with the dam. (*Harding v. Funk*, 8 Kan. 315; see, also, cases cited in section 19 above.)

SEC. 94. *Same; res judicata.* Where lands are overflowed due to a dam erected without condemnation proceedings and the owner recovers for permanent injuries he is precluded from recovering for subsequent damages to crops. (*Hubbard v. Power Co.*, 89 Kan. 446, 131 Pac. 1182; see, also, *Marshall v. Wichita, etc., Rld. Co.*, 96 Kan. 470, 152 Pac. 634.)

SEC. 95. *Same; deduction of benefits to remainder of land.* General benefits accruing to all in the vicinity cannot be used to offset or reduce damages caused by overflowing of plaintiff's land. (*Marcy v. Fries* 18 Kan. 353; see, also, cases cited in section 21, above.)

SEC. 96. *Irrigation works.* Irrigation is a public use under the law of eminent domain, and the fact that powers of the corporation (see R. S. 17-619, 42-120) include, incidentally, a private use, does not deprive it of the right to exercise the power. It is for the courts to decide what is a public use and for

the legislature to confer the power. (*Lake Koen Irrigation Co. v. Klein*, 13 Kan. 484, 65 Pac. 684.) For other cases on public use, see section 4 above.

SEC. 97. *Same; statutes applicable.* Where there are two statutes conferring the power of eminent domain, and one limits the part of the state where such right may be exercised (R. S. 42-301) and the other act passed at a later date is state wide in scope (R. S. 17-618) the court has held the proceedings valid under the most recent enactment. (*Lake Koen Irrigation Co. v. Klein*, 63 Kan. 484, 65 Pac. 684.) It will be noted, however, that neither of these statutes prescribes the procedure in the act itself. Section 17-618 says that the procedure shall be the same as that for railway corporations, so far as applicable, and section 42-301 only says that no prior vested right shall be taken without "due legal condemnation of and compensation for the same." The question of how to proceed is further complicated, since R. S. 26-101 was enacted in 1923. It would seem that an irrigation company could proceed as provided in either sections 26-101 to 26-102, or sections 66-901 to 66-907.

SEC. 98. *Same; appeal bond.* Where the description of the lands in the appeal bond is defective it is rendered certain by express reference to commissioner's report of the land condemned. (*Lake Koen Irrigation Co. v. McLain*, 69 Kan. 334, 76 Pac. 853. See, also, *Burke v. Missouri-K-T. Rld. Co.*, 132 Kan. 625, 296 Pac. 380, where the decisions as to defective appeal bonds are reviewed; and see section 16, above.)

SEC. 99. *Same; measure and basis for damages.* Even though only an easement is taken in the land, the basis of the owner's recovery is the same as if the fee had been taken. (*Dethample v. Lake Koen Irrigation Co.*, 73 Kan. 54, 84 Pac. 544.) For other cases see section 19, above.

SEC. 100. *Gas and pipe lines.* A gas company, acting under R. S. 17-618, may lay pipes through the streets of a second- or third-class city after condemnation proceedings, as provided in R. S. 66-901 *et seq.* (see, also, R. S. 26-101), so far as same is applicable. It has been held that no award need be made to the city, but the court did not decide whether private-property owners must be compensated. (*La Harpe v. Gas Co.*, 69 Kan. 97, 76 Pac. 448.)

SEC. 101. *Same; statutes applicable.* Under R. S. 17-618, providing that the procedure shall be the same as provided in R. S. 66-901 *et seq.*, "so far as applicable," it was held that the rule as to definiteness of width and extent of land taken does not apply, and it is sufficient if the course is surveyed and the termini of the land fixed; if an unreasonable use of the land is made the landowner may recover for damages resulting therefrom. (*Love v. Empire Natural Gas Co.*, 119 Kan. 374, 239 Pac. 766.)

A pipe-line company may, under its eminent-domain power granted by R. S. 17-618, proceed under either R. S. 26-101 to 2 or R. S. 66-906 to 7. The former statute allows thirty days for filing notice of appeal and bond; while under the latter the appeal bond must be filed within ten days. It has been held that if the condemner failed to indicate which statute he was proceeding under, and the landowner effects an appeal under R. S. 26-102, that it is then too late for the condemner, on motion to quash the appeal, to announce that he was proceeding under the other statute, which allowed less time to perfect an appeal. (*Knox v. Great Lakes Pipe Line Co.*, 135 Kan. 170, 9 P. 2d 650.)

SEC. 102. *Same; right to use highways.* A gas company incorporated under state laws has the legal right to lay pipe lines in the public highways, where it does not interfere with public travel. (*State v. Natural Gas Co.*, 71 Kan. 508, 80 Pac. 962; *Empire Natural Gas Co. v. Stone*, 121 Kan. 119, 245 Pac. 1059.)

SEC. 103. *Same; appeal bond.* Where the obligation paragraph of an appeal bond contains the name of an entire stranger, such bond is not absolutely void if the context contains a description of the condemnation proceedings and obligates the maker to satisfy any judgment or costs rendered on an appeal from the appraiser's award. (*Sheridan v. Phillips Pipe Line Co.*, 134 Kan. 260, 5 P. 2d 817.)

SEC. 104. *Same; abandonment of proceedings by condemner after verdict on appeal.* Where the proceeding is under R. S. 26-101 to 2, the company cannot escape liability by abandonment of the proceedings, where the case on appeal from the award has been finally submitted to the jury. This is true, because in an appeal under the above sections the title has passed and the appeal is an action where a personal judgment is rendered and cannot be dismissed without prejudice under R. S. 60-3105. (*Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708.) See, also, cases cited under section 25, above.

SEC. 105. *Electrical transmission lines; elements and measure of damages.* Where an easement in land is taken for the construction of an electrical transmission line, the elements and measure of damages is the value of that part of the strip to which the condemner acquired the exclusive easement by the condemnation, being the part covered by the towers and foundation; and, second, for damages to the remainder of the strip occasioned by the partial taking; and, third, for damages, if any, to the land not taken. (*United Power & Light Corp. v. Murphy*, 135 Kan. 100, 109, 9 P. 2d 658.)

The possible fears in the minds of future purchasers of the presence of electrical transmission lines on the land is not a proper element of damage. That is, the proximity of such a line is not an element that would depreciate the market value of the remaining land not taken. (*Yagel v. Kansas Gas and Electric Co.*, 131 Kan. 267, 291 Pac. 768.)

SEC. 106. *Telephone and telegraph lines; damages.* The placing of telephone poles and wires upon a highway right of way does not make the company liable for damages to the adjoining landowners, as such has been held not to create an additional servitude on the right of way. (*McCann v. Telephone Co.*, 69 Kan. 210, 76 Pac. 870.)

In case of telegraph lines it was held particular items of damages to the landowner, not supported by the evidence, will be set aside. (*Kansas Postal Telegraph Co. v. Leavenworth T. Ry. & B. Co.*, 89 Kan. 419, 131 Pac. 143.)

SEC. 107. *Water easements.* A water company that instituted proceedings to obtain an easement under Comp. Laws, 1879, ch. 23, cannot, after award of damages, claim it had no such power under the statutes. The court emphasized the fact, however, that the question was not raised in the district court, holding the award judgment valid, whether authorized by statute or not. (*Parsons Water Co. v. Knapp*, 33 Kan. 752, 7 Pac. 568.)

## X. RAILROAD CONDEMNATIONS

(For statutory provisions, see: R. S. 14-435, 15-439, 68-159 to 61, 66-403 to 4, 66-501 [5th cl.], 66-503, and 66-901 to 11.)

SEC. 108. *Constitutionality.* The constitutional restriction as to taking of rights of way by corporations applies to railroads. It provides that "no rights of way shall be appropriated to the use of any corporation until full compensation therefor be first made in money, or secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation." (Kan. const., art. 12, sec. 4.) All of the private railroad-corporation condemnation proceedings must, of course, observe this provision. (See section 5, above.) Payment by security or deposit is required before the taking (see section 116, below), and there can be no deduction for benefits. (See section 134, below.)

SEC. 109. *Public use.* It has not been questioned but that the taking of land for a railroad right of way is a taking for the public use. Even bonds in aid of private railroads may be voted and taxation levied in payment for stock in a railroad corporation which the legislature (Laws 1865, ch. 12; see R. S. 66-1001 to 97) authorized counties and cities to subscribe for. (*Leavenworth County v. Miller*, 7 Kan. 479; *State v. Nemaha County*, 7 Kan. 542; *Morris v. Morris County*, 7 Kan. 576.) Justice Brewer, in dissenting, said: "that the fact that great public benefits result from the building of a railroad no one will question," but he did not think, even though it was a public use

justifying the exercise of eminent domain, that taxation could be levied in aid of a private enterprise. (*State v. Nemaha County*, 7 Kan. 549, 564.) For definitions of public use, see section 4 above.

The fact that a part of the land taken is to be used to furnish ingress and egress to a third person for private use does not make the proceedings invalid where the principal use is a public one, as for tracks and yards, and the access to such third person's property is only incidental to the public use. (*Smouse v. Kansas City S. Rly. Co.*, 129 Kan. 176, 282 Pac. 183.) A spur track, regardless of its length or the number of industries it serves, is a public use if it is subject to use by the public as of right and subject to state regulation. (*Dotson v. A. T. & S. F. Ry. Co.*, 81 Kan. 816, 106 Pac. 1045.)

SEC. 110. *Methods and nature of the proceedings.* There are at least two methods of procedure provided for in the railroad condemnation statutes. (*Huly v. Kaw Valley Ry.*, 130 U. S. 560.) Application may be either made to the board of county commissioners (R. S. 66-901), who act as appraisers, or, in lieu thereof, to the judge of the district court for appointment of commissioners to appraise and assess the damages, instead of the county commissioners. (R. S. 66-907.)

There is also provision in R. S. 66-501 (5th cl.) which says that where two railroads cannot agree as to the compensation in joining and making switch connections, etc., with each other, the same shall be determined by three commissioners appointed by the district court. Since there is no provision as to procedure or appeal thereafter, this may mean that the decision of the commissioners is final. However, R. S. 66-501 (5th cl.) and R. S. 66-906 to 7 were originally chapter 23 of G. S. 1868, but in separate articles, as they are now in the 1923 Revised Statutes. But, see Laws 1887, chapter 184 (now R. S. 36-159 to 61), which provides for an appeal from the decision of the Public Service Commission where either party is dissatisfied with the "terms" fixed in regulating crossings and intersections of railroads (R. S. 66-161), saying that the judgment shall only affect the amount of the compensation. (See *Union T. Rld., Co. v. Board of Rld. Comm'rs*, 54 Kan. 352, 38 Pac. 290.)

Condemnation proceedings are essentially proceedings *in rem*. (*Kansas, etc., Ry. Co. v. Phipps*, 4 Kan. App. 252, 45 Pac. 926, affirmed 58 Kan. 142, 48 Pac. 573; *Chicago, etc., Rld. Co. v. Selders*, 4 Kan. App. 497, 44 Pac. 1012; see section 10, above.) They cannot be used to quiet title to land already owned or to compel specific performance of a contract already entered into. (*Florence, etc., Ry. Co. v. Lilley*, 3 Kan. App. 588, 43 Pac. 857.)

SEC. 111. *Preliminary proceedings.* Where an act of congress of 1875 granted to railroads a right of way over public land, it was held that this did not take effect until the approval of the location of the road by the Secretary of Interior. And where a condemnation proceeding was commenced before such approval, a person holding a timber claim in such lands could not thereafter be denied the right to compensation. (*Chicago, K. & N. Ry. Co. v. Van Cleave*, 52 Kan. 665, 33 Pac. 472.)

SEC. 112. *Same; map, profile and notice of route.* Notice to the landowner is provided in R. S. 66-906, and as to the map and profile of the route and notice to occupants of the lands provided in R. S. 66-403 to 4, the rule is that such need not be filed or given prior to commencement of proceedings to condemn a right of way. (See *Missouri R. Ft. S. & G. R. Co. v. Shepard*, 9 Kan. 347.) Therefore, these things do not invalidate the proceedings (*Chicago, K. & W. Rld. Co. v. Abbott*, 44 Kan. 170, 24 Pac. 52) because they are no part of the condemnation proceedings (*Chicago, K. & N. Ry. Co. v. Griesser*, 48 Kan. 663, 29 Pac. 1082; *Salina N. Rld. Co. v. Allison*, 100 Kan. 472, 164 Pac. 1068).

SEC. 113. *Statutes applicable.* A railroad company cannot take a right of way under an act of congress. (12 St. at Large, 489; 13 *id.* 356.) The proceedings must be taken under state laws. The owner cannot have commissioners appointed to have land valued. His remedy is ejectment, trespass or injunction, if in time. (*Kansas Pac. Ry. Co. v. Streeter*, 8 Kan. 133.)

SEC. 114. *Commissioners; qualifications and duties.* The statute (R. S.



66-907) says that if the commissioners are appointed by the district court they shall be freeholders and residents of the county. As to who is a freeholder, it has been held that a husband living on a homestead owned by his wife is a freeholder. (*Hughes v. Milligan*, 42 Kan. 396, 22 Pac. 313.) The fact that commissioners are not freeholders cannot be shown in a collateral attack on the proceedings. (*Chicago, K. & N. Rly. Co. v. Griesser*, 48 Kan. 663, 29 Pac. 1082; *Huly v. Kaw Valley Ry. Co.*, 130 U. S. 559.)

Under Laws of 1187, ch. 184 (similar to R. S. 66-159 to 61), where the commissioners to determine necessity and damages were the board of railroad commissioners, it was held that they had no authority to reopen the case, and that their decision was final unless appealed from within the prescribed time. (*Union Term. Rld. Co. v. Board of Rld. Comm'rs*, 54 Kan. 352, 38 Pac. 290); but the commissioners may adjourn their proceedings to a definite date without losing jurisdiction; and it will be presumed that the statements in their report are right and regular (*Leavenworth, N. & S. Ry. Co. v. Meyer*, 50 Kan. 25, 31 Pac. 700. See, also, *Sicks v. Allen County Comm'rs*, 126 Kan. 643, 270 Pac. 607). If the commissioners actually abandon their proceedings by adjournment, subsequent proceedings are void unless a new notice to the landowners is given. (*Memphis K. & C. Ry. Co. v. Parsons Town Co.*, 26 Kan. 503.)

SEC. 115. *Notice to the landowners.* The provision regarding notice in R. S. 66-404 (see sec. 112, above) has been construed to be of informational purposes only and, therefore, it is not a jurisdictional defect, since it is no part of the condemnation proceedings. (*Chicago K. N. Rly. Co. v. Griesser*, 48 Kan. 663, 29 Pac. 1082; *Missouri R. Ft. S. & G. R. Co. v. Shepard*, 9 Kan. 647; *Chicago, K. & W. Rld. Co. v. Abbott*, 44 Kan. 170, 24 Pac. 52.) The notice to the landowner is sufficient if given as required by R. S. 66-906, even though no map or notice was filed under R. S. 66-403 to 4, and such notice binds a lessee of the land condemned although no compensation is given him, even though such lessee is in open and notorious possession. (*Salina N. Rld. Co. v. Allison*, 100 Kan. 472, 164 Pac. 1068); and although no notice need be given under R. S. 66-404, so far as the validity of the proceedings is concerned, an attempted condemnation of land without notice provided under section 1395, G. S. 1889 (now R. S. 66-906 as amended) was held void (*Kansas C. & S. W. Ry. Co. v. Fisher*, 53 Kan. 512, 36 Pac. 1004).

Notice by publication under Laws 1870, ch. 74, sec. 1 (now R. S. 66-906), to one who is not an actual occupant of the land is sufficient (*Hunt v. Smith*, 9 Kan. 137); and a published notice specifying the section, township and range, county and state in which it is proposed to locate the railroad is sufficient notice to a nonresident owner of land therein, and such publication is "due process of law" as applied to such a case (*Huling v. Kaw Valley Ry. Co.*, 130 U. S. 559).

Where the notice fails to fix time when commissioners will commence to condemn the right of way, the proceedings are void. (*Missouri Pac. Rly. Co. v. Houseman*, 41 Kan. 300, 304, 21 Pac. 284.) Although the statute (now R. S. 66-906) is silent as to who shall give notice, it has been held sufficient if it is given by the commission appointed to make the condemnation and embodied in their report, which is deemed *prima facie* evidence of notice. (*Clement v. Wichita & S. W. Ry. Co.*, 53 Kan. 682, 37 Pac. 133.) When the commissioners abandon proceedings by adjourning, a new notice must be given or subsequent proceedings are void. (*Memphis, K. & C. Ry. Co. v. Parsons Town Co.*, 26 Kan. 503.)

SEC. 116. *Deposit or payment of compensation money.* Under the provision of the constitution (Kan. const., art. 12, sec. 4), until the compensation money is paid or deposited, the corporation gets no rights, unless it is the right to enter the land for the purpose of making surveys. But no right of way is obtained until the money is paid or deposited, and the railroad is a trespasser unless it does so or obtains the owner's consent. (*Missouri, K. & T. Ry. Co. v. Ward*, 10 Kan. 352; *Chicago, K. & W. Rld. Co. v. Watkins*, 43 Kan. 50, 22 Pac. 985.)

As to whom the money deposited with the county treasurer belongs,

Justice Brewer said: "We think it belongs to the company, and remains at its risk. The right of way over the land does not pass until damages, as finally ascertained, are paid in money, or secured by deposit in money." (*Blackshire v. A. T. & S. F. Ry. Co.*, 13 Kan. 515.) So, it was held in the *Blackshire* case just cited, that money deposited with the county treasurer cannot be credited to the amount recovered by the landowner on an appeal from the award, as such deposit is not a payment and remains with the treasurer at the company's risk pending the proceedings.

As to the statutory provisions in regard to the payment of the amount of the appraisement, it is provided that it shall be paid within ninety days after the filing of the commissioner's report, and the county treasurer thereupon pays it over to the parties entitled. (R. S. 66-903.)

SEC. 117. *Validity of proceedings.* A *de facto* corporation may exercise the right of eminent domain, where a number of individuals in good faith have attempted to organize it. This is true so far as the landowners are concerned, Mr. Justice Valentine saying that: "As a rule, the legal existence of a *de facto* corporation can be questioned only by the state in a direct proceeding instituted for that purpose. But we do not think that it is really necessary to determine in this case the legal status or power of the present depot and railroad company. Whether the company is a corporation or not, and whether it is a railroad corporation or not, we think the plaintiff has so dealt with it as to debar her from the equitable relief of injunction which she now seeks." (*Reisner v. Strong*, 24 Kan. 410, 417.)

In the case just cited the landowner had taken an appeal from the award and allowed the company to continue construction and spend many thousands of dollars; also, "it is generally true, that where a party appeals from an award of damages, he cannot, pending the trial of the appeal, question the validity of the road proceedings." (Brewer, J., in *Lyon County Comm'rs v. Kiser*, 26 Kan. 279, 281.)

The owner of the land may waive formal condemnation proceedings where the railroad has taken possession and elect to regard it as a taking under the right of eminent domain. (*Cohen v. St. Louis, Ft. S. & W. Rld. Co.*, 34 Kan. 158, 55 Am. Rep. 242; *Wichita & W. Rld. Co. v. Fechheimer*, 36 Kan. 45, 12 Pac. 362; see, also, section 133 below.) But where it does not appear that the proceedings are instituted by the railroad, or that the railroad was a party to them or even had notice of them, they will be held void. (*Junction City & Ft. K. Ry. Co. v. Silver*, 27 Kan. 741.)

The statutory condition as to prepayment to the county treasurer within ninety days (R. S. 66-903) may be waived by the landowner; the court saying that if the company relied on such waiver and spent large sums of money, the owner would be estopped to reclaim the land. (*Williams v. Railway Co.*, 62 Kan. 412, 63 Pac. 430, 84 Am. St. Rep. 408.)

A railroad has the right to rely on the public records as to who is the owner, the same as any other purchaser, and is therefore protected against secret equities. (*Phipps v. Kansas & C. P. Ry. Co.*, 58 Kan. 142, 48 Pac. 573, affirming 4 Kan. App. 252, 45 Pac. 926.) Also, it is held that irregularity or delay in certifying the amount paid in by the company to the county treasurer is cured by the landowner's acceptance thereof, so that the proceedings cannot thereafter be thereby avoided by any subsequent purchaser. (*Corwin v. St. Louis & S. F. Ry. Co.*, 51 Kan. 451, 33 Pac. 99.) In the absence of a statute, it is held that eminent domain cannot be used to acquire an interest in lands inferior to that already possessed. Thus, where a railroad has acquired the fee title by purchase, it cannot by condemnation proceedings extinguish a mortgage lien on such land. (*Chicago, K. & W. Ry. Co. v. Need*, 2 Kan. App. 492, 43 Pac. 997.)

SEC. 118. *Same; rights of way of another railroad.* The statutes (now 66-901 *et seq.*) do not authorize the taking of right of way of another railroad which is in actual and necessary use by the owner. Therefore, if any part of such right of way is included in the award, the whole proceeding is void as an entirety and may be enjoined (*A. T. & S. F. Ry. v. K. C. M. & O. Ry.*, 67 Kan. 581, 73 Pac. 899); and where the notice or petition fails to describe

the land and it appears that one railroad is attempting to condemn the right of way of another railroad already being used, the whole proceeding is void (*Union Term. Ry. Co. v. Kansas City, etc., Ry. Co.*, 9 Kan. App. 281, 60 Pac. 541).

SEC. 119. *Same; commissioners, reports of, etc.* The statute does not make the landowners party to the proceedings, and the failure of the commissioners to name the owners in their report does not prevent the landowners from appealing from the award (*Chicago, K. & W. Ry. Co. v. Grovier*, 41 Kan. 685, 21 Pac. 779); nor will mandamus lie to compel the commissioners to amend their report to include names of claiming owners whose claims are conflicting, since the commissioner's determination would not be binding and would be no protection to the treasurer if payment was not made to the real owner (*State, ex rel., v. A. T. & S. F. Ry. Co.*, 105 Kan. 548, 185 Pac. 286). Under the statute (R. S. 66-904) the failure of the company to file a certified copy of the commissioners' report within ten days does not invalidate the proceedings or prohibit occupation by the railroad (*Chicago, K. & W. Rld. Co., v. Abbott*, 44 Kan. 170, 24 Pac. 52); and under R. S. 66-907, which requires that in case of a vacancy the district judge shall appoint another, the award and report by two commissioners after resignation of the third, and without opportunity for his successor to participate, is void (*Leavenworth N. & S. Ry. Co. v. Meyer*, 58 Kan. 305, 49 Pac. 89).

It would seem that fraud or bias on the part of the commissioners would be a ground for setting aside the award, if properly pleaded, although no Kansas case under condemnation proceedings is found (see, *Downey v. A. T. & S. F. Ry. Co.*, 60 Kan. 499, 57 Pac. 101); but the question is not important, since the question on appeal from the award is tried *de novo* (see Nichols, Em. Dom., sec. 431). The Downey case above cited was not a condemnation case, but one of arbitration, where the parties agreed on appraisers to determine the value of the land desired by the railroad. The decision of the arbitrators was set aside because of bias in favor of the landowner. (See, also, *Lantry Contracting Co. v. A. T. & S. F. Ry. Co.*, 102 Kan. 799, 803, 172 Pac. 527.)

In the absence of evidence it will be presumed that the commissioners assessed the damages and performed their duty as required by law (*Union Pac. Rld. Co. v. Huse*, 127 Kan. 603, 274 Pac. 240), especially, as in the *Huse* case, where the validity of the proceedings is attacked many years after the condemnation.

SEC. 120. *Remedies of landowners.* Since the power of eminent domain is purely statutory, the remedies of the landowner are set up in the statutes granting the power, and such remedies are exclusive only because there is no action at common law which is available to the landowner. The legislature, by making lawful what would otherwise not be, excludes the common law remedies which are based upon breaches of obligations. So long as the condemner proceeds according to the statute and the constitutional requirement of payment or deposit of the compensation money, the statutory remedy is exclusive. (See Nichols, Em. Dom., sec. 468.) But this is not true where the taking is unlawful or the proceedings are defective. Other remedies are, of course, not excluded where the land is not taken under condemnation statutes. (See *Chicago, K. & W. Rld. Co. v. Willits*, 45 Kan. 112, 25 Pac. 576; see, also, section 125, below.)

SEC. 121. *Same; injunction.* Where there is no adequate remedy at law, a proper way to test the right to take property by condemnation is a suit to enjoin the taking. Under the statutes if an appeal from the award is taken, the validity of the taking cannot be questioned. Therefore, usually the only adequate remedy to test the validity is by an injunction. (*A. T. & S. F. Ry. v. K. C. M. & O. Ry.* 67 Kan. 581, 73 Pac. 899); but an individual cannot so challenge the corporate existence, as that right lies exclusively in the state (*Euler v. Rossville School District*, 118 Kan. 363, 235 Pac. 95).

Where the proceedings are taken under federal instead of state law, they may be enjoined. (*Kansas Pac. Ry. Co. v. Streeter*, 8 Kan. 133.)

Under R. S. 66-501 (1st cl.) a railroad may enter and make surveys, and injunction will not lie where the company does not take possession illegally. (*Hurd v. A. T. & S. F. Ry. Co.*, 73 Kan. 83, 84 Pac. 553.) R. S. 66-901 means such land as the railroad officials deem necessary. Where the company's good faith is questioned in a suit to enjoin, the landowner has the burden of proving bad faith or fraud; and since the principal question is the award of damage for the taking of property, injunction by the landowner is a proper remedy, when he contends that the condemning party is exceeding its powers or that it is ostensibly for a lawful purpose but in reality for an unauthorized one, such as a private use, or when an unnecessary amount is sought to be taken. (*Smouse v. Kansas City S. Ry. Co.*, 129 Kan. 176, 183, 282 Pac. 183.)

A railroad may be enjoined from maintaining an obstruction to an underground passageway where the railroad has not brought proper condemnation proceedings. (*Missouri P. Ry. Co. v. Stone*, 80 Kan. 7, 101 Pac. 666.)

SEC. 122. *Same; estoppel.* The courts will not determine the sufficiency of the proceedings, or as to whether they were absolutely void, where the landowner has stood by and permitted the railroad to build its road and where the public has become vested with an interest in such road. (*Buckwalter v. Atchison, T. & S. F. Ry. Co.*, 64 Kan. 403, 67 Pac. 831.) Likewise the landowner is estopped from saying that the security money was deposited to the wrong person when he fails to appeal from the award. (*Chicago, etc., Ry. Co. v. Selders*, 4 Kan. App. 497, 44 Pac. 1012.) But, see *St. Joseph & D. R. Co. v. Callender*, 13 Kan. 497, where, after appeal and failure of the railroad to pay or deposit the amount of award, ejectment was allowed.

SEC. 123. *Same; ejectment.* In the Callender case, cited in section 122 above, the court, in holding that the landowner may recover possession, even after he has appealed, where the railroad fails to pay the judgment, said that the imperative rule of the constitution that full compensation must be first made in money, or secured by a deposit of money, before any right of way can be appropriated to the use of a corporation, will not be relaxed because of such appeal; but usually the landowner's other remedies are waived by its taking an appeal. But the landowner may not stand by for a number of years while a track is being used for the benefit of the railroad and the public and then maintain an action in ejectment. (*Dotson v. A. T. & S. F. Ry. Co.*, 31 Kan. 816, 106 Pac. 1045.)

The rule that an action to enjoin is proper where the proceedings is under federal instead of state laws was said also to apply to ejectment. (*Kansas Pac. Ry. Co. v. Streeter*, 8 Kan. 133; section 121, above.)

As above stated in section 120 the proceedings must be according to the statute. Before lands can be legally condemned under R. S. 66-901 to 7 the nonresident owners must be notified, as required in R. S. 66-906, informing the owner of the time and place when the commissioners will commence the proceedings. Otherwise the owner may recover possession. (*Missouri Pac. Ry. Co. v. Hauseman*, 41 Kan. 300, 21 Pac. 284.)

It has been held that a plat of the city indicating that a right of way is in plaintiff's lot will not be sufficient to eject a railroad company from a street of specified width. (*Atchison & N. Ry. Co. v. Manley*, 42 Kan. 577, 2 Pac. 567.)

SEC. 124. *Same; trespass.* The landowner may maintain an action in trespass, if the land is illegally taken under federal instead of state laws (*Kansas Pac. Ry. Co. v. Streeter*, 8 Kan. 133); and in an early case it was held that trespass will lie if land is appropriated by a railroad without making full compensation or securing same by deposit of money, and the fact that the deposit is made after the trespass action is commenced will not bar its prosecution. (*Missouri, K. & T. Ry. Co. v. Ward*, 10 Kan. 352.)

A landowner cannot take steps to have lands appraised or condemned unless the statute so provides, and under Laws 1870, chapter 76 (now repealed), which gave the landowner through which the right of way passed the right to have land condemned and appraised, the court held that this remedy was not exclusive, but the owner could sue in trespass where the railroad had

failed to make deposit as required by article 12, section 4, of the Kansas constitution. (*Atchison, T. & S. F. Ry. Co. v. Weaver*, 10 Kan. 344.)

SEC. 125. *Damages.* "Full compensation," as used in the constitution (Kan. const., art. 12 sec. 4), means damages. It was early argued that compensation meant the price or value of the right of way or land taken, and therefore benefits to the remainder of the land could be deducted. (For deduction of benefits see section 134, below.) But article 12, section 4, was taken *verbatim* from article 13, section 5, of the Ohio constitution, which had previously been construed to mean that damages to adjoining lands to the right of way could not be offset by benefits to the same land. (*Atchison, T. & S. F. Ry. Co. v. Blackshire*, 10 Kan. 477.) The fair way of determining the injury is to determine the fair market value of the premises before the right of way is set apart, and then again after, and the difference will be the true measure of damages. (*id.* syl. ¶3.)

"The railroad always pays more in the aggregate than the land actually taken is worth—sometimes ten or twenty times more than it is worth." (Valentine, J., in *Kansas City Rld. Co. v. Jackson County Comm'rs*, 45 Kan. 719, 26 Pac. 394.)

Under the constitution a railroad company has no right to the land or possession until full compensation is made in money or secured by a deposit, and the landowner does not waive any rights by appealing from the award if the company should fail to pay or deposit the amount of the judgment rendered on such appeal. (*St. Joseph & D. C. Ry. Co. v. Callender*, 13 Kan. 496; see section 123 above.)

It has been said where land is taken without condemnation proceedings, such as excavating earth for fills, that there are various kinds of actions which the landowner may bring, such as tort, or he may waive the tort and recover the amount of the benefit received by the wrongdoer, or recover its rental value and permit its restoration to its former condition. (*Chicago, K. & W. Rld. Co. v. Willits*, 45 Kan. 110, 112, 25 Pac. 576.) Likewise a landowner may, of course, recover for taking of property and damages to remaining property, where the right of way has never been purchased or lawfully condemned. (*Kansas City & S. W. Ry. Co. v. Fisher*, 53 Kan. 512, 36 Pac. 1004.)

As to the jurisdiction of the court when the land is regularly condemned, and such land is a farm composed of an entire compact tract and located in two or more counties, the county in which the railroad actually runs may assess damages to the entire tract. (*Atchison & N. R. Co. v. Gough*, 29 Kan. 94.)

As to damages other than money judgments, where the court requires the company to do something, it may be questioned whether such is valid. The Territorial Laws of 1855, chapter 86, sections 8 and 9, authorized the court "to make such orders, and take such other steps as will promote the ends of justice between the owner of such lands and said company," and a judgment was entered, but the railroad failed to build a fence as required. It was held that the judgment cannot be attacked in an action to recover damages for cattle killed through failure to build fence. (*Union Pac. Ry. Co. v. McCarty*, 8 Kan. 125.) An action for damages for breach of a condition as to a judgment obligation is personal and does not run with the land. (*Piper v. U. P. Rly. Co.*, 14 Kan. 568, 574.) The owner of the land, or one who has some interest therein, only is entitled to damages, and persons in possession without title cannot recover. (*Rosa v. M. K. & T. Rly. Co.*, 18 Kan. 124.)

A railroad is not obliged to maintain an undercrossing where same is not shown on a profile filed by the commissioners. (*Lind v. Chicago, K. & W. Ry. Co.*, 42 Kan. 552, 22 Pac. 423.) As to collateral undertakings to pay damages, as where, in 1870, a contract was entered into whereby a railroad company agreed to pay a landowner on demand all damages assessed by the county commissioners, it was held the landowner must make such demand before his right of action accrues. (*Botkin v. Livingston*, 16 Kan. 39.)

SEC. 126. *Same; right of mortgagees and others.* The right of way taken is free from any claims of mortgagees, since the mortgagee is not an owner within the meaning of the statute relating to condemnation proceedings. The

mortgagee's remedy is to resort to the fund awarded for the right of way. (*Rand v. Ft. Scott, W. & W. Ry. Co.*, 50 Kan. 114, 31 Pac. 683; *Chicago, K. & W. Ry. Co. v. Nashua Sav. Bank*, 52 Kan. 467, 35 Pac. 18; *Chicago, K. & W. Ry. Co. v. Sheldon*, 53 Kan. 169, 35 Pac. 1105; *Wichita & W. Rld. Co. v. Thayer*, 54 Kan. 259, 38 Pac. 266.) Mortgagees and their assignees must intervene in the proceedings or present their claim and have no cause of action against the county treasurer and his bondsmen after the award is paid by the treasurer. (*Armstrong v. Moore*, 1 Kan. App. 450, 40 Pac. 834.)

A company, after occupying property and building improvements thereon, instituted condemnation proceedings without mentioning improvements. It was held that even though the railroad had a deed, executed after the land was mortgaged, the assignee of the mortgagor, after foreclosure, is entitled to a judgment in the nature of an award upon condemnation for the improvements. (*Briggs v. Chicago, K. & W. Rld. Co.*, 56 Kan. 526, 43 Pac. 1131.) This case has been expressly overruled, and it was held that in condemnation proceedings, after foreclosure of a mortgage lien on the right of way, the value of railroad improvements does not pass by the sheriff's deed as part of the real estate. (*St. Louis, K. & S. W. Ry. Co. v. Nyce*, 61 Kan. 394, 59 Pac. 1040, 48 L. R. S. 241; *Fernie v. Chicago, R. I. & P. Ry. Co.*, 9 Kan. App. 614; reversed, 62 Kan. 865, 61 Pac. 1131.)

The court may allow the owners not appealing to interplead to contest their rights to the damages awarded. (*Dye v. Midland V. Rld. Co.*, 77 Kan. 488, 94 Pac. 785.)

As to the compensating of third persons, it has been held that, as to the effect of manner and amount of payment to another, ordinarily it is of no concern of the owner of land taken how much the company pays another for other property taken or the manner in which payment for same is made. (*Smouse v. Kansas City S. Rly. Co.*, 129 Kan. 176, 282 Pac. 183.)

SEC. 127. *Appeal from the award.* The appeal is triable at the next term of the district court occurring ten days or more after its perfection. (*Chicago, K. & W. Ry. Co. v. Wilkinson*, 42 Kan. 337, 22 Pac. 412.)

The award is not admissible on appeal, for the reason that the case must be tried *de novo* upon new evidence. (*Chicago, K. & N. Ry. Co. v. Broquest*, 47 Kan. 571, 28 Pac. 717.) Although on appeal the report of the commissioners in the condemnation proceedings and the accompanying map are proper and legal evidence for the appellant to show what land was condemned (*Missouri River, F. S. & G. R. Co. v. Owen*, 8 Kan. 409; *St. Joseph & D. C. R. Co. v. Orr*, 8 Kan. 419; see, also, section 131, below), and in an action of trespass, where full compensation had not been made, it was held that an instruction to the jury "contained the law applicable to 'condemnation proceedings,' and the report of the commissioners, if not conclusive in this case, was good and valid evidence as to the correct amount of damages" (*Missouri, K. & T. Ry. Co. v. Ward*, 8 Kan. 352, 355), with these exceptions it seems that the award of the commissioners is not competent on an appeal.

Where an appeal is taken from the award, the appellant waives all other inquiry into the proceedings. (*Atchison, T. & S. F. Ry. Co. v. Patch*, 28 Kan. 470); but evidence as to other land damages than that included in the appeal bond may be heard on appeal (*Chicago, K. & W. Rld. Co. v. Brunson*, 43 Kan. 371, 23 Pac. 495), although evidence as to the location of another railroad along same right of way is not competent on appeal (*Chicago, K. & W. Rld. Co. v. Hoffman*, 50 Kan. 697, 32 Pac. 382). But an appeal from the award only affects the property as shown in the commissioners' report. Other property will not be affected on the appeal. (*Chicago, K. & W. Ry. Co. v. Grovier*, 41 Kan. 685, 21 Pac. 779.)

Ordinarily title to the land is not a question on appeal, but where a party not named in the award appeals from the assessment, claiming he is the owner, the burden is on him to prove title or adverse possession. (*Chicago, K. & N. Ry. Co. v. Cook*, 43 Kan. 83, 22 Pac. 988.) The appellant must show he had some interest in the land at the time of the condemnation proceedings. (*Chicago, K. & W. Rld. Co. v. Easley*, 46 Kan. 337, 26 Pac. 731.)

As to the time an appeal from the award may be taken, it is held that the report of the commissioners is not complete and final until filed with the county clerk, and an appeal may be taken within ten days thereafter. (*Kansas City & S. W. Ry. Co. v. Hurst*, 42 Kan. 462, 22 Pac. 618.)

SEC. 128. *Same; pleadings and parties on the appeal.* It is proper on appeal to make the landowner the plaintiff and the condemner railroad defendant, but if the action is not properly entitled it is not a cause for dismissing the appeal. (*Missouri River, F. S. & G. R. Co. v. Owen*, 8 Kan. 409; *St. Joseph & D. C. R. Co. v. Orr*, 8 Kan. 419.) The landowner on appeal becomes the plaintiff, and where a railroad has consolidated with another, the landowner must institute proceedings for revivor or substitution within the statutory time. (*Chicago, K. & W. Rld. Co. v. Butts*, 55 Kan. 660, 41 Pac. 948; *Kansas City, W. & N. W. Rld. Co. v. Way*, 60 Kan. 856, 56 Pac. 78.)

Either party may appeal from the award. Where the railroad company appeals, the individual landowners are proper parties, and not the county commissioners. But when the railroad voluntarily complies with the award, makes entry, accepts benefits and takes actual possession, it loses its right to appeal. (*Missouri Pac. Ry. Co. v. Gruendel*, 3 Kan. App. 53, 44 Pac. 439.) In case of a homestead, where the title is in the wife, both husband and wife may join in the appeal (*Chicago, K. & W. Ry. Co. v. Anderson*, 42 Kan. 297, 21 Pac. 1059.) A person having a life interest in the land may appeal without joining the owner of the legal title. (*Chicago, K. & N. Ry. Co. v. Ellis*, 52 Kan. 41, 33 Pac. 478; *id.* 52 Kan. 48, 34 Pac. 352.)

Written pleadings are discretionary with the judge, but the court cannot render personal judgment, but only an award of damages and costs. (*Kansas City, W. & N. W. Rld. Co. v. Kennedy*, 49 Kan. 19, 30 Pac. 126.) The better practice is to file a petition, but unless the railroad makes motion to compel landowner to do so, the omission cannot be raised on objection to evidence. (*Ellsworth M. N. & S. E. Rly. Co. v. Maxwell*, 39 Kan. 651, 18 Pac. 819; *St. J. & D. C. Rld. Co. v. Orr*, 8 Kan. 419.) In condemnation proceedings the rule of law requiring specific facts constituting the fraud, cruelty or negligence to be stated, should be liberally construed when applied to the pleadings filed on appeal. The case may be tried upon the certified transcript without pleadings. (*Southwestern M. Ry. Co. v. Russell*, 7 Kan. App. 503, 54 Pac. 140.)

The petition may be amended on appeal to show the real parties in interest. (*Burlington, K. F. S. W. Ry. Co. v. Billings*, 38 Kan. 243, 16 Pac. 473.)

SEC. 129. *Same; appeal bond.* The county clerk is the proper officer to approve the appeal bond (see R. S. 66-906; *Missouri River F. S. & G. R. Co. v. Owen*, 8 Kan. 409), but where the bond is approved by the county commissioners instead of the county clerk, the court may permit the appellant to give a new bond. (*St. Joseph & D. C. R. Co. v. Orr*, 8 Kan. 419.)

The failure to file a written undertaking is fatal, and a deposit in lieu thereof is not sufficient. (*Beckwith v. Kansas City & O. Ry. Co.*, 28 Kan. 484.) The fact that the appeal bond is not in double the amount of the award, as required by statute, does not destroy the court's jurisdiction. (*Chicago, K. & W. Ry. Co. v. Abilene*, 42 Kan. 97, 104, 21 Pac. 1112.) An appeal is to secure any judgment and costs that may be rendered, and an entry upon the land before giving bond may be waived by accepting money in full payment of damages covered by the petition. (*Fitzgerald v. Chicago, K. & W. Rld. Co.*, 48 Kan. 537, 29 Pac. 703.)

The court may refuse to allow the filing of a new bond to perfect appeal where the one filed was void as made out to the wrong company. (*Lovitt v. Wellington & Western Rld. Co.*, 26 Kan. 297.) But while a bond running to a total stranger renders it void (*Lovitt v. Wellington & W. Rld. Co.*, 26 Kan. 297), yet if there is a description in the body of the bond of the condemnation proceeding and an obligation to pay the judgment and costs on appeal from the award, it is not void (*Sheridan v. Phillips Pipe Line Co.*, 134 Kan. 260, 5 P. 2d 817).

The bond must meet the requirements under the justices' act (see R. S. 1931 Supp. 61-1002 *et seq.*), and if the bond is void on its face no jurisdiction

an be acquired. (*St. Louis, K. & S. W. Ry. Co. v. Morse*, 50 Kan. 99, 31 Pac. 676; but, see *Wood v. School District*, 102 Kan. 78, 169 Pac. 555; *Lotz v. Kansas City*, 108 Kan. 25, 193 Pac. 1051, and *Burke v. Missouri-K-T. Rld. Co.*, 132 Kan. 625, 296 Pac. 380, where the decisions as to defective bonds are reviewed.)

A single appeal bond will give the court jurisdiction where it refers to a number of entirely separate lots condemned and which belong to one owner in one strip of land, although some of the lots are isolated and separated. Such bond is not absolutely void and could be amended to cover the separate wards. (*Burke v. Missouri-K-T. Rld. Co.*, 132 Kan. 625, 296 Pac. 380.) These are reviews practically all of the Kansas cases to date as to defective appeal bonds.

As to the sufficiency of an appeal bond in which only a part of the landowners, who were tenants in common, joined in its execution, it has been held that such a bond gives the court jurisdiction and is not void *in toto*. (*Sinclair v. Missouri Pac. Rld. Co.*, 136 Kan. 764, 18 P. 2d 195.) Whether or not such bond signed only by one cotenant would perfect an appeal as to the other tenants in common without amendment was not decided in the case last cited, since the district court had allowed an amendment so as to include all the tenants who had failed to sign the original bond before time for appeal had expired.

SEC. 130. *Nature of judgment rendered on appeal.* The court, on appeal from the award of commissioners, cannot render personal judgment or pass title to the property. The title does not pass until the award is paid. Some reason for this may be seen in a statement of the court; "An owner of land would not want to take a judgment against an irresponsible and insolvent railroad company as payment for his land; nor would a railway company want to pay an enormously excessive award." (*St. L. & D. Rld. Co. v. Wilder*, 7 Kan. 239; see, also, *Lawrence & T. Ry. Co. v. Moore*, 24 Kan. 323; *Lawrence, etc., Ry. Co. v. Lilley*, 3 Kan. App. 588, 43 Pac. 857.

SEC. 131. *Measure and elements of damages.* In some states the compensation to the landowner must be ascertained by a jury in a court of record. In the Ohio constitution (art. 13, sec. 5) provision is made for a jury trial. It will be noted that the provision in the Kansas constitution (art. 12, sec. 4) providing for the payment of damages was taken from the Ohio section (*Atchison, T. & S. F. R. Co. v. Blackshire*, 10 Kan. 477; see section 125 above), with the exception of the last sentence which provides for trial by jury. In Kansas either the board of county commissioners or commissioners appointed by the district court appraise the property and assess the damages. (R. S. 1892, 66-907.) But on appeal to the district court the case is tried *de novo*. (R. S. 66-903; R. S. 1931 Supp. 61-1003), which means that the jury must determine the measure of damage.

On appeal from the award of damages, to what extent are the previous proceedings of the commissioners and of the railroad company legal evidence before the jury? The case is tried *de novo*, so the amount of damages allowed by the commissioners is not competent, since the effect of the appeal is to vacate the award, and testimony, or an instruction as to the amount awarded by the commissioners, is ground for reversal. (*Chicago, K. & N. Rly. Co. v. Voquet*, 47 Kan. 571, 28 Pac. 717; *Nichols Em. Dom.*, sec. 431; see section 7, above.) As to informing the jury of the amount of the award, for the purpose of determining whether interest may be allowed, see section 135, above. The mere fact that commissioners, in laying out a right of way for a railroad, had allowed a certain item of damages, affords no evidence on a trial of an appeal from their award that such damages had in fact been sustained. (*Kansas City S. Ry. Co. v. Termier*, 85 Kan. 11, 116 Pac. 256.) But on appeal the report of the commissioners may be received in evidence to show what land was valued by the commissioners; the court saying that there is usually no other satisfactory evidence of that fact except the report. (*t. Joseph & D. C. R. Co. v. Orr*, 8 Kan. 420; section 127, above. And while the map or profile is no part of the condemnation proceedings (see section 112, above), it may be used to explain a witness's testimony. (*Chicago*,



*K. & W. Ry. Co. v. Grovier*, 41 Kan. 685, 21 Pac. 779; see section 111, above.)

As in other cases, a map drawn by the witness may be referred to by him and introduced into the evidence. (*Chicago, K. W. Ry. Co. v. Dill*, 41 Kan. 736, 21 Pac. 778.) Likewise, the jury may view the premises, as provided by R. S. 60-2910. (*Coughlen v. Chicago, I. & K. Rly. Co.*, 36 Kan. 422, 13 Pac. 813.)

Where the landowner does not have title to the land in himself, he can only recover for the diminished value to his interest in the land. (*Chicago, K. & W. Ry. Co. v. Hurst*, 41 Kan. 740, 21 Pac. 781.) Also, a homesteader's right to compensation differs only in degree to that of one with full legal title. (*Burlington, K. & S. W. Rld. Co. v. Johnson*, 38 Kan. 142, 16 Pac. 125; *Ellsworth, M. N. & S. E. Rld. Co. v. Gates*, 41 Kan. 574, 21 Pac. 632.)

Where a "lot of land" consists of more than a quarter section and is cut off by the railroad fronting the quarter section through which the railroad runs, the owner may recover for damages to whole tract. (See R. S. 66-902; *Kansas City, E. & S. R. Co. v. Merrill*, 25 Kan. 421; see, also, *Burke v. Mo. K. T. Rld. Co.*, 132 Kan. 625, 630, 296 Pac. 380.) The general rule is that damages shall be limited to the "lot of land" over which the railroad runs. "Lot of land" (see R. S. 66-902) has been given a liberal construction so as to include any compact, contiguous body of land. This seems justified under the language of article 12, section 4, Kansas constitution. However, where lands are so outlying as to only corner on the tract contiguous to condemned land, the court has held no damage could be awarded for such outlying lands. (*Leavenworth, N. & S. Ry. Co. v. Wilkins*, 45 Kan. 674, 26 Pac. 16.)

It is competent to show that the railroad was built upon the land by mistake, in determining whether the appropriation was permanent or not, where the land has not been actually condemned. (*Steinbuchel v. Kansas M. Ry. Co.*, 7 Kan. App. 543, 51 Pac. 934.)

The damage is to the realty itself, and where land is taken outside the right of way the owner may recover for the depreciation in the market value of the entire tract. (*Chicago, K. & W. Rld. Co. v. Willits*, 45 Kan. 110, 25 Pac. 576.) The landowner may recover actual damages sustained to the whole property by reason of right of way so appropriated from a portion of it. (*Reisner v. Atchison Union Depot & R. Co.*, 27 Kan. 382); but he can only recover for damages resulting from the right of way and cannot recover in such proceedings for the excavation of land outside of the right of way (*Leavenworth, N. & S. Ry. Co. v. Usher*, 42 Kan. 637, 22 Pac. 734).

As to the time when compensation is to be made, the measure is the actual cash market value at the time of the taking. (*Chicago, K. & W. Rld. Co. v. Parsons*, 51 Kan. 408, 32 Pac. 1032.) Also, the value of growing crops taken is determined by the nearest market value after the usual cost of marketing, should they ripen. (*Le Roy & Western Rly. Co. v. Butts*, 40 Kan. 159, 19 Pac. 625.) In determining market value, every legitimate use of the land, including the most advantageous, may be considered. (*Kansas City O. L. & T. Ry. Co. v. Weidenmann*, 77 Kan. 300, 94 Pac. 146.)

As to the time of valuation, the compensation must be ascertained and assessed at the time the property is taken. Ordinarily such taking is when the company first took possession and occupied it as a right of way. (*Weir v. St. Louis, Ft. S. & W. Rld. Co.* 40 Kan. 130, 19 Pac. 316; *C. B. U. P. Rly. Co. v. Andrews*, 26 Kan. 702; *Cohen v. St. L. Ft. S. & W. Rld. Co.*, 34 Kan. 158; *Chicago, K. & W. Rld. Co. v. Parsons*, 51 Kan. 408, 32 Pac. 1032.) Special questions as to value of land before and after the location of right of way should be given jury. (*Chicago, I. & K. Rld. Co. v. Townsden*, 38 Kan. 78, 15 Pac. 889.) Where the damages are limited to unplatted city lots appropriated, the measure is their value immediately before the condemnation, and, therefore, evidence as to their value if platted or of the value of other city lots is not competent. (*Kansas City & Topeka Ry. Co. v. Splitlog*, 45 Kan. 68, 25 Pac. 202.)

An instruction authorizing the jury to determine the value on the basis of the highest and best use to which the land in question was devoted and adapted, while not a precise statement of the measure of damages, is not

reversible error (*Lee v. Missouri Pac. Rld. Co.*, 134 Kan. 225, 5 P. 2d 1102); but the injury to the remainder of the land must be special to the owner and not such as affects the public in general (*Central Branch U. P. Rld. Co. v. Andrews*, 41 Kan. 370, 21 Pac. 276).

The purpose of the law is to secure to the landowner full compensation. If, where city blocks are one tract of land, and part of it fenced off from the rest actually taken, the railroad cannot insist that the entire tract be treated as one farm, even though streets and alleys are not followed in that part of the tract. (*Missouri, K. & T. Ry. Co. v. Roe*, 77 Kan. 224, 94 Pac. 259, 15 L. R. A., 2d, 679.)

The fact that a county assessor testified that he assessed the land at certain valuations instead of giving his opinion was held not sufficient error to require reversal. (*Hamilton v. A. T. & S. F. Ry. Co.*, 95 Kan. 353, 148 Pac. 648.) Testimony of an offer of purchase is inadmissible to prove value. (*St. Joseph & D. C. R. R. Co. v. Orr*, 8 Kan. 419). Such an offer could not be of much evidence of value unless the court went behind the motives and tried out the elements prompting such an offer (*State v. Nelson*, 126 Kan. 1, 266 Pac. 107.)

As to particular items that go to make up the various elements, these of course, are of many different kinds, depending somewhat upon the particular use to which the land is or may be put. It has been held that specific items of damages to the various subdivisions need not be shown by the jury in answer to special questions. (*Craig v. Salina, N. Rld. Co.*, 102 Kan. 838, 172 Pac. 21.) The jury may be interrogated as to any particular element but need not be required to state all the elements or sources of damages. (*Le Roy & W. Ry. Co. v. Harok*, 39 Kan. 638, 18 Pac. 943, 7 Am. St. Rep. 566; *Le Roy & W. Ry. Co. v. Crum*, 39 Kan. 642, 18 Pac. 944; *Le Roy & W. Ry. Co. v. Hollis*, 39 Kan. 646, 18 Pac. 947; *Chicago, K. & W. Ry. Co. v. Casper*, 42 Kan. 561, 22 Pac. 634); but it has been held that where injury is to certain items of damage, such as trees, vines, corrals, etc., the jury should answer special questions as to the value of each item (*Ottawa, O. C. & C. G. Ry. Co. v. Adolph*, 41 Kan. 60, 21 Pac. 643). Where all the elements or items are assessed by the jury the highest possible estimate, a new trial will be granted where such is a fair indication of passion or prejudice. (*Parsons & P. Rld. Co. v. Montgomery*, 102 Kan. 120, 26 Pac. 403.)

Stoppage of flow of surface water along right of way are proper elements of damages. (*Wichita & W. Rld. Co. v. Kuhn*, 38 Kan. 104, 16 Pac. 75.) So, where water will accumulate in deep borrow pits and become stagnate, such may be considered an element of damage; and injury from weeds growing on right of way from which seeds may be carried upon the owner's land, and the resulting danger from fire, may be considered. (*Schoake v. Kansas City V. & W. Ry. Co.*, 102 Kan. 470, 170 Pac. 804.)

In condemning a leasehold used for a furniture store it was proper to consider improvements to building made by the lessee which increased the rental value, but items of anticipated profits are inadmissible. (*Bales v. Wichita & W. Rld. Co.*, 92 Kan. 771, 141 Pac. 1009, L. R. A. 1916C 1090.) Evidence as to rental value is competent where it is the best that can be had, but it is immaterial where numerous witnesses testify as to the value of the land. (*Wall v. Kansas City L. & T. E. Rld. Co.*, 89 Kan. 70, 130 Pac. 664; see, also, *Schneider v. Kansas City*, 86 Kan. 762, 121 Pac. 915.) Evidence as to the cost of erecting other suitable buildings at some other place is not competent. (*Council Grove, O. C. & O. Ry. Co. v. Center*, 42 Kan. 438, 22 Pac. 574.)

Fixtures or improvements, such as mining shafts located within the right of way, may be considered in assessing damages. (*Missouri, K. & N. W. Rld. Co. v. Schmuck*, 79 Kan. 545, 100 Pac. 282.) The right of the owner to move valuable minerals below the right of way is a proper element. (*Mo., & N. W. Rld. Co. v. Schmuck*, 69 Kan. 272, 76 Pac. 836; see, also, *Harvey v. Mo. Pac. Rld. Co.*, 111 Kan. 373, 207 Pac. 761.)

If the embankment for the railroad tracks extends over onto other land, the owner may recover. (*Wichita & W. Rld. Co. v. Feckheimer*, 49 Kan. 643, 31 Pac. 127.) The owner of two tracts, with right of way over or under interven-

ing cattle drive, is entitled to damages to both tracts, though only part of one taken. (*Union Term. Rly. Co. v. Peet Bros.* 58 Kan. 197, 48 Pac. 860.) Where the land is used as a farm, but is situated near a city and suitable for lots and blocks such facts may be shown in determining values. (*Chicago, K. & N. Rly. Co. v. Davidson*, 49 Kan. 589, 31 Pac. 131.)

All incidental loss, inconvenience and damages, present and prospective, should be taken into consideration. (*Missouri, K. & T. Ry. Co. v. Haines*, 10 Kan. 439.) Inconvenience and disfigurement may be elements, along with other damages, even though the tract is not divided or one part rendered less easy of access. (*Mo. Pac. Rly. Co. v. Dulaney*, 38 Kan. 246, 16 Pac. 343.) Inconvenience to the farm and danger from fire, etc., upon the remainder may be considered in estimating the depreciation in value of the property. (*St. Louis, Ft. S. & W. Rld. Co. v. McAuliff*, 43 Kan. 185, 23 Pac. 102.)

Consequential damages, such as noise, smoke, offensive vapors, sparks, etc., cannot be recovered where the railroad is operated in a legal and proper manner. (*Atchison & N. R. Co. v. Garside*, 10 Kan. 552); but while noise and smoke is not a basis or grounds for awarding damages because of remoteness, they may be taken into consideration by the jury, not as basis for awarding damages but as affecting the market value of the premises. In other words, no specific damage for noise and smoke can be recovered and the jury must be so instructed. (*Omaha, etc., Ry. Co. v. Doney*, 3 Kan. App. 515, 43 Pac. 831.) The owner cannot recover consequential damages to the entire tract where part of it is separated by another railroad. (*Kansas C. M. & O. Ry. v. Littler*, 70 Kan. 556, 79 Pac. 114.) Probable injury to stock or danger from fire, so far as it affects the value or depreciation of the land itself, is proper element where such risk or damage is without the fault or negligence of the railroad. (*Le Roy & W. Rld. Co. v. Ross*, 40 Kan. 598, 20 Pac. 197, 2 L. R. A. 217; *Florence, E. D. & W. V. Rld. Co. v. Shepherd*, 50 Kan. 438, 31 Pac. 1002.) While the exposure of the remaining land to increased hazard from fire upon the ground that it depreciates the property is a proper element (see *Kansas City & E. Rld. Co. v. Kregelo*, 32 Kan. 608, 613, 5 Pac. 15), such speculative damages as may result from frightening of live stock is not a proper element of damages. (*Atchison & D. Ry. Co. v. Lyon*, 24 Kan. 745.) Therefore the court ought not to instruct the jury by saying that such speculative items cannot constitute a basis for special compensation but may be considered as tending to the general depreciation of the land, such as disinclining purchasers to pay what it would otherwise be worth. (*Chicago, K. & W. Rld. Co. v. Palmer*, 44 Kan. 110, 24 Pac. 342.) As to speculative damages, the jury cannot consider the extra care necessary in the use of live stock liable to be frightened. (*Atchison & D. Ry. Co. v. Lyon*, 24 Kan. 745; *Florence, E. & W. V. Rld. Co. v. Pember*, 45 Kan. 625, 26 Pac. 1; *St. Louis, K. & S. W. Ry. Co. v. Hammers*, 51 Kan. 127, 32 Pac. 922; *Southwestern M. Ry. Co. v. Harvey*, 8 Kan. App. 489, 57 Pac. 550.)

Independent trespasses by the railroad company outside of the land sought to be appropriated are not proper elements of damages in condemnation proceedings. (*Leavenworth, N. & S. Ry. Co. v. Herley*, 45 Kan. 535, 26 Pac. 23.)

SEC. 132. *Same; railroad crossings, cattle guards, etc.* The construction of farm crossings is a proper element to be considered in the award of damages. (*Kansas City & E. Rld. Co. v. Kregelo*, 32 Kan. 608, 5 Pac. 15; *Chicago, K. & W. Ry. Co. v. Casper*, 42 Kan. 561, 22 Pac. 634); also, the probable expense of constructing and maintaining farm crossings, though there is no evidence of their necessity, is proper damage (*Kansas City & S. W. Rld. Co. v. Baird*, 41 Kan. 69, 21 Pac. 227), and where the taking makes it necessary for the landowner to build and maintain a fence such is a proper subject to damages. (*Leavenworth T. & S. W. Ry. Co. v. Paul*, 28 Kan. 816.) So, also, is additional fences and farm crossings. (*Atchison & N. R. Co. v. Gough*, 29 Kan. 94.) Under R. S. 66-301 to 3, giving an owner of a farm divided by a railroad the right to a crossing over it, the Public Service Commission has no jurisdiction (*U. P. Rld. Co. v. Utilities Commission*, 98 Kan. 667), and where full compensation has been paid before the enactment of the statute, mandamus will not lie to compel the railroad to build the crossing at its own expense

*Chamberlain v. Mo. P. Ry. Co.*, 107 Kan. 341, 191 Pac. 261, 12 A. L. R. 224); out, under R. S. 66-230, where the construction of cattle guards tends to promote the safety of trainmen or passengers, a railroad company may be compelled to build same without compensation to the railroad (*Union Pac. Ry. Co. v. Public Utilities Commission*, 115 Kan. 545, 224 Pac. 51).

A railroad company is entitled to damages caused by the location of a public road over its right of way, such as cattle guards, etc. (*Kansas Cent. Ry. Co. v. Jackson Co. Comm'rs*, 45 Kan. 716, 26 Pac. 394; *Greenwood Co. Comm'rs v. Kansas City, E. & S. K. Ry. Co.*, 46 Kan. 104, 26 Pac. 397; *Chicago, K. & W. Ry. Co. v. Chautauqua Co. Comm'rs*, 49 Kan. 763, 31 Pac. 736, *Atchison T. & S. F. Rld. Co. v. Osage Co. Comm'rs*, 48 Kan. 576, 9 Pac. 1084.) A city cannot, under R. S. 12-1633, 13-404 or 13-1903, compel a railroad to open streets through its right of way and construct subways under elevated tracks without compensation. This applies, of course, only where a street has never been across the railroad right of way. (*City of Wichita v. Wichita Union Terminal Ry. Co.*, 127 Kan. 855, 275 Pac. 171.)

SEC. 133. *Streets and highways, obstruction of access to.* As a general approach to the question of whether or not a property owner may recover for an obstruction of access to his land by a railroad, it may be stated that if a railroad company in possession breaks its contract as to damages, the remedy would be ejectment, except for the public interests involved. Therefore the landowner's remedy is an action on the basis of a permanent appropriation of the land and the recovery of damages as upon a proceeding by condemnation. (*Missouri P. Ry. Co. v. Gano*, 47 Kan. 457, 28 Pac. 155; *St. Louis, etc., Ry. Co. v. Yount*, 67 Kan. 396, 73 Pac. 63.) Also, it may be said that the use of a city street for railroad purposes is not a taking of private property without compensation, within the meaning of either state or federal constitutions Kan. const., art. 12, sec. 4; U. S. const. Amend. 5; *Ottawa, O. C. & C. G. Ry. Co. v. Larson*, 40 Kan. 301; 19 Pac. 661, 2 L. R. A. 59); but, as stated by Justice Brewer, "Where the injury springs from the manner in which the tracks completed affects access to the lot, the lot owner may treat it as a permanent injury to the lot, a quasi condemnation of a certain interest in his property, and recover the consequent depreciation in value, and such recovery is an assent on his part to such manner of using the highway by the company and concludes both him and all subsequent owners of the lot" (*Central Branch P. Ry. Co. v. Twine*, 23 Kan. 585, 595, 33 Am. Rep. 203; *Central Branch P. Ry. Co. v. Andrews*, 26 Kan. 702; see *Banister v. A. T. & S. F. Ry. Co.*, 29 Kan. 302, 282 Pac. 751). Before the Twine case, cited above, it had been held that a railroad company could not be authorized to permanently block a street or alley without liability for injuries caused thereby. (*Atchison & R. Co. v. Garside*, 10 Kan. 552.) "While the state may restrict its own right, it cannot restrict or take away the rights which are purely individual, even though they are intimately associated with the public right." (Cooley, *orts*, p. 616.)

The decision in the Twine and Andrews cases, above cited, are only to the effect that a railroad is liable for wrongfully blocking a street, the same as any individual. The court has not gone so far as to give the lot owner damages for indirect or general injuries caused by a railroad over a street already owned by the public. (*Ottawa O. C. & C. G. Ry. Co. v. Larson*, 40 Kan. 301, 19 Pac. 661, 2 L. R. A. 59.) While the landowner may treat the taking as an appropriation and recover damages, he cannot recover from a purchaser of the railroad on a general agreement to furnish him free passes over the road. (*Missouri P. Ry. Co. v. Henrie*, 5 Kan. App. 614, 46 Pac. 976.)

An abutting lot owner to a street used for a right of way has no right to damages unless there is such an obstruction as to virtually cut off the owner's ingress and egress thereto. (*Kansas, N. & D. Ry. Co. v. Cuykendall*, 42 Kan. 34, 21 Pac. 1051, 16 Am. St. Rep. 479; *Kansas N. & D. Ry. Co. v. Mahler*, 5 Kan. 565, 26 Pac. 22; *Wichita & C. Ry. Co. v. Smith*, 45 Kan. 264, 25 Pac. 23; *Herndon v. Kansas N. & D. Ry. Co.*, 46 Kan. 560, 26 Pac. 959; *Kansas N. & D. Ry. Co. v. McAfee*, 42 Kan. 239, 21 Pac. 1053.) The cutting off of the access to an entire street gives the abutting lot owner right to damages,

even though he has access from another street. The question of the proper construction of the railroad or of how the company got title is of no import, provided the lot owner has waived none of his rights. (*Pt. Scott, W. & W. Ry. Co. v. Fox*, 42 Kan. 490, 22 Pac. 583.) A railroad put upon a street with assent of the city and by all parties considered as a permanent taking is grounds for recovery of damages by an abutting lot owner whose access has been thereby cut off. (*Atchison, T. & S. F. Rld. Co. v. Davidson*, 52 Kan. 739, 35 Pac. 787; *Atchison, T. & S. F. Rld. Co. v. Chusch*, 53 Kan. 621, 36 Pac. 979.)

It is not necessary that any portion of the lot be actually cut off, if access to the property has been cut off and he suffers special damages. (*Leavenworth, N. & S. Ry. Co. v. Curtan*, 51 Kan. 432, 33 Pac. 297; see, also, 36 L. R. A., n. s., 772, and *Banister v. A. T. & S. F. Ry. Co.*, 129 Kan. 302, 306, 282 Pac. 751.) A temporary obstruction of a street by digging holes may be grounds for special damages up to time of action, but not for permanent damages. In other words, no property is taken and the access is not permanently cut off. (*Chicago, K. & W. Ry. Co. v. Union Inc. Co.*, 51 Kan. 600, 33 Pac. 378; *Ottawa O. C. & C. G. Ry. Co. v. Peterson*, 51 Kan. 604, 33 Pac. 606.) Where a street is obstructed so as to constitute a permanent taking and cuts off the lot owner's access, the railroad company committing nuisance in the first instance should be joined with the lessee railroad in an action for damages. (*Atchison, T. & S. F. Rld. Co. v. Anderson*, 65 Kan. 202, 69 Pac. 158.) "The fact that lots are accessible through the alley in their rear does not prevent the recovery of damages for obstructing access thereto from the street." (*Stephenson v. Atchison Ry. L. & P. Co.*, 88 Kan. 794, 129 Pac. 1188, syl. ¶3.) Following the rule stated in the Stephenson case, just cited, it was held that a railroad grade which prevents the abutting owner from traveling in one direction does not give such owner right to damages. (*Sharp v. El Dorado & S. F. Ry. Co.*, 123 Kan. 397, 255 Pac. 1118.) In other words, access to property does not mean the privilege to approach from both directions.

Since a city may establish a street (see R. S. 13-1019) without paying damage, it may grant a street railway the right to construct its road in a street, and it is only when the grade is changed that it may be held liable for damages. (*Interstate C. R. T. Ry. Co. v. Early*, 46 Kan. 197, 200.) Also, since a city may establish a grade without incurring liability, under the law of eminent domain, a railroad company that does so under the direction of the city engineer is not liable. (*Atchison, T. & S. F. Rld. Co. v. Arnold*, 52 Kan. 729, 35 Pac. 780; *Atchison, T. & S. F. Rld. Co. v. Church*, 53 Kan. 621, 36 Pac. 621.) Unless an ordinance makes provision for damages to adjacent owners, no substantial rights are affected thereby and damages as to obstruction to the access to private property and the like cannot be measured by the broad comparison of market value before and after construction of the railroad. (*Marshall v. Wichita, etc., Rld. Co.*, 96 Kan. 470, 152 Pac. 634.) Where a city by ordinance vacates a street, the question arises: What acts of a railroad company make it liable for closing the street so as to cut off access of a property owner? Obviously it must be some act of the company, since the vacation order itself should not make the company liable. It has been held that the planting of posts within the railroad right of way across a street previously vacated by a city ordinance does not render the railroad liable in damage for "closing" the street. (*Banister v. A. T. & S. F. Ry. Co.*, 129 Kan. 302, 282 Pac. 751.) It would seem from the decisions that, even where a city has vacated a street, if the railroad construct a permanent obstruction so as to cut off the ingress and egress of a lot owner, it will be liable in damages. For a review of the cases on this point, see Banister case cited above, beginning at page 306.

SEC. 134. *Deduction of benefits to remainder of land.* The Kansas constitution (art. 12 sec. 4) conclusively provides that a railroad corporation must pay for its right of way, irrespective of any benefit to the land from the proposed improvement of the company. (*St. Joseph & D. C. R. Co. v. Orr*, 8 Kan. 419.) The commissioners must appraise the value of the land appro-

riated and assess the damages to that not appropriated, irrespective of any imposed benefits to that not appropriated. (*Hunt v. Smith*, 9 Kan. 137.) The compensation for the right of way appropriated to the company's use includes not only the value of the property actually taken, but also the loss the landowner suffers by being deprived of a portion of his land. (*Reisner v. A. U. D. Rld. Co.*, 27 Kan. 382; *Le Roy & W. Rld. Co. v. Ross*, 40 Kan. 598, 20 Pac. 17, 2 L. R. A. 217.) Similarly, it was held that the constitutional restriction as to deduction of benefits extends to the residue of the land damaged by the taking. (*Inter-State Con. Rapid Transit Ry Co. v. Simpson*, 45 Kan. 714, 26 ac. 393.)

The constitutional provision (art. 12, sec. 4) as to no deduction of benefit or rights of way does not apply to additional land outside of the right of way which may be condemned for terminal facilities, and the benefits may be deducted from damages to lands adjoining such land taken (*Smith v. Mo. P. Ry. Co.*, 90 Kan. 757, 136 Pac. 253); nor does it apply to lands condemned for railroad purposes other than the 100 foot right of way strip. So, benefits relating to lands for depots, sidetracks, and the like may be deducted from the award (*Lee v. M. P. R. Co.*, 134 Kan. 227 5 P. 2d. 1122).

SEC. 135. *Damages in the nature of interest.* It has been held that since condemnation proceedings are not torts, interest may be allowed from the time of the condemnation to the date of judgment on appeal from the award (*Jenkins v. Salina N. Ry. Co.*, 102, Kan. 835, 172 Pac. 20); and, where the railroad has taken possession, may be allowed from time of possession to time of trial (*Cohen v. St. L. Ft. S. & W. Rld. Co.*, 34 Kan. 158, 8 Pac. 138). Only the difference between the amount deposited and the amount recovered may be allowed as interest (*Craig v. Salina N. Rld. Co.*, 102 Kan. 838, 172 Pac. 21); if interest is not proper where a less amount than the original award is covered on appeal, where the railroad has promptly paid the amount of the condemnation award as provided by statute (*Lee v. Missouri Pac. Rld. Co.*, 134 Kan. 225; 5 P. 2d 1102). The time of the deposit of the security has been held to determine the date of appropriation, so that interest may be figured from that date. (*Smith v. Mo. P. Ry. Co.*, 90 Kan. 757, 136 Pac. 253.) Since the award of the commissioners is not proper evidence to go to the jury on the question of the amount of damage to be determined by the jury on appeal from their award (see section 131 above), there is objection to forming the jury of the amount of the award of the commissioners. Since interest may be recovered only on the amount recovered on appeal which exceeds the original award, it is held that it is not error to instruct the jury that in case they find for the plaintiff in a greater amount than a sum named at they shall allow interest on that amount. There is perhaps no other way which the jury can be informed upon what basis they are to ascertain and allow interest. (*Wichita & W. Rld. Co. v. Kuhn*, 38 Kan. 104, 16 Pac. 75; see, also, annotation in 28 L. R. A., n.s., pp. 51, 55.)

SEC. 136. *Title or extent of interest acquired by the railroad.* The legislature may grant the right to take a fee-simple title in property to a railroad (see Laws 1864, ch. 124, now repealed), as it is the exclusive judge as to the quality of interest to be taken (*Challis v. A. T. & S. F. Rly. Co.*, 16 Kan. 117), and under that act the railroad company acquired a fee simple title and not a mere easement (Laws 1864, ch. 124; *Challis v. A. T. & S. F. Rly. Co.*, 16 Kan. 117); and where a railroad got title in fee upon a condition that the company make certain improvements and keep same in repair, with a right to demand forfeiture of the estate for failure to do so, it was held that such a right of forfeiture was not assignable (*Piper v. U. P. Rly. Co.*, 14 Kan. 568, 574).

The condemnation proceedings must show what is taken and what is parted with by the owner, as nothing is taken by implication or intentment. So, the condemnation of a 100-foot right of way does not give the company the right to enter and dig ditches through adjacent lands, even though such ditches are necessary to the proper drainage and protection of the railroad. (*State v. Mellen*, 8 Kan. 288; but see, *Corwin v. St. L. & S. F. Rly. Co.*, 51 Kan. 451,

461, 33 Pac. 99.) Under R. S. 66-901 "aqueducts" means the right to lay underground pipes and conduits. (*Smouse v. Kansas City S. Rly. Co.*, 129 Kan. 176, 282 Pac. 183.)

The landowner, under R. S. 66-904, retains the fee for every purpose not incompatible with the rights of the railroad company. (*Kansas Cent. Ry. Co. v. Allen*, 22 Kan. 285, 31 Am. Rep. 190.) Under R. S. 66-906, buildings may be taken where their value is included in the award. (*Chicago, I. & K. Rld. Co. v. Knuffke*, 36 Kan. 367, 13 Pac. 582.) The petition for damages should clearly show what interest in the land has been parted with (*Wichita & W. Rld. Co. v. Fechheimer*, 36 Kan. 45, 12 Pac. 362), and the jury should be instructed that only an easement is taken, and that the fee remains in the landowner (*Phillips v. Southwest Mo. Rld. Co.*, 106 Kan. 446, 186 Pac. 197).

While the title remains in the landowner, the railroad may remove so much of the stone and dirt as is necessary for construction or repair of its roadbed. The court, however, reserved the question as to whether the company could remove material from one point of the right of way to another. (*Earlywine v. Topeka, S. & W. Ry. Co.*, 43 Kan. 746, 23 Pac. 940.)

The landowner may use the property, provided such use does not interfere with the use for railroad purposes, and the question of such interference is one of fact for the jury (*Kansas Cent. Rly. Co. v. Allen*, 22 Kan. 285, 31 Am. Rep. 190); but there is no concurrent right in the landowner to occupy railroad property in actual use by it without the railroad's consent (*K. C. Ry. Co. v. Allen*, 22 Kan. 285, 31 Am. Rep. 190; *K. C. Ry. Co. v. Ireland*, 22 Kan. 296; *Dillon v. K. C. Ft. S. & M. Ry.*, 67 Kan. 693, 74 Pac. 251; *Atchison, T. & S. F. Ry. Co. v. Hamilton*, 130 Kan. 685, 288 Pac. 560). However, the fee holder may occupy and use the unused portion of the land taken, provided such use does not interfere with the railroad purposes, either present or future, but such possession cannot ripen into title by adverse possession. (*Harvey v. Mo. P. Rld. Co.*, 111 Kan. 371, 207 Pac. 761, 50 A. L. R. 300.) But the servient landowner is not entitled to an injunction to prevent the leasing of land condemned for water reservoirs. The company may lease it for a pleasure resort, so long as it causes no damage to the landowner. (*Atchison, T. & S. F. Ry. Co. v. Hamilton*, 130 Kan. 685, 288 Pac. 560.)

The portion of a street in front of a railroad's property becomes an accretion, so to speak, to such property upon its vacation by the city, therefore the owner of such property before it was taken by condemnation has no right in it after such vacation. (*Challis v. Atchison, U. D. & Rld. Co.*, 45 Kan. 398, 25 Pac. 894.) So, the landowner may, on appeal, recover the value of the reversionary land resulting from vacation of streets and alleys to the tract, even though it was not included in the condemnation proceedings nor considered by the commissioners making the award, since such interest would pass to the railroad by the condemnation. (*Burke v. Mo.-K.-T. Rld. Co.*, 132 Kan. 625, 296 Pac. 380.)

A mortgagee not in possession is not regarded as an owner in the proceedings, so an easement, procured by a railroad company through mortgaged land is not merged in a warranty deed from the mortgagor and wife to the railroad company which is subsequently executed and delivered. (*Rand v. Ft. S. W. & W. Rly. Co.*, 50 Kan. 114, 31 Pac. 683.) Likewise one who holds a judgment lien against the land before the condemnation proceedings has no title or estate in the land, such as to make him an owner within the meaning of the statute regulating such proceedings. (*Williams v. Railway Co.*, 62 Kan. 412, 63 Pac. 430, 84 Am. St. Rep. 408.)

SEC. 137. *Possession by railroad pending appeal.* The possession of the property by a railroad, pending appeal, was upheld as constitutional under the statute (now R. S. 66-901 to 7, as amended) in an opinion reviewing all of the decisions of the court up to 1882. (*Central Branch U. P. R. Co. v. A. T. & S. F. R. Co.*, 28 Kan. 453.)

SEC. 138. *Res judicata.* If the proceedings were regular and terminated, and the owner has accepted the award, the question of the necessity and

quantity of land is not open for future litigation. (*Dillon v. K. C. Ft. S. & M. Rld.*, 67 Kan. 687, 74 Pac. 251.) When damages, matured, continuing and prospective, arising from construction of a railroad, are the subject of a prior action they are *res judicata* upon the conclusion of that action, and a lessee of the company cannot be held liable therefor. (*Marshall v. Wichita, etc., Railroad Co.*, 96 Kan. 470, 152 Pac. 634; see, also, *Hubbard v. Power Co.*, 89 Kan. 16, 131 Pac. 1182.)

SEC. 139. *Additional lands.* A railroad company may proceed under R. S. 66-902 to 66-907 to condemn additional lands after road is established (*Central ranch U. P. Rld. Co. v. A. T. & S. F. R. Co.*, 26 Kan. 669), Justice Brewer saying, in the opinion, that it was reasonable to hold that the legislature, in enacting a general law, intended that it should take such additional land when, in the experience of the county, such was necessary for the growth of the railroads. So a railroad may condemn additional grounds for shops and terminal facilities under R. S. 66-901, as such power is a continuing one (*Smith Mo. P. Ry. Co.*, 90 Kan. 757, 136 Pac. 253); and, under R. S. 66-901, lands may be condemned separate and apart from the right of way for a water station (*Dillon v. K. C. Ft. S. & M. Rld. Co.*, 67 Kan. 687, 74 Pac. 251), and such land may be leased by the railroad for a pleasure resort where no damage is caused to the servient landowner (*A. T. & S. F. Ry. Co. v. Hamilton*, 130 Kan. 685, 288 Pac. 560). The fact that a good part of the additional lands are to be used for incidental private purposes does not destroy the public use. (See section 109 above.) So a railroad company may, in addition to land taken for tracks and yards, etc., condemn enough land to furnish a third party ingress and egress to his land for private use affected by the placing of such tracks and yards, and it is of no concern to the owner of the land sought to be taken how much or in what manner the railroad may compensate such third person, so long as the principal use of the land taken is a public one. (*Mouse v. Kansas City S. Rly. Co.*, 129 Kan. 176, 282 Pac. 183.)

It sometimes becomes necessary for a railroad to relocate its right of way. How far can a railroad go in this? While early railroads were granted charters under special charters by special legislative acts (see Private Terr. Laws of Kan., 1859, ch. 47, secs. 2, 3), Kansas now has a general law (R. S. 66-502) which gives any railroad the privilege at any time to change its roadbed for the purpose of shortening its line or overcoming obstacles, providing that the general route or terminus is not changed. The condemnation statutes (R. S. 66-901 to 11) are silent as to alteration or relocation of roadbeds. Recently (*928*) a railroad company, originally chartered under the above-cited special act of the territorial legislature in 1859, but later in 1895 incorporated under the general law after foreclosure in the federal court, brought condemnation proceedings for relocation of its route. The landowner brought suit to enjoin the entering on his land after the condemnation was consummated. The injunction was granted in the district court. On appeal the question was: the power of the railroad to relocate its road, and whether or not its power had been exhausted by its predecessor. The court held that the power had not been exhausted, and that the term "relocation" in the petition to enjoin is not indefinite to show what the railroad was actually doing; which was not a relocation of the entire road but was only an alteration authorized under R. S. 66-502. (*Ritchie v. A. T. & S. F. Rly. Co.*, 128 Kan. 637, 279 Pac. 15.)

SEC. 140. *Additional servitude.* Before the enactment of R. S. 24-105 (now R. S. 1931 Supp. 24-105), relating to the obstruction of the flow of surface water, it was held that an adjoining owner could not claim additional compensation when a railroad corporation raises an embankment upon its land so as to obstruct the flow of surface water or flood the land of such owner. (*Atchison, T. & S. F. Ry. Co. v. Hammer*, 22 Kan. 763, 31 Am. Rep. 210; *Chicago, K. & N. Rly. Co. v. Steck*, 51 Kan. 737, 33 Pac. 601.) Therefore it seems that in Kansas the company condemns and pays for the right to take and construct its road then, or at any future time, in such manner as the public necessities may require. (See *Nichols, Em. Dom.*, sec. 196.)

The cutting down of trees on right of way in order to erect a telegraph line



is not a ground for additional claim for damages. (*Western Union Tel. Co. v. Rich*, 19 Kan. 517, 27 Am. Rep. 159.) A street railway is not liable in damages to adjacent lot owners for construction of track in a city street. (*Phillips v. Arkansas V. Interurban Ry. Co.*, 89 Kan. 835, 133 Pac. 429.) As to valuable undergrade crossings left by the railroad at the time the land was condemned, these cannot be closed up without compensating the owner for damages. (*Atchison, T. & S. F. Ry. Co. v. Davenport*, 65 Kan. 206, 69 Pac. 195.)

SEC. 141. *Statute of limitations.* As a general principle of constitutional law, the terms of a statute of limitations are within the discretion of the legislature. (Nichols, Em. Dom., sec. 344.) The damages are limited to what have accrued within the period of limitations in ordinary civil actions, and the limitations statute does not begin to run against a suit to recover the award until the judgment establishing the award becomes final on appeal. (*Schmuck v. Missouri, K. T. Ry. Co.*, 87 Kan. 152, 123 Pac. 887.)

SEC. 142. *Order of condemnation.* Although no express statutory provision is made as to the transfer of the title or easement to the railroad company by an order of the tribunal, the proceedings themselves will effectuate a transfer of the land to the company. (*Dye v. Midland V. Rld. Co.*, 77 Kan. 488, 94 Pac. 785.)

SEC. 143. *Abandonment and nonuser.* The railroad company is the original plaintiff or petitioner in the proceedings, and upon filing a disclaimer upon the landowner's appeal from the award is liable for costs. (*St. Louis, Ft. S. & W. R. Rld. Co. v. Martin*, 29 Kan. 750.)

A railroad company may reclaim the deposit (R. S. 66-903 to 4) any time before making actual entry on the land by giving notice of such abandonment. (*Atchison, T. & S. F. Ry. Co. v. Wilson*, 66 Kan. 233, 69 Pac. 342, 71 Pac. 246.) But where it has complied with the award and accepted benefits, the money cannot be recovered. (*Missouri P. Ry. Co. v. Gruendel*, 3 Kan. App. 53, 44 Pac. 439; see, also, *Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708.) Also, under R. S. 66-901 *et seq.*, a railroad may, where it has not taken possession, abandon the proceeding, even after judgment rendered on appeal from the award. The reason is that under the statute the whole proceeding, including the appeal, is quasi judicial, and no personal judgment can be rendered as in other actions. (*Todd v. Atchison, T. & S. F. Ry. Co.*, 134 Kan. 459, 7 P. 2d 79.) This is not true where the appeal is under the provisions of the code of civil procedure (*Stewart v. Marland Pipe Line Co.*, 132 Kan. 725, 297 Pac. 708), but an appeal from the award does not become an ordinary action which would preclude abandonment after the case is finally submitted to the court or jury (R. S. 60-3105) in railroad condemnation cases.

The railroad may lease its right of way to private parties without abandoning same, if it reserves the right to cancel the lease. (*Dillon v. K. C. Ft. S. & M. Rld.*, 67 Kan. 687, 74 Pac. 251; see, also, *Atchison, T. & S. F. Ry. Co. v. Hamilton*, 130 Kan. 685, 288 Pac. 560.) In the absence of a statute, and where there is no adverse possession, nonuser does not of itself work an extinguishment of the company's right. (*Hamlin v. Kansas Rly. Co.*, 73 Kan. 565, 85 Pac. 602.)



---

# KANSAS JUDICIAL COUNCIL BULLETIN

---

DECEMBER, 1933

PARTS 3 AND 4—SEVENTH ANNUAL REPORT

---

## TABLE OF CONTENTS

---

	PAGE
MEMBERS OF THE JUDICIAL COUNCIL.....	82
LETTER OF TRANSMITTAL.....	83
ROSCOE H. WILSON.....	84
FOREWORD .....	85
MOTION DAYS FOR 1934.....	86
SUMMARY OF THE WORK OF THE SUPREME COURT.....	93
SUMMARY OF THE WORK OF THE DISTRICT COURTS.....	95
SUMMARY FOR THE STATE AS A WHOLE.....	138
TABLES .....	141

PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1933  
15-1917

---

Application at post office at Topeka, Kansas, for second-class matter.

---

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER .....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS .....	St. John.
Judge, Twentieth Judicial District.	
HAL E. HARLAN .....	Manhattan.
Chairman Senate Judiciary Committee.	
SCHUYLER C. BLOSS .....	Winfield.
Chairman House Judiciary Committee.	
CHARLES L. HUNT .....	Concordia.
ROBERT C. FOULSTON .....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE:

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the  
state,

For the improvement of our Judicial System and its more  
efficient functioning.

## LETTER OF TRANSMITTAL

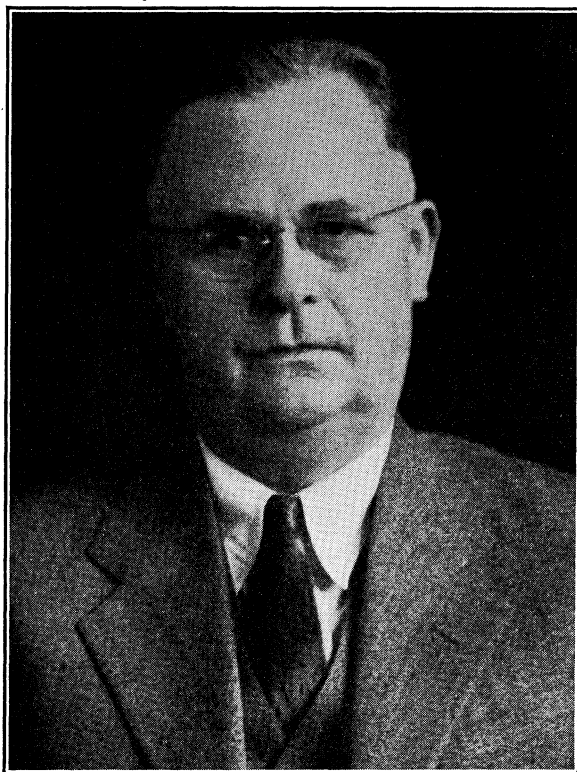
---

TOPEKA, KAN., December 1, 1933.

*To His Excellency, Alf M. Landon, Governor of Kansas:*

In accordance with the provisions of chapter 187 of the Laws of Kansas, 1927, we herewith transmit to you the seventh annual report of the Judicial Council, in three parts.

W. W. HARVEY, *Chairman*,  
J. C. RUPPENTHAL, *Secretary*,  
EDWARD L. FISCHER,  
RAY H. BEALS,  
HAL E. HARLAN,  
S. C. BLOSS,  
CHARLES L. HUNT,  
ROBERT C. FOULSTON,  
CHESTER STEVENS,  
*Members of the Judicial Council.*



ROSCOE H. WILSON

1881—1933

His home was at Jetmore, in Hodgeman county, since early childhood. In 1903 he was graduated from the K. U. Law School. He edited a paper for a few years, was city attorney, county attorney, representative in the legislative sessions of 1919 and 1920, and in October, 1920, was appointed judge of the district court of the thirty-third judicial district. He was a leader in the organization of the Southwestern Kansas Bar Association, also in organizing the Southwestern Kansas Judges' Association, and in January, 1931, was appointed a member of the Judicial Council. He filled all of these positions with unusual ability. He was well endowed with those faculties usually spoken of as "common sense." He was especially well informed concerning the structure of our government and its several units, the duties of their respective officers, and the purposes attempted to be accomplished by laws relating to them. He was also well informed on the underlying principles of our law and the reasons for them—subjects which seemed never to tire him to study. Because of these qualities he was a valuable member of the Judicial Council, a value which increased with service. His passing was a real loss to the Council and to the state.

# KANSAS JUDICIAL COUNCIL BULLETIN

---

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kan.

DECEMBER, 1933

---

## FOREWORD

Since the last issue of our BULLETIN we have a new member of the Judicial Council. On the passing of Judge Wilson the Chief Justice appointed as a member of the Council Hon. Ray H. Beals, of St. John, who since January, 1925, has been judge of the district court of the twentieth judicial district. For many years Judge Beals has given considerable attention to the structure and functioning of our judicial system. He is capable and industrious, and we are confident will make a valuable member of the Council.

We omitted the publication of a BULLETIN in October because we deemed it advisable to have in one issue the summaries and tabulations made from reports of the clerks of the district court showing the business transacted in those courts for the year ending June 30, 1933, and pending on that date. These will be found embodied herein, together with a similar summary of the work of the supreme court and a list of "Motion Days" of the district courts for the year 1934. For the present we shall permit the summaries and tabulations to speak for themselves, leaving such comments as we desire to make upon them until a later issue.

The Judicial Council is proceeding with the study of questions heretofore discussed in our Reports and Bulletins, with especial attention at this time to procedure in probate courts and the procedure in condemnation cases. Our subsequent Bulletins will deal more specifically with these and kindred subjects.

MOTION DAYS IN DISTRICT COURTS.

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1884.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Allen.....	Iola.....	Frank R. Forrest....	N. H. Kerr.....	37	6 13 20 27	3 10 17 24	3 10 17 24	7 14 21 28	5 12 19 26	2 9 16 23 30	1 8 15 22 29	6 13 20 27	3 10 17 24	1 8 15 22		
Anderson.....	Garnett.....	Hugh Means.....	Tom P. Bowen.....	4	5	2	5	6	4	11	7	8	2	3		
Atchison.....	Atchison.....	William A. Jackson..	Joe C. Seibel.....	2	6 13 20 27	3 10 17 24	3 10 17 24	7 14 21 28	5 12 19 26	2 9 16 23 30	1 8 15 22 29	6 13 20 27	3 10 17 24	1 8 15 22 29		
Barber.....	Medicine Lodge...	George L. Hay.....	Edith Myers.....	24	4	12	3	23	11	1	8	22	9	7		
Barton.....	Great Bend.....	Ray H. Beals.....	Jack Morrison, Jr....	20	8	2	6	7	5	5	1	6	3	1		
Bourbon.....	Fort Scott.....	W. F. Jackson.....	Geo. T. Farmer.....	6	6 13 20 27	3 10 17 24	3 10 17 24	7 14 21 28	5 12 19 26	2 9 16 23 30	1 8 15 22 29	6 13 20 27	3 10 17 24	1 8 15 22 29		
Brown.....	Hiawatha.....	C. W. Ryan.....	H. N. Zimmerman...	22	23	27	27	24	29	19	25	23	27	20		
Butler.....	El Dorado.....	A. T. Ayres..... Geo. J. Benson	Charles Smith.....	13	6	3	5	6	5	11	1	6	12	4		
Chase.....	Cottonwood Falls..	Lon C. McCarty....	Erna Buffon.....	5	26	23	30	27	25	29	28	26	30	28		
Chautauqua.....	Sedan.....	A. T. Ayres..... Geo. J. Benson	R. S. Floyd.....	13	20	6	19	2	2	4	3	1	3	3		
Cherokee..... Columbus div. Galena div.	Columbus.....	John W. Hamilton...	Ernest Milton.....	11	2 4	6 8	6 8	3 5	8 10	5 7	4 6	2 4	6 8	4 6		

MOTION DAYS IN DISTRICT COURTS—CONTINUED.

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1934.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Cheyenne.....	St. Francis.....	E. E. Kite.....	Minnie A. Lawless...	17	20	17	26	2	28	6	15	6	26	3		
Clark.....	Asbland.....	Karl Miller.....	Amy Dugan.....	31	11b	15b	15b	12b	17b	14b	6b	4b	8b	13b		
Clay.....	Clay Center.....	Edgar G. Bennett...	Mrs. J. C. Goheen...	21	4	2	5	5	3	4	6	5	5	7		
Cloud.....	Concordia.....	Tom Kennett.....	Lawrence Johnston...	12	8	3	6	2	5	5	24	13	20	17		
Coffey.....	Burlington.....	Lon C. McCarty...	Bernice Thompson...	5	29	26	26	30	28	25	24	29	26	31		
Comanche.....	Coldwater.....	Karl Miller.....	B. F. Arnold.....	31	10a	14a	14a	11a	16a	13a	5a	3a	7a	12a		
Cowley.....	Winfield.....	O. P. Fuller.....	Mrs. Marie Snyder...	19	3	7	6	3	1	5	4	-2	6	4		
Crawford.....	Girard.....	L. M. Resler.....	Jean Bell.....	38	8	5	5	2	7	4	3	1	5	3		
Girard div.	Pittsburg div.	Jo E. Galskill.....	.....	.....	15	19	19	16	14	18	17	15	19	17		
Decatur.....	Oberlin.....	E. E. Kite.....	Dorothy McGee.....	17	18	15	16	11	14	4	13	2	10	11		
Dickinson.....	Abilene.....	C. M. Clark.....	Seth Barter, Jr.....	8	1a	16a	5c	14c	21a	4c	10a	12a	12c	15a		
Doniphan.....	Troy.....	C. W. Ryan.....	L. D. Swiggett.....	22	25	28	29	26	31	21	27	25	28	21		
Douglas.....	Lawrence.....	Hugh Means.....	John Callahan.....	4	6	5	3	7	7	2	8	6	5	1		
Edwards.....	Kinsley.....	Lorin T. Peters.....	C. E. Burke.....	33	4	5	9	5	1	7	6	15	8	7		
Elk.....	Howard.....	A. T. Ayres.....	Mary E. Johnson.....	13	2	6	17	7	7	7	17	1	7	1		
Ellis.....	Hayes.....	Herman Long.....	Leo. J. Staab.....	23	19	5	2	12	21	15	13	15	16	13		
Ellsworth.....	Ellsworth.....	Dallas Grover.....	James M. Wilson.....	30	22	17	7	23	11	13	8	8	7	24		
Finney.....	Garden City.....	H. E. Walter.....	Mrs. Walter Harvey.	32	8	7	9	11	14	14	11	24	13	7		



MOTION DAYS IN DISTRICT COURTS—CONTINUED.

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1934.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Ford.....	Dodge City.....	Karl Miller.....	Susan A. Evans.....	31	13a	17a	17a	14a	19a	16a	8a	6a	10a	15a		
Franklin.....	Ottawa.....	Hugh Means.....	Mrs. M. O. Stewart..	4	2	3	2	2	5	1	10	5	3	7		
Geary.....	Junco City.....	C. M. Clark.....	Geo. J. Webster.....	8	1c	16c	5a	14a	21c	4a	10c	12c	12a	15a		
Gove.....	Gove City.....	Herman Long.....	Grant W. Peterson...	23	18	19	19	23	18	18	14	12	19	14		
Graham.....	Hill City.....	W. B. Ham.....	Elsie Parks.....	34	20	5	2	16	21	15	17	12	3	14		
Grant.....	Ulysses.....	F. O. Rindom.....	Inez McAtee.....	39	2d	2d	5b	9b	2d	11d	1d	1d	7d	3b		
Gray.....	Cimarron.....	Karl Miller.....	W. A. LeVan.....	31	8e	12e	12e	9e	14e	11e	3e	1e	5e	10e		
Greeley.....	Tribune.....	H. E. Walter.....	T. P. Tucker.....	32	11c	12	14a	10	10	12a	14c	15	15c	22		
Greenwood.....	Eureka.....	A. T. Ayres..... Geo. J. Benson	Clyde Divine.....	13	15	7	16	7	21	6	6	8	2	17		
Hamilton.....	Syracuse.....	H. E. Walter.....	Amelia J. Minor.....	32	12	26	17	14	18	16	20	22	17	8c		
Harper.....	Anthony.....	George L. Hay.....	Ed C. Wolff.....	24	8	1	2	9	10	18	7	8	8	6		
Harvey.....	Newton.....	J. G. Somers.....	Lloyd L. McMullen..	9	4	12	16	5	14	8	20	29	12	7		
Haskell.....	Sublette.....	F. O. Rindom.....	Geo. A. Tyler.....	39	2b	2b	12b	4b	2b	11b	17b	1b	7b	10b		
Hodgeman.....	Jetmore.....	Lorin T. Peters.....	Frank Phillips.....	33	3	6	6	4	14	6	15	5	5	6		
Jackson.....	Holton.....	Lloyde Morris.....	H. E. Hostetter.....	36	8	2	8	5	7	21	6	1	9	6		
Jefferson.....	Oskaloosa.....	Lloyde Morris.....	Marguerite McCoy..	36	12	5	5	6	11	4	7	5	5	7		
Jewell.....	Mankato.....	W. R. Mitchell.....	Bernice Howard.....	15	3	2	5	12	4	4	21	12	12	22		
Johnson.....	Olathe.....	G. A. Roberds.....	Mabel K. Adams....	10	2	26	12	2	7	23	4	22	19	10		
Kearny.....	Lakin.....	H. E. Walter.....	Ella Smith.....	32	5	8	12	12	15	15	19	25	12	8a		
Kingman.....	Kingman.....	George L. Hay.....	Nell H. Walter.....	24	6	3	26	7	12	4	24	6	10	10		

MOTION DAYS IN DISTRICT COURTS—CONTINUED.

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1934.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Kiowa.....	Greensburg.....	Karl Miller.....	Paul Klug.....	31	9d	13d	13d	10d	15d	12d	4d	2d	6d	11d		
Labette.....	Oswego.....	L. E. Goodrich.....	H. L. Lane.....	16	26 22	23 19	30 19	27 9	25 28	29 18	21 17	26 22	26 19	21 17		
Parsons div.....																
Lane.....	Dighton.....	H. E. Walter.....	Ora D. Smeltzer.....	32	9	14a	26	24a	8	13a	12	17a	26	11a		
Leavenworth.....	Leavenworth.....	J. H. Wendorff.....	Max L. Frederick....	1	6 20	3 17	3 17	7 21	5 19	2 16	1 15	6 20	3 17	3 15		
Lincoln.....	Lincoln.....	Dallas Grover.....	Ernest D. Harlow....	30	4	19	9	6	14	9	5	2	12	26		
Linn.....	Mound City.....	W. F. Jackson.....	Roy Dalton.....	6	2 15	5 19	5 19	9 23	7 21	4 18	4 17	1 15	5 19	3 17		
Logan.....	Russell Springs....	Herman Long.....	Alfred Rogge.....	23	17c	16c	17c	2	4c	25c	3	26c	17c	3		
Lyon.....	Emporia.....	Lon C. McCarty....	J. J. McClure.....	5	31	28	28	25	31	27	26	31	28	26		
Marion.....	Marion.....	C. M. Clark.....	H. D. Cornelsen....	8	13a	5	17	9	7	16	4a	1	5a	22		
Marshall.....	Marysville.....	Edgar C. Bennett...	Wallace Koppes.....	21	5	5	2	6	7	8	7	1	2	8		
McPherson.....	McPherson.....	J. G. Somers.....	Donald S. Clark.....	9	5	16	12	6	18	4	21	30	16	7		
Meade.....	Meade.....	Karl Miller.....	Mrs. Lottie Stamper.	31	12b	16b	16b	13b	18b	15b	7b	5b	9b	14b		
Miami.....	Paola.....	G. A. Roberts.....	Chas. W. Diediker...	10	15	5	19	23	21	4	17	1	12	17		
Mitchell.....	Beloit.....	W. R. Mitchell.....	John W. Hayes.....	15	8	1	1	16	2	1	24	11	7	20		
Montgomery.....	Independence.....	Jos. W. Holdren....	Clyde Gamble.....	14	6 20	3 17	3 17	7 21	5 19	2 16	1 15	6 20	3 17	1 15		
Coffeyville div.....																
Morris.....	Council Grove.....	C. M. Clark.....	J. A. Bruton.....	8	13c	17	16	2	19	18	4c	13	5c	3		
Morton.....	Richfield.....	F. O. Rindom.....	Mrs. R. Crawford...	39	3d	12b	6b	5b	3d	12d	3b	2d	8d	11b		
Nemaha.....	Seneca.....	C. W. Ryan.....	Dorothy Ingalls.....	22	22	26	26	23	28	18	24	22	26	19		

MOTION DAYS IN DISTRICT COURTS—CONTINUED.

COUNTY.	County seat.	Judge.	Clerk.	No. Judi. Dist.	1934.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Neosho.....	Erie.....	J. T. Cooper.....	Lloyd E. Brown.....	7	5	13	13	6	8	5	7	9	6	4		
Ness.....	Ness City.....	Lorin T. Peters.....	Laura Jackson.....	33	5	9	5	6	4	8	3	3	9	3		
Norton.....	Norton.....	E. E. Kite.....	Ethel Bechtoldt.....	17	8 17	14	14	16	10	2	3 12	4	8	13		
Osage.....	Lyndon.....	Carey E. Carroll....	Paul F. Cummings...	35	2	5	13	2	7	12	4	1	13	3		
Osborne.....	Osborne.....	W. R. Mitchell.....	B. F. Beeson.....	15	5	5	2	11	14	2	19	15	8	21		
Ottawa.....	Minneapolis.....	Dallas Grover.....	R. W. Jones.....	30	8	6	8	9	10	11	4	3	6	1		
Pawnee.....	Larned.....	Lorin T. Peters.....	Rose Mason.....	33	15	8	10	2	13	5	4	1	6	5		
Phillips.....	Phillipsburg.....	E. E. Kite.....	L. R. Halbert.....	17	16	5	15	12	7	1	11 17	3	9	12		
Pottawatomie.....	Westmoreland.....	Lloyde Morris.....	Chas. S. Smith.....	36	11	1	9	3	10	22	4	4	8	4		
Pratt.....	Pratt.....	George L. Hay.....	Roy D. Skelton.....	24	5	2	12	6	21	2	10	5	12	8		
Rawlings.....	Atwood.....	E. E. Kite.....	Ivy Morton Yoos....	17	19	16	13	10	21	5	14	5	7	14		
Reno.....	Hutchinson.....	J. G. Somers.....	Walter Mead.....	9	6 13 20 27	3 10 17 24	3 10 17 24 31	7 14 21 28	5 12 19 26	2 9 16 23 30	22 29 20 27	6 13 17 24	3 10 17 24	1 8 15 22		
Republic.....	Belleville.....	Tom Kennett.....	Wm. R. Goodwin....	12	2	5	3	3	7	2	18	15	17	19		
Rice.....	Lyons.....	Ray H. Beals.....	L. A. Halloway.....	20	2	3	3	3	7	2	4	1	2	3		
Riley.....	Manhattan.....	Edgar C. Bennett...	C. E. Wood.....	21	2	1	1	2	4	1	4	4	1	6		
Rooks.....	Stockton.....	W. B. Ham.....	Geo. F. Crane.....	34	8	17	17	16	7	2	3	11	1	13		

## MOTION DAYS IN DISTRICT COURTS—CONTINUED.

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1934.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Rush.....	La Crosse.....	Lorin T. Peters.....	Edwin Popp.....	33	2	7	19	3	2	4	17	2	7	4		
Russell.....	Russell.....	Herman Long.....	Geo. W. Brandt.....	23	2	20	16	13	7	16	12	1	15	12		
Saline.....	Salina.....	Dallas Grover.....	Howard Ford.....	30	5	5	12	5	9	12	7	5	5	3		
Scott.....	Scott City.....	H. E. Walter.....	C. A. Easley.....	32	10	13	15	9	9	13c	13	16	14	10		
Sedgwick First division.....	Wichita.....	Ross McCormick.....	A. E. Jacques.....	18	6	3	3	7	5	2	1	6	3	1		
Second division.....	.....	R. L. Nesmith.....	1st and 2d divisions.....	.....	20	17	17	21	19	16	15	20	17	15		
Third division.....	.....	Grover Pierpont.....	3d and 4th divisions.....	.....	13	10	10	14	12	9	8	13	10	8		
Fourth division.....	.....	I. N. Williams.....	.....	.....	27	24	24	28	26	23	22	27	24	22		
Seward.....	Liberal.....	F. O. Rindom.....	H. W. Lane.....	39	8b	17b	17b	14b	28b	16b	15b	20b	12b	15b		
Shawnee First division.....	Topeka.....	Geo. A. Kline.....	Matilda Binger.....	3	13	3	17	7	19	9	1	13	3	15		
Second division.....	.....	Paul H. Heinz.....	.....	.....	20	10	3	14	5	16	8	20	10	1		
Third division.....	.....	Otis E. Hungate.....	.....	.....	6	17	10	21	12	2	15	6	17	8		
Sheridan.....	Hoxie.....	W. B. Ham.....	Noah Turner.....	34	22	26	1	30	19	4	14	1	2	15		
Sherman.....	Goodland.....	W. B. Ham.....	Wm. Mangus.....	34	6	19	3	2	2	16	15	13	19	1		
Smith.....	Smith Center.....	W. R. Mitchell.....	Ruth W. Cole.....	15	4	28	26	10	3	18	20	13	9	3		
Stafford.....	St. John.....	Ray H. Beals.....	Gertrude Bartle.....	20	9	6	2	2	1	1	8	2	1	4		
Stanton.....	Johnson.....	F. O. Rindom.....	Nelle Helmick.....	39	3b	26b	5b	4d	3b	12b	10b	2b	8b	10d		
Stevens.....	Hugoton.....	F. O. Rindom.....	John F. Fulkerson.....	39	22b	3b	26b	5d	4b	13b	1b	22b	9b	11d		
Sumner.....	Wellington.....	Wendell Ready.....	Jessie Haverstock.....	25	2	1	1	5	1	7	4	4	1	6		

MOTION DAYS IN DISTRICT COURTS—Concluded.

COUNTRY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1934.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Thomas.....	Colby.....	W. B. Ham.....	M. C. Knudson.....	34	5	3	5	14	3	18	28	12	5	8		
Trego.....	Wakeeney.....	Herman Long.....	J. H. Bingham.....	23	20	17	5	14	19	4	15	13	5	15		
Wabaunsee.....	Alma.....	Carey E. Carroll....	Lizzie Frey.....	35	5	6	2	6	1	1	7	2	2	7		
Wallace.....	Sharon Springs....	Herman Long.....	Ida Ward.....	23	17a	16a	17a	16	4a	25a	17	26a	17a	17		
Washington.....	Washington.....	Tom Kennett.....	J. W. Hatter.....	12	3	6	5	4	8	4	19	17	19	22		
Wichita.....	Leoti.....	H. E. Walter.....	Mrs. Kate Elder....	32	11a	14c	14c	23	28	12b	14a	17c	15a	17		
Wilson.....	Fredonia.....	J. T. Cooper.....	W. H. Timmons.....	7	2	5	5	3	7	4	4	1	5	3		
Woodson.....	Yates Center.....	Frank R. Forrest....	Kathryn P. Maxwell.	37	5 12	23	2	6 13	4	1	7	5	2	7		
							16	20		8		12	10	14		
							23	27		15		19	16			
							30			22		26	23	21		
										29						
Wyandotte.....	Kansas City.....	E. L. Fischer.....	Pal E. Bush.....	29	6	3	3	7	5	2	1	6	3	1		
First division.....																
Second division.....		Clyde C. Glandon....			13	10	10	14	12	9	8	13	10	8		
Third division.....		Wm. H. McCamish....			20	17	17	21	19	16	15	20	17	15		
Fourth division.....		C. A. Miller.....			27	24	24	28	26	23	22	27	24	22		

a. 9:00 a. m. b. 10:00 a. m. c. 1:30 p. m. d. 2:00 p. m. e. 1:00 p. m. mountain time.

NOTE.—The four divisions of the court in Wyandotte county work with three jury divisions and one "law division," which is rotated among the judges. The "law division" has a motion day each week. The day of the week is designated by the judge at the beginning of the term. Except as modified by the work of the "law division," the motion days are as shown in the above tabulation.

NOTE.—For the months of July and August, in the judicial districts having two or more divisions, one or more judges holds court for the hearing of matters needing prompt attention, and in all the judicial districts some provision is made for the hearing of urgent matters. The days for such hearing are not stated in the above schedule. Parties interested should take the matter up with the judge or clerk of the court with respect to the time of hearing. In a few districts there is a publication, such as the *Legal News* in Shawnee county, in which notice is given of matters not covered by the above schedule.

## Summary of the Work of the Supreme Court

The following is a summary of the work of the supreme court for the year ending June 30, 1933, and of cases pending on that date:

There were 459 appealed civil cases disposed of within the year ending June 30, 1933. Of this number 135 were dismissed without having been presented on the merits and 324 were submitted on the merits, 215 were affirmed, 87 reversed, and in 22 the judgment of the trial court was modified.

The court also disposed of 66 appealed criminal cases. Of this number 35 were dismissed without having been presented on the merits and 31 were submitted on the merits and written opinions filed. Of this number 26 were affirmed and 5 reversed.

The court also disposed of 23 original cases, of which 5 were dismissed before having been presented on the merits and 18 were submitted on the merits and written opinions filed.

This makes a grand total of 548 cases disposed of by the supreme court, of which 175 were dismissed without having been presented on the merits and 373 were submitted on the merits and written opinions filed.

The cases pending on July 1, 1933, were as follows: 261 appealed civil cases, 35 appealed criminal cases, and 22 original cases.

In the year ending June 30, 1933, the court disposed of 1,015 motions, of which 9 were withdrawn before presented, 680 were allowed, 326 denied, and 28 were pending on July 1, 1933.

Of the 373 cases submitted to the supreme court on their merits and in which written opinions were filed, in 5 cases the opinion was filed before the first regular opinion day, in 327 cases on the first regular opinion day, in 31 on the second, in 4 cases on the third, in 4 cases on the fourth, and in 2 cases on the fifth regular opinion day after they were submitted. The regular opinion day ordinarily is a month after the case is submitted; more accurately, it is the Saturday of the week hearings are had the next month after the case is submitted.

In the appealed civil cases disposed of within the year ending June 30, 1933, and pending on that date, the time between the date of judgment appealed from and the date notice of appeal was filed in the trial court is as follows: Within 10 days, 126 cases; in 10 to 30 days, 155 cases; in 1 to 2 months, 111 cases; in 2 to 3 months, 89 cases; in 3 to 4 months, 52 cases; in 4 to 5 months, 48 cases; in 5 to 6 months, 88 cases; over 6 months, 33 cases; time not stated, 11 cases.

In the appealed civil cases disposed of within the year ending June 30, 1933, and pending on that date, the time between the date notice of appeal was filed in the trial court and the date notice of appeal was filed in the supreme court is as follows: Within 5 days, 173 cases; in 5 to 10 days, 74 cases; in 10 to 20 days, 87 cases; in 20 to 30 days, 47 cases; in 1 to 2 months, 48 cases; in 2 to 3 months, 8 cases; in 3 to 4 months, 8 cases; in 4 to 5 months, 3 cases; over 5 months, 2 cases; time not given, 11 cases.

In the appealed civil cases disposed of within the year ending June 30, 1933, and pending on that date, the time between the date the notice of appeal was filed in the supreme court and the date deposit for costs was made, is as follows: Within 5 days, 167 cases; in 5 to 15 days, 130 cases; in 15 to 30 days,

181 cases; in 1 to 2 months, 86 cases; in 2 to 3 months, 20 cases; over 3 months, 13 cases; time not stated, 64 cases.

In the appealed civil cases disposed of within the year ending June 30, 1933, the time between the date the notice of appeal was filed in this court and the date the case was submitted on its merits is as follows: Within 3 months, 6 cases; in 3 to 4 months, 4 cases; in 4 to 5 months, 21 cases; in 5 to 6 months, 47 cases; in 6 to 9 months, 167 cases; in 9 to 12 months, 57 cases; in 12 to 15 months, 17 cases; in 15 to 18 months, 3 cases; in 18 months to 2 years, 2 cases; time not stated, 1 case.

In the appealed criminal cases disposed of within the year ending June 30, 1933, and pending on that date, the time between the date of the judgment of the trial court appealed from and the date the notice of appeal was filed in the trial court is as follows: On the same day, 30 cases; not the same day but within 5 days, 13 cases; from 5 to 10 days, 8 cases; from 10 to 20 days, 10 cases; from 20 to 30 days, 11 cases; from 1 to 2 months, 9 cases; from 2 to 3 months, 6 cases; from 3 to 4 months, 4 cases; from 5 to 6 months, 3 cases; from 6 to 12 months, 5 cases; from 18 months to 2 years, 2 cases.

In the appealed criminal cases disposed of by the supreme court within the year ending June 30, 1933, and pending on that date, the time between the date the notice of appeal was filed in the trial court and the date it was filed in the supreme court is as follows: Within 5 days, 41 cases; from 5 to 10 days, 18 cases; from 10 to 20 days, 19 cases; from 20 to 30 days, 10 cases; from 1 to 2 months, 6 cases; from 2 to 3 months, 2 cases; from 3 to 4 months, 3 cases; and from 6 to 12 months, 2 cases.

In the appealed criminal cases disposed of within the year ending June 30, 1933, and pending on that date, the time between the date notice of appeal was filed in the supreme court and the date deposit for costs was made is as follows: Within 5 days, 3 cases; in 5 to 15 days, 8 cases; in 15 to 30 days, 25 cases; in 1 to 2 months, 14 cases; in 2 to 3 months, 4 cases; over 3 months, 7 cases; time not stated, 38 cases.

In the appealed criminal cases disposed of within the year ending June 30, 1933, the time between the date the notice of appeal was filed in the supreme court and the date the case was submitted on its merits, is as follows: Within 3 months, none; within 3 to 4 months, 3 cases; in 4 to 5 months, 5 cases; in 5 to 6 months, 7 cases; in 6 to 9 months, 10 cases; in 9 to 12 months, 11 cases; in 12 to 15 months, 8 cases; in 18 months to 2 years, 3 cases.

In the appealed civil cases disposed of within the year ending June 30, 1933, the costs in 451 cases reported on is as follows: Minimum amount, \$3.20; maximum, \$39.10; aggregate, \$5,955.61; average, \$13.20.

In the appealed criminal cases disposed of within the year ending June 30, 1933, the costs in 63 cases reported on is as follows: Minimum amount, \$3.75; maximum, \$35.65; aggregate, \$830.58; average, \$13.18.

In the original cases disposed of within the year ending June 30, 1933, the costs in 23 cases reported on is as follows: Minimum amount, \$5.45; maximum, \$1,522.50; aggregate, \$1,855.50; average, \$80.67.

There were pending in the supreme court July 1, 1933, a total of 333 cases, compared with 357 on the same date in 1932; 393 in 1931; 397 in 1930; 376 in 1929, and 341 in 1928.

## Summary of the Work of the District Courts

### FIRST DISTRICT

HON. J. H. WENDORFF, of Leavenworth, Judge  
MAX L. FREDERICK, Clerk

One county: Leavenworth. Area, 440 square miles; population, 35,288; assessed value, \$34,211,222.

There were 170 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 32 were dismissed before trial on the merits, 124 were tried to the court and 14 to the jury. In 84 cases no answers were filed. In 45 cases answers were filed in 30 days after the petitions were filed, in 22 cases from 30 to 60 days, in 9 cases in 60 days to 6 months, and in 10 cases later than 6 months. There were 85 cases tried on the merits within 3 months of the time the petitions were filed, 31 from 3 to 6 months, 15 from 6 to 12 months, and 7 later than 12 months. In 114 cases the journal entries were filed the day of trial, in 11 cases not the same day but within 10 days, in 1 case in 10 to 30 days, and in 4 cases after 30 days. In 8 cases journal entries had not yet been filed. Court costs, amounting to \$3,233.90, were reported in 170 cases, showing a minimum of \$4.10, a maximum of \$104.50, and an average of \$19.02. There were 316 civil actions, other than divorce, pending July 1, 1933. Of this number 51 had been pending less than 3 months, 22 from 3 to 6 months, 52 from 6 to 12 months, 28 from 1 to 2 years, 31 from 2 to 3 years, 20 from 3 to 4 years, 17 from 4 to 5 years, and 95 over 5 years.

FORMS 3 AND 4—DIVORCE CASES. There were 127 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 12 were dismissed before trial. In 75 cases the divorces were granted to wives, and in 40 cases to husbands. Of the cases tried 7 were contested. The custody of 38 minor children was awarded to wives, 4 to husbands and 1 part time to both. There were 6 cases tried within 60 days after the petitions were filed, 98 from 60 days to 6 months, and 11 after 6 months. The grounds for divorce were: Gross neglect, 59 cases; extreme cruelty, 14 cases; abandonment, 35 cases; insanity, 1 case; abandonment and extreme cruelty, 1 case; abandonment and gross neglect, 2 cases; conviction of a felony, 3 cases. Court costs, amounting to \$1,182, were reported in 115 cases, showing a minimum of \$6.10, a maximum of \$40.40, and an average of \$10.36. There were 296 divorce cases pending July 1, 1933. Of this number 87 had been pending less than 3 months, 38 from 3 to 6 months, 37 from 6 months to 1 year, 32 from 1 to 2 years, 47 from 2 to 3 years, 32 from 3 to 4 years, 21 from 4 to 5 years, and 2 over 5 years.

FORMS 5 AND 6—CRIMINAL CASES. There were 30 criminal cases disposed of within the year ending June 30, 1933. Of this number 9 were dismissed before trial on the merits. In 4 cases the defendants entered pleas of guilty. There were 17 cases tried to a jury, resulting in 16 verdicts of guilty and 1 of not guilty. Trial was had within 10 days after the information was filed in 13 cases; in 10 to 30 days in 1 case; in 30 days to 3 months in 3 cases. The date information was filed was not reported in 16 cases tried. There were 15 paroles granted, and 20 paroles granted where the conviction had been in an



inferior court. Court costs, amounting to \$1,403, were reported in 30 cases, showing a minimum of \$2.50, a maximum of \$329.50, and an average of \$46.76. There were 30 criminal cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 6 from 3 to 6 months, 6 from 6 months to 1 year, 6 from 1 to 2 years, and 2 from 2 to 3 years. There were 21 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS.** In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 235 motions or demurrers were reported. Of this number 16 were withdrawn or not presented and 79 were still pending July 1, 1933. Of the number disposed of 90 were presented within 10 days after they were filed, 31 from 10 to 30 days, and 19 after 30 days. There were 138 motions or demurrers decided the day presented, 1 not the same day but within 10 days, and 1 in 10 to 30 days. Of the 140 ruled upon, 98 were allowed, 41 denied, and 1 partially allowed and denied.

### SECOND DISTRICT

HON. W. A. JACKSON, of Atchison, Judge  
JOE C. SEIBEL, Clerk

One county: Atchison. Area, 412 square miles; population, 23,446; assessed value, \$33,168,805.

There were 167 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 33 were dismissed before trial on the merits, 128 were tried to the court and 6 to the jury. In 121 cases no answers were filed. In 23 cases answers were filed within 30 days after the petitions were filed, in 15 cases from 30 to 60 days, in 6 cases from 60 days to 6 months, and in 2 cases later than 6 months. There were 89 cases tried on the merits within 3 months of the time the petitions were filed, 23 from 3 to 6 months, 15 from 6 to 12 months, and 7 later than 12 months. In 65 cases the journal entries were filed the day of trial, in 38 cases not the same day but within 10 days, in 4 cases in 10 to 30 days, and in 11 cases after 30 days. In 16 cases journal entries had not yet been filed. Court costs, amounting to \$4,114.34, were reported in 162 cases, showing a minimum of \$5.05, a maximum of \$241.88, and an average of \$25.40. There were 100 civil actions, other than divorce, pending July 1, 1933. Of this number 36 had been pending less than 3 months, 7 from 3 to 6 months, 17 from 6 to 12 months, 18 from 1 to 2 years, 16 from 2 to 3 years, 3 from 3 to 4 years, and 3 over 5 years.

**FORMS 3 AND 4—DIVORCE CASES.** There were 65 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 27 were dismissed before trial. In 26 cases the divorces were granted to wives, in 12 cases to husbands. Of the cases tried 4 were contested. The custody of 8 minor children was awarded to wives and 1 to grandparents. There was 1 case tried within 60 days after the petition was filed, 27 from 60 days to 6 months, and 10 after 6 months. The grounds for divorce were: Gross neglect, 32 cases; extreme cruelty, 1 case; abandonment, 5 cases. Court costs, amounting to \$601.48, were reported in 65 cases, showing a minimum of \$5.65, a maximum of \$15.50, and an average of \$9.25. There were 48 divorce cases pending July 1, 1933. Of this number 12 had been pending less than 3 months, 4 from 3 to 6 months, 9 from 6 months to 1 year, 14 from 1 to 2 years, 6 from 2 to 3 years, and 3 from 3 to 4 years.

**FORMS 5 AND 6—CRIMINAL CASES.** There were 63 criminal cases disposed of within the year ending June 30, 1933. Of this number 35 were dismissed before trial on the merits. In 26 cases the defendants entered pleas of guilty. There were 2 cases tried to a jury, resulting in 1 verdict of guilty and 1 of not guilty. Trial was had within 10 days after the information was filed in 1 case and in 30 days to 3 months in 1 case. The date information was filed was not reported in 6 cases tried. There were 4 paroles granted, and 12 paroles were granted where the conviction had been in an inferior court. Court costs, amounting to \$700.88, were reported in 63 cases, showing a minimum of \$1.50, a maximum of \$65.70, and an average of \$11.12. There were 19 criminal cases pending July 1, 1933. Of this number 15 had been pending less than 3 months, 2 from 3 to 6 months, and 2 from 1 to 2 years. There were 3 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS.** In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 219 motions or demurrers were reported. Of this number 17 were withdrawn or not presented and 19 were still pending July 1, 1933. Of the number disposed of 128 were presented within 10 days after they were filed, 35 from 10 to 30 days, and 20 after 30 days. There were 183 motions or demurrers decided the day presented. Of the 183 ruled upon, 157 were allowed, 25 denied, and 1 partially allowed and denied.

### THIRD DISTRICT

HON. GEO. A. KLINE, of Topeka, Judge, First Division  
HON. PAUL H. HEINZ, of Topeka, Judge, Second Division  
HON. OTIS E. HUNGATE, of Topeka, Judge, Third Division  
MATILDA BINGER, Clerk

One county: Shawnee. Area, 544 square miles; population, 84,232; assessed value, \$116,472,048.

There were 723 civil actions (in 4 cases there were two trials, making a total of 727 trials), other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 203 were dismissed before trial on the merits, 474 were tried to the court and 50 to the jury. In 369 cases no answers were filed. In 156 cases answers were filed within 30 days after the petitions were filed, in 80 cases from 30 to 60 days, in 94 cases from 60 days to 6 months, and in 28 cases later than 6 months. There were 325 cases tried on the merits within 3 months of the time the petitions were filed, 101 from 3 to 6 months, 68 from 6 to 12 months, and 30 later than 12 months. In 454 cases the journal entries were filed the day of trial, in 52 cases not the same day but within 10 days, in 4 cases in 10 to 30 days, and in 12 cases after 30 days. In 3 cases journal entries had not yet been filed. Court costs, amounting to \$15,257.55, were reported in 723 cases, showing a minimum of \$2.15, a maximum of \$268.99, and an average of \$21.10. There were 375 civil actions, other than divorce, pending July 1, 1933. Of this number 150 had been pending less than 3 months, 59 from 3 to 6 months, 78 from 6 to 12 months, 65 from 1 to 2 years, 9 from 2 to 3 years, 4 from 3 to 4 years, 6 from 4 to 5 years, and 4 over 5 years.

**FORMS 3 AND 4—DIVORCE CASES.** There were 423 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 140 were dismissed before trial. In 226 cases the divorces were granted to wives, in 53 cases to husbands, and 4 divorces were denied. Of the cases tried,

70 were contested. The custody of 136 minor children was awarded to wives, 24 to husbands, and 1 to another party. There were 29 cases tried within 60 days after the petitions were filed, 212 from 60 days to 6 months, and 42 after 6 months. The grounds for divorce were: Gross neglect, 131 cases; extreme cruelty, 60 cases; gross neglect and extreme cruelty, 28 cases; abandonment, 47 cases; adultery, 1 case; habitual drunkenness, 11 cases; impotency, 1 case. Court costs, amounting to \$5,017.51, were reported in 423 cases, showing a minimum of \$5.35, a maximum of \$297.30, and an average of \$11.86. There were 172 divorce cases pending July 1, 1933. Of this number 93 had been pending less than 3 months, 40 from 3 to 6 months, 25 from 6 months to 1 year, and 14 from 1 to 2 years.

FORMS 5 AND 6—CRIMINAL CASES. There were 542 criminal cases (1 case had two trials, making a total of 543 trials) disposed of within the year ending June 30, 1933. Of this number 279 were dismissed before trial on the merits. In 210 cases the defendants entered pleas of guilty. There were 54 cases tried to a jury, resulting in 41 verdicts of guilty, 12 of not guilty, and 1 declared of unsound mind. Trial was had within 10 days after the information was filed in 2 cases; in 10 to 30 days, 15 cases; in 30 days to 3 months, 23 cases; in 3 to 6 months, 8 cases; in 6 months to 1 year, 4 cases; and after 1 year, 2 cases. The date information was filed was not reported in 62 cases tried. There were 111 paroles granted. Court costs, amounting to \$19,549.84, were reported in 542 cases, showing a minimum of \$2.40, a maximum of \$420.35, and an average of \$36.07. There were 142 criminal cases pending July 1, 1933. Of this number 62 had been pending less than 3 months, 22 from 3 to 6 months, 17 from 6 months to 1 year, 26 from 1 to 2 years, 10 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, and 2 over 5 years. There were 26 cases in which a transcript but no information was filed.

MOTIONS AND DEMURRERS. In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 1,197 motions or demurrers were reported. Of this number 128 were withdrawn or not presented and 147 were still pending July 1, 1933. Of the number disposed of 417 were presented within 10 days after they were filed, 290 from 10 to 30 days, and 215 after 30 days. There were 748 motions or demurrers decided the day presented, 54 not the same day but within 10 days, 66 in 10 to 30 days, and 54 after 30 days. Of the 922 ruled upon, 606 were allowed, 315 denied, and 1 partially allowed and denied.

#### FOURTH DISTRICT

HON. HUGH MEANS, of Lawrence, Judge  
TOM P. BOWEN, Clerk, Anderson County  
JOHN CALLAHAN, Clerk, Douglas County  
MARY O. STEWART, Clerk, Franklin County

Three counties: Anderson, Douglas and Franklin. Area, 1,540 square miles; population, 60,173; assessed value, \$89,790,584.

There were 399 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 77 were dismissed before trial on the merits, 299 were tried to the court and 22 to the jury. One case was removed to the federal court. In 260 cases no answers were filed. In 72 cases answers were filed within 30 days after the petitions were filed, in 34 cases from 30 to 60 days, in 24 cases from 60 days to 6 months,

and in 8 cases later than 6 months. There were 210 cases tried on the merits within 3 months of the time the petitions were filed, 76 from 3 to 6 months, 21 from 6 to 12 months, and 14 later than 12 months. In 227 cases the journal entries were filed the day of trial, in 40 cases not the same day but within 10 days, in 30 cases in 10 to 30 days, and in 12 cases after 30 days. In 12 cases journal entries had not yet been filed. Court costs, amounting to \$17,221.36, were reported in 399 cases, showing a minimum of \$3.20, a maximum of \$454.51, and an average of \$43.16. There were 211 civil actions, other than divorce, pending July 1, 1933. Of this number 87 had been pending less than 3 months, 46 from 3 to 6 months, 29 from 6 to 12 months, 34 from 1 to 2 years, 11 from 2 to 3 years, 3 from 3 to 4 years, and 1 from 4 to 5 years.

**FORMS 3 AND 4—DIVORCE CASES.** There were 129 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 33 were dismissed before trial. In 61 cases the divorces were granted to wives, in 27 cases to husbands, and in 3 cases to both, and 5 divorces were denied. Of the cases tried 22 were contested. The custody of 51 minor children was awarded to wives and 7 to husbands. There were 2 cases tried within 60 days after the petitions were filed, 74 from 60 days to 6 months, and 20 after 6 months. The grounds for divorce were: Gross neglect, 52 cases; extreme cruelty, 13 cases; abandonment, 24 cases; conviction of a felony, 1 case; insanity, 1 case. Court costs, amounting to \$1,578, were reported in 129 cases, showing a minimum of \$4.85, a maximum of \$96.10, and an average of \$12.18. There were 70 divorce cases pending July 1, 1933. Of this number 31 had been pending less than 3 months, 15 from 3 to 6 months, 7 from 6 months to 1 year, 12 from 1 to 2 years, 4 from 2 to 3 years, and 1 from 3 to 4 years.

**FORMS 5 AND 6—CRIMINAL CASES.** There were 106 criminal cases disposed of within the year ending June 30, 1933. Of this number 25 were dismissed before trial on the merits. In 42 cases the defendants entered pleas of guilty. There were 39 cases tried to a jury (1 case had 2 trials), resulting in 28 verdicts of guilty, 10 of not guilty, and 1 case in which there was no verdict given. Trial was had within 10 days after the information was filed in 13 cases; in 10 to 30 days, 14 cases; in 30 days to 3 months, 5 cases; in 3 to 6 months, 5 cases; and in 6 months to 1 year, 2 cases. The date information was filed was not reported in 7 cases. There were 7 paroles granted. Court costs, amounting to \$3,736.84, were reported in 106 cases, showing a minimum of \$4.30, a maximum of \$300.90, and an average of \$35.25. There were 56 criminal cases pending July 1, 1933. Of this number 32 had been pending less than 3 months, 5 from 3 to 6 months, 13 from 6 months to 1 year, and 6 from 1 to 2 years. There were 31 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS.** In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 297 motions or demurrers were reported. Of this number 8 were withdrawn or not presented and 24 were still pending July 1, 1933. Of the number disposed of 186 were presented within 10 days after they were filed, 49 from 10 to 30 days, and 30 after 30 days. There were 247 motions or demurrers decided the day presented, 3 not the same day but within 10 days, 12 in 10 to 30 days, and 3 after 30 days. Of the 265 ruled upon, 224 were allowed, 40 denied, and 1 partially allowed and denied.

## FIFTH DISTRICT

HON. LON C. McCARTY, of Emporia, Judge  
ERMA BUFFON, Clerk, Chase County  
BERNICE THOMPSON, Clerk, Coffey County  
J. J. McCLURE, Clerk, Lyon County

Three counties: Chase, Coffey and Lyon. Area, 2,240 square miles; population, 47,704; assessed value, \$83,207,137.

There were 369 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 65 were dismissed before trial on the merits, 288 were tried to the court and 16 to the jury. In 260 cases no answers were filed. In 59 cases answers were filed within 30 days after the petitions were filed, in 32 cases from 30 to 60 days, in 15 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 199 cases tried on the merits within 3 months of the time the petitions were filed, 80 from 3 to 6 months, 20 from 6 to 12 months, and 5 later than 12 months. In 265 cases the journal entries were filed the day of trial, in 4 cases not the same day but within 10 days, in 6 cases in 10 to 30 days, and in 12 cases after 30 days. In 17 cases journal entries had not yet been filed. Court costs, amounting to \$10,820.99, were reported in 369 cases, showing a minimum of \$3.10, a maximum of \$194.45, and an average of \$29.32. There were 176 civil actions, other than divorce, pending July 1, 1933. Of this number 74 had been pending less than 3 months, 43 from 3 to 6 months, 49 from 6 to 12 months, and 10 from 1 to 2 years.

FORMS 3 AND 4—DIVORCE CASES. There were 66 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 6 were dismissed before trial. In 49 cases the divorces were granted to wives, in 10 cases to husbands, and 1 divorce was denied. Of the cases tried 12 were contested. The custody of 63 minor children was awarded to wives. There were 5 cases tried within 60 days after the petitions were filed, 50 from 60 days to 6 months, and 4 after 6 months. The grounds for divorce were: Gross neglect, 4 cases; extreme cruelty, 30 cases; abandonment, 21 cases; nonsupport, 3 cases; nonsupport and cruelty, 1 case. Court costs, amounting to \$711, were reported in 66 cases, showing a minimum of \$4.05, a maximum of \$58.50, and an average of \$10.77. There were 58 divorce cases pending July 1, 1933. Of this number 30 had been pending less than 3 months, 4 from 3 to 6 months, 17 from 6 months to 1 year, and 7 from 1 to 2 years.

FORMS 5 AND 6—CRIMINAL CASES. There were 45 criminal cases disposed of within the year ending June 30, 1933. Of this number 12 were dismissed before trial on the merits. In 24 cases the defendants entered pleas of guilty. There were 9 cases tried to a jury, resulting in 4 verdicts of guilty, 3 of not guilty, 1 hung jury, and 1 case in which no verdict was given. Trial was had within 10 days after the information was filed in 1 case; in 10 to 30 days in 4 cases; in 30 days to 3 months in 3 cases; and in 3 to 6 months in 1 case. The date information was filed was not reported in 7 cases. There were 2 paroles granted. Court costs, amounting to \$1,134.35, were reported in 44 cases, showing a minimum of \$5.45, a maximum of \$126, and an average of \$25.78. There were 23 criminal cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 5 from 3 to 6 months, 7 from 6 months to 1 year, and 1 from 2 to 3 years. There were 2 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS.** In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 228 motions or demurrers were reported. Of this number 19 were withdrawn or not presented and 21 were still pending July 1, 1933. Of the number disposed of 161 were presented within 10 days after they were filed, 18 from 10 to 30 days, and 9 after 30 days. There were 184 motions or demurrers decided the day presented, 2 not the same days but within 10 days, 1 in 10 to 30 days and 1 after 30 days. Of the 188 ruled upon, 157 were allowed and 31 denied.

#### SIXTH DISTRICT

HON. W. F. JACKSON, of Fort Scott, Judge  
GEO. T. FARMER, Clerk, Bourbon County  
ROY DALTON, Clerk, Linn County

Two counties: Bourbon and Linn. Area, 1,269 square miles; population, 34,998; assessed value, \$41,572,734.

There were 198 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 41 were dismissed before trial on the merits, 155 were tried to the court and 2 to the jury. In 149 cases no answers were filed. In 26 cases answers were filed within 30 days after the petitions were filed, in 10 cases from 30 to 60 days, in 9 cases from 60 days to 6 months, and in 4 cases later than 6 months. There were 81 cases tried on the merits within 3 months of the time the petitions were filed, 51 from 3 to 6 months, 14 from 6 to 12 months, and 11 later than 12 months. In 93 cases the journal entries were filed the day of trial, in 10 cases not the same day but within 10 days, in 2 cases in 10 to 30 days, and in 43 cases after 30 days. In 9 cases journal entries had not yet been filed. Court costs, amounting to \$5,065.72, were reported in 197 cases, showing a minimum of \$5.60, a maximum of \$197.62, and an average of \$25.71. There were 204 civil actions, other than divorce, pending July 1, 1933. Of this number 71 had been pending less than 3 months, 30 from 3 to 6 months, 31 from 6 to 12 months, 33 from 1 to 2 years, 34 from 2 to 3 years, 5 from 3 to 4 years.

There were 66 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 17 were dismissed before trial. In 38 cases the divorces were granted to wives and in 11 cases to husbands. Of the cases tried 3 were contested. The custody of 35 minor children was awarded to wives and 3 to husbands. There were 2 cases tried within 60 days after the petitions were filed, 43 from 60 days to 6 months and 4 after 6 months. The grounds for divorce were: Gross neglect, 26 cases; extreme cruelty, 2 cases; abandonment 19 cases; habitual drunkenness, 1 case; gross neglect and extreme cruelty, 1 case. Court costs, amounting to \$800.84, were reported in 66 cases, showing a minimum of \$5.90, a maximum of \$52.30, and an average of \$12.13. There were 23 divorce cases pending July 1, 1933. Of this number 13 had been pending less than 3 months, 2 from 3 to 6 months, 3 from 6 months to 1 year, 2 from 1 to 2 years, and 3 from 2 to 3 years.

There were 64 criminal cases disposed of within the year ending June 30, 1933. Of this number 6 were dismissed before trial on the merits. In 49 cases the defendants entered pleas of guilty. There were 9 cases tried to a jury, resulting in 7 verdicts of guilty and 2 of not guilty. Trial was had within 10 days after the information was filed in 1 case; in 10 to 30 days, 2 cases; in

30 days to 3 months, 2 cases; in 3 to 6 months, 1 case; and in 6 months to 1 year, 3 cases. The date information was filed was not reported in 11 cases. There were 24 paroles granted. Court costs, amounting to \$1,798.34, were reported in 63 cases, showing a minimum of \$4.85, a maximum of \$248.10, and an average of \$26.96. There were 46 criminal cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 3 from 3 to 6 months, 13 from 6 months to 1 year, 13 from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, and 1 from 4 to 5 years.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 189 motions or demurrers were reported. Of this number 19 were withdrawn or not presented and 39 were still pending July 1, 1933. Of the number disposed of 96 were presented within 10 days after they were filed, 12 from 10 to 30 days and 23 after 30 days. There were 127 motions or demurrers decided the day presented, 3 not the same day but within 10 days, and 1 after 30 days. Of the 131 ruled upon, 101 were allowed and 30 denied.

#### SEVENTH DISTRICT

HON. J. T. COOPER, of Fredonia, Judge  
LLOYD E. BROWN, Clerk, Neosho County  
W. H. TIMMONS, Clerk, Wilson County

Two counties: Neosho and Wilson. Area, 1,161 square miles; population, 40,836; assessed value, \$52,140,398.

There were 159 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 21 were dismissed before trial on the merits, 138 were tried to the court and none to the jury. In 113 cases no answers were filed. In 26 cases answers were filed within 30 days after the petitions were filed, in 10 cases from 30 to 60 days, in 10 cases from 60 days to 6 months. There were 101 cases tried on the merits within 3 months of the time the petitions were filed, 21 from 3 to 6 months, 10 from 6 to 12 months, and 6 later than 12 months. In 85 cases the journal entries were filed the day of trial, in 13 cases not the same day but within 10 days, in 8 cases in 10 to 30 days, and in 23 cases after 30 days. In 9 cases journal entries had not yet been filed. Court costs, amounting to \$4,459.40, were reported in 159 cases, showing a minimum of \$3.45, a maximum of \$161.45, and an average of \$28.04. There were 154 civil actions, other than divorce, pending July 1, 1933. Of this number 60 had been pending less than 3 months, 28 from 3 to 6 months, 15 from 6 to 12 months, 31 from 1 to 2 years, 10 from 2 to 3 years, 8 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years.

There were 69 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 9 were dismissed before trial. In 48 cases the divorces were granted to wives and in 12 cases to husbands. Of the cases tried, 1 was contested. The custody of 19 minor children was awarded to wives and 3 to husbands. There were 6 cases tried within 60 days after the petitions were filed, 45 from 60 days to 6 months, and 9 later than 6 months. The grounds for divorce were: Gross neglect, 12 cases; extreme cruelty, 22 cases; gross neglect and extreme cruelty, 6 cases; abandonment, 15 cases; adultery, 1 case; gross neglect and abandonment, 2 cases; habitual drunkenness and gross neglect, 1 case; conviction of a felony, 1 case. Court

costs, amounting to \$835.51, were reported in 69 cases, showing a minimum of \$4.85, a maximum of \$100.15, and an average of \$12.11. There were 88 divorce cases pending July 1, 1933. Of this number 21 had been pending less than 3 months, 10 from 3 to 6 months, 12 from 6 months to 1 year, 26 from 1 to 2 years, 15 from 2 to 3 years, 3 from 3 to 4 years, and 1 from 4 to 5 years.

There were 46 criminal cases disposed of within the year ending June 30, 1933. Of this number 10 were dismissed before trial on the merits. In 29 cases the defendants entered pleas of guilty. There were 7 cases tried to a jury, resulting in 5 verdicts of guilty, 1 of not guilty, and 1 hung jury. Trial was had within 10 days after the information was filed in 3 cases; in 10 to 30 days in 1 case; in 30 days to 3 months, 1 case; in 3 to 6 months, 1 case, and after 1 year, 1 case. The date information was filed was not reported in 3 cases. There were 8 paroles granted. Court costs, amounting to \$981.60, were reported in 46 cases, showing a minimum of \$3, a maximum of \$142.50, and an average of \$21.35. There were 24 criminal cases pending July 1, 1933. Of this number 6 had been pending less than 3 months, 8 from 3 to 6 months, 3 from 6 months to 1 year, 5 from 1 to 2 years, 1 from 2 to 3 years, and 1 from 4 to 5 years. There were 8 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 133 motions or demurrers were reported. Of this number 24 were withdrawn or not presented and 48 were still pending July 1, 1933. Of the number disposed of 54 were presented within 10 days after they were filed, 3 from 10 to 30 days, and 4 after 30 days. There were 61 motions or demurrers decided the day presented. Of the 61 ruled upon, 55 were allowed and 6 denied.

#### EIGHTH DISTRICT

C. M. CLARK, of Peabody, Judge  
SETH BARTER, JR., Clerk, Dickinson County  
GEO. J. WEBSTER, Clerk, Geary County  
H. D. CORNELSEN, Clerk, Marion County  
J. A. BRUTON, Clerk, Morris County

Four counties: Dickinson, Geary, Marion and Morris. Area, 2,895 square miles; population, 69,600; assessed value, \$117,657,810.

There were 464 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 66 were dismissed before trial on the merits, 384 were tried to the court and 14 to the jury. In 326 cases no answers were filed. In 86 cases answers were filed within 30 days after the petitions were filed, in 33 cases from 30 to 60 days, in 17 cases from 60 days to 6 months, and in 2 cases later than 6 months. There were 283 cases tried on the merits within 3 months of the time the petitions were filed, 77 from 3 to 6 months, 28 from 6 to 12 months, and 10 later than 12 months. In 254 cases the journal entries were filed the day of trial, in 74 cases not the same day but within 10 days, in 22 cases in 10 to 30 days, and in 23 cases after 30 days. In 25 cases journal entries had not yet been filed. Court costs, amounting to \$10,997.31, were reported in 464 cases, showing a minimum of \$2, a maximum of \$225.30, and an average of \$23.70. There were 192 civil actions, other than divorce, pending July 1, 1933. Of this number 80 had been pending less than 3 months, 30 from 3 to 6 months, 25 from 6 to



12 months, 41 from 1 to 2 years, 7 from 2 to 3 years, 10 from 3 to 4 years, and 1 over 5 years.

There were 98 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 14 were dismissed before trial. In 60 cases the divorces were granted to wives, in 23 cases to husbands, and 1 marriage was annulled. Of the cases tried, 9 were contested. The custody of 50 minor children was awarded to wives and 4 to husbands. There were 9 cases tried within 60 days after the petitions were filed, 66 from 60 days to 6 months, and 8 after 6 months. The grounds for divorce were: Gross neglect, 19 cases; extreme cruelty, 9 cases; abandonment, 41 cases; adultery, 3 cases; habitual drunkenness, 2 cases; conviction of a felony, 2 cases; miscellaneous, 7 cases. Court costs, amounting to \$820.45, were reported in 83 cases, showing a minimum of \$5.10, a maximum of \$26.70, and an average of \$9.88. There were 34 divorce cases pending July 1, 1933. Of this number 18 had been pending less than 3 months, 6 from 3 to 6 months, 4 from 6 months to 1 year, and 6 from 1 to 2 years.

There were 71 criminal cases disposed of within the year ending June 30, 1933. Of this number 13 were dismissed before trial on the merits. In 47 cases the defendants entered pleas of guilty. There were 11 cases tried to a jury, resulting in 8 verdicts of guilty and 3 of not guilty. Trial was had within 10 days after the information was filed in 2 cases; in 10 to 30 days, 3 cases; in 30 days to 3 months, 2 cases; in 3 to 6 months, 2 cases; in 6 months to 1 year, 2 cases. The date information was filed was not reported in 5 cases. There was 1 parole granted. Court costs, amounting to \$2,889.77, were reported in 71 cases, showing a minimum of \$1.45, a maximum of \$248.90, and an average of \$40.70. There were 17 criminal cases pending July 1, 1933. Of this number 9 had been pending less than 3 months, 7 from 3 to 6 months, and 1 from 1 to 2 years. There were 7 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 348 motions or demurrers were reported. Of this number 17 were withdrawn or not presented and 41 were still pending July 1, 1933. Of the number disposed of 221 were presented within 10 days after they were filed, 36 from 10 to 30 days, and 33 after 30 days. There were 282 motions or demurrers decided the day presented, 5 not the same day but within 10 days, and 3 in 10 to 30 days. Of the 290 ruled upon, 239 were allowed and 51 denied.

#### NINTH DISTRICT

J. G. SOMERS, of Newton, Judge  
LLOYD L. McMULLEN, Clerk, Harvey County  
DONALD S. CLARK, Clerk, McPherson County  
WALTER MEAD, Clerk, Reno County

Three counties: Harvey, McPherson and Reno. Area, 2,682 square miles; miles; population, 96,557; assessed value, \$165,151,358.

There were 740 civil actions (in 2 cases there were 4 trials, in 1 case 3 trials, and in 3 cases 2 trials, making a total of 751 trials) other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 136 were dismissed before trial on the merits, 588 were tried to the court and 27 to the jury. In 480 cases no answers were filed. In 120 cases answers

were filed within 30 days after the petitions were filed, in 73 cases from 30 to 60 days, in 62 cases from 60 days to 6 months, and in 16 cases later than 6 months. There were 374 cases tried on the merits within 3 months of the time the petitions were filed, 138 from 3 to 6 months, 80 from 6 to 12 months, and 23 later than 12 months. In 389 cases the journal entries were filed the day of trial, in 68 cases not the same day but within 10 days, in 58 cases in 10 to 30 days, and in 37 cases after 30 days. In 63 cases journal entries had not yet been filed. Court costs, amounting to \$21,117.45, were reported in 739 cases, showing a minimum of \$4.30, a maximum of \$1,308.10, and an average of \$28.58. There were 385 civil actions, other than divorce, pending July 1, 1933. Of this number 168 had been pending less than 3 months, 75 from 3 to 6 months, 68 from 6 to 12 months, 49 from 1 to 2 years, 19 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, and 2 over 5 years.

There were 256 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 82 were dismissed before trial. In 139 cases the divorces were granted to wives, in 32 cases to husbands, and in 3 cases the marriages were annulled. Of the cases tried, 8 were contested. The custody of 124 minor children was awarded to wives and 7 to husbands. There were 32 cases tried within 60 days after the petitions were filed, 124 from 60 days to 6 months, and 18 after 6 months. The grounds for divorce were: Gross neglect, 57 cases; extreme cruelty, 66 cases; gross neglect and extreme cruelty, 2 cases; extreme cruelty and abandonment, 1 case; abandonment, 35 cases; adultery, 1 case; insanity, 1 case; habitual drunkenness, 4 cases; extreme cruelty and drunkenness, 1 case; conviction of a felony, 3 cases. Court costs, amounting to \$2,801.84, were reported in 251 cases, showing a minimum of \$4.90, a maximum of \$85.40, and an average of \$11.16. There were 133 divorce cases pending July 1, 1933. Of this number 63 had been pending less than 3 months, 18 from 3 to 6 months, 37 from 6 months to 1 year, and 15 from 1 to 2 years.

There were 175 criminal cases disposed of within the year ending June 30, 1933. (One case had 2 trials, making 176 trials.) Of this number 49 were dismissed before trial on the merits. In 100 cases the defendants entered pleas of guilty. There were 27 cases tried to a jury, resulting in 19 verdicts of guilty, 7 of not guilty, and in 1 case there was a commitment to the insane ward of the state penitentiary. Trial was had within 10 days after the information was filed in 8 cases; in 10 to 30 days, 12 cases; in 30 days to 3 months, 4 cases; and in 3 to 6 months, 3 cases. The date information was filed was not reported in 43 cases. There were 39 paroles granted. Court costs, amounting to \$7,005.69, were reported in 174 cases, showing a minimum of \$4.70, a maximum of \$331.05, and an average of \$40.84. There were 71 criminal cases pending July 1, 1933. Of this number 36 had been pending less than 3 months, 7 from 3 to 6 months, 24 from 6 months to 1 year, 3 from 1 to 2 years, and 1 from 2 to 3 years. There were 5 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 465 motions or demurrers were reported. Of this number 23 were withdrawn or not presented and 67 were still pending July 1, 1933. Of the number disposed of 255 were presented within 10 days after they were filed, 59 from 10 to 30 days, and 61 after 30 days. There were 371 motions or demurrers decided the day presented, 1 not the

same days but within 10 days, 2 in 10 to 30 days, and 1 after 30 days. Of the 465 ruled upon, 233 were allowed, 103 denied, and 39 partially allowed and denied.

### TENTH DISTRICT

G. A. ROBERTS, of Olathe, Judge  
MABEL K. ADAMS, Clerk, Johnson County  
CHAS. W. DIEDIKER, Clerk, Miami County

Two counties: Johnson and Miami. Area, 1,088 square miles; population, 47,429; assessed value, \$71,281,983.

There were 393 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 110 were dismissed before trial on the merits, 268 were tried to the court and 15 to the jury. In 216 no answers were filed. In 85 cases answers were filed within 30 days after the petitions were filed, in 36 cases from 30 to 60 days, in 42 cases from 60 days to 6 months, and in 14 cases later than 6 months. There were 159 cases tried on the merits within 3 months of the time the petitions were filed, 67 from 3 to 6 months, 24 from 6 to 12 months and 33 after 12 months. In 212 cases the journal entries were filed the day of trial, in 43 cases not the same day but within 10 days, in 19 cases in 10 to 30 days, and in 2 cases after 30 days. In 7 cases journal entries had not yet been filed. Court costs, amounting to \$15,093.14, were reported in 393 cases, showing a minimum of \$2.65, a maximum of \$1,119.54, and an average of \$38.40. There were 237 civil actions, other than divorce, pending July 1, 1933. Of this number 83 had been pending less than 3 months, 33 from 3 to 6 months, 49 from 6 to 12 months, 43 from 1 to 2 years, 19 from 2 to 3 years, 1 from 3 to 4 years, 4 from 4 to 5 years, and 5 over five years.

There were 91 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 32 were dismissed before trial. In 39 cases the divorces were granted to wives, in 16 cases to husbands, and 4 marriages were annulled. Of the cases tried, 7 were contested. The custody of 36 minor children was awarded to wives and 2 to husbands. There were 9 cases tried within 60 days after the petitions were filed, 43 from 60 days to 6 months, and 7 after 6 months. The grounds for divorce were: Gross neglect, 18 cases; extreme cruelty, 10 cases; abandonment, 10 cases; habitual drunkenness, 2 cases; conviction of a felony, 3 cases; miscellaneous, 12 cases. Court costs, amounting to \$1,147.26, were reported in 91 cases, showing a minimum of \$4.95, a maximum of \$114.75, and an average of \$12.60. There were 58 divorce cases pending July 1, 1933. Of this number 19 had been pending less than 3 months, 15 from 3 to 6 months, 11 from 6 months to 1 year, 9 from 1 to 2 years, 3 from 2 to 3 years, and 1 from 3 to 4 years.

There were 90 criminal cases disposed of within the year ending June 30, 1933. Of this number 29 were dismissed before trial on the merits. In 49 cases the defendants entered pleas of guilty. There were 12 cases tried to a jury, resulting in 8 verdicts of guilty and 4 of not guilty. Trial was had within 10 days after the information was filed in 2 cases; in 10 to 30 days, 3 cases; in 30 days to 3 months, 4 cases; in 6 months to 1 year, 2 cases, and after 1 year, 1 case. The date information was filed was not reported in 14 cases. There were 12 paroles granted. Court costs, amounting to \$2,926.05, were reported in 90 cases, showing a minimum of \$3.70, a maximum of \$287.15,

and an average of \$32.51. There were 33 criminal cases pending July 1, 1933. Of this number 12 had been pending less than 3 months, 3 from 3 to 6 months, 9 from 6 months to 1 year, 7 from 1 to 2 years, 1 from 2 to 3 years, and 1 from 3 to 4 years. There were 8 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 380 motions or demurrers were reported. Of this number 20 were withdrawn or not presented and 52 were still pending July 1 1933. Of the number disposed of 140 were presented within 10 days after they were filed, 92 from 10 to 30 days, and 76 after 30 days. There were 287 motions or demurrers decided the day presented, 11 not the same day but within 10 days, 4 in 10 to 30 days, and 6 after 30 days. Of the 308 ruled upon, 206 were allowed, 87 denied, and 15 partially allowed and denied.

#### ELEVENTH DISTRICT

JOHN W. HAMILTON, of Columbus, Judge  
EARNEST MILTON, Clerk, Cherokee County

One county: Cherokee. Area, 605 square miles; population, 30,685; assessed value, \$24,731,589.

There were 124 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. (In one case there were 2 trials, making 125 trials.) Of this number 35 were dismissed before trial on the merits, 94 were tried to the court and 1 to the jury. In 121 cases no answers were filed. In 1 case the answer was filed within 30 days after the petition was filed, in 2 cases from 30 to 60 days, and in 1 case from 60 days to 6 months. There were 47 cases tried on the merits within 3 months of the time the petitions were filed, 22 from 3 to 6 months, 17 from 6 to 12 months, and 4 later than 12 months. In 80 cases the journal entries were filed the day of trial, in 2 cases in 10 to 30 days. In 42 cases journal entries had not yet been filed. Court costs, amounting to \$8,007.54, were reported in 124 cases, showing a minimum of \$3.80, a maximum of \$1,000, and an average of \$64.41. There were 193 civil actions, other than divorce, pending July 1, 1933. Of this number 30 had been pending less than 3 months, 16 from 3 to 6 months, 22 from 6 to 12 months, 45 from 1 to 2 years, 21 from 2 to 3 years, 17 from 3 to 4 years, 17 from 4 to 5 years, and 25 over 5 years.

There were 83 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 17 were dismissed before trial. In 52 cases divorces were granted to wives, and in 14 cases to husbands. The custody of 37 minor children was awarded to wives and 2 to husbands. There were 4 cases tried within 60 days after the petitions were filed, 57 from 60 days to 6 months, and 5 after 6 months. The grounds for divorce were: Gross neglect, 15 cases; extreme cruelty, 29 cases; abandonment, 15 cases; adultery, 1 case; insanity, 1 case; habitual drunkenness, 2 cases; extreme cruelty and gross neglect, 3 cases. Court costs, amounting to \$1,004.02, were reported in 83 cases, showing a minimum of \$5.10, a maximum of \$150.35, and an average of \$10.90. There were 59 divorce cases pending July 1, 1933. Of this number 19 had been pending less than 3 months, 7 from 3 to 6 months, 10 from 6 months to 1 year, 8 from 1 to 2 years, 7 from 2 to 3 years, 7 from 3 to 4 years, and 1 over 5 years.

There were 35 criminal cases disposed of within the year ending June 30, 1933. (Three cases were transferred to another division of the district court, 1 case was dismissed on the first count with a plea of guilty on the second count, and in 1 case there were 2 defendants.) Of this number 13 were dismissed before trial on the merits. In 17 cases the defendants entered pleas of guilty. There were 5 cases tried to a jury, resulting in 3 verdicts of guilty and 2 of not guilty. Trial was had within 10 days after the information was filed in 1 case; in 10 to 30 days, 2 cases; in 30 days to 3 months, 1 case; and in 3 to 6 months, 1 case. The date information was filed was not reported in 7 cases tried. There were 3 paroles granted. Court costs, amounting to \$2,462.70, were reported in 35 cases, showing a minimum of \$3.60, a maximum of \$483.20, and an average of \$70.36. There were 20 criminal cases pending July 1, 1933. Of this number 11 had been pending less than 3 months, 3 from 3 to 6 months, 2 from 6 months to 1 year, 3 from 1 to 2 years, and 1 from 2 to 3 years. There were 8 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 203 motions or demurrers were reported. Of this number 15 were withdrawn or not presented and 28 were still pending July 1, 1933. Of the number disposed of 114 were presented within 10 days after they were filed, 16 from 10 to 30 days, and 30 after 30 days. There were 157 motions or demurrers decided the day presented, 1 not the same day but within 10 days, 1 in 10 to 30 days, and 1 after 30 days. Of the 203 ruled upon, 123 were allowed and 37 denied.

#### TWELFTH DISTRICT

TOM KENNETT, of Concordia, Judge  
LAWRENCE JOHNSTON, Clerk, Cloud County  
WM. R. GOODWIN, Clerk, Republic County  
J. W. HATTER, Clerk, Washington County

Three counties: Cloud, Republic and Washington. Area 2,308 square miles; population, 50,128; assessed value, \$91,670,421.

There were 253 civil actions, other than divorce (there were 4 cases with 2 trials each, and 2 cases consolidated and tried as one, making a total of 256 trials) tried on the merits or dismissed within the year ending June 30, 1933. Of this number 33 were dismissed before trial on the merits, 208 were tried to the court and 11 to the jury. In 168 cases no answers were filed. In 40 cases answers were filed within 30 days after the petitions were filed, in 27 cases from 30 to 60 days, in 14 cases from 60 days to 6 months, and in 4 cases later than 6 months. There were 164 cases tried on the merits within three months of the time the petitions were filed, 43 from 3 to 6 months, 12 from 6 to 12 months, and 4 later than 12 months. In 96 cases the journal entries were filed the day of trial, in 56 cases not the same day but within 10 days, in 37 cases in 10 to 30 days, and in 19 cases later than 30 days. In 15 cases journal entries had not yet been filed. Court costs, amounting to \$7,571.34, were reported in 242 cases, showing a minimum of \$1.60, a maximum of \$128.60, and an average of \$31.12. There were 104 civil actions, other than divorce, pending July 1, 1933. Of this number 57 had been pending less than 3 months, 6 from 3 to 6 months, 24 from 6 to 12 months, 11 from 1 to 2 years, 4 from 2 to 3 years, and 2 from 3 to 4 years.

There were 57 divorce cases tried on the merits or dismissed within the year

ending June 30, 1933. Of this number 7 were dismissed before trial. In 34 cases the divorces were granted to wives, in 14 cases to husbands, and 2 divorces were denied. Of the cases tried, 10 were contested. The custody of 35 minor children was awarded to wives and 5 to the husbands. There were 42 cases tried within 60 days to 6 months after the petitions were filed and 8 later than 6 months. The grounds for divorce were: Gross neglect, 4 cases; extreme cruelty, 20 cases; abandonment, 17 cases; miscellaneous, 7 cases. Court costs, amounting to \$835.49, were reported in 57 cases, showing a minimum of \$4.70, a maximum of \$63.35, and an average of \$14.65. There were 11 divorce cases pending July 1, 1933. Of this number 8 had been pending less than 3 months and 3 from 3 to 6 months.

There were 58 criminal cases disposed of within the year ending June 30, 1933. Of this number 21 were dismissed before trial on the merits. In 13 cases the defendants entered pleas of guilty. There were 24 cases tried to a jury, resulting in 17 verdicts of guilty, 5 of not guilty, and 2 hung juries. Trial was had within 10 days after the information was filed in 13 cases; in 10 to 30 days, 3 cases; in 30 days to 3 months, 2 cases; in 3 to 6 months, 2 cases; and in 6 months to 1 year, 4 cases. The date information was filed was not reported in 5 cases. There were 11 paroles granted. Court costs, amounting to \$2,556.70, were reported in 57 cases, showing a minimum of \$6, a maximum of \$248, and an average of \$44.85. There were 15 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months, 3 from 3 to 6 months, 3 from 6 months to 1 year, 3 from 1 to 2 years, and 1 from 2 to 3 years. There were 8 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 384 motions or demurrers were reported. Of this number 24 were withdrawn or not presented and 30 were still pending July 1, 1933. Of the number disposed of 237 were presented within 10 days after they were filed, 50 from 10 to 30 days, and 43 later than 30 days. There were 328 motions or demurrers decided the day presented, 1 in 10 to 30 days, and 1 after 30 days. Of the 330 ruled upon, 271 were allowed, 53 denied, and 6 partially allowed and denied.

#### THIRTEENTH DISTRICT

HON. A. T. AYERS, of Howard, Judge, First Division.  
HON. GEORGE J. BENSON, of El Dorado, Judge, Second Division  
CHARLES SMITH, Clerk, Butler County  
R. S. FLOYD, Clerk, Chautauqua County  
MARY E. JOHNSON, Clerk, Elk County  
CLYDE DIVINE, Clerk, Greenwood County

Four counties: Butler, Chautauqua, Elk and Greenwood. Area, 3,896 square miles; population, 67,693; assessed value, \$118,900,314.

There were 629 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 123 were dismissed before trial on the merits, 480 were tried to the court, 21 to the jury, and 5 cases were removed to the federal court. In 488 cases no answers were filed. In 45 cases answers were filed within 30 days after the petitions were filed, in 39 cases from 30 to 60 days, in 47 cases from 60 days to 6 months, in 10 cases later than 6 months. There were 341 cases tried on the merits within

3 months of the time the petitions were filed, 96 from 3 to 6 months, 37 from 6 to 12 months, and 27 later than 12 months. In 262 cases the journal entries were filed the day of trial, in 94 cases not the same day but within 10 days, in 37 cases in 10 to 30 days, and in 71 cases later than 30 days. In 37 cases journal entries had not yet been filed. Court costs, amounting to \$35,479.74, were reported in 629 cases, showing a minimum of \$4.55, a maximum of \$1,567.90, and an average of \$56.39. There were 332 civil actions, other than divorce, pending July 1, 1933. Of this number 112 had been pending less than 3 months, 52 from 3 to 6 months, 35 from 6 to 12 months, 65 from 1 to 2 years, 26 from 2 to 3 years, 13 from 3 to 4 years, 11 from 4 to 5 years, and 18 over 5 years.

There were 165 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 38 were dismissed before trial. In 97 cases the divorces were granted to wives, in 29 cases to husbands, and 1 divorce was denied. Of the cases tried, 18 were contested. The custody of 65 minor children was awarded to wives, 15 to husbands, 8 part time to both parents, and 2 to grandparents. There were 7 cases tried within 60 days after the petitions were filed, 100 from 60 days to 6 months, and 20 later than 6 months. The grounds for divorce were: Gross neglect, 10 cases; extreme cruelty, 64 cases; abandonment, 31 cases; nonsupport, 14 cases; conviction of a felony, 1 case; miscellaneous, 7 cases. Court costs, amounting to \$1,959.52, were reported in 165 cases, showing a minimum of \$2.95, a maximum of \$88.95, and an average of \$11.87. There were 125 divorce cases pending July 1, 1933. Of this number 43 had been pending less than 3 months, 10 from 3 to 6 months, 16 from 6 months to 1 year, 35 from 1 to 2 years, 13 from 2 to 3 years, 4 from 3 to 4 years, 3 from 4 to 5 years, and 1 over 5 years.

There were 104 criminal cases disposed of within the year ending June 30, 1933. (In one case the bond was forfeited and in one case the defendant was released by the judge.) Of this number 20 were dismissed before trial on the merits. In 69 cases the defendants entered pleas of guilty. There were 14 cases tried to a jury, resulting in 8 verdicts of guilty and 6 of not guilty. Trial was had within 10 days after the information was filed in 3 cases; in 10 to 30 days, 5 cases; in 30 days to 3 months, 3 cases; in 3 to 6 months, 2 cases; and later than 1 year, 1 case. The date information was filed was not reported in 12 cases. There were 36 paroles granted. Court costs, amounting to \$4,318.45, were reported in 104 cases, showing a minimum of 70 cents, a maximum of \$326.15, and an average of \$41.52. There were 41 criminal cases pending July 1, 1933. Of this number 21 had been pending less than 3 months, 10 from 3 to 6 months, 4 from 6 months to 1 year, and 6 from 1 and 2 years. There were 6 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 559 motions or demurrers were reported. Of this number 36 were withdrawn or not presented and 113 were still pending July 1, 1933. Of the number disposed of 298 were presented within 10 days after they were filed, 41 from 10 to 30 days, and 71 later than 30 days. There were 401 motions or demurrers decided the day presented, 6 not the same day but within 10 days, and 3 later than 30 days. Of the 410 ruled upon, 344 were allowed and 66 denied.

## FOURTEENTH DISTRICT

HON. JOSEPH W. HOLDREN, of Independence, Judge  
CLYDE GAMBLE, Clerk

One county: Montgomery. Area, 644 square miles; population, 50, 239; assessed value, \$54,601,990.

There were 312 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 42 were dismissed before trial on the merits, 253 were tried to the court and 18 to the jury. There were 2 trials in 1 case. In 219 cases no answers were filed. In 42 cases answers were filed within 30 days after the petitions were filed, in 28 cases from 30 to 60 days, in 15 cases from 60 days to 6 months, and in 8 cases later than 6 months. There were 173 cases tried on the merits within 3 months of the time the petitions were filed, 58 from 3 to 6 months, 30 from 6 months to 12 months, and 10 later than 12 months. In 176 cases the journal entries were filed the day of trial, in 38 cases not the same day but within 10 days, in 39 cases in 10 to 30 days, and in 10 cases after 30 days. In 8 cases journal entries had not yet been filed. Court costs, amounting to \$10,750.05, were reported in 311 cases, showing a minimum of \$3.15, a maximum of \$1,491.60, and an average of \$34.56. There were 119 civil actions, other than divorce, pending July 1, 1933. Of this number 43 had been pending less than 3 months, 22 from 3 to 6 months, 19 from 6 to 12 months, 24 from 1 to 2 years, 5 from 2 to 3 years, 5 from 3 to 4 years, and 1 over 5 years.

There were 152 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 44 were dismissed before trial. In 81 cases the divorces were granted to wives, in 19 cases to husbands, 3 divorces were denied, and in 5 cases this information was not given. Of the cases tried, 16 were contested. The custody of 67 minor children was awarded to wives, 14 to husbands, and in the case of 4 children their disposition was taken under advisement. There were 11 cases tried within 60 days after the petitions were filed, 89 from 60 days to 6 months, and 8 after 6 months. The grounds for divorce were: Gross neglect, 2 cases; gross neglect and extreme cruelty, 27 cases; extreme cruelty, 25 cases; extreme cruelty and nonsupport, 3 cases; extreme cruelty and abandonment, 1 case; abandonment, 32 cases; gross neglect and nonsupport, 1 case; nonsupport, 12 cases; conviction of a felony, 1 case; infidelity, 3 cases; grounds not stated, 1 case. Court costs, amounting to \$1,760.31, were reported in 151 cases, showing a minimum of \$3.80, a maximum of \$55.05, and an average of \$11.66. There were 60 divorce cases pending July 1, 1933. Of this number 29 had been pending less than 3 months, 7 from 3 to 6 months, 9 from 6 months to 1 year, 10 from 1 to 2 years, 4 from 2 to 3 years, and 1 from 3 to 4 years.

There were 84 criminal cases disposed of within the year ending June 30, 1933. Of this number 20 were dismissed before trial on the merits. In 50 cases the defendants entered pleas of guilty. There were 17 cases tried to a jury, resulting in 14 verdicts of guilty and 3 of not guilty. In 1 case the defendant was adjudged feeble minded; 1 case had 3 defendants who pleaded guilty, 2 were dismissed and 1 was paroled; 1 case had two defendants, 1 pleaded guilty and 1 was tried and found guilty; 1 case had 2 defendants, as to 1 the case was dismissed and 1 was tried and found not guilty. Trial was had within 10 days after the information was filed in 5 cases; in 10 to 30 days in 7 cases; in 30 days



to 3 months in 2 cases; in 3 to 6 months in 2 cases, and in 6 months to 1 year in 2 cases. The date information was filed was not reported in 9 cases. There were 11 paroles granted. Court costs, amounting to \$4,247.43, were reported in 84 cases, showing a minimum of \$3.95, a maximum of \$163.10, and an average of \$50.56. There were 28 criminal cases pending July 1, 1933. Of this number 9 had been pending less than 3 months, 2 from 3 to 6 months, 15 from 6 months to 1 year, and 2 from 1 to 2 years. There were 6 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 233 motions or demurrers were reported. Of this number 32 were withdrawn or not presented and 42 were still pending July 1, 1933. Of the number disposed of 99 were presented within 10 days after they were filed, 25 from 10 to 30 days, and 35 after 30 days. There were 155 motions or demurrers decided the day presented, 1 not the same day but within 10 days, 3 in 10 to 30 days. Of the 159 ruled upon, 107 were allowed, 49 denied, and 3 partially allowed and denied.

#### FIFTEENTH DISTRICT

HON. W. R. MITCHELL, of Mankato, Judge  
BERNICE HOWARD, Clerk, Jewell County  
JOHN W. HAYES, Clerk, Mitchell County  
B. F. BEESON, Clerk, Osborne County  
RUTH W. COLE, Clerk, Smith County

Four counties: Jewell, Osborne, Mitchell and Smith. Area, 3,395 square miles; population, 50,921; assessed value, \$93,662,421.

There were 343 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 62 were dismissed before trial on the merits, 262 were tried to the court and 19 to the jury. In 243 cases no answers were filed. In 58 cases answers were filed within 30 days after the petitions were filed, in 17 cases from 30 to 60 days, in 22 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 175 cases tried on the merits within 3 months of the time the petitions were filed, 64 from 3 to 6 months, 38 from 6 to 12 months, and 4 later than 12 months. In 152 cases the journal entries were filed the day of trial, in 39 cases not the same day but within 10 days, in 25 cases in 10 to 30 days, and in 34 cases later than 30 days. In 31 cases journal entries had not yet been filed. Court costs, amounting to \$10,452.14, were reported in 343 cases, showing a minimum of \$1.30, a maximum of \$133.35, and an average of \$28.79. There were 199 civil actions, other than divorce, pending July 1, 1933. Of this number 84 had been pending less than 3 months, 32 from 3 to 6 months, 43 from 6 to 12 months, 27 from 1 to 2 years, 5 from 2 to 3 years, 5 from 3 to 4 years, and 3 from 4 to 5 years.

There were 78 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 15 were dismissed before trial. In 44 cases the divorces were granted to wives, in 18 cases to husbands, and 1 divorce was denied. Of the cases tried, 4 were contested. The custody of 34 minor children was awarded to wives and 7 to husbands and 1 to a relative. There was 1 case tried within 60 days after the petition was filed, 52 from 60 days to 6 months, 8 after 6 months, and in one case the time was not given. The grounds for divorce were: Gross neglect, 1 case; extreme cruelty, 19 cases;

abandonment, 17 cases; adultery, 1 case; nonsupport, 13 cases; miscellaneous, 12 cases. Court costs, amounting to \$1,036.14, were reported in 78 cases, showing a minimum of \$3.80, a maximum of \$63.75, and an average of \$13.27. There were 28 divorces pending July 1, 1933. Of this number 18 had been pending less than 3 months, 3 from 3 to 6 months, 2 from 6 months to 1 year, and 5 from 1 to 2 years.

There were 48 criminal cases disposed of within the year ending June 30, 1933. Of this number 10 were dismissed before trial on the merits. In 20 cases the defendants entered pleas of guilty. There were 18 cases tried to a jury, resulting in 11 verdicts of guilty, 6 of not guilty, and 1 hung jury. Trial was had within 10 days after the information was filed in 8 cases; in 10 to 30 days, 1 case; in 30 days to 3 months, 2 cases; in 3 to 6 months, 4 cases; in 6 months to 1 year, 1 case; and later than 1 year, 2 cases. The date information was filed was not reported in 1 case. There were 9 paroles granted, and 19 paroles where the conviction had been in an inferior court. Court costs, amounting to \$1,312.17, were reported in 48 cases, showing a minimum of \$2.90, a maximum of \$276.80, and an average of \$27.33. There were 18 criminal cases pending July 1, 1933. Of this number 11 had been pending less than 3 months, 4 from 3 to 6 months, 2 from 1 to 2 years, and 1 from 2 to 3 years. There was 1 case in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 456 motions or demurrers were reported. Of this number 33 were withdrawn or not presented, and 43 were still pending July 1, 1933. Of the number disposed of 221 were presented within 10 days after they were filed, 79 from 10 to 30 days, and 80 later than 30 days. There were 379 motions or demurrers decided the day presented and 1 in 10 to 30 days. Of the 380 ruled upon, 276 were allowed, 94 denied, and 10 partially allowed and denied.

#### SIXTEENTH DISTRICT

HON. L. E. GOODRICH, of Parsons, Judge  
H. L. LANE, Clerk

One county: Labette. Area, 643 square miles; population, 31,445; assessed value, \$37,922,463.

There were 165 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 14 were dismissed before trial on the merits, 143 were tried to the court, 6 to the jury, 1 case was transferred to the Oswego division, and 1 case was removed to the federal court. In 113 cases no answers were filed. In 15 cases answers were filed within 30 days after the petitions were filed, in 13 cases from 30 to 60 days, in 22 cases from 60 days to 6 months, and in 2 cases later than 6 months. There were 89 cases tried on the merits within 3 months of the time the petitions were filed, 32 from 3 to 6 months, 21 from 6 to 12 months, and 7 later than 12 months. In 117 cases the journal entries were filed the day of trial, in 17 cases not the same day but within 10 days, in 5 cases in 10 to 30 days, and in 7 cases after 30 days. In 5 cases journal entries had not yet been filed. Court costs, amounting to \$6,274.39, were reported in 162 cases, showing a minimum of \$6.10, a maximum of \$182.67, and an average of \$38.73. There were 53 civil actions, other than divorce, pending July 1, 1933. Of this

number 31 had been pending less than 3 months, 3 from 3 to 6 months, 12 from 6 to 12 months, 4 from 1 to 2 years, 1 from 2 to 3 years, and 2 from 3 to 4 years.

There were 88 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 25 were dismissed before trial. In 50 cases the divorces were granted to wives, in 13 cases to husbands. Of the cases tried, 15 were contested. The custody of 34 minor children was awarded to wives and 1 to a husband. There were 7 cases tried within 60 days after the petitions were filed, 52 from 60 days to 6 months, and 4 after 6 months. The grounds for divorce were: Cruelty and abandonment, 1 case; gross neglect, 4 cases; extreme cruelty, 6 cases; abandonment, 19 cases; adultery, 4 cases; extreme cruelty and nonsupport, 12 cases; nonsupport, 2 cases; habitual drunkenness, 3 cases; defrauding, 1 case; extreme cruelty and gross neglect, 11 cases. Court costs, amounting to \$1,467.82, were reported in 88 cases, showing a minimum of \$8, a maximum of \$90.45, and an average of \$16.68. There were 23 divorce cases pending July 1, 1933. Of this number 18 had been pending less than 3 months, 4 from 3 to 6 months, and 1 from 6 months to 1 year.

There were 49 criminal cases disposed of within the year ending June 30, 1933. Of this number 2 were transferred to another court and 21 were dismissed before trial on the merits. In 16 cases the defendants entered pleas of guilty. There were 10 cases tried to a jury, resulting in 7 verdicts of guilty and 3 of not guilty. Trial was had within 10 to 30 days after the information was filed in 7 cases; in 30 days to 3 months, 2 cases; and in 6 months to 1 year, 1 case. The date information was filed was not reported in 20 cases tried. There were 3 paroles granted. Court costs, amounting to \$1,415.96, were reported in 49 cases, showing a minimum of \$8.20, a maximum of \$132.60, and an average of \$28.89. There were 2 criminal cases pending July 1, 1933. Both cases had been pending less than 3 months. There was 1 case in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 313 motions or demurrers were reported. Of this number 8 were withdrawn or not presented and 14 were still pending July 1, 1933. Of the number disposed of 209 were presented within 10 days after they were filed, 51 from 10 to 30 days, and 31 after 30 days. There were 282 motions or demurrers decided the day presented, 2 not the same day but within 10 days, 3 in 10 to 30 days, and 4 after 30 days. Of the 291 ruled upon, 235 were allowed, 48 denied, and 8 partially allowed and denied.

#### SEVENTEENTH DISTRICT

HON. E. E. KITE, of St. Francis, Judge  
MINNIE A. LAWLESS, Clerk, Cheyenne County  
DORTHY MCGEE, Clerk, Decatur County  
ETHEL BECHTOLDT, Clerk, Norton County  
L. R. HALBERT, Clerk, Phillips County  
IVY MORTON YOOS, Clerk, Rawlins County

Five counties: Cheyenne, Decatur, Norton, Phillips, Rawlins. Area, 4,726 square miles; population, 48,000; assessed value, \$60,864,907.

There were 272 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 81 were dismissed before trial on the merits, 174 were tried to the court, 15 to the jury, and 2 to a referee. In 195 cases no answers were filed. In 25 cases answers

were filed within 30 days after the petitions were filed, in 8 cases from 30 to 60 days, in 32 cases from 60 days to 6 months, and in 12 cases later than 6 months. There were 116 cases tried on the merits within 3 months of the time the petitions were filed, 35 from 3 to 6 months, 25 from 6 to 12 months, and 15 later than 12 months. In 108 cases the journal entries were filed the day of trial, in 30 cases not the same day but within 10 days, in 17 cases from 10 to 30 days, and in 15 cases later than 30 days. In 21 cases journal entries had not yet been filed. Court costs, amounting to \$7,470.52, were reported in 268 cases, showing a minimum of \$2.35, a maximum of \$252.65, and an average of \$27.88. There were 187 civil actions, other than divorce, pending July 1, 1933. Of this number 61 had been pending less than 3 months, 47 from 3 to 6 months, 42 from 6 to 12 months, 20 from 1 to 2 years, 5 from 2 to 3 years, 6 from 3 to 4 years, 5 from 4 to 5 years, and 1 over 5 years.

There were 70 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 15 were dismissed before trial. In 39 cases the divorces were granted to wives, in 15 cases to husbands, and 1 divorce was denied. Of the cases tried, 4 were contested. The custody of 50 minor children was awarded to wives, 6 to husbands, and 1 to both parents. There was 1 case tried within 60 days after the petition was filed, 43 from 60 days to 6 months, and 11 after 6 months. The grounds for divorce were: gross neglect, 2 cases; extreme cruelty, 22 cases; abandonment, 22 cases; adultery, 2 cases; nonsupport, 3 cases; habitual drunkenness, 2 cases; miscellaneous, 2 cases. Court costs, amounting to \$732.23, were reported in 70 cases, showing a minimum of \$5.10, a maximum of \$25.25, and an average of \$10.46. There were 21 divorce cases pending July 1, 1933. Of this number 15 had been pending less than 3 months, 2 from 3 to 6 months, 2 from 6 months to 1 year, 1 from 1 to 2 years, and 1 from 2 to 3 years.

There were 41 criminal cases disposed of within the year ending June 30, 1933. Of this number 19 were dismissed before trial on the merits. In 7 cases the defendants entered pleas of guilty. There were 15 cases tried to a jury, resulting in 13 verdicts of guilty and 2 of not guilty. Trial was had within 10 days after the information was filed in 8 cases; in 10 to 30 days, 4 cases; in 30 days to 3 months, 2 cases, and in 6 months to 1 year, 1 case. The date information was filed was not reported in 11 cases. There were 9 paroles granted. Court costs, amounting to \$1,957.70, were reported in 41 cases, showing a minimum of \$2.10, a maximum of \$367.47, and an average of \$47.75. There were 18 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months, 1 from 3 to 6 months, 3 from 6 months to 1 year, and 9 from 1 to 2 years. There was 1 case in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 212 motions or demurrers were reported. Of this number 6 were withdrawn or not presented and 26 were still pending July 1, 1933. Of the number disposed of 138 were presented within 10 days after they were filed, 21 from 10 to 30 days, 21 later than 30 days. There were 177 motions or demurrers decided the day presented, 1 not the same day but within 10 days, 1 in 10 to 30 days, and 1 later than 30 days. Of the 180 ruled upon, 128 were allowed, 47 denied, and 5 partially allowed and denied.

## EIGHTEENTH DISTRICT

HON. ROSS McCORMICK, of Wichita, Judge, First Division  
HON. R. L. NESMITH, of Wichita, Judge, Second Division  
HON. GROVER PIERPONT, of Wichita, Judge, Third Division  
HON. I. N. WILLIAMS, of Wichita, Judge, Fourth Division  
A. E. JACQUES, Clerk

One county: Sedgwick. Area, 994 square miles; population, 127,582; assessed value, \$180,868,994.

There were 1,647 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 367 were dismissed before trial on the merits, 1,210 were tried to the court and 53 to the jury, and 17 cases were removed to the federal court. In 972 cases no answers were filed. In 232 cases answers were filed within 30 days after the petitions were filed, in 231 cases from 30 to 60 days, in 189 cases from 60 days to 6 months, and in 23 cases later than 6 months. There were 771 cases tried on the merits within 3 months of the time the petitions were filed, 301 from 3 to 6 months, 171 from 6 to 12 months, and 20 later than 12 months. In 1,258 cases the journal entries were filed the day of trial, and in 5 cases journal entries had not yet been filed. Court costs, amounting to \$43,513.97, were reported in 1,630 cases, showing a minimum of \$4.10, a maximum of \$647.70, and an average of \$26.69. There were 997 civil actions, other than divorce, pending July 1, 1933. Of this number 430 had been pending less than 3 months, 258 from 3 to 6 months; 199 from 6 to 12 months, and 110 from 1 to 2 years.

There were 863 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 340 were dismissed before trial. In 416 cases the divorces were granted to wives, and in 107 cases to husbands. Of the cases tried, 54 were contested. The custody of 278 minor children was awarded to wives and 23 to husbands; 1 to both parents; 1 to a grandmother; 1 to a friend; 48 the disposition not stated. There were 91 cases tried within 60 days after the petitions were filed, 356 from 60 days to 6 months, and 76 after 6 months. The grounds for divorce were: Gross neglect, 176 cases; extreme cruelty, 235 cases; abandonment, 100 cases; adultery, 2 cases; habitual drunkenness, 1 case; conviction of a felony, 7 cases; incompatibility, 1 case; not stated, 1 case. Court costs, amounting to \$9,570.95, were reported in 863 cases, showing a minimum of \$3.40, a maximum of \$126.75, and an average of \$11.09. There were 425 divorce cases pending July 1, 1933. Of this number 192 had been pending less than 3 months, 89 from 3 to 6 months, 92 from 6 months to 1 year, and 52 from 1 to 2 years.

There were 813 criminal cases disposed of within the year ending June 30, 1933. Of this number 317 were dismissed before trial on the merits. In 462 cases the defendants entered pleas of guilty. There were 48 cases tried to a jury, resulting in 26 verdicts of guilty and 23 of not guilty. There were 14 cases having 2 trials each; 15 of the defendants pleaded guilty and 13 were dismissed. Trial was had within 10 to 30 days after the information was filed in 6 cases; in 30 days to 3 months, 24 cases; in 3 to 6 months, 15 cases; in 6 months to 1 year, 2 cases, and after 1 year in 1 case. The date information was filed was not reported in 489 cases. There were 401 paroles granted. Court costs, amounting to \$19,550.42, were reported in 813 cases, showing a minimum of \$6.35, a maximum of \$497.10, and an average of \$23.92. There were 167 criminal cases pending July 1, 1933. Of this number 81 had been pending less than 3 months, 37 from 3 to 6 months, 30 from 6 months to 1 year,

and 19 from 1 to 2 years. There were 97 cases in which transcripts but no informations were filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 1,201 motions or demurrers were reported. Of this number 124 were withdrawn or not presented and 162 were still pending July 1, 1933. Of the number disposed of 696 were presented within 10 days after they were filed, 173 from 10 to 30 days, and 46 after 30 days. There were 374 motions or demurrers decided the day presented, 225 not the same day but within 10 days, 205 in 10 to 30 days, and 111 after 30 days. Of the 915 ruled upon, 727 were allowed, 169 denied, and 19 partially allowed and denied.

#### NINETEENTH DISTRICT

HON. O. P. FULLER, of Winfield, Judge  
MRS. MARIE SNYDER, Clerk

One county: Cowley. Area, 1,133 square miles; population, 37,654; assessed value, \$58,578,834.

There were 356 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 80 were dismissed before trial on the merits, 256 were tried to the court, 21 to the jury, and 1 case to both court and jury. In 206 cases no answers were filed. In 58 cases answers were filed within 30 days after the petitions were filed, in 41 cases from 30 to 60 days, in 41 cases from 60 days to 6 months, and in 10 cases later than 6 months. There were 150 cases tried on the merits within 3 months of the time the petitions were filed, 47 from 3 to 6 months, 46 from 6 to 12 months, and 33 later than 12 months. In 102 cases the journal entries were filed the day of trial, in 65 cases not the same day but within 10 days, in 33 cases in 10 to 30 days, and in 23 cases after 30 days. In 53 cases the journal entries had not yet been filed. Court costs, amounting to \$9,952.25, were reported in 356 cases, showing a minimum of \$2.30, a maximum of \$437.01, and an average of \$27.92. There were 245 civil actions, other than divorce, pending July 1, 1933. Of this number 76 had been pending less than 3 months, 38 from 3 to 6 months, 47 from 6 to 12 months, 41 from 1 to 2 years, 18 from 2 to 3 years, 11 from 3 to 4 years, 4 from 4 to 5 years, and 10 over 5 years.

There were 86 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 8 were dismissed before trial. In 64 cases the divorces were granted to wives and in 14 cases to husbands. Of the cases tried, 7 were contested. The custody of 37 minor children was awarded to wives, 6 to husbands, and in 1 case the disposition was not stated. There were 8 cases tried within 60 days after the petitions were filed, 67 from 60 days to 6 months, and 3 after 6 months. The grounds for divorce were: Gross neglect, 20 cases; extreme cruelty, 33 cases; abandonment, 7 cases; nonsupport, 11 cases; fraudulent contract, 1 case; habitual drunkenness, 1 case; conviction of a felony, 1 case; incurable insanity, 2 cases; grounds not stated, 2 cases. Court costs, amounting to \$1,118.51, were reported in 86 cases, showing a minimum of \$5, a maximum of \$55.65, and an average of \$13. There were 91 divorce cases pending July 1, 1933. Of this number 39 had been pending less than 3 months, 6 from 3 to 6 months, 18 from 6 months to 1 year, 18 from 1 to 2 years, 9 from 2 to 3 years, and 1 from 4 to 5 years.

There were 86 criminal cases disposed of within the year ending June 30,

1933. Of this number 15 were dismissed before trial on the merits. In 65 cases the defendants entered pleas of guilty. There were 6 cases tried to a jury, resulting in 4 verdicts of guilty, 1 verdict of not guilty, and 1 hung jury. Trial was had within 10 days after the information was filed in 1 case, in 10 to 30 days in 3 cases, and in 30 days to 3 months in 2 cases. The date information was filed was not reported in 13 cases. There were 27 paroles granted. Court costs, amounting to \$3,526.40, were reported in 86 cases, showing a minimum of \$5.35, a maximum of \$374.49, and an average of \$41. There were 18 criminal cases pending July 1, 1933. Of this number 12 had been pending less than 3 months, 3 from 3 to 6 months, and 3 from 6 months to 1 year. There were 10 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 285 motions or demurrers were reported. Of this number 13 were withdrawn or not presented and 49 were still pending July 1, 1933. Of the number disposed of 133 were presented within 10 days after they were filed, 52 from 10 to 30 days, and 38 after 30 days. There were 223 motions or demurrers decided the day presented. Of the 223 ruled upon, 133 were allowed, 82 denied, and 8 partially allowed and denied.

#### TWENTIETH DISTRICT

HON. RAY H. BEALS, of St. John, Judge  
JACK MORRISON, JR., Clerk, Barton County  
L. A. HOLLOWAY, Clerk, Rice County  
GERTRUDE BARTLE, Clerk, Stafford County

Three counties: Barton, Rice and Stafford. Area, 2,395 square miles; population, 43,512; assessed value, \$89,782,330.

Three counties: Barton, Rice and Stafford. Area, 2,395 square miles; population, 43,512; assessed value, \$89,782,330.

There were 377 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 58 were dismissed before trial on the merits, 315 were tried to the court and 4 to the jury. In 297 cases no answers were filed. In 43 cases answers were filed within 30 days after the petitions were filed, in 18 cases from 30 to 60 days, in 19 cases from 60 days to 6 months, and in 1 case later than 6 months. There were 243 cases tried on the merits within 3 months of the time the petitions were filed, 51 from 3 to 6 months, 17 from 6 to 12 months, and 9 later than 12 months. In 261 cases the journal entries were filed the day of trial, in 21 cases not the same day but within 10 days, in 8 cases in 10 to 30 days, and in 25 cases later than 30 days. In 4 cases journal entries had not yet been filed. Court costs, amounting to \$7,786.98, were reported in 308 cases, showing a minimum of \$2.25, a maximum of \$169.90, and an average of \$25.28. There were 114 civil actions, other than divorce, pending July 1, 1933. Of this number 67 had been pending less than 3 months, 16 from 3 to 6 months, 18 from 6 to 12 months, 10 from 1 to 2 years, and 3 from 2 to 3 years.

There were 61 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 8 were dismissed before the trial. In 38 cases the divorces were granted to wives and in 15 cases to husbands. Of the cases tried, 9 were contested. The custody of 42 minor children was awarded to wives, 1 to a husband, and 1 part time to each. There were 4 cases tried within 60 days after the petitions were filed, 46 from 60 days to 6 months,

and 3 later than 6 months. The grounds for divorce were: Gross neglect, 4 cases; extreme cruelty, 15 cases; abandonment, 17 cases; miscellaneous, 17 cases. Court costs, amounting to \$701.27, were reported in 60 cases, showing a minimum of \$4.60, a maximum of \$138.55, and an average of \$11.69. There were 27 divorce cases pending July 1, 1933. Of this number 14 had been pending less than 3 months, 3 from 3 to 6 months, 5 from 6 months to 1 year, and 5 from 1 to 2 years.

There were 81 criminal cases disposed of within the year ending June 30, 1933. Of this number 22 were dismissed before trial on the merits. In 49 cases the defendants entered pleas of guilty. There were 10 cases tried to a jury, resulting in 7 verdicts of guilty and 3 of not guilty. Trial was had within 10 days after the information was filed in 3 cases; in 10 to 30 days, 2 cases, and in 30 days to 3 months, 5 cases. The date information was filed was not reported in 13 cases. There were 19 paroles granted. Court costs, amounting to \$3,648.15, were reported in 81 cases, showing a minimum of \$6.25, a maximum of \$321.70, and an average of \$45.04. There were 14 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months and 9 from 3 to 6 months. There were 3 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 150 motions or demurrers were reported. Of this number 18 were withdrawn or not presented and 1 was still pending July 1, 1933. Of the number disposed of 106 were presented within 10 days after they were filed, 11 from 10 to 30 days, and 14 after 30 days. There were 117 motions or demurrers decided the day presented, 7 not the same day but within 10 days, 3 in 10 to 30 days, and 4 later than 30 days. Of the 131 ruled upon, 100 were allowed and 31 denied.

#### TWENTY-FIRST DISTRICT

HON. EDGAR C. BENNETT, of Marysville, Judge  
MRS. JOHN C. GOHEEN, Clerk, Clay County  
WALLACE KOPPES, Clerk, Marshall County  
C. E. WOOD, Clerk, Riley County

Three counties: Clay, Marshall and Riley. Area, 2,147 square miles; population 56,888; assessed value, \$94,734,064.

There were 324 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 54 were dismissed before trial on the merits, 256 were tried to the court, 12 to the jury, 2 to a referee, and 1 was removed to the federal court. In 221 cases no answers were filed. In 53 cases answers were filed within 30 days after the petitions were filed, in 29 cases from 30 to 60 days, in 18 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 199 cases tried on the merits within 3 months of the time the petitions were filed, 36 from 3 to 6 months, 26 from 6 to 12 months, and 8 later than 12 months. In 113 cases the journal entries were filed the day of trial, in 54 cases not the same day but within 10 days, in 10 cases from 10 to 30 days, and in 71 cases after 30 days. In 21 cases journal entries had not yet been filed. Court costs, amounting to \$15,244.01, were reported in 324 cases, showing a minimum of \$3.45, a maximum of \$854.09, and an average of \$47.05. There were 131 civil actions, other than divorce, pending July 1, 1933. Of this number 61 had been pending less than 3 months,



27 from 3 to 6 months, 26 from 6 to 12 months, 14 from 1 to 2 years, and 3 from 2 to 3 years.

There were 80 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 12 were dismissed before trial. In 47 cases the divorces were granted to wives, in 20 cases to husbands, and 1 divorce was denied. Of the cases tried, 7 were contested. The custody of 29 minor children was awarded to wives, 4 to husbands, and 2 to relatives. There were 66 cases tried within 60 days to 6 months after the petitions were filed and 2 after 6 months. The grounds for divorce were: Gross neglect, 16 cases; extreme cruelty, 31 cases; abandonment, 18 cases; miscellaneous, 2 cases. Court costs, amounting to \$714.39, were reported in 80 cases, showing a minimum of \$4, a maximum of \$26.10, and an average of \$8.93. There were 35 divorce cases pending July 1, 1933. Of this number 19 had been pending less than 3 months, 7 from 3 to 6 months, 6 from 6 months to 1 year, 2 from 1 to 2 years, and 1 from 2 to 3 years.

There were 43 criminal cases disposed of within the year ending June 30, 1933. Of this number 9 were dismissed before trial on the merits. In 25 cases the defendants entered pleas of guilty. There were 9 cases tried to a jury, resulting in 4 verdicts of guilty and 5 of not guilty. Trial was had within 10 days after the information was filed in 1 case; in 10 to 30 days, 2 cases; in 30 days to 3 months, 2 cases; in 3 to 6 months, 2 cases, and from 6 months to 1 year, 2 cases. The date information was filed was not reported in 5 cases. There were 4 paroles granted. Court costs, amounting to \$1,088.97, were reported in 43 cases, showing a minimum of \$5.40, a maximum of \$85.07, and an average of \$25.32. There were 24 criminal cases pending July 1, 1933. Of this number 8 had been pending less than 3 months, 11 from 3 to 6 months, 4 from 6 months to 1 year, and 1 from 1 to 2 years. There were 15 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 285 motions or demurrers were reported. Of this number 15 were withdrawn or not presented and 38 were still pending July 1, 1933. Of the number disposed of 168 were presented within 10 days after they were filed, 27 in 10 to 30 days, and 37 after 30 days. There were 218 motions or demurrers decided the day presented, 4 not the same day but within 10 days, and 10 after 30 days. Of the 231 ruled upon, 204 were allowed and 27 denied.

#### TWENTY-SECOND DISTRICT

HON. C. W. RYAN, of Wathena, Judge  
H. N. ZIMMERMAN, Clerk, Brown County  
L. D. SWIGGERT, Clerk, Doniphan County  
DOROTHY INGALLS, Clerk, Nemaha County

Three counties: Brown, Doniphan and Nemaha. Area, 1,665 square miles; population, 53,388; assessed value, \$111,461,702.

There were 422 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 61 were dismissed before trial on the merits, 347 were tried to the court and 14 to the jury. In 293 cases no answers were filed. In 66 cases answers were filed within 30 days after the petitions were filed, in 36 cases from 30 to 60 days, in 23 cases from 60 days to 6 months, and in 4 cases later than 6 months. There were 167 cases

tried on the merits within 3 months of the time the petitions were filed, 145 from 3 to 6 months, 47 from 6 to 12 months, and 2 later than 12 months. In 25 cases the journal entries were filed the day of trial, in 66 cases not the same day but within 10 days, in 113 cases from 10 to 30 days, and in 133 cases after 30 days. In 24 cases journal entries had not yet been filed. Court costs, amounting to \$21,820.50, were reported in 395 cases, showing a minimum of \$5.35, a maximum of \$709.13, and an average of \$55.24. There were 179 civil actions, other than divorce, pending July 1, 1933. Of this number 75 had been pending less than 3 months, 50 from 3 to 6 months, 32 from 6 to 12 months, 21 from 1 to 2 years, and 1 from 2 to 3 years.

There were 51 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 16 were dismissed before trial. In 24 cases the divorces were granted to wives, in 10 cases to husbands, and 1 divorce was denied. Of the cases tried, 5 were contested. The custody of 31 minor children was awarded to wives and 1 to a husband. There were 0 cases tried within 60 days after the petitions were filed, 27 from 60 days to 6 months, and 8 after 6 months. The grounds for divorce were: Gross neglect, 18 cases; extreme cruelty, 6 cases; abandonment, 4 cases; conviction of a felony, 1 case; and miscellaneous, 6 cases. Court costs, amounting to \$764.89, were reported in 51 cases, showing a minimum of \$5.81, a maximum of \$67.25, and an average of \$14.99. There were 23 divorce cases pending July 1, 1933. Of this number 11 had been pending less than 3 months, 8 from 3 to 6 months, 3 from 6 months to 1 year, and 1 from 2 to 3 years.

There were 67 criminal cases disposed of within the year ending June 30, 1933. Of this number 19 were dismissed before trial on the merits. In 33 cases the defendants entered pleas of guilty. There were 15 cases tried to a jury, resulting in 12 verdicts of guilty and 3 of not guilty. Trial was had within 10 days after the information was filed in 7 cases; in 10 to 30 days, 1 case; in 30 days to 3 months, 3 cases; in 3 to 6 months, 3 cases, and in 6 months to 1 year, 1 case. The date information was filed was not reported in 1 case. There were 7 paroles granted. Court costs, amounting to \$3,497.10, were reported in 66 cases, showing a minimum of \$8.15, a maximum of \$411.30, and an average of \$53. There were 16 criminal cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 5 from 3 to 6 months, and 1 from 6 months to 1 year. There was 1 case in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 615 motions or demurrers were reported. Of this number 55 were withdrawn or not presented and 35 were still pending July 1, 1933. Of the number disposed of 314 were presented within 10 days after they were filed, 159 from 10 to 30 days, and 52 after 30 days. There were 523 motions or demurrers decided the day presented and 2 later than 30 days. Of the 525 ruled upon, 436 were allowed, 87 denied, and 2 partially allowed and denied.

## TWENTY-THIRD DISTRICT

HON. HERMAN LONG, of Wakeeney, Judge  
LEO J. STAAB, Clerk, Ellis County  
GRANT W. PETERSON, Clerk, Gove County  
ALFRED ROGGE, Clerk, Logan County  
GEORGE W. BRANDT, Clerk, Russell County  
J. W. BINGHAM, Clerk, Trego County  
IDA WARD, Clerk, Wallace County

Six counties: Ellis, Gove, Logan, Russell, Trego and Wallace. Area, 5,778 square miles; population, 46,194; assessed value, \$79,921,967.

There were 364 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 55 were dismissed before trial on the merits, 298 were tried to the court and 11 to the jury. In 296 cases no answers were filed. In 26 cases answers were filed within 30 days after the petitions were filed, in 16 cases from 30 to 60 days, in 20 cases from 60 days to 6 months, and in 6 cases later than 6 months. There were 180 cases tried on the merits within 3 months of the time the petitions were filed, 71 from 3 to 6 months, 32 from 6 to 12 months, and 25 later than 12 months. In 158 cases the journal entries were filed the day of trial, in 31 cases not the same day but within 10 days, in 22 cases in 10 to 30 days, and in 78 cases after 30 days. In 20 cases journal entries had not yet been filed. Court costs, amounting to \$11,349.31, were reported in 355 cases, showing a minimum of \$3.30, a maximum of \$357.40, and an average of \$34.78. There were 315 civil actions, other than divorce, pending July 1, 1933. Of this number 92 had been pending less than 3 months, 70 from 3 to 6 months, 96 from 6 to 12 months, 37 from 1 to 2 years, 14 from 2 to 3 years, 5 from 3 to 4 years, and 1 from 4 to 5 years.

There were 47 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 11 were dismissed before trial. In 27 cases the divorces were granted to wives and in 9 cases to husbands. Of the cases tried, 3 were contested. The custody of 33 minor children was awarded to wives and 10 to husbands. There were 11 cases tried within 60 days after the petitions were filed, 23 from 60 days to 6 months, and 2 after 6 months. The grounds for divorce were: Gross neglect, 12 cases; extreme cruelty, 1 case; abandonment, 12 cases; nonsupport, 1 case; conviction of a felony, 1 case; miscellaneous, 9 cases. Court costs, amounting to \$496.26, were reported in 47 cases, showing a minimum of \$4.65, a maximum of \$31.10, and an average of \$10.55. There were 17 divorce cases pending July 1, 1933. Of this number 6 had been pending less than 3 months, 4 from 3 to 6 months, 3 from 6 months to 1 year, and 4 from 1 to 2 years.

There were 85 criminal cases disposed of within the year ending July 1, 1933. Of this number 31 were dismissed before trial on the merits. In 35 cases the defendants entered pleas of guilty. There were 19 cases tried to a jury, resulting in 15 verdicts of guilty and 4 of not guilty. Trial was had within 10 days after the information was filed in 6 cases; in 10 to 30 days, 3 cases; in 30 days to 3 months, 5 cases; in 3 to 6 months, 2 cases; in 6 months to 1 year, 3 cases. The date information was filed was not reported in 32 cases. There were 33 paroles granted. Court costs, amounting to \$3,410.93, were reported in 80 cases, showing a minimum of \$5.65, a maximum of \$295.15, and an average of \$42.63. There were 26 criminal cases pending July 1, 1933. Of this number 9 had been pending less than 3 months, 6 from 3 to 6 months,

7 from 6 months to 1 year, 3 from 1 to 2 years, and 1 from 2 to 3 years. There were 11 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 179 motions or demurrers were reported. Of this number 22 were withdrawn or not presented and 32 were still pending July 1, 1933. Of the number disposed of 58 were presented within 10 days after they were filed, 22 from 10 to 30 days, and 45 after 30 days. There were 122 motions or demurrers decided the day presented, 2 not the same day but within 10 days, and 1 after 30 days. Of the 125 ruled upon, 52 were allowed, 70 denied and 3 partially allowed and denied.

#### TWENTY-FOURTH DISTRICT

HON. GEO. L. HAY, of Kingman, Judge  
EDITH MYERS, Clerk, Barber County  
ED C. WOLFF, Clerk, Harper County  
NELL H. WALTER, Clerk, Kingman County  
ROY D. SKELTON, Clerk, Pratt County

Four counties: Barber, Harper, Kingman and Pratt. Area, 3,526 square miles; population, 45,859; assessed value, \$88,072,605.

There were 369 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 67 were dismissed before trial on the merits, 284 were tried to the court, 15 to the jury, and 3 were removed to the federal court. In 236 cases no answers were filed. In 67 cases answers were filed within 30 days after the petitions were filed, in 32 cases from 30 to 60 days, in 30 cases from 60 days to 6 months, and in 4 cases later than 6 months. There were 170 cases tried on the merits within 3 months of the time the petitions were filed, 87 from 3 to 6 months, 24 from 6 to 12 months, and 18 later than 12 months. In 130 cases the journal entries were filed the day of trial, in 44 cases not the same day but within 10 days, in 58 cases within 10 to 30 days, and in 29 cases after 30 days. In 38 cases the journal entries had not yet been filed. Court costs, amounting to \$9,590.45, were reported in 343 cases, showing a minimum of \$2.60, a maximum of \$299.55, and an average of \$27.96. There were 197 civil actions, other than divorce, pending July 1, 1933. Of this number 104 had been pending less than 3 months, 38 from 3 to 6 months, 21 from 6 to 12 months, 20 from 1 to 2 years, 10 from 2 to 3 years, 2 from 3 to 4 years, and 2 from 4 to 5 years.

There were 59 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 20 were dismissed before trial. In 28 cases the divorces were granted to wives, in 10 cases to husbands, and 1 divorce was denied. Of the cases tried, 5 were contested. The custody of 26 minor children was awarded to wives and 5 to husbands. There was 1 case tried within 60 days after the petition was filed, 35 from 60 days to 6 months, and 2 later than 6 months. The grounds for divorce were: Extreme cruelty, 23 cases; abandonment, 14 cases; gross misconduct, 1 case. Court costs, amounting to \$819, were reported in 59 cases, showing a minimum of \$3.20, a maximum of \$133.95, and an average of \$13.90. There were 22 divorce cases pending July 1, 1933. Of this number 17 had been pending less than 3 months, 2 from 3 to 6 months, 2 from 6 months to 1 year, and 1 from 1 to 2 years.

There were 64 criminal cases disposed of within the year ending June 30, 1933. Of this number 20 were dismissed before trial on the merits. In 27 cases the defendants entered pleas of guilty. There were 17 cases tried to a

jury, resulting in 7 verdicts of guilty and 10 of not guilty. Trial was had within 10 days after the information was filed in 3 cases; in 10 to 30 days, 5 cases; in 30 days to 3 months, 4 cases; in 3 to 6 months, 1 case; and in 6 months to 1 year, 4 cases. The date information was filed was not reported in 12 cases. There were 7 paroles granted. Court costs, amounting to \$3,187.49, were reported in 63 cases, showing a minimum of \$6.90, a maximum of \$330.15, and an average of \$50.60. There were 25 criminal cases pending July 1, 1933. Of this number 11 had been pending less than 3 months, 9 from 3 to 6 months, 2 from 6 months to 1 year, and 3 from 1 to 2 years. There were 4 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 241 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 18 were still pending July 1, 1933. Of the number disposed of 118 were presented within 10 days after they were filed, 51 from 10 to 30 days, and 44 after 30 days. There were 209 motions or demurrers decided the day presented, 3 not the same day but within 10 days, and 1 in 10 to 30 days. Of the 212 ruled upon, 161 were allowed, 44 denied, and 7 partially allowed and denied.

#### TWENTY-FIFTH DISTRICT

HON. WENDELL READY, of Wellington, Judge  
JESSIE HAVERSTOCK, Clerk, Sumner County

One county: Sumner. Area, 1,179 square miles; population, 27,558; assessed value, \$48,520,880.

There were 195 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 19 were dismissed before trial on the merits, 175 were tried to the court and 1 to the jury. In 188 cases no answers were filed. In 1 case the answer was filed within 30 days after the petition was filed, in 3 cases from 30 to 60 days, in 2 cases from 60 days to 6 months, and in 1 case later than 6 months. There were 115 cases tried on the merits within 3 months of the time the petitions were filed, 40 from 3 to 6 months, and 21 from 6 to 12 months. In 157 cases the journal entries were filed the day of trial, in 12 cases not the same day but within 10 days, in 6 cases after 30 days. In 1 case the journal entry had not yet been filed. Court costs, amounting to \$22,105.08, were reported in 194 cases, showing a minimum of \$5.75, a maximum of \$859.74, and an average of \$113.94. There were 164 civil actions, other than divorce, pending July 1, 1933. Of this number 37 had been pending less than 3 months, 10 from 3 to 6 months, 15 from 6 to 12 months, 20 from 1 to 2 years, 27 from 2 to 3 years, 17 from 3 to 4 years, 8 from 4 to 5 years, and 30 over 5 years.

There were 37 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 12 were dismissed before trial. In 19 cases the divorces were granted to wives, and in 6 cases to husbands. Of the cases tried none were contested. The custody of 8 minor children was awarded to wives. There was 1 case tried within 60 days after the petition was filed, 17 from 60 days to 6 months, and 7 after 6 months. The grounds for divorce were: Gross neglect, 12 cases; extreme cruelty, 8 cases; abandonment, 5 cases. Court costs, amounting to \$695.42, were reported in 37 cases, showing a minimum of \$5.95, a maximum of \$64.75, and an average of \$18.79.

There were 28 divorce cases pending July 1, 1933. Of this number 4 had been pending less than 3 months, 3 from 3 to 6 months, 3 from 6 months to 1 year, 17 from 1 to 2 years, and 1 from 2 to 3 years.

There were 40 criminal cases disposed of within the year ending June 30, 1933. Of this number 6 were dismissed before trial on the merits. In 28 cases the defendants entered pleas of guilty. There were 6 cases tried to a jury, resulting in 4 verdicts of guilty and 2 of not guilty. Trial was had within 10 days after the information was filed in 5 cases, and from 3 to 6 months in 1 case. The date information was filed was not reported in 9 cases. There were 6 paroles granted. Court costs, amounting to \$2,406.65, were reported in 40 cases, showing a minimum of \$12.30, a maximum of \$173.40, and an average of \$60.17. There were 14 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months, 1 from 3 to 6 months, 2 from 6 months to 1 year, 5 from 1 to 2 years, 1 from 2 to 3 years. There were 9 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 136 motions or demurrers were reported. Of this number 13 were still pending July 1, 1933. Of the number disposed of 118 were presented within 10 days after they were filed, 4 from 10 to 30 days, and 1 after 30 days. There were 66 motions or demurrers decided the day presented, 42 not the same day but within 10 days, 11 in 10 to 30 days, and 4 after 30 days. Of the 123 ruled upon, 118 were allowed and 5 denied.

#### TWENTY-NINTH DISTRICT

HON. E. L. FISCHER, of Kansas City, Judge, First Division  
HON. CLYDE C. GLANDON, of Kansas City, Judge, Second Division  
HON. WM. H. MCCAMISH, of Kansas City, Judge, Third Division  
HON. C. A. MILLER, of Kansas City, Judge, Fourth Division  
PAL E. BUSH, Clerk, Wyandotte County

One county: Wyandotte. Area, 143 square miles; population, 141,449; assessed value, \$127,724,227.

There were 1,002 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 255 were dismissed before trial on the merits, 646 were tried to the court and 89 to the jury. In 517 cases no answers were filed. In 201 cases answers were filed within 30 days after the petitions were filed, in 178 cases from 30 to 60 days, in 83 cases from 60 days to 6 months, and in 23 cases later than 6 months. There were 313 cases tried on the merits within 3 months of the time the petitions were filed, 169 from 3 to 6 months, 140 from 6 to 12 months, and 113 later than 12 months. In 532 cases the journal entries were filed the day of trial, in 85 cases not the same day but within 10 days, in 14 cases in 10 to 30 days, and in 16 cases after 30 days. In 88 cases journal entries had not yet been filed. Court costs, amounting to \$20,184.74, were reported in 1,002 cases, showing a minimum of \$4.05, a maximum of \$246.05, and an average of \$20.14. There were 1,926 civil actions, other than divorce, pending July 1, 1933. Of this number 298 had been pending less than 3 months, 241 from 3 to 6 months, 320 from 6 to 12 months, 473 from 1 to 2 years, 227 from 2 to 3 years, 192 from 3 to 4 years, and 175 from 4 to 5 years.

There were 362 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 17 were dismissed before trial. In

259 cases the divorces were granted to wives, in 82 cases to husbands, and 3 marriages were annulled. The disposition of 1 case was not stated. Of the cases tried, 30 were contested. The custody of 147 minor children was awarded to wives, 27 to husbands, and 2 children were placed in a children's home. There were 7 cases tried within 60 days after the petitions were filed, 261 from 60 days to 6 months, and 77 after 6 months. The grounds for divorce were: Gross neglect, 28 cases; gross neglect and adultery, 1 case; extreme cruelty, 149 cases; destitution, 2 cases; abandonment, 135 cases; conspiracy to kill for life insurance, 1 case; adultery, 1 case; bigamy, 2 cases; nonsupport, 3 cases; habitual drunkenness and nonsupport, 1 case; habitual drunkenness, 6 cases; disorderly conduct, 1 case; conviction of a felony, 2 cases; not stated, 5 cases; insanity, 1 case; nonsupport and extreme cruelty, 4 cases. Court costs, amounting to \$4,523.97, were reported in 362 cases, showing a minimum of \$7, a maximum of \$85.55, and an average of \$12.49. There were 1,530 divorce cases pending July 1, 1933. Of this number 166 had been pending less than 3 months, 105 from 3 to 6 months, 166 from 6 months to 1 year, 281 from 1 to 2 years, 261 from 2 to 3 years, 268 from 3 to 4 years, 283 from 4 to 5 years.

There were 246 criminal cases disposed of within the year ending June 30, 1933. Of this number 51 were dismissed before trial on the merits. In 154 cases the defendants entered pleas of guilty. There were 41 cases tried to a jury, resulting in 22 verdicts of guilty and 19 of not guilty. Trial was had within ten days after the information was filed in 21 cases; in 10 to 30 days, 3 cases; in 30 days to 3 months, 10 cases; in 3 to 6 months, 5 cases; in 6 months to 1 year, 2 cases; and after 1 year, 1 case. One case had two trials. The date information was filed was not reported in 36 cases. There were 96 paroles granted. Court costs, amounting to \$5,533.39, were reported in 240 cases, showing a minimum of \$8.15, a maximum of \$95.30, and an average of \$23.05. There were 597 criminal cases pending July 1, 1933. Of this number 47 had been pending less than 3 months, 27 from 3 to 6 months, 37 from 6 months to 1 year, 132 from 1 to 2 years, 114 from 2 to 3 years, 101 from 3 to 4 years, 42 from 4 to 5 years, and 97 over 5 years. There were 210 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 1,358 motions or demurrers were reported. Of this number 105 were withdrawn or not presented and 261 were still pending July 1, 1933. Of the number disposed of 581 were presented within 10 days after they were filed, 229 from 10 to 30 days, and 182 after 30 days. There were 961 motions or demurrers decided the day presented, 19 not the same day but within 10 days, 3 in 10 to 30 days, and 9 after 30 days. Of the 992 ruled upon, 737 were allowed, 224 denied, and 31 partially allowed and denied.

#### THIRTIETH DISTRICT

HON. DALLAS GROVER, of Salina, Judge  
JAMES M. WILSON, Clerk, Ellsworth County  
ERNEST D. HARLOW, Clerk, Lincoln County  
ROY W. JONES, Clerk, Ottawa County  
HOWARD FORD, Clerk, Saline County

Four counties: Ellsworth, Lincoln, Ottawa and Saline. Area, 2,877 square miles; population, 57,348; assessed value, \$113,080,409.

There were 464 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 100 were dis-

missed before trial on the merits, 336 were tried to the court and 27 to the jury. Two cases were removed to the federal court. In 303 cases no answers were filed. In 79 cases answers were filed within 30 days after the petitions were filed, in 34 cases from 30 to 60 days, in 37 cases from 60 days to 6 months, and in 11 cases later than 6 months. There were 235 cases tried on the merits within 3 months of the time the petitions were filed, 75 from 3 to 6 months, 28 from 6 to 12 months, and 26 later than 12 months. In 268 cases the journal entries were filed the day of trial, in 28 cases not the same day but within 10 days, in 23 cases in 10 to 30 days, and in 23 cases after 30 days. In 22 cases journal entries had not yet been filed. Court costs, amounting to \$12,824.36, were reported in 453 cases, showing a minimum of \$4.65, a maximum of \$552.24, and an average of \$28.33. There were 337 civil actions, other than divorce, pending July 1, 1933. Of this number 106 had been pending less than 3 months, 41 from 3 to 6 months, 41 from 6 to 12 months, 62 from 1 to 2 years, 23 from 2 to 3 years, 26 from 3 to 4 years, 12 from 4 to 5 years, and 26 over 5 years.

There were 107 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 20 were dismissed before trial. In 66 cases the divorces were granted to wives, in 20 cases to husbands, and 1 divorce was denied. Of the cases tried, 12 were contested. The custody of 48 minor children was awarded to wives and 2 to husbands. There were 3 cases tried within 60 days after the petitions were filed, 67 from 60 days to 6 months, and 17 after 6 months. The grounds for divorce were: Gross neglect, 11 cases; extreme cruelty, 29 cases; abandonment, 19 cases; adultery, 1 case; habitual drunkenness, 1 case; miscellaneous, 25 cases. Court costs, amounting to \$1,680.51, were reported in 107 cases, showing a minimum of 85 cents, a maximum of \$265.20, and an average of \$15.70. There were 101 divorce cases pending July 1, 1933. Of this number 34 had been pending less than 3 months, 11 from 3 to 6 months, 10 from 6 months to 1 year, 20 from 1 to 2 years, 12 from 2 to 3 years, 6 from 3 to 4 years, 4 from 4 to 5 years, and 4 over 5 years.

There were 76 criminal cases disposed of within the year ending June 30, 1933. Of this number 35 were dismissed before trial on the merits. In 28 cases the defendants entered pleas of guilty. There were 18 cases tried to a jury, resulting in 9 verdicts of guilty, 7 of not guilty, and 2 hung juries. Trial was had within 10 days after the information was filed in 10 cases, in 10 to 30 days, 3 cases, in 30 days to 3 months, 2 cases; in 3 to 6 months, 2 cases; and in 6 months to 1 year, 1 case. The date information was filed was not reported in 14 cases. There were 5 paroles granted. Court costs, amounting to \$3,533.11, were reported in 73 cases, showing a minimum of \$3.80, a maximum of \$718.67, and an average of \$48.40. There were 35 criminal cases pending July 1, 1933. Of this number 12 had been pending less than 3 months, 2 from 3 to 6 months, 8 from 6 months to 1 year, 2 from 1 to 2 years, 5 from 2 to 3 years, 5 from 3 to 4 years, and 1 from 4 to 5 years. There were 17 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 313 motions or demurrers were reported. Of this number 17 were withdrawn or not presented and 72 were still pending July 1, 1933. Of the number disposed of 140 were presented



within 10 days after they were filed, 34 from 10 to 30 days, and 50 after 30 days. There were 223 motions or demurrers decided the day presented, and 1 within 10 to 30 days. Of the 224 ruled upon, 154 were allowed, 55 denied, and 15 partially allowed and denied.

### THIRTY-FIRST DISTRICT

HON. KARL MILLER, of Dodge City, Judge  
AMY DUGAN, Clerk, Clark County  
B. F. ARNOLD, Clerk, Comanche County  
SUSAN A. EVANS, Clerk, Ford County  
W. A. LEVAN, Clerk, Kiowa County  
MRS. LOTTIE STAMPER, Clerk, Meade County

Six counties: Clark, Comanche, Ford, Gray, Kiowa, Meade. Area, 5,407 square miles; population, 46,935; assessed value, \$82,959,727.

There were 684 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 126 were dismissed before trial on the merits, 535 were tried to the court and 23 to the jury. In 550 cases no answers were filed. In 49 cases answers were filed within 30 days after the petitions were filed, in 39 cases from 30 to 60 days, in 32 cases from 60 days to 6 months, and in 14 cases later than 6 months. There were 374 cases tried on the merits within 3 months of the time the petitions were filed, 97 from 3 to 6 months, 47 from 6 to 12 months, and 40 later than 12 months. In 352 cases the journal entries were filed the day of trial, in 87 cases not the same day but within 10 days, in 27 cases in 10 to 30 days, and in 54 cases after 30 days. In 38 cases the journal entries had not yet been filed. Court costs, amounting to \$15,798.81, were reported in 680 cases, showing a minimum of 70 cents, a maximum of \$141.95, and an average of \$23.23. There were 314 civil actions, other than divorce, pending July 1, 1933. Of this number 110 had been pending less than 3 months, 39 from 3 to 6 months, 62 from 6 to 12 months, 66 from 1 to 2 years, 24 from 2 to 3 years, 11 from 3 to 4 years, and 2 from 4 to 5 years.

There were 76 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 14 were dismissed before trial. In 49 cases the divorces were granted to wives and in 13 cases to husbands. Of the cases tried, 7 were contested. The custody of 34 minor children was awarded to wives and 8 to husbands. There were 5 cases tried within 60 days after the petitions were filed, 49 from 60 days to 6 months, and 8 after 6 months. The grounds for divorce were: Gross neglect, 13 cases; extreme cruelty, 14 cases; abandonment, 15 cases; adultery, 1 case; nonsupport, 1 case; habitual drunkenness, 3 cases; miscellaneous, 15 cases. Court costs, amounting to \$789.01, were reported in 75 cases, showing a minimum of \$5.20, a maximum of \$30.60, and an average of \$10.52. There were 69 divorce cases pending July 1, 1933. Of this number 23 had been pending less than 3 months, 18 from 3 to 6 months, 13 from 6 months to 1 year, 10 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, and 1 from 4 to 5 years.

There were 118 criminal cases disposed of within the year ending June 30, 1933. Of this number 39 were dismissed before trial on the merits. In 63 cases the defendants entered pleas of guilty. There were 16 cases tried to a jury, resulting in 4 verdicts of guilty, 9 of not guilty, and 3 hung juries. Trial was had within 10 days after the information was filed in 9 cases; in 10 to 30 days, 1 case; in 30 days to 3 months, 1 case; in 3 to 6 months, 3 cases; in

6 months to 1 year, 1 case; and after 1 year, 1 case. The date information was filed was not reported in 31 cases. There were 18 paroles granted. Court costs, amounting to \$3,728.31, were reported in 110 cases, showing a minimum of \$1.25, a maximum of \$252.14, and an average of \$33.90. There were 56 criminal cases pending July 1, 1933. Of this number 24 had been pending less than 3 months, 9 from 3 to 6 months, 8 from 6 months to 1 year, 12 from 1 to 2 years, 2 from 2 to 3 years, and 1 from 3 to 4 years. There were 4 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 202 motions or demurrers were reported. Of this number 26 were withdrawn or not presented and 55 were still pending July 1, 1933. Of the number disposed of 60 were presented within 10 days after they were filed, 23 in 10 to 30 days, and 38 after 30 days. There were 119 motions or demurrers decided the day presented and 2 after 30 days. Of the 121 ruled upon, 71 were allowed, 49 denied, and 1 partially allowed and denied.

### THIRTY-SECOND DISTRICT

HON. H. E. WALTERS, of Syracuse, Judge  
MRS. WALTER HARVEY, Clerk, Finney County  
T. P. TUCKER, Clerk, Greeley County  
AURELIA J. MINOR, Clerk, Hamilton County  
ELLA SMITH, Clerk, Kearny County  
ORA D. SMELTZER, Clerk, Lane County  
C. A. EASLEY, Clerk, Scott County  
MRS. KATE ELDER, Clerk, Wichita County

Seven counties: Finney, Greeley, Hamilton, Kearny, Lane, Scott and Wichita. Area, 6,039 square miles; population, 29,873; assessed value, \$53,-202,850.

There were 352 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 75 were dismissed before trial on the merits, 268 were tried to the court and 9 to the jury. In 299 cases no answers were filed. In 20 cases answers were filed within 30 days after the petitions were filed, in 19 cases from 30 to 60 days, in 10 cases from 60 days to 6 months, and in 4 cases later than 6 months. There were 181 cases tried on the merits within 3 months of the time the petitions were filed, 65 from 3 to 6 months, 24 from 6 to 12 months, and 7 later than 12 months. In 189 cases the journal entries were filed the day of trial, in 33 cases not the same day but within 10 days, in 17 cases in 10 to 30 days, and in 13 cases after 30 days. In 25 cases journal entries had not yet been filed. Court costs, amounting to \$7,651.20, were reported in 351 cases, showing a minimum of \$2.20, a maximum of \$208.75, and an average of \$21.23. There were 236 civil actions, other than divorce, pending July 1, 1933. Of this number 68 had been pending less than 3 months, 43 from 3 to 6 months, 71 from 6 to 12 months, 44 from 1 to 2 years, 8 from 2 to 3 years, and 2 from 3 to 4 years.

There were 51 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 12 were dismissed before trial. In 24 cases the divorces were granted to wives, in 14 cases to husbands, and 1 marriage was annulled. Of the cases tried, 3 were contested. The custody of 17 minor children was awarded to wives and 3 to husbands. There were 3 cases tried within 60 days after the petitions were filed, 33 from 60 days to 6 months, and 3 after 6 months. The grounds for divorce were: Gross neglect, 8 cases;

extreme cruelty, 3 cases; abandonment, 18 cases; nonsupport, 1 case; habitual drunkenness, 1 case; conviction of a felony, 1 case; miscellaneous, 7 cases. Court costs, amounting to \$520.20, were reported in 49 cases, showing a minimum of \$4.35, a maximum of \$58.55, and an average of \$10.60. There were 27 divorce cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 3 from 3 to 6 months, 9 from 6 months to 1 year, and 5 from 1 to 2 years.

There were 91 criminal cases disposed of within the year ending June 30, 1933. Of this number 30 were dismissed before trial on the merits. In 49 cases the defendants entered pleas of guilty. There were 13 cases tried to a jury, resulting in 6 verdicts of guilty and 7 of not guilty. Trial was had within 10 days after the information was filed in 6 cases; in 10 to 30 days, 1 case; in 30 days to 3 months, 1 case; in 3 to 6 months, 4 cases; and in 6 months to 1 year, 1 case. The date information was filed was not reported in 33 cases. There were 15 paroles granted. Court costs, amounting to \$2,849.33, were reported in 85 cases, showing a minimum of 85 cents, a maximum of \$261.00, and an average of \$33.52. There were 47 criminal cases pending July 1, 1933. Of this number 15 had been pending less than 3 months, 8 from 3 to 6 months, 13 from 6 months to 1 year, 10 from 1 to 2 years, and 1 from 2 to 3 years. There was 1 case in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 249 motions or demurrers were reported. Of this number 28 were withdrawn or not presented and 59 were still pending July 1, 1933. Of the number disposed of 95 were presented within 10 days after they were filed, 36 in 10 to 30 days, and 31 after 30 days. There were 160 motions or demurrers decided the day presented, and 2 not the same day but within 10 days. Of the 162 ruled upon, 128 were allowed, 33 denied, and 1 partially allowed and denied.

### THIRTY-THIRD DISTRICT

HON. LORIN T. PETERS, of Ness City, Judge  
C. E. BURKE, Clerk, Edwards County  
FRANK PHILLIPS, Clerk, Hodgeman County  
LAURA JACKSON, Clerk, Ness County  
ROSE MASON, Clerk, Pawnee County  
EDWIN POPP, Clerk, Rush County

Five counties: Edwards, Hodgeman, Ness, Pawnee and Rush. Area, 4,009 square miles; population, 37,781; assessed value, \$72,482,508.

There were 356 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 48 were dismissed before trial on the merits, 303 were tried to the court and 5 to the jury. In 289 cases no answers were filed. In 28 cases answers were filed within 30 days after the petitions were filed, in 17 cases from 30 to 60 days, in 17 cases from 60 days to 6 months, and in 5 cases later than 6 months. There were 160 cases tried on the merits within 3 months of the time the petitions were filed, 62 cases from 3 to 6 months, 20 cases from 6 to 12 months, and 66 cases later than 12 months. In 194 cases the journal entries were filed the day of trial, in 7 cases not the same day but within 10 days, in 2 cases in 10 to 30 days, and in 7 cases after 30 days. In 98 cases journal entries had not yet been filed. Court costs, amounting to \$8,728.81, were reported in 350 cases, showing a minimum of \$1.20, a maximum of \$118.40, and an average of \$24.94.

There were 212 civil actions, other than divorce, pending July 1, 1933. Of this number 62 had been pending less than 3 months, 37 from 3 to 6 months, 28 from 6 to 12 months, 41 from 1 to 2 years, 26 from 2 to 3 years, 6 from 3 to 4 years, 6 from 4 to 5 years, and 6 over 5 years.

There were 53 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 8 were dismissed before trial. In 31 cases the divorces were granted to wives and in 14 cases to husbands. Of the cases tried, 4 were contested. The custody of 35 minor children was awarded to wives and 12 to husbands. There was 1 case tried within 60 days after the petition was filed, 37 from 60 days to 6 months, and 7 after 6 months. The grounds for divorce were: Gross neglect, 6 cases; extreme cruelty, 6 cases; abandonment, 22 cases; adultery, 1 case; nonsupport, 2 cases; habitual drunkenness, 1 case; conviction of a felony, 2 cases; miscellaneous, 5 cases. Court costs, amounting to \$709.51, were reported in 49 cases, showing a minimum of \$4.80, a maximum of \$160.85, and an average of \$14.27. There were 22 divorce cases pending July 1, 1933. Of this number 13 had been pending less than 3 months, 4 from 3 to 6 months, 1 from 6 months to 1 year, 3 from 1 to 2 years, and 1 from 2 to 3 years.

There were 72 criminal cases disposed of within the year ending June 30, 1933. Of this number 21 were dismissed before trial on the merits. In 36 cases the defendants entered pleas of guilty. There were 15 cases tried to the jury, resulting in 6 verdicts of guilty, 6 of not guilty, and 3 hung juries. Trial was had within 10 days after the information was filed in 5 cases; in 10 to 30 days, 8 cases; in 30 days to 3 months, 2 cases. The date information was filed was not reported in 9 cases. There were 24 paroles granted. Court costs, amounting to \$3,021.88, were reported in 69 cases, showing a minimum of \$1.45, a maximum of \$255.85, and an average of \$43.80. There were 34 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months, 9 from 3 to 6 months, 7 from 6 months to 1 year, 10 from 1 to 2 years, and 3 from 2 to 3 years. There were 15 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 174 motions or demurrers were reported. Of this number 8 were withdrawn or not presented and 16 were still pending July 1, 1933. Of the number disposed of 103 were presented within 10 days after they were filed, 26 in 10 to 30 days, and 21 after 30 days. There were 148 motions or demurrers decided the day presented, 1 in 10 to 30 days, and 1 later than 30 days. Of the 150 ruled upon, 138 were allowed and 12 denied.

#### THIRTY-FOURTH DISTRICT

HON. W. B. HAM, of Stockton, Judge  
ELSIE PARKS, Clerk, Graham County  
GEO. F. CRANE, Clerk, Rooks County  
NOAH TURNER, Clerk, Sheridan County  
WILLIAM MANGUS, Clerk, Sherman County  
N. C. KNUDSON, Clerk, Thomas County

Five counties: Graham, Rooks, Sheridan, Sherman and Thomas. Area, 4,797 square miles; population, 39,477; assessed value, \$52,395,333.

There were 388 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 78 were dismissed before trial on the merits, 292 were tried to the court and 18 to the

jury. One case was removed to the federal court and 1 case had two trials. In 318 cases no answers were filed. In 17 cases answers were filed within 30 days after the petitions were filed, in 18 cases from 30 to 60 days, in 26 cases from 60 days to 6 months, and in 9 cases later than 6 months. There were 164 cases tried on the merits within 3 months of the time the petitions were filed, 91 from 3 to 6 months, 27 from 6 to 12 months, and 27 later than 12 months. In 200 cases the journal entries were filed the day of trial, in 24 cases not the same day but within 10 days, in 28 cases in 10 to 30 days, and in 37 cases later than 30 days. In 20 cases journal entries had not yet been filed. Court costs, amounting to \$13,606, were reported in 353 cases, showing a minimum of \$1.25, a maximum of \$1,515, and an average of \$38.55. There were 204 civil actions, other than divorce, pending July 1, 1933. Of this number 70 had been pending less than 3 months, 45 from 3 to 6 months, 45 from 6 to 12 months, 35 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 4 over 5 years.

There were 26 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 10 were dismissed before trial. In 11 cases the divorces were granted to wives, in 4 cases to husbands, and 1 divorce was denied. Of the cases tried, 3 were contested. The custody of 13 minor children was awarded to wives. There were 12 cases tried within 60 days to 6 months after the petitions were filed, and 4 later than 6 months. The grounds for divorce were: Extreme cruelty, 7 cases; abandonment, 9 cases. Court costs, amounting to \$292.25, were reported in 26 cases, showing a minimum of \$5.05, a maximum of \$27.55, and an average of \$11.24. There were 34 divorce cases pending July 1, 1933. Of this number 9 had been pending less than 3 months, 9 from 3 to 6 months, 5 from 6 months to 1 year, 7 from 1 to 2 years, and 4 from 2 to 3 years.

There were 50 criminal cases disposed of within the year ending June 30, 1933. Of this number 13 were dismissed before trial on the merits. In 25 cases the defendants entered pleas of guilty. There were 14 cases tried to a jury, resulting in 6 verdicts of guilty, 3 verdicts of not guilty, and 5 hung juries. One case had 3 trials. Trial was had within 10 days after the information was filed in 5 cases; in 10 to 30 days, 2 cases, in 30 days to 3 months, 7 cases. The date information was filed was not reported in 7 cases. There were 3 paroles granted. Court costs, amounting to \$1,388.95, were reported in 32 cases, showing a minimum of \$3.35, a maximum of \$210.15, and an average of \$43.40. There were 15 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months, 6 from 3 to 6 months, 1 from 6 months to 1 year, 2 from 1 to 2 years, and 1 from 2 to 3 years. There was 1 case in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 230 motions or demurrers were reported. Of this number 19 were withdrawn or not presented and 39 were still pending July 1, 1933. Of the number disposed of 106 were presented within 10 days after they were filed, 44 in 10 to 30 days, and 22 later than 30 days. There were 146 motions or demurrers decided the day presented, 8 not the same day but within 10 days, 6 in 10 to 30 days, and 12 after 30 days. Of the 172 ruled upon, 100 were allowed, 69 denied and 3 partially allowed and denied.

## THIRTY-FIFTH DISTRICT

HON. CAREY E. CARROLL, of Alma, Judge  
PAUL F. CUMMINGS, Clerk, Osage County  
LIZZIE FREY, Clerk, Wabaunsee County

Two counties: Osage and Wabaunsee. Area, 1,513 square miles; population, 27,815; assessed value, \$44,849,982.

There were 195 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 31 were dismissed before trial on the merits, 162 were tried to the court and 2 to the jury. In 113 cases no answers were filed. In 32 cases answers were filed within 30 days after the petitions were filed, in 32 cases from 30 to 60 days, in 15 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 119 cases tried on the merits within 3 months of the time the petitions were filed, 27 from 3 to 6 months, 17 from 6 to 12 months, and 1 later than 12 months. In 135 cases the journal entries were filed the day of trial, in 16 cases not the same day but within 10 days, in 8 cases in 10 to 30 days, and in 3 cases after 30 days. In 2 cases journal entries had not yet been filed. Court costs, amounting to \$5,245.99, were reported in 186 cases, showing a minimum of \$1.85, a maximum of \$188.35, and an average of \$28.20. There were 76 civil actions, other than divorce, pending July 1, 1933. Of this number 36 had been pending less than 3 months, 13 from 3 to 6 months, 13 from 6 to 12 months, 7 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 4 years, and 1 over 5 years.

There were 28 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 5 were dismissed before trial. In 19 cases the divorces were granted to wives and in 4 cases to husbands. Of the cases tried, 1 was contested. The custody of 19 minor children was awarded to wives and 1 to a husband. There were 19 cases tried within 60 days to 6 months after the petitions were filed and 4 later than 6 months. The grounds for divorce were: Gross neglect, 5 cases; extreme cruelty, 7 cases; abandonment, 10 cases; miscellaneous, 1 case. Court costs, amounting to \$371.93, were reported in 28 cases, showing a minimum of \$6, a maximum of \$48.10, and an average of \$13.28. There were 6 divorce cases pending July 1, 1933. Of this number 4 had been pending less than 3 months, 1 from 3 to 6 months, and 1 from 1 to 2 years.

There were 35 criminal cases disposed of within the year ending June 30, 1933. Of this number 11 were dismissed before trial on the merits. In 19 cases the defendants entered pleas of guilty. There were 6 cases tried to a jury, resulting in 2 verdicts of guilty, 3 of not guilty, and 1 hung jury. Trial was had within 10 days after the information was filed in 2 cases; in 10 to 30 days, 2 cases; in 30 days to 3 months, 1 case, and in 6 months to 1 year, 1 case. The date information was filed was not reported in 6 cases. There were 3 paroles granted. Court costs, amounting to \$1,295.35, were reported in 29 cases, showing a minimum of \$6.55, a maximum of \$244, and an average of \$44.66. There were 13 criminal cases pending July 1, 1933. Of this number 2 had been pending from 3 to 6 months, 10 from 1 to 2 years, and 1 from 2 to 3 years.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 186 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 11 were still pending July 1, 1933. Of the number disposed of 119 were presented within

10 days after they were filed, 35 from 10 to 30 days, and 11 later than 30 days. There were 161 motions or demurrers decided the day presented, 1 not the same day but within 10 days, and 3 after 30 days. Of the 165 ruled upon, 137 were allowed, 22 denied, and 6 partially allowed and denied.

### THIRTY-SIXTH DISTRICT

HON. LLOYDE MORRIS, of Oskaloosa, Judge  
H. E. HOSTETTER, Clerk, Jackson County  
MARGUERITE MCCOY, Clerk, Jefferson County  
CHAS. S. SMITH, Clerk, Pottawatomie County

Three counties: Jackson, Jefferson and Pottawatomie. Area, 2,047 square miles; population, 45,082; assessed value, \$71,465,791.

There were 438 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 69 were dismissed before trial on the merits, 355 were tried to the court and 14 to the jury. In 251 cases no answers were filed. In 117 cases answers were filed within 30 days after the petitions were filed, in 37 cases from 30 to 60 days, in 30 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 261 cases tried on the merits within 3 months of the time the petitions were filed, 64 from 3 to 6 months, 30 from 6 to 12 months, and 14 later than 12 months. In 316 cases the journal entries were filed the day of trial, in 9 cases not the same day but within 10 days, in 9 cases in 10 to 30 days, and in 4 cases later than 30 days. In 31 cases journal entries had not yet been filed. Court costs, amounting to \$11,843.72, were reported in 438 cases, showing a minimum of \$1, a maximum of \$150.70, and an average of \$27.04. There were 182 civil actions, other than divorce, pending July 1, 1933. Of this number 69 had been pending less than 3 months, 30 from 3 to 6 months, 27 from 6 to 12 months, 27 from 1 to 2 years, 15 from 2 to 3 years, 9 from 3 to 4 years, 2 from 4 to 5 years, and 3 over 5 years.

There were 49 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 10 were dismissed before trial. In 28 cases the divorces were granted to wives, in 10 cases to husbands, and 1 case was not stated. Of the cases tried, 4 were contested. The custody of 31 minor children was awarded to wives and 3 to husbands. There was 1 case tried within 60 days after the petition was filed, 27 cases from 60 days to 6 months, and 11 later than 6 months. The grounds for divorce were: Gross neglect, 5 cases; extreme cruelty, 21 cases; abandonment, 11 cases; conviction of a felony, 1 case; miscellaneous, 1 case. Court costs, amounting to \$473.90, were reported in 44 cases, showing a minimum of \$4.35, a maximum of \$27.05, and an average of \$10.77. There were 17 divorce cases pending July 1, 1933. Of this number 11 had been pending less than 3 months, 3 from 6 months to 1 year, 2 from 1 to 2 years, and 1 from 2 to 3 years.

There were 59 criminal cases disposed of within the year ending June 30, 1933. Of this number 16 were dismissed before trial on the merits. In 33 cases the defendants entered pleas of guilty. There were 10 cases tried to jury, resulting in 4 verdicts of guilty, 4 of not guilty, and 2 hung juries. Trial was had within 10 days after the information was filed in 1 case; in 10 to 30 days, 6 cases; in 3 to 6 months, 2 cases, and after 1 year, 1 case. The date information was filed was not reported in 2 cases. There were 7 paroles granted. Court costs, amounting to \$1,438.68, were reported in 58 cases, show-

ing a minimum of \$3, a maximum of \$193.20, and an average of \$24.80. There were 21 criminal cases pending July 1, 1933. Of this number 5 had been pending less than 3 months, 6 from 3 to 6 months, 5 from 6 months to 1 year, and 5 from 1 to 2 years. There were 3 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 384 motions or demurrers were reported. Of this number 22 were withdrawn or not presented and 34 were still pending July 1, 1933. Of the number disposed of 233 were presented within 10 days after they were filed, 53 from 10 to 30 days, and 42 after 30 days. There were 322 motions or demurrers decided the day presented, and 6 not the same day but within 10 days. Of the 328 ruled upon, 277 were allowed and 51 denied.

### THIRTY-SEVENTH DISTRICT

HON. FRANK R. FORREST, of Iola, Judge  
N. C. KERR, Clerk, Allen County  
KATHRYN P. MAXWELL, Clerk, Woodson County

Two counties: Allen and Woodson. Area, 1,013 square miles; population, 28,523; assessed value, \$39,365,760.

There were 188 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 41 were dismissed before trial on the merits, 139 were tried to the court and 8 to the jury. In 129 cases no answers were filed. In 26 cases answers were filed within 30 days after the petitions were filed, in 13 cases from 30 to 60 days, in 13 cases from 60 days to 6 months, and in 7 cases later than 6 months. There were 74 cases tried on the merits within 3 months of the time the petitions were filed, 37 from 3 to 6 months, 16 from 6 to 12 months, and 20 later than 12 months. In 96 cases the journal entries were filed the day of trial, in 19 cases not the same day but within 10 days, in 5 cases in 10 to 30 days, and in 11 cases after 30 days. In 16 cases journal entries had not yet been filed. Court costs, amounting to \$5,179.61, were reported in 179 cases, showing a minimum of \$5.15, a maximum of \$91.10, and an average of \$28.21. There were 240 civil actions, other than divorce, pending July 1, 1933. Of this number 87 had been pending less than 3 months, 28 from 3 to 6 months, 47 from 6 to 12 months, 53 from 1 to 2 years, 16 from 2 to 3 years, 7 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years.

There were 32 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 13 were dismissed before trial. In 12 cases the divorces were granted to wives, in 5 cases to husbands, and 2 divorces were denied. Of the cases tried, 3 were contested. The custody of 4 minor children was awarded to wives and 1 to a husband. There was 1 case tried within 60 days after the petition was filed, 11 from 60 days to 6 months, and 7 later than 6 months. The grounds for divorce were: Gross neglect, 3 cases; abandonment, 12 cases; conviction of a felony, 2 cases; miscellaneous, 2 cases. Court costs, amounting to \$324.05, were reported in 30 cases, showing a minimum of \$5.80, a maximum of \$19.15, and an average of \$10.80. There were 25 divorce cases pending July 1, 1933. Of this number 13 had been pending less than 3 months, 3 from 3 to 6 months, 6 from 6 months to 1 year, 2 from 1 to 2 years, and 1 from 2 to 3 years.



There were 46 criminal cases disposed of within the year ending June 30, 1933. Of this number 20 were dismissed before trial on the merits. In 13 cases the defendants entered pleas of guilty. There were 13 cases tried to a jury, resulting in 10 verdicts of guilty and 3 of not guilty. Trial was had within 10 days after the information was filed in 2 cases; in 10 to 30 days, 6 cases; in 3 to 6 months, 1 case; in 6 months to 1 year, 2 cases, and later than 1 year, 1 case. The date information was filed was not reported in 25 cases. There were 4 paroles granted. Court costs, amounting to \$1,762.36, were reported in 38 cases, showing a minimum of \$7.90, a maximum of \$399.01, and an average of \$46.37. There were 33 criminal cases pending. Of this number 12 had been pending less than 3 months, 7 from 3 to 6 months, 9 from 6 months to 1 year, and 5 from 1 to 2 years.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 234 motions or demurrers were reported. Of this number 8 were withdrawn or not presented, and 45 were still pending July 1, 1933. Of the number disposed of 135 were presented within 10 days after they were filed, 21 in 10 to 30 days, and 25 later than 30 days. There were 180 motions or demurrers decided the day presented and 1 after 30 days. Of the 181 ruled upon, 147 were allowed, 33 denied, and 1 partially allowed and denied.

#### THIRTY-EIGHTH DISTRICT

HON. L. M. RESLER, of Pittsburg, Judge, First Division  
HON. JO E. GAITSKILL, of Girard, Judge, Second Division  
JEAN BELL, Clerk, Crawford County

One county: Crawford. Area, 605 square miles; population, 49,757; assessed value, \$36,925,931.

There were 284 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 84 were dismissed before trial on the merits, 176 were tried to the court, 20 to the jury, and 1 case was transferred to the federal court. In 242 cases no answers were filed. In 18 cases answers were filed within 30 days after the petitions were filed, in 8 cases from 30 to 60 days, in 11 cases from 60 days to 6 months, and in 5 cases later than 6 months. There were 101 cases tried on the merits within 3 months of the time the petitions were filed, 44 from 3 to 6 months, 40 from 6 to 12 months, and 11 later than 12 months. In 98 cases the journal entries were filed the day of trial, in 34 cases not the same day but within 10 days, in 10 cases in 10 to 30 days, and in 23 cases after 30 days. In 31 cases journal entries had not yet been filed. Court costs, amounting to \$6,779.49, were reported in 244 cases, showing a minimum of \$3.90, a maximum of \$500, and an average of \$27.78. There were 295 civil actions, other than divorce, pending July 1, 1933. Of this number 64 had been pending less than 3 months, 30 from 3 to 6 months, 62 from 6 to 12 months, 55 from 1 to 2 years, 25 from 2 to 3 years, 34 from 3 to 4 years, 9 from 4 to 5 years, and 16 over 5 years.

There were 93 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 15 were dismissed before trial. In 62 cases the divorces were granted to wives and in 16 cases to husbands. Of the cases tried, 8 were contested. The custody of 22 minor children was awarded to wives, 7 to husbands, and 2 to grandparents. There were 12 cases tried within 60 days after the petitions were filed, 58 from 60 days to 6 months

and 8 after 6 months. The grounds for divorce were: Gross neglect, 8 cases; extreme cruelty, 52 cases; abandonment, 16 cases; cruelty and neglect, 2 cases. Court costs, amounting to \$1,291.54, were reported in 90 cases, showing a minimum of \$4.90, a maximum of \$255.80, and an average of \$14.35. There were 93 divorce cases pending July 1, 1933. Of this number 28 had been pending less than 3 months, 11 from 3 to 6 months, 16 from 6 months to 1 year, 24 from 1 to 2 years, 11 from 2 to 3 years, and 3 from 3 to 4 years.

There were 41 criminal cases disposed of within the year ending June 30, 1933. Of this number 14 were dismissed before trial on the merits. In 18 cases the defendants entered pleas of guilty. There were 9 cases tried to a jury, resulting in 6 verdicts of guilty and 3 of not guilty. Trial was had within 10 days after the information was filed in 3 cases; in 10 to 30 days in 3 cases; in 30 days to 3 months in 1 case; in 3 to 6 months in 1 case, and in 6 months to 1 year in 1 case. The date information was filed was not reported in 17 cases. There were 5 paroles granted. Court costs, amounting to \$1,239.55, were reported in 41 cases, showing a minimum of \$5.05, a maximum of \$109.54, and an average of \$30.23. There were 41 criminal cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 9 from 3 to 6 months, 6 from 6 months to 1 year, 15 from 1 to 2 years, and 1 from 2 to 3 years. There were 13 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 143 motions or demurrers were reported. Of this number 25 were withdrawn or not presented and 44 were still pending July 1, 1933. Of the number disposed of 31 were presented within 10 days after they were filed, 8 from 10 to 30 days, and 35 after 30 days. There were 67 motions or demurrers decided the day presented, 1 not the same day but within 10 days, and 6 after 30 days. Of the 74 ruled upon, 30 were allowed, 40 denied, and 4 partially allowed and denied.

### THIRTY-NINTH DISTRICT

HON. F. O. RINDOM, of Liberal, Judge  
INEZ McATEE, Clerk, Grant County  
GEORGE A. TYLER, Clerk, Haskell County  
MRS. ROY CRAWFORD, Clerk, Morton County  
H. W. LANE, Clerk, Seward County  
NELLIE HELMICK, Clerk, Stanton County  
JOHN F. FULKERSON, Clerk, Stevens County

Six counties: Grant, Haskell, Morton, Seward, Stanton and Stevens. Area, 3,930 square miles; population, 23,387; assessed value, \$40,065,345.

There were 332 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 68 were dismissed before trial on the merits, 257 were tried to the court and 7 to the jury. In 267 cases no answers were filed. In 25 cases answers were filed within 30 days after the petitions were filed, in 18 cases from 30 to 60 days, in 19 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 167 cases tried on the merits within 3 months of the time the petitions were filed, 66 from 3 to 6 months, 23 from 6 to 12 months, and 8 later than 12 months. In 107 cases the journal entries were filed the day of trial, in 65 cases not the same day but within 10 days, in 30 cases in 10 to 30 days, and in 41 cases later than 30 days. In 21 cases journal entries had not yet been filed. Court costs,

amounting to \$8,142.29, were reported in 326 cases, showing a minimum of \$3.45, a maximum of \$704.60, and an average of \$24.96. There were 179 civil actions, other than divorce, pending July 1, 1933. Of this number 74 had been pending less than 3 months, 29 from 3 to 6 months, 25 from 6 to 12 months, 38 from 1 to 2 years, 10 from 2 to 3 years, and 3 from 3 to 4 years.

There were 43 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 9 were dismissed before trial. In 26 cases the divorces were granted to wives and in 8 cases to husbands. The custody of 26 minor children was awarded to wives and 3 to husbands. There were 4 cases tried within 60 days after the petitions were filed, 25 from 60 days to 6 months, and 5 later than 6 months. The grounds for divorce were: Gross neglect, 5 cases; extreme cruelty, 11 cases; abandonment, 12 cases; adultery, 1 case; nonsupport, 2 cases; habitual drunkenness, 1 case; conviction of a felony, 2 cases. Court costs, amounting to \$386, were reported in 43 cases, showing a minimum of \$4.25, a maximum of \$18.10, and an average of \$8.97. There were 19 divorce cases pending July 1, 1933. Of this number 10 had been pending less than 3 months, 3 from 3 to 6 months, 3 from 6 months to 1 year, and 3 from 1 to 2 years.

There were 79 criminal cases disposed of within the year ending June 30, 1933. Of this number 23 were dismissed before trial on the merits. In 45 cases the defendants entered pleas of guilty. There were 11 cases tried to a jury, resulting in 6 verdicts of guilty and 5 of not guilty. Trial was had within 10 days after the information was filed in 5 cases; in 10 to 30 days, 4 cases; in 30 days to 3 months, 1 case; in 3 to 6 months, 1 case. The date information was filed was not reported in 13 cases. There were 18 paroles. Court costs, amounting to \$1,808.85, were reported in 65 cases, showing a minimum of 60 cents, a maximum of \$470.50, and an average of \$27.78. There were 23 criminal cases pending July 1, 1933. Of this number 12 had been pending less than 3 months, 4 from 3 to 6 months, 3 from 6 months to 1 year, and 4 from 1 to 2 years. There were 14 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 243 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 34 were still pending July 1, 1933. Of the number disposed of 128 were presented within 10 days after they were filed, 43 in 10 to 30 days, and 28 later than 30 days. There were 196 motions or demurrers decided the day presented, and 3 not the same day but within 10 days. Of the 199 ruled upon, 155 were allowed and 44 denied.

### Summary for the State

The following is a summary for the state as a whole with respect to the business of all the district courts of the state—105 counties; 36 judicial districts with 46 district judges; population, 1,836,449; assessed value, \$2,742,260,819.

There were 14,622 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1933. Of this number 2,909 were dismissed before trial on the merits, 11,069 were tried to the court, 610 to the jury, and 3 to a referee. There were a number of cases in which there was more than one trial, making a total of 20 extra trials, and 43 cases were removed to the federal court. In 9,909 cases no answers were filed. In 2,083 cases answers were filed within 30 days after the petitions were filed, in 1,291

cases from 30 to 60 days, in 1,080 cases from 60 days to 6 months, and in 265 cases later than 6 months. There were 7,155 cases tried on the merits within 3 months of the time the petitions were filed, 2,591 from 3 to 6 months, 1,281 from 6 to 12 months, and 665 later than 12 months. In 7,840 cases the journal entries were filed the day of trial, in 1,327 cases not the same day but within 10 days, in 733 cases in 10 to 30 days, and in 932 cases later than 30 days. In 852 cases journal entries had not yet been filed. Court costs, amounting to \$450,376.56, were reported in 14,317 cases, showing a minimum of 70 cents, a maximum of \$1,567.90, and an average of \$10. There were 10,080 civil actions, other than divorce, pending July 1, 1933. Of this number 3,263 had been pending less than 3 months, 1,631 from 3 to 6 months, 1,805 from 6 to 12 months, 1,724 from 1 to 2 years, 680 from 2 to 3 years, 435 from 3 to 4 years, 288 from 4 to 5 years, and 254 more than 5 years.

There were 4,288 divorce cases tried on the merits or dismissed within the year ending June 30, 1933. Of this number 1,093 were dismissed before trial. In 2,407 cases the divorces were granted to wives, in 740 cases to husbands, 6 marriages were annulled, and 30 divorces were denied. Of the cases tried, 367 were contested. The custody of 1,757 minor children was awarded to wives, 219 to husbands, 14 part time to each, 9 to relatives or other persons, 2 to a children's home, 8 some other disposition, and 56 disposition not stated. There were 285 cases tried within 60 days after the petitions were filed, 2,456 from 60 days to 6 months, 448 later than 6 months. The grounds for divorce were: Gross neglect, 836 cases; extreme cruelty, 992 cases; abandonment, 852 cases; adultery, 20 cases; nonsupport, 71 cases; habitual drunkenness, 42 cases; conviction of a felony, 36 cases; gross neglect and extreme cruelty, 173 cases; miscellaneous grounds, 139 cases. Court costs, amounting to \$50,447.46, were reported in 4,235 cases, showing a minimum of 85 cents, a maximum of \$297.30, and an average of \$12.05. There were 3,935 divorce cases pending July 1, 1933. Of this number 1,180 had been pending less than 3 months, 482 from 3 to 6 months, 575 from 6 months to 1 year, 653 from 1 to 2 years, and 1,063 more than 2 years.

There were 3,834 criminal cases disposed of within the year ending June 30, 1933. Of this number 1,311 were dismissed before trial on the merits. In 1,977 cases the defendants entered pleas of guilty. There were 18 cases in which there were two trials. There were 585 cases tried to a jury, resulting in 371 verdicts of guilty, 192 of not guilty, 22 hung juries, and 2 defendants were adjudged of unsound mind. Trial was had within 10 days after the information was filed in 171 cases; in 10 to 30 days, 151 cases; in 30 days to 3 months, 134 cases; in 3 to 6 months, 79 cases; in 6 months to 1 year, 43 cases; after 1 year, 11 cases. The date information was filed was not reported in 1,006 cases. There were 1,007 paroles granted, and 51 paroles from an inferior court (as to the latter figure, the number is incomplete, as all counties did not report on paroles from inferior courts). Court costs, amounting to \$128,893.80, were reported in 3,760 cases, showing a minimum of 60 cents, a maximum of \$718.67, and an average of \$33.59. There were 1,824 criminal cases pending July 1, 1933. Of this number 554 had been pending less than 3 months, 262 from 3 to 6 months, 265 from 6 months to 1 year, 328 from 1 to 2 years, 158 from 2 to 3 years, 111 from 3 to 4 years, 47 from 4 to 5 years, 99 over 5 years. There were 632 cases in which a transcript but no information was filed.

In all of the cases which were disposed of during the year ending June 30, 1933, or which were pending July 1, 1933, 12,826 motions or demurrers were reported. Of this number 976 were withdrawn or not presented and 1,849 were still pending July 1, 1933. Of the number disposed of 6,491 were presented within 10 days after they were filed, 1,953 from 10 to 30 days, and 1,557 after 30 days. There were 9,016 motions or demurrers decided the day presented, 414 not the same day but within 10 days, 329 in 10 to 30 days, and 242 after 30 days. Of the 10,000 ruled upon, 7,547 were allowed, 2,263 denied, and 190 partially allowed and denied.

## SUMMARY, DISTRICT COURTS

TABLE I.—Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.  
(Compiled from Form 1.)

COUNTIES.	No. of cases.	Dis- missed before trial.	Tried to the court.	Tried to the jury.	Tried by referee.	No answer filed.	Answer filed.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of pettion	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Allen.....	137	35	95	7	0	88	20	10	13	6	43	32	10	17
Anderson.....	115	14	99	2	0	81	17	9	6	2	71	19	9	2
Atchison.....	167	33	128	6	0	121	23	15	6	2	89	23	15	7
Barber.....	95	12	81	2	0	52	25	12	5	1	44	24	11	4
Barton.....	161	27	134	0	0	129	21	4	7	0	106	21	7	0
Bourbon.....	127	26	100	1	0	82	25	9	9	2	49	36	9	7
Brown.....	222	52	165	5	0	130	53	24	14	1	66	72	30	2
Butler.....	285c	72	195	15	0	192	35	25	27	6	128	35	28	19
Chase.....	24	7	17	0	0	19	1	2	2	0	15	2	0	0
Chautauqua.....	56	7	46	3	0	54	0	0	2	0	33	16	0	0
Cherokee.....	123e	34	89	1	0	119	1	2	1	0	47	22	17	4
Cheyenne.....	52	10	31	9	2	38	7	1	4	2	17	13	7	5
Clark.....	58	7	48	3	0	52	0	2	2	2	21	18	8	4
Clay.....	30	8	30	1	0	29	6	5	0	0	20	11	0	0
Cloud.....	97	14	79	4	0	64	17	8	8	0	62	16	5	0
Coffey.....	92	11	77	4	0	75	5	5	5	2	31	41	6	3
Comanche.....	58	1	57	0	0	58	0	0	0	0	31	23	2	1
Cowley.....	356*	80	256	21	0	206	58	41	41	10	150	47	46	33
Crawford.....	284a	84	176	20f	0	242	18	8	11	5	101	44	40	11
Decatur.....	43	13	29	1	0	32	2	1	7	1	21	2	4	3
Dickinson.....	156	38	113	5	0	99	32	16	8	1	84	24	8	2
Doniphan.....	61	1	56	4	0	52	3	2	4	0	22	35	3	0
Douglas.....	142a	36	93	12	0	87	26	14	10	4	53	36	10	6
Edwards.....	69	8	60	1	0	58	5	1	6	1	42	13	1	5
Elk.....	84	14	70	0	0	79	1	0	3	1	50	13	4	3

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.

COUNTIES.	No. of cases.	Dis-missed before trial.	Tried to the court.	Tried to the jury.	Tried by referee.	No answer filed.	Answer filed.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 months to 6 months.	In 6 months to 12 months.	After 12 months.
Ellis.....	55	4	50	1	0	53	1	0	0	1	46	4	1	0
Ellsworth.....	71	17	50	4	0	45	15	5	5	1	32	18	3	1
Finley.....	86	23	58	5	0	71	5	2	4	1	33	19	4	2
Forde.....	389	91	283	15	0	307	26	26	22	8	215	26	25	32
Franklin.....	142	27	107	18	0	92	29	11	8	2	86	20	2	6
Geary.....	95	9	84	2	0	55	28	3	8	1	68	11	6	1
Gove.....	63	14	48	1	0	54	2	1	6	0	68	17	5	0
Graham.....	94	32	62	0	0	88	1	1	4	0	97	16	9	0
Grant.....	45†	34	34	2	0	31	6	7	2	1	37	8	4	0
Gray.....	69	0	65	4	0	51	8	7	3	0	50	14	4	1
Greeley.....	38	6	31	1	0	28	4	5	1	0	18	9	2	3
Greenwood.....	204†	30	169	3	0	163	9	11	13	3	130	32	5	3
Hamilton.....	56	16	34	4	0	43	4	2	1	0	29	5	0	0
Harpur.....	68†	16	41	9	0	55	8	3	3	0	37	14	3	6
Harvey.....	175	50	119	6	0	121	20	15	16	3	51	27	33	14
Haskell.....	41	8	32	1	0	29	5	6	1	0	22	7	2	2
Hodgeman.....	37	34	34	2	0	32	0	3	2	0	26	7	2	1
Jackson.....	181	21	153	7	0	80	69	17	13	2	113	30	14	3
Jefferson.....	117	23	90	4	0	92	15	9	4	0	64	19	7	4
Jewell.....	102	9	87	6	0	60	24	7	10	1	49	25	16	3
Johnson.....	228	63	155	10	0	125	48	21	24	10	87	38	15	25
Keary.....	25	12	23	0	0	24	1	0	0	0	19	4	0	0
Kingman.....	95	15	78	1	0	80	13	8	0	0	56	23	1	0
Kiowa.....	55	17	38	1	0	35	7	1	4	4	23	6	4	1
Labette.....	165†	14	143	6	0	113	15	13	22	2	89	32	21	7
Lane.....	33	8	25	0	0	29	1	2	0	1	16	5	4	0
Leavenworth.....	170	12	124	14	0	84	45	22	9	10	85	31	15	7
Lincoln.....	92	15	64	3	0	48	12	11	11	0	40	17	4	6
Linn.....	51	13	55	1	0	67	1	1	0	2	32	15	5	4
Logan.....	56	6	49	1	0	48	3	3	2	0	32	14	2	2

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.

COUNTIES.	No. of cases.	Dis-mitted before trial.	Tried to the court.	Tried to the jury.	Tried by referee.	No answer filed.	Answer filed.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Lyon.....	253	47	194	12	0	166	53	25	8	1	153	37	14	2
Marion.....	106	18	87	1	0	86	13	7	0	0	62	21	5	0
Marshall.....	98	6	92	0	0	64	24	7	3	0	77	7	7	1
McPherson ( <i>J. &amp; S.</i> ).....	145	13	138	5	0	134	9	4	8	1	99	33	11	0
Meade.....	59	10	49	0	0	47	8	3	1	0	34	10	4	0
Miami.....	165	47	113	5	0	91	37	15	18	4	72	29	9	8
Mitchell.....	44	7	27	10	0	24	10	4	5	1	14	11	11	1
Montgomery.....	312 <sup>a</sup>	42	253	18	0	219	42	28	15	8	173	58	30	10
Morris.....	107	1	100	6	0	86	13	7	1	0	69	21	9	7
Morton.....	28 <sup>e</sup>	3	25	0	0	24	1	2	1	0	17	9	0	0
Nemaha.....	139	8	126	5	0	111	10	10	5	3	79	38	14	0
Neosho.....	49	4	45	0	0	30	9	3	7	0	29	4	6	6
Ness.....	119	17	102	0	0	82	19	7	7	4	27	11	11	59
Norton.....	69	21	45	3	0	48	7	1	12	1	34	6	5	3
Osage.....	131	16	114	1	0	74	21	23	12	1	81	23	10	1
Osborne.....	117	19	98	0	0	105	7	1	4	0	73	18	7	0
Ottawa.....	63	6	56	1	0	63	0	0	0	0	51	5	1	0
Pawnee.....	72	15	56	1	0	66	1	4	1	0	50	4	2	1
Phillips.....	63	24	37	2	0	47	8	2	5	1	27	3	6	3
Pottawatomie.....	140	25	112	3	0	79	33	14	13	1	84	15	9	7
Pratt.....	111 <sup>a</sup>	24	83	3	0	59	21	10	17	3	43	26	9	8
Rawlins.....	45	13	32	0	0	30	1	3	4	7	17	11	3	1
Reno.....	420	73	331	16	0	225	91	54	38	12	224	78	36	9
Republic.....	58 <sup>y</sup>	3	53	1	0	43	7	5	3	0	42	11	1	0
Rice.....	112	9	99	4	0	109	2	1	0	0	88	11	2	2
Riley.....	186	40	134	11	1	128	23	17	15	3	102	18	19	7
Rooks.....	87 <sup>a</sup>	8	76	2	0	84	2	0	1	0	45	23	2	8
Rush.....	59	7	51	1	0	51	5	2	1	0	37	11	4	0
Russell.....	90	25	65	0	0	77	6	4	2	1	31	16	14	4
Saline.....	248 <sup>e</sup>	62	166	19	0	147	52	18	21	10	112	35	20	19



TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.

COUNTIES.	No. of cases.	Dis- missed before trial.	Tried to the court.	Tried to the jury.	Tried by referee.	No answer filed.	Answer filed.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months to 6 months.	In 6 to 12 months.	After 12 months.	
Scott.....	64	15	47	2	0	49	5	7	2	1	29	14	5	1
Sedgwick.....	1,641 <sup>d</sup>	367	1,210	53	0	972	232	231	189	23	771	301	171	20
Seward.....	107	18	87	2	0	99	1	2	5	0	58	24	6	1
Shawnee.....	723 <sup>a</sup>	203	474	50	0	369	156	80	94	28	325	101	68	30
Sheridan.....	26	6	19	1	0	19	2	2	3	0	8	9	3	0
Sherman.....	72 <sup>e</sup>	12	50	11	0	43	10	4	10	5	19	21	7	13
Smith.....	80	27	50	3	0	54	17	5	3	1	39	10	4	0
Stafford.....	104 <sup>e</sup>	22	83	0	0	59	20	13	12	1	49	19	8	7
Stanton.....	23	10	13	0	0	16	3	0	3	1	3	7	3	0
Stevens.....	87	19	66	2	0	68	9	1	7	2	45	11	8	4
Sumner.....	195	19	175	1	0	188	1	3	2	1	115	40	21	0
Thomas.....	109	20	85	4	0	84	3	11	8	3	55	22	6	6
Trego.....	41	6	34	1	0	23	9	4	3	2	17	6	6	6
Wabauaasee.....	64	15	48	1	0	39	11	9	3	2	38	4	7	0
Wallace.....	59 <sup>f</sup>	0	51	7	0	41	5	4	7	2	27	14	4	13
Washington.....	98 <sup>a</sup>	16	80	6	0	61	16	14	3	4	60	16	6	4
Wichita.....	56	5	50	1	0	52	1	0	2	1	32	9	9	1
Wilson.....	110	17	93	0	0	83	17	7	3	0	72	17	4	0
Woodson.....	51	6	44	1	0	41	6	0	3	1	31	5	6	3
Wyandotte.....	1,002	255	646	89	0	517	201	178	83	23	313	169	140	113
Totals.....	14,622	2,909	11,069	610	3	9,909	2,083	1,291	1,080	265	7,155	2,591	1,281	665

<sup>a</sup> Case removed to federal court.<sup>b</sup> Two cases removed to federal court.<sup>c</sup> Three cases removed to federal court.<sup>d</sup> Seventeen cases removed to federal court.<sup>e</sup> Two trials in one case.<sup>f</sup> Two trials each in three cases.<sup>g</sup> Three trials in one case.<sup>h</sup> Two trials each in four cases.<sup>i</sup> Four trials each in two cases.<sup>j</sup> Two cases consolidated and tried as one.<sup>k</sup> Case to both court and jury.<sup>l</sup> Case transferred to another county.

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.  
(Compiled from Form 1.)

COUNTIES.	Journal entry.				No journal entry filed.	Minimum Costs.	Maximum Costs.	Aggregate Costs.	Number cases reported.	Average Costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Allen.....	61	15	3	10	13	\$5.15	\$131.85	\$3,580.71	137	\$26.13
Anderson.....	87	3	6	3	2	3.20	454.51	9,629.66	115	83.73
Archison.....	65	38	4	11	16	5.05	241.88	4,114.34	162	25.40
Barber.....	39	7	16	10	11	2.60	137.57	2,931.71	95	30.86
Barton.....	130	2	1	1	0	4.35	104.93	3,396.99	161	21.09
Bourbon.....	84	7	1	3	6	5.60	82.25	2,580.38	127	20.31
Brown.....	3	7	74	81	5	6.56	181.07	6,386.72	220	49.03
Butler.....	118	47	21	7	17	4.55	1,567.90	22,966.50	285	80.58
Chase.....	12	0	0	0	5	4.55	102.60	2,835.82	24	34.82
Chautauqua.....	10	2	3	25	9	7.60	80.30	1,988.21	56	35.50
Cherokee.....	80	0	2	0	8	3.80	1,000.00	7,656.61	120	63.80
Cheyenne.....	31	5	2	0	4	4.50	252.65	2,013.72	48	41.95
Clark.....	44	0	0	2	5	4.70	90.11	1,530.61	58	26.39
Clay.....	19	11	0	0	1	4.30	103.85	1,033.60	40	25.84
Cloud.....	32	28	16	6	1	4.50	128.60	3,299.50	97	34.01
Coffey.....	66	2	3	4	6	5.70	194.45	3,693.67	92	40.14
Comanche.....	15	4	35	35	3	2.50	83.16	1,901.02	55	34.56
Cowley.....	102	65	33	23	53	2.30	437.01	9,932.25	356	27.92
Crawford.....	98	34	10	23	31	3.90	500.00	6,779.49	244	27.78
Decatur.....	16	4	5	0	5	5.25	149.50	1,199.73	43	27.90
Dickinson.....	83	20	4	3	8	4.60	66.65	2,645.12	156	16.95
Doniphan.....	3	9	4	38	6	6.60	105.05	1,652.41	60	27.54
Douglas.....	59	18	15	7	6	4.45	134.65	3,231.63	142	22.81
Edwards.....	53	3	0	4	1	4.80	67.65	1,538.82	69	22.30
Elk.....	7	15	5	37	6	6.75	196.01	2,815.96	84	33.52
Ellis.....	13	0	7	30	1	5.25	357.40	2,842.13	53	53.62
Ellsworth.....	48	1	1	4	0	4.65	157.00	2,655.50	71	37.40
Finney.....	31	15	9	2	6	4.10	72.65	1,833.09	86	21.31
Ford.....	176	70	21	12	19	3.05	141.95	7,840.95	389	20.16
Franklin.....	81	19	2	2	4	4.95	98.60	4,360.07	142	30.75

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Journal entry.				No journal entry filed.	Minimum Costs.	Maximum Costs.	Aggregate Costs.	Number cases reported.	Average Costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Geary.....	42	20	13	8	3	\$2.00	\$225.30	\$2,245.78	95	\$23.64
Gove.....	22	11	10	3	3	3.30	80.58	1,687.53	63	26.79
Graham.....	41	7	3	8	3	5.45	1,515.00	4,748.03	61	77.84
Grant.....	14	9	5	4	4	3.85	110.45	923.50	46	20.06
Gray.....	60	4	1	2	2	2.55	58.75	1,790.20	69	25.84
Greeley.....	30	0	0	0	2	3.70	208.75	974.86	38	25.65
Greenwood.....	127	30	8	2	5	6.45	120.69	7,709.07	204	37.79
Hamilton.....	17	8	4	3	2	5.75	61.10	1,017.12	50	20.34
Harper.....	29	9	4	6	2	4.35	299.55	2,246.14	68	33.03
Harvey.....	49	14	26	16	20	4.30	120.75	4,446.97	175	25.45
Haskell.....	24	4	1	3	1	6.85	46.95	748.55	41	18.25
Hodgeman.....	30	3	2	1	0	4.16	64.80	1,048.11	37	28.35
Jackson.....	135	5	8	4	8	4.05	66.80	4,557.90	181	25.18
Jefferson.....	73	4	1	0	16	1.00	104.49	3,216.44	117	27.49
Jewell.....	41	18	4	16	14	6.55	98.31	3,096.95	102	30.36
Johnson.....	153	7	0	1	4	2.65	129.75	5,761.61	228	25.27
Kearny.....	11	6	1	1	4	4.25	124.54	684.85	25	27.39
Kingman.....	50	17	10	1	2	3.30	65.35	1,858.27	69	27.03
Kiowa.....	21	6	3	1	3	4.30	101.65	1,127.04	51	22.09
Labette.....	117	17	5	7	5	6.10	182.67	6,274.39	162	38.73
Lane.....	12	1	2	6	4	2.20	62.23	708.39	33	21.46
Leavenworth.....	114	11	1	4	8	4.10	104.50	3,233.90	170	19.02
Lincoln.....	39	14	6	3	5	6.40	103.05	2,088.99	82	25.47
Linn.....	9	3	1	40	3	5.95	197.62	2,485.34	70	35.50
Logan.....	14	2	2	26	6	5.05	69.77	1,520.51	56	27.15
Lyon.....	187	2	3	8	6	3.10	142.50	6,291.50	253	24.86
Marion.....	54	24	5	4	1	68.26	3,301.85	3,201.85	106	31.15
Marshall.....	20	5	4	53	10	3.45	854.09	10,131.22	98	103.38
McPherson.....	119	4	1	4	15	4.40	82.35	2,809.72	144	19.51
Meade.....	36	3	2	2	6	3.15	91.98	1,608.99	58	27.74

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Journal entry.				No journal entry filed.	Minimum Costs.	Maximum Costs.	Aggregate Costs.	Number cases reported.	Average Costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Miami.....	59	36	19	1	3	\$4.30	\$1,119.54	\$9,331.53	165	\$56.55
Mitchell.....	7	3	4	10	13	5.25	121.00	1,440.60	44	32.74
Montgomery.....	176	38	39	10	8	3.15	1,491.60	10,750.05	311	34.56
Morris.....	75	10	0	8	13	9.05	83.64	2,805.56	107	26.22
Morton.....	11	1	3	8	3	9.10		706.86	25	28.27
Nenaha.....	19	50	35	14	13	5.35	709.13	13,781.37	115	119.84
Neosho.....	35	3	4	2	1	8.00	161.45	1,563.61	49	31.91
Nes.....	9	0	0	0	93	2.90	80.19	2,879.56	119	24.19
Norton.....	17	10	1	13	7	5.35	88.15	1,419.89	69	20.57
Osage.....	87	16	8	3	1	1.85	140.00	3,209.27	122	26.30
Osborne.....	64	13	11	7	3	1.80	109.81	3,860.90	117	32.99
Ottawa.....	41	8	5	3	0	5.20	71.55	1,831.90	63	30.03
Pawnee.....	51	1	0	1	4	1.20	59.01	1,615.65	71	22.75
Phillips.....	14	11	9	2	3	2.35	108.25	1,649.18	63	26.17
Pottawatomie.....	108	0	0	0	7	6.25	150.70	4,069.38	140	29.06
Pratt.....	12	11	28	12	23	3.50	120.46	2,554.33	111	23.01
Rawlins.....	30	0	0	0	2	4.15	83.39	1,188.00	45	26.40
Reno.....	221	50	31	17	28	6.70	1,308.10	13,860.76	420	33.00
Republic.....	34	10	4	5	1	6.75	59.00	1,219.96	47	25.96
Rice.....	79	6	1	17	0	7.40	70.65	1,334.09	43	31.02
Riley.....	74	38	6	18	10	3.95	208.85	4,059.13	186	21.82
Rooks.....	56	5	6	6	5	5.00	184.90	2,922.96	87	33.59
Rush.....	0	0	0	1	0	4.25	118.40	1,646.17	54	30.48
Russell.....	37	12	1	8	7	72.82	532.24	2,504.47	84	29.81
Saine.....	140	5	11	13	17	5.80		6,247.97	237	26.36
Scott.....	44	1	0	0	4	4.00	97.25	1,495.44	63	23.75
Sedgwick.....	1,258	30	0	0	5	4.10	647.70	43,513.97	1,630	26.69
Seward.....	41	52	10	6	2	5.60	71.85	2,385.23	104	22.93
Shawnee.....	454	1	4	12	3	2.15	268.99	15,257.55	723	21.10
Sheridan.....	15	1	2	0	2	1.25	281.33	1,831.40	26	70.44

TABLE I.—CONCLUDED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Journal entry.				No journal entry filed.	Minimum Costs.	Maximum Costs.	Aggregate Costs.	Number cases reported.	Average Costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Sherman.....	28	10	3	14	5	\$5.85	\$169.50	\$1,638.62	70	\$23.41
Smith.....	40	5	6	1	1	1.30	133.35	2,053.69	80	25.67
Stafford.....	52	13	6	7	4	2.25	169.90	3,055.90	104	28.99
Stanton.....	13	0	0	0	0	3.45	104.45	500.20	23	21.75
Stevens.....	4	21	11	20	12	4.15	704.60	2,877.35	87	33.07
Sumner.....	157	12	0	6	1	5.75	859.74	22,105.08	194	113.94
Thomas.....	60	1	14	9	5	4.60	59.47	2,466.99	109	22.63
Trego.....	28	2	0	4	1	5.15	70.15	801.36	41	19.55
Wabunsee.....	48	0	0	0	1	7.00	188.35	2,036.72	64	31.82
Wallace.....	44	4	0	7	2	4.50	89.07	1,993.31	58	34.37
Washington.....	30	18	17	8	13	1.60	116.30	3,052.88	98	31.15
Wichita.....	44	2	1	1	3	4.40	65.80	937.65	56	16.74
Wilson.....	50	10	4	21	8	3.45	75.52	2,895.79	110	26.32
Woodson.....	35	4	2	1	3	5.30	91.10	1,598.90	42	38.07
Wyandotte.....	532	85	14	16	88	4.05	246.05	20,184.74	1,002	20.14
Totals.....	7,840	1,827	733	932	852	\$0.70	\$1,567.90	\$450,376.56	14,317	\$10.00

TABLE II.—Summary, district courts. Civil cases (other than divorce) pending July 1, 1933.  
(Compiled from Form 2.)

COUNTIES.	Civil actions pending 7-1-'33.	Pending less than 3 months.	3 to 6 months.	6 to 12 months.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	Over 5 years.
an.....	154	69	1	30	39	8	5	1	1
lerson.....	60	25	6	8	13	5	2	1	0
hison.....	100	36	7	17	18	16	3	0	3
ber.....	60	32	8	5	10	4	1	0	0
ton.....	51	30	5	8	7	1	0	0	0
arbon.....	142	47	21	25	24	23	2	0	0
own.....	78	32	24	11	10	1	0	0	0
ler.....	207	57	23	27	42	20	11	10	17
ase.....	34	15	7	12	0	0	0	0	0
autauqua.....	30	16	7	0	7	0	0	0	0
rokee.....	193	30	16	22	45	21	17	17	25
eyenne.....	30	11	7	9	0	1	1	1	0
rk.....	48	13	9	11	9	6	0	0	0
y.....	22	14	5	3	0	0	0	0	0
ud.....	38	19	1	15	0	2	1	0	0
fey.....	30	16	11	2	1	0	0	0	0
nanche.....	19	2	3	8	6	0	0	0	0
wley.....	245	76	38	47	41	18	11	4	10
wford.....	295	64	30	62	55	25	34	9	16
atur.....	31	9	11	7	3	1	0	0	0
kinson.....	82	33	10	4	22	3	9	0	1
niphan.....	40	10	19	11	0	0	0	0	0
uglas.....	83	30	23	13	14	2	1	0	0
wards.....	35	15	6	5	3	3	2	0	1
.....	38	17	13	1	7	0	0	0	0
s.....	59	24	19	16	0	0	0	0	0
sworth.....	36	13	4	5	6	1	1	1	5
ney.....	90	29	13	21	21	5	1	0	0
d.....	144	45	15	27	29	15	11	2	0
nklin.....	68	32	17	8	7	4	0	0	0
ury.....	24	9	6	5	3	0	1	0	0
ve.....	36	1	9	10	10	5	1	0	0
ham.....	50	14	14	7	14	1	0	0	0
unt.....	24	10	7	2	3	2	0	0	0
y.....	44	18	7	8	9	2	0	0	0
eley.....	34	2	9	11	11	1	0	0	0
enwood.....	57	22	9	7	9	6	2	1	1
ilton.....	33	10	7	16	0	0	0	0	0
rper.....	57	22	18	7	5	4	1	0	0
rvey.....	60	33	7	12	5	2	0	0	1
skell.....	21	8	5	4	3	1	0	0	0
dgeman.....	31	8	5	5	5	4	2	0	2
kson.....	81	27	16	12	17	4	4	1	0
erson.....	48	21	11	6	0	5	1	1	3
ell.....	54	19	10	7	12	2	2	2	0
nson.....	129	46	16	30	25	11	0	0	1
arny.....	12	5	3	4	0	0	0	0	0
gman.....	33	18	5	4	5	1	0	0	0
owa.....	30	15	5	2	8	0	0	0	0
ette.....	53	31	3	12	4	1	2	0	0
le.....	30	6	4	10	7	2	1	0	0
venworth.....	316	51	22	52	28	31	20	17	95
coln.....	36	16	8	3	3	2	1	1	2
n.....	62	24	9	6	9	11	3	0	0
gan.....	63	19	15	15	8	3	2	0	1
on.....	112	43	25	35	9	0	0	0	0
tion.....	43	20	4	7	12	0	0	0	0
rshall.....	39	28	6	5	0	0	0	0	0
Pherson.....	73	29	28	16	0	0	0	0	0
ade.....	29	17	0	6	5	1	0	0	0

TABLE II.—CONCLUDED. Summary, district courts. Civil cases (other than divorce) pending July 1, 1933.

COUNTIES.	Civil actions pending 7-1-'33.	Pending less than 3 months.	3 to 6 months.	6 to 12 months.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	Over 5 years
Miami.....	108	37	17	19	18	8	1	4	4
Mitchell.....	47	16	12	14	4	0	0	1	0
Montgomery.....	119	43	22	19	24	5	5	0	1
Morris.....	43	18	8	9	4	4	0	0	0
Morton.....	28	14	7	0	7	0	0	0	0
Nemaha.....	61	33	7	10	11	0	0	0	0
Neosho.....	106	30	17	8	31	10	8	1	1
Ness.....	91	16	12	15	23	17	2	6	0
Norton.....	32	14	8	5	4	1	0	0	0
Osage.....	42	21	4	6	4	3	3	0	1
Osborne.....	33	27	1	4	1	0	0	0	0
Ottawa.....	32	16	9	7	0	0	0	0	0
Pawnee.....	32	13	2	2	10	2	0	0	3
Phillips.....	57	16	14	12	11	3	0	1	0
Pottawatomie.....	53	21	3	9	10	6	4	0	0
Pratt.....	47	32	7	5	0	1	0	2	0
Rawlins.....	37	11	7	9	2	0	4	3	1
Reno.....	252	106	40	40	44	17	3	1	1
Republic.....	24	16	2	4	2	0	0	0	0
Rice.....	32	20	4	6	2	0	0	0	0
Riley.....	70	19	16	18	14	3	0	0	0
Rooks.....	39	19	7	10	3	0	0	0	0
Rush.....	23	10	12	1	0	0	0	0	0
Russell.....	88	28	20	39	1	0	0	0	0
Saline.....	233	61	20	26	53	20	24	10	19
Scott.....	30	11	5	9	5	0	0	0	0
Sedgwick.....	997	430	258	199	110	0	0	0	0
Seward.....	53	23	4	10	13	1	2	0	0
Shawnee.....	375	150	59	78	65	9	4	6	4
Sheridan.....	23	8	7	6	1	0	0	0	1
Sherman.....	69	14	14	18	16	2	1	1	3
Smith.....	65	22	9	18	10	3	3	0	0
Stafford.....	31	17	7	4	1	2	0	0	0
Stanton.....	18	8	1	3	3	2	1	0	0
Stevens.....	35	11	5	6	9	4	0	0	0
Sumner.....	164	37	10	15	20	27	17	8	30
Thomas.....	23	15	3	4	1	0	0	0	0
Trego.....	33	8	2	7	11	3	2	0	0
Wabunsee.....	34	15	9	7	3	0	0	0	0
Wallace.....	36	11	4	9	9	3	0	0	0
Washington.....	42	22	3	5	9	2	1	0	0
Wichita.....	7	5	2	0	0	0	0	0	0
Wilson.....	48	30	11	7	0	0	0	0	0
Woodson.....	86	18	27	17	14	8	2	0	0
Wyandotte.....	1,926	298	241	320	473	227	192	175	0
Totals.....	10,080	3,263	1,631	1,805	1,724	680	435	288	254

TABLE III.—Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.  
(Compiled from Form 3.)

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.					Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to husbands.	Awarded to both parents.	Awarded to relatives.	Not stated.	Other disposition.		
Allen.....	26	12	9	4	15	3	2	0	0	0	0	0	6	7
Anderson.....	14	4	7	2	1	1	1	0	0	0	0	0	6	3
Archison.....	65	27	26	12	0	4	8	0	0	0	0	0	27	10
Barber.....	18	6	8	3	1	1	6	0	0	0	0	0	11	0
Barton.....	32	6	19	7	0	4	28	1	0	0	0	0	22	2
Bourbon.....	60	17	33	10	0	3	32	3	0	0	0	0	37	4
Brown.....	22	5	13	3	1	0	16	0	8	0	0	0	11	6
Butler.....	98	22	61	15	0	13	35	11	0	0	0	0	57	15
Chase.....	3	0	3	0	0	0	0	0	0	0	0	0	2	0
Chautauqua.....	12	1	9	2	0	1	7	0	0	0	0	0	11	0
Cherokee.....	83	17	52	14	0	0	37	2	0	0	0	0	57	5
Cheyenne.....	9	0	7	2	0	0	15	1	0	0	0	0	9	0
Clark.....	6	3	2	1	0	0	4	2	0	0	0	0	2	1
Clay.....	27	5	16	6	0	2	8	0	0	0	0	0	21	1
Cloud.....	23a	6	7	8	1	5	8	0	1	0	0	0	17	0
Coffey.....	11	4	6	0	1	0	6	0	0	0	0	0	4	1
Comanche.....	9	0	7	0	0	0	4	0	0	0	0	0	1	2
Cowley.....	86	8	64	14	0	7	37	6	0	0	1	0	67	3
Crawford.....	93	15	62	16	0	8	22	7	0	2	0	0	58	8
Decatur.....	12	2	6	4	0	2	9	0	0	0	0	0	8	1
Dickinson.....	38	5	24	9	0	3	14	1	0	0	0	0	29	4
Doniphan.....	16	7	7	2	0	2	1	0	0	0	0	0	0	0
Douglas.....	66b	13	31	19	0	15	27	4	0	0	0	0	45	7
Edwards.....	15	2	11	2	0	1	18	2	0	0	0	0	12	1
Elk.....	11	2	7	2	0	1	5	1	0	0	0	0	8	1
Ellis.....	11	3	5	3	0	1	7	3	0	0	0	0	5	0
Ellsworth.....	14	5	7	2	0	1	4	0	0	0	0	0	8	0
Finney.....	26	5	17	7	0	3	13	0	0	0	0	0	21	3
Ford.....	48	10	30	8	0	6	18	5	0	0	3	0	33	4
Franklin.....	49	16	23	6	4	6	23	3	0	0	0	0	23	10



TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.				Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to husbands.	Awarded to both parents.	Awarded to relatives.	Not stated.	Other disposition.	
Geary.....	30	4	17	9	0	5	11	2	0	0	0	0	0
Gove.....	4	2	2	2	0	0	5	4	0	0	1	2	1
Graham.....	5	2	3	0	0	0	1	0	0	0	0	2	0
Grant.....	5	2	3	1	0	0	1	0	0	0	1	3	0
Gray.....	6	0	5	1	0	0	5	1	0	0	0	0	0
Greeley.....	1	0	0	1	0	0	0	0	0	0	0	1	0
Greenwood.....	44	13	20	10	1	3	18	3	0	2	0	24	4
Hamilton.....	17	3	3	1	0	0	2	0	0	0	2	2	0
Harper.....	17	3	8	2	0	3	11	1	0	0	1	7	0
Harvey.....	43c	8	25	9	0	0	25	0	0	0	4	25	6
Haskell.....	2	0	1	1	0	0	0	0	0	0	0	0	0
Hodgeman.....	2	1	1	1	0	0	2	3	0	0	0	3	1
Jackson.....	22d	3	13	5	0	4	16	2	0	0	0	1	3
Jefferson.....	16	4	11	1	0	0	12	1	0	0	0	11	7
Jewell.....	17	4	9	4	0	2	11	1	0	0	0	10	2
Johnson.....	60	25	22	10	3	4	23	2	0	0	0	9	4
Kearny.....	6	3	2	4	0	0	1	1	0	0	0	27	3
Kingman.....	10	3	2	4	0	0	3	1	0	0	0	7	0
Kiowa.....	5	1	3	1	0	2	0	0	0	0	0	3	0
Labette.....	88	25	50	13	0	15	34	1	0	0	7	52	1
Lane.....	3	2	0	1	0	0	0	0	0	0	0	1	0
Leavenworth.....	127	12	75	40	0	7	38	4	1	0	0	98	11
Lincoln.....	10	4	5	1	0	4	3	1	0	0	1	3	2
Linn.....	6	0	5	1	0	0	3	0	0	0	0	6	0
Logan.....	2	1	1	0	0	0	0	0	0	0	0	1	0
Lyon.....	52	2	40	10	0	12	57	0	0	0	0	44	3
Marion.....	13	2	10	1	0	0	18	1	0	0	0	5	4
Marshall.....	19	2	9	7	1	0	11	3	0	0	0	17	0
McPherson.....	35	6	22	7	0	2	23	6	0	0	0	26	0
Meade.....	2	0	2	0	0	0	3	0	0	0	0	2	0

TABLE III.—Continued. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.

[illegible]

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.					Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to husbands.	Awarded to both parents.	Awarded to relatives.	Not stated.	Other disposition.		
Sherman.....	7	1	4	1	1	0	5	0	0	0	0	0	4	2
Smith.....	19	5	8	6	0	0	7	1	0	0	0	0	13	1
Stafford.....	10	0	7	3	0	2	5	0	1	0	0	0	8	0
Stanton.....	5	1	4	0	0	0	10	0	0	0	0	0	2	2
Stevens.....	9	2	4	3	0	0	5	1	0	0	0	0	5	0
Sumner.....	37	12	19	6	0	0	8	0	0	0	0	0	17	7
Thomas.....	5	0	4	1	1	1	1	0	0	0	0	0	4	1
Trego.....	6	1	3	2	0	0	2	2	0	0	0	0	4	0
Wabunsee.....	7	1	5	1	1	0	8	1	0	0	0	0	5	1
Wallace.....	9	0	8	1	0	0	6	1	1	0	0	0	5	0
Washington.....	16½	0	12	3	1	5	15	2	0	0	0	0	14	3
Wichita.....	1	0	1	0	0	0	1	0	0	0	0	0	0	0
Wilson.....	24	2	20	2	1	0	5	3	0	0	0	0	18	1
Woodson.....	6	1	3	1	1	0	2	0	0	0	0	0	5	0
Wyandotte.....	362d <sub>g</sub>	17	259	82	0	30	147	27	0	0	0	2§	261	77x
Totals.....	4,288	1,093	2,407	740	30	367	1,737	219	14	9	56	10	2,456	450

- a* Divorce granted to both husband and wife, 1 case.  
*b* Divorce granted to both husband and wife, 3 cases.  
*c* Marriage annulled, 1 case.  
*d* Not stated to whom divorce was granted, 1 case.  
*e* Not stated to whom divorce was granted, 5 cases.  
*f* Marriage annulled, 2 cases.  
*g* marriage annulled, 3 cases.  
*h* Two trials in 1 case.  
*i* Case thrown out on demurrer.  
*x* Trial date not stated, 2 cases.  
 \* Awarded to a friend.  
 † Taken under advisement.  
 ‡ Out of court's jurisdiction.  
 § Placed in children's home.

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.  
(Compiled from Form 3.)

COUNTIES.	Grounds.							Costs.						
	Gross neglect of duty.	Extreme cruelty.	Abandonment.	Adultery.	Non-support.	Habitual drunkenness.	Conviction of a felony.	Gross neglect of duty and extreme cruelty.	Miscellaneous grounds.	Minimum.	Maximum.	Number cases reporting costs.	Aggregate.	Average.
Allen.....	0	0	9	0	0	0	0	3	1	\$5.80	\$19.15	26	\$274.55	\$10.56
Anderson.....	6	1	2	0	0	0	0	0	0	8.00	96.10	14	294.73	21.05
Atchison.....	32	1	5	0	0	0	0	0	0	5.65	15.50	65	601.48	9.25
Barber.....	9	0	2	0	0	0	0	0	0	6.55	133.95	18	364.10	20.23
Barton.....	3	11	3	0	0	0	0	9	0	7.20	20.30	32	337.20	10.54
Bourbon.....	23	2	16	0	0	1	0	1	0	6.55	52.30	60	754.34	12.57
Brown.....	11	2	0	0	0	0	0	1	3	5.81	23.72	22	295.27	13.42
Butler.....	54	0	20	0	0	0	1	0	1	4.05	62.25	98	1,052.18	11.75
Chase.....	0	2	1	0	0	0	0	0	0	5.00	7.50	3	17.65	5.88
Chautauqua.....	3	2	3	0	0	0	0	1	2	7.30	88.95	12	224.55	18.71
Cherokee.....	15	29	15	1	0	2	0	3	1	5.10	150.35	83	1,004.02	10.90
Cheyenne.....	0	1	2	0	3	2	0	0	1	9.10	15.95	9	95.70	10.63
Clark.....	2	0	0	0	0	0	0	0	0	5.20	14.05	6	52.30	8.71
Clay.....	5	12	0	0	0	0	0	0	1	5.45	18.50	27	266.95	9.89
Cloud.....	0	5	8	0	0	0	0	0	3	4.90	60.35	23	434.21	18.88
Coffey.....	4	1	1	0	0	0	0	0	0	6.55	23.65	11	112.10	10.19
Comanche.....	0	0	0	0	0	0	0	0	9	5.85	12.92	8	71.07	8.89
Cowley.....	20	33	7	0	11	1	2	0	4	5.00	55.65	86	1,118.51	13.00
Crawford.....	8	52	16	0	0	0	0	2	0	4.90	255.80	90	1,291.54	14.35
Decatur.....	1	5	3	1	0	0	0	0	0	6.45	16.90	12	126.40	10.53
Dickinson.....	0	1	17	0	0	1	1	11	2	6.05	17.75	23	232.40	10.10
Doniphan.....	4	2	3	0	0	0	0	0	0	7.65	28.35	16	211.70	13.23
Douglas.....	29	10	13	0	0	0	0	0	1	5.50	54.20	66	732.13	11.09
Edwards.....	0	1	4	1	2	2	2	0	1	6.20	44.65	15	201.43	13.43
Elk.....	0	2	4	0	0	0	0	0	3	2.95	15.00	11	122.50	11.13

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.

COUNTIES.	Grounds.						Costs.							
	Gross neglect of duty.	Extreme cruelty.	Abandonment.	Adultery.	Non-support.	Habitual drunkenness.	Conviction of a felony.	Gross neglect of duty and extreme cruelty.	Miscellaneous grounds.	Minimum.	Maximum.	Number cases reporting costs.	Aggregate.	Average.
Ellis.....	4	1	2	0	0	0	0	1	0	\$4.90	\$16.60	11	\$111.50	\$10.13
Ellsworth.....	1	2	3	0	0	0	0	1	2	.85	25.85	14	199.53	14.25
Finney.....	2	3	15	0	0	0	0	4	0	4.80	20.25	29	291.15	10.04
Ford.....	10	8	11	1	0	3	0	3	2	5.30	22.35	48	462.39	9.63
Franklin.....	17	2	9	0	0	0	1	0	0	4.85	30.10	49	551.14	11.24
Geary.....	1	4	12	2	0	1	0	5	1	7.10	25.60	30	286.90	9.56
Gove.....	3	0	1	0	0	0	0	0	0	7.40	10.92	4	36.84	9.21
Graham.....	0	1	1	0	0	0	0	0	0	11.40	27.35	2	38.75	19.37
Grant.....	0	1	1	0	0	1	0	0	0	5.15	11.15	5	43.25	8.65
Gray.....	0	4	2	0	0	0	0	0	0	5.60	30.60	6	128.85	21.47
Greeley.....	0	0	1	0	0	0	0	0	0	12.48	12.48	1	12.48	12.48
Greenwood.....	7	6	4	0	14	0	0	0	0	5.20	46.95	44	560.29	12.73
Hamilton.....	1	0	1	0	0	1	0	0	0	4.35	58.55	7	104.10	14.87
Harper.....	0	6	2	0	0	0	0	0	0	4.40	13.25	11	100.20	9.11
Harvey.....	8	15	5	1	0	1	1	2	1	6.80	34.65	43	537.01	12.47
Haskell.....	0	1	1	0	0	0	0	0	0	10.60	14.65	2	25.25	12.62
Hodgeman.....	0	2	3	0	0	0	0	0	0	4.80	11.95	6	47.20	7.86
Jackson.....	2	11	6	0	0	0	0	0	0	4.35	27.05	22	231.60	10.53
Jefferson.....	3	5	2	0	0	0	1	1	0	6.70	20.35	11	130.80	11.89
Jewell.....	1	0	3	0	0	0	0	4	5	7.90	63.75	17	318.04	18.70
Johnson.....	12	5	6	0	0	0	1	3	5	5.80	46.80	60	772.31	12.87
Kearny.....	5	0	0	0	0	0	1	0	0	6.25	14.60	6	51.30	8.53
Kingman.....	1	1	5	0	0	0	0	0	0	3.20	85.20	10	163.17	16.31
Kiowa.....	1	2	1	0	0	0	0	0	0	5.20	23.70	5	55.65	11.13
Labette.....	4	6	19	4	2	3	1	11	13	8.00	90.45	88	1,467.82	16.68
Lane.....	0	0	0	0	0	0	0	1	0	6.80	9.75	3	26.10	8.70
Leavenworth.....	59	14	35	0	0	0	3	0	4	6.10	40.40	115	1,182.00	10.36
Lincoln.....	0	3	0	0	0	1	0	1	1	5.55	76.75	10	215.28	21.52
Linn.....	3	0	3	0	0	0	0	0	0	5.90	11.60	6	46.50	7.75
Logan.....	0	0	0	0	0	0	0	1	0	5.00	14.05	2	19.05	8.35



TABLE III.—CONCLUDED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1933.

COUNTIES.	Grounds.						Costs.							
	Gross neglect of duty.	Extreme cruelty.	Abandonment.	Adultery.	Non-support.	Habitual drunkenness.	Conviction of a felony.	Gross neglect of duty and extreme cruelty.	Miscellaneous grounds.	Minimum.	Maximum.	Number cases reporting costs.	Aggregate.	Average.
Scott.....	0	0	0	0	0	0	0	0	2	\$7.15	\$12.50	4	\$38.80	\$9.70
Sedgwick.....	176	235	100	2	0	0	7	0	2	3.40	126.75	863	9,570.95	11.09
Seward.....	3	6	4	0	0	1	1	0	0	5.50	14.85	18	180.85	10.05
Shawnee.....	131	60	47	1	0	11	0	28	1	5.35	297.30	423	5,017.51	11.86
Sheridan.....	0	0	2	0	0	0	0	0	0	5.85	6.06	2	11.91	5.95
Sherman.....	0	1	4	0	0	0	0	0	0	6.85	27.55	7	87.81	12.54
Smith.....	0	5	3	0	2	0	0	0	4	6.75	16.35	19	206.80	10.88
Stafford.....	1	2	4	0	0	0	0	2	1	5.95	138.55	10	207.27	20.72
Stanton.....	0	0	1	0	2	0	1	0	0	4.25	10.20	5	30.40	6.08
Stevens.....	1	1	4	1	0	0	0	0	0	5.50	18.10	9	76.10	8.45
Sumner.....	12	8	5	0	0	0	0	0	0	5.95	64.75	37	695.42	18.79
Thomas.....	0	4	1	0	0	0	0	0	0	5.05	15.35	5	51.58	10.32
Trego.....	0	0	3	0	1	0	1	0	0	4.65	12.35	6	45.32	7.55
Wabunsee.....	3	1	1	0	0	0	0	1	0	6.00	16.55	7	84.35	12.05
Wallace.....	2	0	1	0	0	0	0	4	2	4.75	20.25	9	119.40	13.27
Washington.....	1	6	6	0	0	0	0	1	1	6.30	22.20	16	181.93	11.37
Wichita.....	0	1	1	0	0	0	0	0	0	8.75	8.75	1	8.75	8.75
Wilson.....	2	14	6	0	0	0	0	0	0	4.85	100.15	24	380.31	15.84
Woodson.....	0	3	3	0	0	0	0	0	1	9.50	14.80	4	49.50	12.37
Wyandotte.....	28	149	135	1	3	6	2	0	18	7.00	85.55	362	4,523.97	12.49
Totals.....	836	992	852	20	71	42	36	173	139*	\$0.85	\$297.30	4,235	\$50,447.46	\$12.05

\* Miscellaneous grounds: Gross neglect of duty and abandonment, 12; gross neglect of duty and adultery, 1; gross neglect of duty and non-support, 3; gross neglect of duty, abandonment, and extreme cruelty, 1; gross neglect of duty, extreme cruelty, and adultery, 1; gross neglect of duty, extreme cruelty and habitual drunkenness, 5; gross neglect of duty, non-support and abandonment, 1; extreme cruelty and abandonment, 9; extreme cruelty and non-support, 25; extreme mental cruelty, 1; abandonment and adultery, 1; abandonment and adultery, 1; abandonment and habitual drunkenness, 2; habitual drunkenness and extreme cruelty, 7; habitual drunkenness and gross neglect, 3; bigamy, 2; conspiracy to kill for life insurance, 1; cruelty and conviction of a felony, 1; destitution, 2; fraudulent contract of marriage and extreme cruelty, 1; impotency, 1; incompatibility, 1; infidelity, 4; insanity, 9; not stated, 15.

TABLE IV.—Summary, district courts. Divorce cases pending June 30, 1933.  
(Compiled from Form 4.)

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	More than 2 years.
Allen.....	21	12	2	4	2	1
Anderson.....	19	9	1	2	4	3
Atchison.....	48	12	4	9	14	9
Barber.....	4	2	1	1	0	0
Barton.....	12	6	2	2	2	0
Bourbon.....	17	9	2	1	2	3
Brown.....	9	3	5	0	0	1
Butler.....	84	25	6	12	25	16
Chase.....	5	4	0	1	0	0
Chautauqua.....	9	5	0	0	4	0
Cherokee.....	59	19	7	10	8	15
Cheyenne.....	2	1	0	0	1	0
Clark.....	1	1	0	0	0	0
Clay.....	7	5	0	1	1	0
Cloud.....	3	3	0	0	0	0
Coffey.....	7	7	0	0	0	0
Comanche.....	7	1	1	3	2	0
Cowley.....	91	39	6	18	18	10
Crawford.....	93	28	11	16	24	14
Decatur.....	6	5	0	1	0	0
Dickinson.....	10	5	2	0	3	0
Doniphan.....	11	5	3	3	0	0
Douglas.....	29	10	8	3	6	2
Edwards.....	5	3	0	0	2	0
Elk.....	4	4	0	0	0	0
Ellis.....	2	0	0	0	2	0
Ellsworth.....	9	6	2	0	1	0
Finney.....	15	5	1	4	5	0
Ford.....	55	19	16	7	8	5
Franklin.....	22	12	6	2	2	0
Geary.....	16	10	4	1	1	0
Gove.....	2	1	0	0	1	0
Graham.....	6	3	1	0	2	0
Grant.....	5	2	1	1	1	0
Gray.....	6	2	1	3	0	0
Greeley.....	2	2	0	0	0	0
Greenwood.....	28	9	4	4	6	5
Hamilton.....	4	0	0	4	0	0
Harper.....	5	5	0	0	0	0
Harvey.....	22	15	3	3	0	1
Haskell.....	1	1	0	0	0	0
Hodgeman.....	2	2	0	0	0	0
Jackson.....	9	6	0	0	2	1
Jefferson.....	3	2	0	1	0	0
Jewell.....	11	9	1	0	1	0
Johnson.....	32	9	8	9	4	2
Kearny.....	3	2	0	1	0	0
Kingman.....	2	2	0	0	0	0
Kiowa.....	1	0	1	0	0	0
Labette.....	23	18	4	1	0	0
Lane.....	2	1	1	0	0	0
Leavenworth.....	296	87	38	37	32	102
Lincoln.....	7	5	1	0	0	1
Linn.....	6	4	0	2	0	0
Logan.....	1	1	0	0	0	0
Lyon.....	46	19	4	16	7	0
Marion.....	4	2	0	1	1	0
Marshall.....	9	7	1	1	0	0
McPherson.....	12	6	4	2	0	0
Meade.....	1	1	0	0	0	0



TABLE IV.—CONCLUDED. Summary, district courts. Divorce cases pending June 30, 1933.

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	More than 2 years.
Miami.....	26	10	7	2	5	2
Mitchell.....	9	3	2	2	2	0
Montgomery.....	60	29	7	9	10	5
Morris.....	4	1	0	2	1	0
Morton.....	4	3	1	0	0	0
Nemaha.....	3	3	0	0	0	0
Neosho.....	66	6	8	7	26	19
Ness.....	2	0	2	0	0	0
Norton.....	8	7	1	0	0	0
Osage.....	4	3	0	0	1	0
Osborne.....	1	0	0	0	1	0
Ottawa.....	3	1	2	0	0	0
Pawnee.....	11	8	2	1	0	0
Phillips.....	3	2	0	1	0	0
Pottawatomie.....	5	3	0	2	0	0
Pratt.....	11	8	1	1	1	0
Rawlins.....	2	0	0	1	0	1
Reno.....	99	42	11	32	14	0
Republic.....	3	1	2	0	0	0
Rice.....	9	6	1	2	0	0
Riley.....	19	7	6	4	1	1
Rooks.....	39	19	7	10	3	0
Rush.....	2	0	0	0	1	1
Russell.....	4	1	0	2	1	0
Saline.....	82	22	6	10	18	26
Scott.....	1	0	1	0	0	0
Sedgwick.....	425	192	89	92	52	0
Seward.....	5	2	1	1	1	0
Shawnee.....	172	93	40	25	14	0
Sheridan.....	4	0	1	0	2	1
Sherman.....	16	6	3	3	2	2
Smith.....	7	6	0	0	1	0
Stafford.....	6	2	0	1	3	0
Stanton.....	0	0	0	0	0	0
Stevens.....	4	2	0	1	1	0
Sumner.....	28	4	3	3	17	1
Thomas.....	2	0	1	0	0	1
Trego.....	6	2	3	1	0	0
Wabaunsee.....	2	1	1	0	0	0
Wallace.....	2	1	1	0	0	0
Washington.....	5	4	1	0	0	0
Wichita.....	0	0	0	0	0	0
Wilson.....	22	15	2	5	0	0
Woodson.....	4	1	1	2	0	0
Wyandotte.....	1,530	166	105	166	281	812
Totals.....	3,935	1,180	482	575	653	1,063

TABLE V.—Summary, district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.  
(Compiled from Form 5.)

COUNTIES.	Total number cases.	Cases dis- missed.	Pleas of guilty.	Cases tried to the jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried.					
								In 10 days after infor- mation filed.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.	After 1 year.
Allen.....	35	14	13	8	8	2	0	0	4	1	1	1	1
Anderson.....	10 <sup>a</sup>	1	6	4	3	1	0	1	2	0	1	0	0
Atchison.....	63	35	26	2	1	1	0	1	0	1	0	0	0
Barber.....	16	5	11	0	0	0	0	0	1	0	0	0	0
Barton.....	32	10	18	4	3	1	0	3	1	0	0	0	0
Bourbon.....	52	2	44	6	6	0	0	1	2	1	0	2	0
Brown.....	42	13	22	7	6	1	0	2	1	3	1	0	0
Butler.....	55	6	45	4	4	0	0	1	0	1	2	0	0
Chase.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Chautauqua.....	11	2	7	2	2	0	0	0	2	0	0	0	0
Cherokee.....	35 <sup>b</sup>	13	17	5	3	2	0	1	2	1	1	0	0
Cheyenne.....	10	8	1	1	1	0	0	0	1	0	0	0	0
Clark.....	19	3	15	1	1	1	0	1	0	0	0	0	0
Clay.....	7	2	4	4	3	2	0	0	0	1	1	2	0
Cloud.....	28	8	0	20	16	2	2	10	3	2	2	3	0
Coffey.....	18	6	10	2	1	0	1	1	1	0	0	0	0
Comanche.....	8	1	5	2	0	0	2	2	0	0	0	0	0
Cowley.....	86	15	65	6	4	1	1	1	3	2	0	0	0
Crawford.....	41	14	18	9	6	3	0	1	3	1	1	1	0
Decatur.....	6	2	1	3	2	1	0	3	0	0	1	1	0
Dickinson.....	25	6	17	2	2	0	0	0	1	0	1	0	0
Doniphan.....	11	1	7	3	2	1	0	2	0	1	3	2	0
Douglas.....	55	22	15	17	12	5	0	8	7	2	0	0	0
Edwards.....	38	13	16	9	1	5	3	2	1	2	0	0	0
Elk.....	13	4	6	3	1	2	0	0	1	2	0	0	0

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Total number cases.	Cases dis- missed.	Pleas of guilty.	Cases tried to the jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried.					
								In 10 days after infor- mation filed.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.	After 1 year.
Ellis.....	26	6	15	5	4	1	0	3	2	0	0	0	0
Ellsworth.....	6	1	2	3	1	2	0	1	1	1	0	0	0
Finney.....	39	19	14	6	2	4	0	0	3	1	1	1	0
Ford.....	50	13	27	10	1	8	1	4	1	0	3	1	1
Franklin.....	41	2	21	18	13	4	0	10	4	3	1	0	0
Geary.....	18	3	9	6	4	2	0	2	2	2	0	0	0
Gove.....	12	5	2	5	4	1	0	0	1	1	1	1	0
Graham.....	14	1	11	2	2	0	0	1	1	0	0	0	0
Grant.....	9	3	5	1	0	1	0	0	0	0	1	0	0
Gray.....	21	15	5	1	1	0	0	1	0	0	0	0	0
Greeley.....	1	0	1	0	0	0	0	0	0	0	0	0	0
Greenwood.....	26	8	11	5	2	3	0	2	3	1	0	0	1
Hamilton.....	9a	3	5	2	0	2	0	0	0	0	0	0	0
Harper.....	21	6	4	11	4	7	0	0	4	4	1	2	0
Harvey.....	23	4	18	1	0	1	0	0	0	1	0	0	0
Haskell.....	5	1	4	0	0	0	0	0	0	0	0	0	0
Hodgeman.....	6	2	3	1	1	0	0	1*	0	0	0	0	0
Jackson.....	8	1	5	2	1	1	0	0	1	0	0	0	1
Jefferson.....	38	8	22	8	3	3	2	1	5	2	0	0	0
Jewell.....	5	1	3	1	0	1	0	0	0	1	0	0	0
Johnson.....	59	18	35	6	4	2	0	1	2	3	0	0	0
Kearny.....	13	3	10	0	0	0	0	0	0	0	0	0	0
Kingman.....	17	9	2	5	2	3	0	3	0	0	0	2	0
Kiowa.....	16	7	7	2	2	0	0	1	1	0	0	0	0
Labette.....	49c	21	16	10	7	3	0	0	1	2	0	1	0
Lane.....	9	3	4	2	1	1	0	0	0	2	0	0	0
Leavenworth.....	30	9	4	17	16	1	0	13	1	3	0	0	0
Lincoln.....	6	2	2	1	0	1	0	1	0	0	0	0	0
Linn.....	12	5	5	3	1	2	0	0	0	1	1	0	0
Logan.....	7	3	3	1	0	1	0	0	0	1	0	0	0

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Total number cases.	Cases dismissed.	Pleas of guilty.	Cases tried to the jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried.					After 1 year.
								In 10 days after information filed.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.	
Lyon.....	27	6	14	7	3	3i	0	0	3	3	1	0	0
Marion.....	20	3	14	3	2	1	0	0	0	0	1	2	0
Marshall.....	7	1	5	1	0	1	0	1	0	0	0	0	0
McPherson.....	24	4	18	2	1	1	0	0	0	1	0	0	0
Meade.....	4	0	4	0	0	0	0	0	0	0	0	0	0
Miami.....	31	11	14	6	4	2	0	1	1	1	0	2	1
Mitchell.....	20	3	3	14	10	3	1	8	1	1	3	1	0
Montgomery.....	84d	20	50	17f	14	3	0	5	7	2	2	2	0
Morris.....	8	1	7	0	0	0	0	0	0	0	0	0	0
Morton.....	7	1	3	2	1	1	0	1	1	0	0	0	0
Nemaha.....	14	5	4	5	4	1	0	3	0	0	2	0	0
Neosho.....	19	6	19	4	3	0	1	3	0	0	1	0	0
Ness.....	23	2	10	1	1	0	0	0	0	1	0	0	0
Norton.....	9	3	0	6	5	1	0	3	2	1	0	0	0
Osage.....	19e	6	14	5	1	3j	1	1	2	0	0	1	0
Osborne.....	9	1	7	1	0	1	0	0	0	0	0	0	1
Ottawa.....	11	3	2	7a	6	0	1	2	1	1	2	1	0
Pawnee.....	6	2	2	2	2	0	0	1	1	1	0	0	0
Phillips.....	13	5	3	5	5	0	0	4	1	0	0	0	0
Pottawatomie.....	13	7	6	0	0	0	0	0	0	0	0	0	0
Pratt.....	10	0	9	1	1	0	0	0	1	0	0	0	0
Rawlins.....	3	1	2	0	0	0	0	0	0	0	0	0	0
Reno.....	128	41	64	24a	18	5k	0	7	11	3	3	0	0
Republic.....	14	5	7	2	0	2	0	0	1	0	0	1	0
Rice.....	21	5	13	3	2	1	0	0	1	2	0	0	0
Riley.....	29	6	19	4	3	1	0	0	2	1	1	0	0
Rooks.....	10	2	2	2	2	0	3	0	1	0	4	0	0
Rush.....	9	2	5	2	1	1	0	0	0	0	0	0	0
Russell.....	19	7	10	2	1	1	0	0	0	0	0	0	0
Saline.....	53d	28	22	7	2	4	1	6	0	0	1	0	0

TABLE V.—CONTINUED. Summary district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Total number cases.	Cases dis- missed.	Pleas of guilty.	Cases tried to the jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried.						
								In 10 days after infor- mation filed.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.	After 1 year.	
Scott.....	9 <sup>d</sup>													
Sedgwick.....	813	2	8	3	1	2	0	1	1	0	1	0	0	0
Seward.....	317	317	462	484	26	23	0	0	6	24	15	0	2	1
Shawnee.....	11	11	11	3	2	1	0	3	0	0	0	0	0	0
Sheridan.....	542 <sup>a</sup>	279	210	54	41	12 <sup>f</sup>	0	2	15	23	8	4	2	0
	4	1	1	2	1	1	0	2	0	0	0	0	0	0
Sherman.....	15	7	4	4	1	1	2	2	0	2	0	0	0	0
Smith.....	14	5	7	2	1	1	0	0	0	0	1	1	0	0
Stafford.....	28	6	18	3	2	1	0	0	0	3	0	0	0	0
Stanton.....	19	1	16	2	0	2	0	1	0	1	0	0	0	0
Stevens.....	14	5	6	3	3	0	0	0	2	0	0	0	0	0
Sumner.....	40	6	28	6	4	2	0	5	0	0	1	0	0	0
Thomas.....	7	2	4	1	0	1	0	0	0	0	1	0	0	0
Trego.....	12	7	3	2	1	1	0	1	0	0	1	0	0	0
Wabaussee.....	10	5	4	1	1	0	0	0	0	1	0	0	0	0
Wallace.....	9	3	2	4	4	0	0	2	0	2	0	0	0	0
Washington.....	16	8	6	2	1	1	0	0	2	0	0	0	0	0
Wichita.....	7	0	7	0	0	0	0	0	0	0	0	0	0	0
Wilson.....	17	4	10	3	2	1	0	0	1	1	0	0	0	0
Woodson.....	11	6	0	5	4	1	0	2	2	0	0	1	1	0
Wyandotte.....	246	51	154	41	22	19	0	21	3	10	5	2	1	1
Totals.....	3,834	1,311	1,977	585	371	192	22	171	151	134	79	43	11	11

<sup>a</sup> Two trials in 1 case.<sup>b</sup> Three cases transferred to another court.<sup>c</sup> Two cases transferred to another court.<sup>d</sup> Four additional defendants.<sup>e</sup> Seven additional defendants.<sup>f</sup> One case; defendant adjudged feeble minded.<sup>g</sup> Three trials in 1 case.<sup>h</sup> Two trials in 14 cases.<sup>i</sup> Trial date not given.<sup>j</sup> One case with two defendants.<sup>k</sup> One case sent to insane division of the penitentiary.

\* Transferred to another court.

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.  
(Compiled from Form 5.)

COUNTIES.	Trans- script but no informa- tion filed.	Paroles granted.	Costs.				Number of cases costs reported.	Average.
			Minimum.	Maximum.	Aggregate.			
Allen.....	10	2	\$7.90	\$399.01	\$1,710.36		35	\$48.86
Anderson.....	0	*2	11.65	119.65	491.71		10	49.17
Atchison.....	6	(12*)	1.30	65.70	700.88		63	11.12
Barber.....	1	3	21.05	95.00	625.40		16	39.08
Barton.....	10	8	13.00	214.45	1,882.70		32	43.27
Bourbon.....	11	21	8.05	127.80	1,298.51		52	24.97
Brown.....	0	6	8.46	601.90	2,251.95		42	53.62
Butler.....	9	30	5.75	220.45	1,913.19		55	34.78
Chase.....	0	0	0	0	0		0	0
Chautauqua.....	0	0	1.35	326.15	1,011.70		11	91.97
Cherokee.....	7	3	3.60	483.20	2,462.70		35	70.36
Cherokee.....	3	0	2.00	150.00	374.45		10	37.44
Clark.....	3	2	8.57	123.00	550.87		19	28.99
Clay.....	0	0	8.75	64.70	162.80		7	23.26
Cloud.....	1	6	8.65	248.00	1,633.95		28	58.35
Coffey.....	0	2	5.50	52.00	346.10		17	20.36
Converse.....	2	1	1.25	38.55	83.80		6	13.96
Cowley.....	13	27	5.35	374.49	3,526.40		86	41.00
Crawford.....	17	5	8.95	109.54	1,239.55		41	30.23
Decatur.....	1	5	8.25	158.85	257.55		16	42.92
Dickinson.....	1	0	4.10	39.85	272.10		25	10.88
Doniphan.....	1	0	12.20	82.25	380.05		11	34.55
Douglas.....	4	0	4.95	251.65	1,875.60		55	34.10
Edwards.....	6	12	1.45	255.85	2,017.57		38	53.09
Elk.....	2	2	.70	74.55	202.95		13	15.61

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Transcript but no information filed.	Paroles granted.	Costs.				Number of cases costs reported.	Average.
			Minimum.	Maximum.	Aggregate.			
Ellis.....	0	19	\$6.05	\$295.15	\$1,186.02	25	\$47.44	
Ellsworth.....	2	0	25.35	79.20	257.70	5	51.54	
Finney.....	17	1	5.50	261.00	1,484.64	39	38.06	
Ford.....	19	9	8.15	252.14	2,062.45	50	41.25	
Franklin.....	3	5	4.30	300.90	1,369.53	41	33.40	
Geary.....	2	1	17.10	248.90	1,406.95	18	78.16	
Gove.....	9	4	16.30	274.60	843.40	12	70.28	
Graham.....	3	2	9.40	119.75	294.90	8	36.86	
Grant.....	0	0	10.60	42.80	221.40	9	24.60	
Gray.....	6	3	8.70	114.75	548.05	21	26.09	
Greeley.....	0	0	0	0	0	0	0	
Greenwood.....	1	4	15.45	200.38	1,190.61	26	45.79	
Hamilton.....	3	3	6.65	98.50	371.60	9	41.29	
Harper.....	4	2	6.90	330.15	1,631.70	21	77.70	
Harvey.....	3	8	6.60	82.65	483.05	23	21.00	
Haskell.....	0	2	13.10	42.35	103.60	5	20.72	
Hodgeman.....	1	4	4.90	143.65	174.35	5	34.87	
Jackson.....	0	0	18.35	77.20	178.40	8	22.30	
Jefferson.....	2	4	3.00	65.85	883.28	37	23.87	
Jewell.....	0	1	9.00	76.30	132.05	5	26.41	
Johnson.....	6	6	3.70	287.15	1,519.10	59	25.75	
Kearny.....	1	4	4.40	61.35	237.05	13	18.23	
Kingman.....	7	1	8.50	81.50	592.12	17	34.83	
Kiowa.....	1	2	11.40	81.55	285.50	10	28.55	
Labette.....	20	3	8.20	132.60	1,415.96	49	28.89	
Lane.....	3	2	.85	82.25	235.05	9	26.11	
Leavenworth.....	16	(20*) 15	2.50	329.50	1,403.00	30	46.76	
Lincoln.....	3	0	21.15	51.45	218.70	6	36.45	
Linn.....	0	3	4.85	248.10	499.83	11	45.44	
Logan.....	0	1	11.40	49.70	236.70	7	33.81	

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Transcript but no information filed.	Paroles granted.	Costs.				Number of cases costs reported.	Average.
			Minimum.	Maximum.	Aggregate.			
Lyon.....	7	0	\$5.45	\$126.00	\$788.25	27	\$29.19	
Marion.....	2	0	10.05	229.30	997.77	20	49.88	
Marshall.....	0	0	9.05	51.85	168.25	7	24.03	
McPherson.....	10	4	4.70	197.00	975.40	24	40.64	
Meade.....	0	1	9.70	136.55	197.60	4	49.40	
Miami.....	8	6	5.15	208.40	1,406.95	31	46.67	
Mitchell.....	0	2	5.50	81.20	571.20	20	28.56	
Montgomery.....	9	11	3.95	163.10	4,247.43	84	50.56	
Morris.....	0	0	1.45	36.25	212.95	8	26.61	
Morton.....	0	0	7.00	470.50	557.50	7	78.64	
Nemaha.....	0	1	8.15	411.30	865.10	13	66.55	
Neosho.....	0	6	3.00	102.95	353.40	29	12.18	
Ness.....	6	3	19.00	175.00	458.61	10	45.86	
Norton.....	1	0	4.25	367.46	792.58	9	88.06	
Osage.....	3	3	11.50	244.00	940.75	19	49.51	
Osborne.....	0	1	4.75	51.35	165.85	9	18.43	
Ottawa.....	3	0	3.80	282.95	501.65	9	55.74	
Pawnee.....	3	2	10.05	48.90	198.00	7	24.00	
Phillips.....	5	3	8.64	154.35	477.97	13	36.76	
Pottawatomie.....	0	3	12.30	193.20	477.00	13	36.69	
Pratt.....	1	1	12.90	82.72	338.27	9	37.58	
Rawlins.....	1	1	13.00	24.10	55.15	3	18.38	
Reno.....	30	27	8.50	331.05	5,547.24	128	43.68	
Republic.....	1	3	19.20	157.10	514.35	13	39.56	
Rice.....	0	0	10.45	236.80	1,145.45	21	54.54	
Riley.....	5	4	5.40	85.07	757.92	29	26.14	
Rooks.....	1	0	4.40	210.15	617.10	10	61.71	
Rush.....	2	3	3.50	72.25	203.35	9	24.21	
Russell.....	13	6	5.65	50.50	367.75	15	24.51	
Saline.....	8	5	7.25	718.67	2,555.06	53	48.20	



TABLE V.—CONCLUDED. Summary district courts. Criminal cases tried on merits (or dismissed), year ending June 30, 1933.

COUNTIES.	Trans- script but no infor- mation filed.	Paroles granted.	Costs.				Number of cases costs reported.	Average.
			Minimum.	Maximum.	Aggregate.			
Scott.....	2	2	\$10.20	\$152.60	\$397.49		8	\$49.68
Sedgwick.....	439	401	6.35	437.10	19,550.42		813	23.92
Seward.....	10	9	7.65	81.25	19,882.35		25	29.29
Shawnee.....	62	111	2.40	430.35	19,549.84		542	36.07
Sheridan.....	1	1	14.90	121.70	219.85		4	54.96
Sherman.....	1	0	36.40	71.05	201.65		4	12.60
Smith.....	0	(19*)	2.00	247.80	923.07		14	30.76
Stafford.....	3	11	6.25	391.70	1,120.00		28	40.00
Stanton.....	8	6	4.35	6.05	25.50		5	5.10
Stevens.....	0	1	.60	82.00	219.00		14	15.64
Sumner.....	9	6	12.30	173.40	2,406.65		40	60.17
Thomas.....	1	0	3.35	125.75	55.45		6	9.24
Trego.....	6	1	6.55	149.25	471.51		12	39.29
Wabunsee.....	3	0	6.55	114.35	354.60		10	35.46
Wallace.....	4	2	6.50	134.70	305.55		9	33.95
Washington.....	2	2	6.00	51.40	408.40		16	25.52
Wichita.....	7	3	3.25	67.50	123.50		17	17.64
Wilson.....	3	2	5.55	149.50	628.20		7	37.54
Woodson.....	4	2	12.10	163.45	52.00		3	17.33
Wyandotte.....	36	96	8.15	93.30	5,533.39		240	23.05
Totals.....	1,006	(51*)1,007	\$0.60	\$718.67	\$128,893.80		3,760	\$33.59

\* Number of cases where conviction had been in an inferior court.

TABLE VI.—Summary, district courts. Criminal cases pending June 30, 1933.

(Compiled from Form 6.)

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	From 3 to 4 years.	From 4 to 5 years.	More than 5 years.	Transcript but no infor- mation filed.
Allen.....	28	12	6	6	4	0	0	0	0	21
Anderson.....	7	6	0	0	1	0	0	0	0	0
Atchison.....	19	15	2	0	2	0	0	0	0	3
Barber.....	4	3	1	1	1	0	0	0	0	0
Barton.....	4	3	1	0	0	0	0	0	0	2
Bourbon.....	39	8	3	13	13	1	1	0	0	5
Brown.....	3	0	2	1	0	0	0	0	0	0
Butler.....	22	12	6	3	1	0	0	0	0	0
Chase.....	4	1	0	3	0	0	0	0	0	0
Chautauqua.....	2	2	0	0	0	0	0	0	0	0
Cherokee.....	20	11	3	2	3	1	0	0	0	8
Cheyenne.....	4	0	0	2	2	0	0	0	0	0
Clark.....	3	2	0	1	0	0	0	0	0	0
Clay.....	0	0	0	0	0	0	0	0	0	0
Cloud.....	4	2	1	1	0	0	0	0	0	0
Coffey.....	7	3	3	0	0	1	0	0	0	1
Comanche.....	6	2	2	2	0	0	0	0	0	0
Cowley.....	18	12	3	3	0	0	0	0	0	10
Crawford.....	41	10	9	6	15	1	0	0	0	13
Decatur.....	1	0	0	0	1	0	0	0	0	0
Dickinson.....	7	4	2	0	1	0	0	0	0	4
Doniphan.....	6	6	0	0	0	0	0	0	0	1
Douglas.....	15	9	1	2	3	0	0	0	0	4
Edwards.....	12	2	1	1	6	3	0	0	0	8
Elk.....	4	4	0	0	0	0	0	0	0	2
Ellis.....	10	4	4	2	0	0	0	0	0	4
Ellsworth.....	1	1	0	0	0	0	0	0	0	0
Finney.....	33	11	0	8	9	1	0	0	0	0
Ford.....	30	16	4	5	4	0	0	0	0	0
Franklin.....	34	17	4	11	2	0	0	0	0	27

TABLE VI.—CONTINUED. Summary, district courts. Criminal cases pending June 30, 1933.

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	From 3 to 4 years.	From 4 to 5 years.	More than 5 years.	Transcript but no infor- mation filed.
Geary.....	3	3	0	0	0	0	0	0	0	0
Gove.....	1	0	0	0	1	0	0	0	0	1
Graham.....	5	1	3	0	1	0	0	0	0	1
Grant.....	3	1	0	2	0	0	0	0	0	0
Gray.....	8	1	2	0	5	0	0	0	0	4
Greeley.....	1	0	1	0	0	0	0	0	0	0
Greenwood.....	13	3	4	1	5	0	0	0	0	4
Hamilton.....	5	1	1	2	1	0	0	0	0	0
Harper.....	9	5	2	0	2	0	0	0	0	4
Harvey.....	9	8	1	0	0	0	0	0	0	3
Haskell.....	2	2	0	0	0	0	0	0	0	0
Hodgeman.....	4	1	2	0	1	0	0	0	0	0
Jackson.....	7	2	3	3	0	0	0	0	0	0
Jefferson.....	7	2	2	0	1	1	0	0	0	0
Jewell.....	7	2	3	0	1	1	0	0	0	0
Johnson.....	18	6	2	3	5	1	1	0	0	3
Kearny.....	4	2	1	1	0	0	0	0	0	0
Kingman.....	7	2	4	1	0	0	0	0	0	0
Kiowa.....	4	3	0	0	0	0	1	0	0	0
Labette.....	2	2	0	0	0	0	0	0	0	1
Lane.....	2	0	1	0	1	0	0	0	0	0
Leavenworth.....	30	10	6	6	1	2	0	0	0	21
Lincoln.....	4	3	0	1	0	0	0	0	0	4
Linn.....	7	2	0	0	0	3	1	1	0	0
Logan.....	6	2	1	2	1	0	0	0	0	2
Lyon.....	12	6	2	4	0	0	0	0	0	1
Marion.....	7	2	5	0	0	0	0	0	0	3
Marshall.....	6	3	1	1	0	0	0	0	0	3
McPherson.....	8	2	2	2	0	0	0	0	0	2
Meade.....	5	0	0	2	3	2	0	0	0	0

TABLE VI.—CONTINUED. Summary, district courts. Criminal cases pending June 30, 1933.

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	From 3 to 4 years.	From 4 to 5 years.	More than 5 years.	Transcript but no information filed.
Miami.....	15	6	1	6	2	0	0	0	0	5
Mitchell.....	3	2	1	0	0	0	0	0	0	1
Montgomery.....	28	9	2	15	2	0	0	0	0	6
Morris.....	0	0	0	0	0	0	0	0	0	0
Morton.....	3	0	2	0	1	0	0	0	0	1
Nemaha.....	7	4	3	0	0	0	0	0	0	0
Neosho.....	14	3	4	0	5	1	0	1	0	6
Ness.....	9	0	3	4	2	0	0	0	0	4
Norton.....	3	2	1	0	0	0	0	0	0	0
Osage.....	8	0	1	0	6	1	0	0	0	0
Osborne.....	0	0	0	0	0	0	0	0	0	0
Ottawa.....	4	1	1	2	0	0	0	0	0	4
Pawnee.....	9	2	4	2	1	0	0	0	0	3
Phillips.....	8	2	0	1	5	0	0	0	0	0
Pottawatomie.....	9	1	2	2	4	0	0	0	0	3
Pratt.....	5	3	2	0	0	0	0	0	0	4
Rawlins.....	2	1	0	0	1	0	0	0	0	1
Reno.....	54	26	2	22	3	1	0	0	0	32
Republic.....	3	2	0	0	1	0	0	0	0	0
Rice.....	9	2	7	0	0	0	0	0	0	0
Riley.....	18	5	9	3	0	1	0	0	0	13
Roots.....	1	1	0	0	0	0	0	0	0	0
Rush.....	0	0	0	0	0	0	0	0	0	0
Russell.....	4	3	0	1	0	0	0	0	0	3
Saline.....	26	7	1	5	2	5	5	1	0	9
Scott.....	2	1	0	1	0	0	0	0	0	1
Sedgewick.....	167	81	37	30	19	0	0	0	0	97
Seward.....	12	6	2	1	3	0	0	0	0	10
Shawnee.....	142	62	22	17	26	10	1	2	2	26
Sheridan.....	5	1	3	0	1	0	0	0	0	0

TABLE VI.—CONCLUDED. Summary, district courts. Criminal cases pending June 30, 1933.

Counties.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	From 3 to 4 years.	From 4 to 5 years.	More than 5 years.	Transcript but no information filed.
Sherman.....	4	2	0	1	0	1	0	0	0	0
Smith.....	8	7	0	0	1	0	0	0	0	0
Stafford.....	1	0	1	0	0	0	0	0	0	1
Stanton.....	2	0	2	0	0	0	0	0	0	3
Stevens.....	1	1	0	0	0	0	0	0	0	1
Sumner.....	14	5	1	2	5	1	0	0	0	9
Thomas.....	0	0	0	0	0	0	0	0	0	0
Trego.....	4	0	0	2	1	1	0	0	0	1
Wabauisee.....	5	0	1	0	0	4	0	0	0	1
Wallace.....	1	0	0	1	0	0	0	0	0	0
Washington.....	8	1	2	2	2	1	0	0	0	8
Wichita.....	0	0	0	0	0	0	0	0	0	0
Wilson.....	10	3	4	3	0	0	0	0	0	2
Woodson.....	5	0	1	3	1	0	0	0	0	4
Wyandotte.....	597	47	27	37	132	114	101	42	97	210
Totals.....	1,824	554	262	265	328	158	111	47	99	632

TABLE VII.—Summary, district courts. Motions and demurrers, year ending June 30, 1933.  
(Compiled from Forms 1, 2, 3, 4, 5 and 6.)

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pending July 1, 1933.	Presented.			Decided.				Disposition.		
				Within 10 days.	Within 10 to 30 days.	After 30 days.	Decided day pre- sented.	Not same day but within 10 days.	Within 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Allen.....	167	1	30	108	13	15	136	0	0	0	105	30	1
Anderson.....	92	1	2	54	21	14	87	0	1	1	84	5	1
Atchison.....	219	17	19	128	35	20	183	0	0	0	157	25	1
Barber.....	31	3	2	7	7	12	25	1	0	0	12	12	2
Barton.....	79	16	0	59	1	3	56	4	1	2	61	2	0
Bourbon.....	88	18	32	29	1	8	38	0	0	0	20	18	0
Brown.....	330	34	9	168	83	36	287	0	0	0	228	59	0
Butler.....	212	2	49	113	20	28	161	0	0	0	136	25	0
Chase.....	30	12	11	2	3	2	7	0	0	0	5	2	0
Chautauqua.....	74	1	2	60	4	7	70	1	0	0	52	19	0
Cherokee.....	203	15	28	114	16	30	157	1	1	1	123	37	0
Cheyenne.....	76	0	6	64	4	2	68	1	1	0	64	5	1
Clark.....	9	4	4	0	0	1	1	0	0	0	0	1	0
Clay.....	14	2	2	6	2	2	10	0	0	0	7	3	0
Cloud.....	195	7	18	132	16	22	169	0	0	1	138	30	2
Coffey.....	96	1	3	79	9	4	91	0	1	0	80	12	0
Comanche.....	10	0	1	2	0	7	9	0	0	0	6	3	0
Cowley.....	285	13	49	133	52	38	223	0	0	0	133	82	8
Crawford.....	143	25	44	31	8	35	67	1	0	6	30	40	4
Decatur.....	55	3	9	27	9	7	42	0	0	1	25	15	3
Dickinson.....	50	5	0	30	5	10	44	0	1	0	25	20	0
Doniphan.....	86	7	3	47	20	9	74	0	0	2	60	14	2
Douglas.....	95	1	10	56	20	8	72	2	8	2	59	25	0
Edwards.....	14	0	3	6	3	2	11	0	0	0	9	2	0
Elk.....	109	32	50	19	3	5	19	5	0	3	15	12	0

TABLE VII.—CONTINUED. Summary, district courts. Motions and demurrers, year ending June 30, 1933.

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pending July 1, 1933.	Presented.			Decided.				Disposition.		
				Within 10 days.	Within 10 to 30 days.	After 30 days.	Decided day . pre- sented.	Not same day but within 10 days.	Within 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Ellis.....	16	0	3	4	3	6	13	0	0	0	7	6	0
Ellsworth.....	55	1	6	38	0	10	47	0	0	0	40	8	0
Finney.....	59	5	6	29	11	8	48	0	0	0	43	5	0
Ford.....	73	14	24	17	3	15	34	0	0	1	13	22	0
Franklin.....	110	6	12	76	8	8	88	1	3	0	81	10	1
Geary.....	85	10	33	30	6	6	40	2	0	0	31	11	0
Gove.....	21	0	5	4	6	6	16	0	0	0	4	12	0
Graham.....	14	5	0	9	0	0	9	0	0	0	2	7	0
Grant.....	39	0	0	27	7	5	39	0	0	0	29	10	0
Gray.....	32	4	8	6	9	5	19	0	0	1	9	10	1
Greeley.....	36	0	29	4	1	2	7	0	0	0	3	4	0
Greenwood.....	164	1	12	106	14	31	151	0	0	0	141	10	0
Hamilton.....	45	5	7	22	5	6	32	1	1	0	26	6	1
Harper.....	80	0	5	36	18	21	73	2	0	0	53	17	4*
Harvey.....	221	6	18	162	15	20	193	1	2	1	140	29	28
Haskell.....	23	3	0	8	4	8	20	0	0	0	16	4	0
Hodgeman.....	8	0	5	3	0	0	3	0	0	0	0	3	0
Jackson.....	237	19	18	133	41	26	196	4	4	0	179	21	0
Jefferson.....	62	3	12	35	5	7	45	2	0	0	29	18	0
Jewell.....	174	13	14	82	17	48	147	0	0	0	91	49	7
Johnson.....	223	13	24	100	48	38	177	5	0	4	145	41	0
Kearny.....	15	6	2	3	2	2	7	0	0	0	6	1	0
Kingman.....	69	3	1	46	17	2	64	0	1	0	60	4	1
Kiowa.....	32	2	11	11	6	2	19	0	0	0	11	8	0
Labette.....	313	8	14	209	51	31	282	2	3	4	235	48	8
Lane.....	30	1	8	12	3	6	20	1	0	0	11	10	0
Leavenworth.....	235	16	79	90	31	19	138	1	1	0	98	41	1
Lincoln.....	75	2	5	53	4	9	66	0	0	0	56	6	4
Linn.....	101	1	7	67	11	15	89	3	0	1	81	12	0
Loran.....	45	4	5	16	7	13	35	1	0	0	10	24	2

TABLE VII.—CONTINUED. Summary, district courts. Motions and demurrers, year ending June 30, 1933.

COUNTRIES.	Number filed.	With- drawn or not pre- sented.	Pending July 1, 1933.	Presented.			Decided.				Disposition.		
				Within 10 days.	Within 10 to 30 days.	After 30 days.	Decided day pre- sented.	Not same day but within 10 days.	Within 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Lyon.....	102	6	7	80	6	3	86	2	0	1	72	17	0
Marion.....	81	0	4	45	20	12	74	3	0	0	68	9	0
Marshall.....	124	0	12	66	22	24	110	1	0	1	102	10	0
McPherson.....	87	13	22	24	18	10	52	0	0	0	38	14	0
Meade.....	46	2	7	24	5	8	37	0	0	0	32	5	0
Miami.....	157	7	28	40	44	38	110	6	4	2	61	46	15
Mitchell.....	80	2	10	33	20	15	67	0	1	0	34	32	2
Montgomery.....	233	32	42	99	25	35	155	1	3	0	107	49	3
Morris.....	132	2	4	116	5	5	124	0	2	0	115	11	0
Morton.....	30	1	13	8	7	1	16	0	0	0	7	9	0
Nemaha.....	199	14	23	99	56	7	162	0	0	0	148	14	0
Neosho.....	44	0	33	11	0	0	11	0	0	0	8	3	0
Ness.....	60	5	4	36	8	7	51	0	0	0	48	3	0
Norton.....	21	1	4	11	1	4	16	0	0	0	7	9	0
Osage.....	107	4	8	65	26	4	91	1	0	3	81	11	3
Osborne.....	92	0	4	57	21	10	88	0	0	0	88	0	0
Ottawa.....	50	1	6	26	9	8	43	0	0	0	27	16	0
Parce.....	39	0	0	28	7	4	39	0	0	0	39	0	0
Phillips.....	48	2	6	31	3	6	40	0	0	0	25	15	0
Pottawatomie.....	85	0	4	65	7	9	81	0	0	0	69	12	0
Pretti.....	61	4	10	29	9	9	47	0	0	0	36	11	0
Rawlins.....	12	0	1	5	4	2	11	0	0	0	7	3	1
Reno.....	157	4	27	69	26	31	126	0	0	0	55	60	11
Republic.....	4	0	0	2	1	0	4	0	0	0	1	3	0
Rice.....	9	0	3	6	0	0	6	0	0	0	4	2	0
Riley.....	147	13	24	96	3	11	98	3	0	9	95	14	1
Rooks.....	15	0	4	10	3	0	10	0	0	0	2	8	0
Rush.....	53	3	4	30	8	8	44	0	1	1	42	4	0
Russell.....	48	10	8	14	5	9	28	0	0	0	15	13	0
Saline.....	135	13	55	23	21	23	67	0	0	0	31	25	11



TABLE VII.—CONCLUDED. Summary, district courts. Motions and demurrers, year ending June 30, 1933.

COUNTIES.	Number filed.	With-drawn or not pre-sented.	Pending July 1, 1933.	Presented.			Decided.				Disposition.		
				Within 10 days.	Within 30 days.	After 30 days.	Decided day pre-sented.	Not same day but within 10 days.	Within 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Scott.....	59	6	7	25	14	7	46	0	0	0	39	7	0
Sedgwick.....	1,201	124	162	696	173	46	374	225	205	111	727	169	19
Seward.....	89	4	14	56	10	5	68	3	0	0	58	13	0
Shawnee.....	1,197	128	147	417	290	215	748	54	66	54	606	315	1
Sheridan.....	34	0	10	22	2	0	24	0	0	0	17	7	0
Sherman.....	119	4	28	47	27	13	66	7	4	10	49	35	3
Smith.....	110	18	15	49	21	7	77	0	0	0	63	13	1
Stafford.....	67	2	1	45	9	10	57	3	2	2	38	26	0
Stanton.....	26	2	4	10	6	4	20	0	0	0	16	4	0
Stevens.....	36	0	3	19	9	5	33	0	0	0	29	4	0
Sumner.....	136	0	13	118	4	1	66	42	11	4	118	5	0
Thomas.....	48	5	1	21	12	9	37	1	2	2	30	12	0
Trego.....	33	7	6	17	1	2	19	1	0	0	14	6	0
Wabunsee.....	79	6	3	54	9	7	70	0	0	0	56	11	3
Wallace.....	18	1	5	3	0	9	11	0	0	1	2	9	1
Washington.....	147	13	7	84	28	15	127	0	0	0	111	14	2
Wichita.....	5	5	0	0	0	0	0	0	0	0	0	0	0
Wilson.....	89	24	15	43	3	4	50	0	0	0	47	3	0
Woodson.....	67	7	15	27	8	10	44	0	0	1	42	3	0
Wyandotte.....	1,358	105	261	581	229	182	961	19	3	9	737	224	31
Totals.....	12,826	976	1,849	6,491	1,953	1,557	9,016	414	329	242	7,547	2,263	190

\* Disposition of 1 case not stated.

 15-1917

---

# KANSAS JUDICIAL COUNCIL BULLETIN

---

APRIL, 1934

PART 1—EIGHTH ANNUAL REPORT

---

## TABLE OF CONTENTS

---

	PAGE
FOREWORD .....	3
A PROPOSED AMENDMENT OF THE KANSAS STATUTE RELATING TO THE FAITH AND CREDIT TO BE GIVEN TO FOREIGN JUDGMENTS OF DIVORCE. By <i>Hal E. Harlan</i> .....	5
THE ADMINISTRATION IN KANSAS OF PROPERTY BELONGING TO NONRESI- DENT DECEDENTS. By <i>Ray H. Beals</i> .....	9
ADMINISTRATION ON ESTATE OF PERSON LIVING—PRESUMPTION OF DEATH. By <i>Chester Stevens</i> .....	15
REVISED DRAFT OF PROBATE LAW RELATING TO GUARDIANSHIP OF MINORS, INCOMPETENTS, AND IMPRISONED CONVICTS. By <i>Samuel E. Bartlett</i> .....	20

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER .....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS .....	St. John.
Judge Twentieth Judicial District.	
HAL E. HARLAN .....	Manhattan.
Chairman Senate Judiciary Committee.	
SCHUYLER C. BLOSS .....	Winfield.
Chairman House Judiciary Committee.	
CHARLES L. HUNT .....	Concordia.
ROBERT C. FOULSTON .....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the  
 state,

For the improvement of our Judicial System and its more  
 efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

---

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kan.

APRIL, 1934

---

## FOREWORD

In this issue of the BULLETIN we present articles, later to be mentioned, dealing with subjects now consuming the attention of the Council. Probate procedure, the law pertaining to the estates of deceased persons and of guardianship estates principally will occupy the time of the Council for the next few months. That study is including an examination of the decisions of our supreme court with respect to those subjects. Perhaps a synopsis of this can be ready for our July BULLETIN. As a part of this study we are collecting data from our probate courts. In view of this particular study we are not collecting data from clerks of the district courts as we did last year. It is our hope that by our study of the law pertaining to estates and the procedure in probate courts we can formulate measures which will increase the certainty of the law and the efficiency of these courts.

Hon. Hal E. Harlan, whose portrait we present, one of the newer members of the Judicial Council and chairman of the judiciary committee of the senate, presents in this issue an article on a bill proposed by the Council to amend our statute relating to the force and effect to be given to a decree of divorce rendered on constructive service by a court of some other state or country, where the defendant in the action is a resident of this state. It is a timely article and sets forth the need of amending our present statute on that question.

Hon. Ray H. Beals, judge of the district court of the twentieth judicial district and a member of the Council, presents in this issue comments on a number of our cases dealing with the administration in Kansas of property belonging to nonresident decedents. Questions concerning this subject are constantly arising and frequently have proved to be troublesome because of the lack of certainty in our statutes and procedure covering various aspects of the question. The article is not designed as a complete treatise on the question nor does it attempt an examination of all of the cases dealing with it. Its main purpose is to discuss a sufficient number of the cases to show the importance of the question as a whole and the variety of specific questions which may be presented, and to stimulate further discussion on the subject. This is one of the several things of importance now under consideration by the Council in its study of the procedure in probate courts and the substantive law relating to estates.

At common law and in most of the states a presumption of the death of a person arises from his unexplained absence for seven years or more. The question has arisen several times in this state in actions on life insurance policies. But what about the administration of the estate of such a person? Mr. Chester Stevens, a member of the Council, has had occasion to give that ques-

tion some study, the results of which are set forth in his article published herein. It is a situation for which a provision should be made by statute.

We are again much indebted to Mr. Samuel E. Bartlett, of Ellsworth, whose interest in the subject and whose industry have caused him to draft a revision of our probate law relating to guardianship of minors, incompetents and imprisoned convicts. Our present statutes on this general subject are incomplete, resulting in uncertainty and frequently in litigation which might well be avoided if the statutes were more complete, and all too frequently resulting in substantial property losses. The proposed revision is not intended to be in final form to be presented to the legislature, but it is an excellent basis for study, which we trust the subject will receive, so that with the aid of the jurist and of the bar of the state it can be presented at the next session of our legislature.

## A Proposed Amendment of the Kansas Statute Relating to the Faith and Credit to be Given to Foreign Judgments of Divorce

By HAL E. HARLAN

At a meeting of the Judicial Council held shortly prior to the first Special Session of the 1933 Kansas legislature, the question of recommending a change in the present statute governing the effect to be given decrees of divorces rendered by the courts of foreign states upon constructive service came up for extended discussion. Most of the members of the Council who are now actively engaged in practice had, at one time or another, handled divorce proceedings in which the question of the effect to be given a foreign decree played a prominent part. The jurist members in their respective capacities had often had such cases before them for consideration. All agreed that grave injustices had been done under the existing statute and that more were likely to follow. Instances were cited in which husbands owning considerable property in this state surreptitiously and, in many cases, by perjured testimony obtained decrees of divorce in some foreign state upon constructive service and without the actual knowledge of the wife. The husbands, upon their return to the state of Kansas, were successful in defeating the wife's legitimate claim for alimony, due to the fact that the present law requires the courts of this state to give full faith and credit to a decree of divorce rendered upon constructive service in any state of the United States in conformity with the law thereof.

The existing statute, R. S. 60-1518, reads as follows:

"Any judgment or decree of divorce rendered upon service by publication in any state of the United States in conformity with the law thereof shall be given full faith and credit in this state, and shall have the same force with regard to persons now or heretofore resident or hereafter to become a resident of the state as if said judgment had been rendered by a court of this state, and shall, as to the status of all persons, be treated and considered and given force the same as a judgment of the courts of this state of the date which said judgment bears."

This law was passed March 21, 1907. It might be interesting to note the history of this legislation. Section I of article IV of the constitution of the United States provides that full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. Prior to April 16, 1906, many courts assumed that this clause of the federal constitution, rather than the doctrine of comity, enjoined upon the several states the duty of recognizing and giving effect to divorce decrees based upon constructive service when the decree was obtained in conformity with the law of the state in which the judgment was rendered. However, upon the last-mentioned date the supreme court of the United States rendered an opinion in the case of *Haddock v. Haddock*, 201 U. S. 562, in which it was in effect held that the full faith and credit clause of the federal constitution did not compel absolute recognition of such decrees of divorce in states other than the one in which the decree was rendered. In that case, the parties were married in the state of New York; they separated the same day and never lived together thereafter. The husband acquired a domicile in the state of Connecticut; the wife remained in New York. Some years later the husband obtained a de-

cree of divorce based upon publication service in a court of competent jurisdiction in the state of Connecticut. The requisite steps were taken to procure the divorce in accordance with the laws of that state. Later the wife sued the husband for a divorce in the state of New York, and obtained personal service upon him. The husband set up the decree of the Connecticut court in bar of the action and offered such decree in evidence at the trial. The decree was rejected and the wife was granted a divorce and alimony, which judgment was affirmed by the highest court of the state of New York. An appeal was taken to the supreme court of the United States, and a majority of that court held



HAL E. HARLAN

that the lower court did not violate the full faith and credit clause of the constitution in refusing to admit the Connecticut decree in evidence. In a lengthy opinion the court summed up as follows:

"Without questioning the power of the state of Connecticut to enforce within its own borders the decree of divorce which is here in issue, and without intimating a doubt as to the power of the state of New York to give to a decree of that character rendered in Connecticut, within the borders of the state of New York and as to its own citizens, such efficacy as it may be entitled to in view of the public policy of that state, we hold that the decree of the court of Connecticut rendered under the circumstances stated was not entitled to obligatory enforcement in the state of New York by virtue of the full faith and credit clause."

The effect of this decision is graphically described by Justice Burch of the Kansas supreme court in the case of *McCormick v. McCormick*, 82 Kan. 31, in which he said:

"It (the decision in the Haddock case) immediately arrested public attention throughout the nation, and, whether warranted or not, great anxiety was felt in many quarters respecting the social consequences which might follow from it. For the purpose of averting any possible disaster, due either to the decision itself or to misapprehension of its doctrine, and for the purpose of establishing the law and policy to be observed by the courts of this state, the legislature enacted the statute (R. S. 60-1518), which took effect March 21, 1927. . . . It is perfectly clear that this statute was intended to make the recognition and enforcement of foreign divorce decrees based upon substituted service obligatory in this state. The option left by the decision in *Haddock v. Haddock* to each state to give to such decrees within its own borders whatever efficacy they may be entitled to, consistent with its public policy, was exercised by the legislature, and such decrees were placed upon the same basis as the judgments of our own courts."

The McCormick case was one of the first to be decided by the supreme court of this state after the passage of the statute above mentioned. In that case, the McCormicks were married in Riley county, Kansas, and later removed to Kansas City, Mo. In September, 1907, Mrs. McCormick removed to Topeka, and in July, 1908, she brought suit in the district court of Riley county, Kansas, against McCormick for alimony. The defendant owned land in Riley county, which the plaintiff sought to appropriate. The defendant answered, and set up as a specific defense that the circuit court of Jackson county, Missouri, had, on December 10, 1907, entered a decree of divorce in his favor. The Missouri decree was based upon publication service, and in it no provision was made for alimony for the wife. The trial court refused to recognize and give validity to the decree of the Missouri court and rendered judgment against McCormick for alimony. The supreme court, in reversing the case, said:

"The judgment of the Missouri court, rendered on service by publication, was as effectual as if it had been rendered on personal service. It operated to dissolve the marriage tie, and absolved each party from every marital right and duty. The defendant in that suit was no longer the plaintiff's wife, each one was as free as before marriage, and thereafter they bore toward each other the same relations as if the marriage had never occurred. The court was not limited to the mere dissolution of the marriage, but had authority to determine the question of alimony and make an award to the defendant. The cause being open for the claim of alimony, it should have been made there. No application for alimony having been presented, the decree is as complete a bar as if evidence had been introduced and a decision rendered thereon. It is not necessary that the decree should refer in express terms to alimony in order to have this effect. It excludes everything not expressly mentioned or reserved in it. The matters of who was innocent, who was injured and who was responsible for the separation are *res judicata*. The district court of Riley county was without authority to enforce the matrimonial obligation upon which the right to alimony depends, and the plaintiff no longer has any of the rights which a wife possesses respecting her husband's property."

The McCormick case has been cited many times by the supreme court of this state. Among the many cases in which the McCormick case was cited with approval are the following: *Gordon v. Munn*, 87 Kan. 624; *Carter v. Carter*, 89 Kan. 367; *Riggs v. Riggs*, 91 Kan. 593; *Blair v. Blair*, 96 Kan. 757; *Dutton v. Dutton*, 113 Kan. 146; *Noonan v. Noonan*, 127 Kan. 287; *Wear v. Wear*, 130 Kan. 205.

It is true that the supreme court has, to some degree, relaxed the rigor of the statute as construed in the McCormick case, but in most respects the force



of the statute still remains in effect. Thus in the case of *Cummings v. Cummings*, 138 Kan. 359, a wife obtained a divorce from her husband by a decree of a Texas court. Property accumulated while the marriage relation existed was situated in Kansas. Subsequently the divorced wife commenced an action in Sedgwick county, Kansas, for division of property in this state acquired while the marriage relation existed. The Texas decree was silent as to a division of property, and the trial court found as a fact that under the laws of Texas the court in which the divorce was granted was without jurisdiction or power to grant alimony or division of property in connection with the decree of divorce and that it did not have jurisdiction of the personal property in Kansas. The trial court awarded to the wife an equitable portion of the personal property accumulated by her husband and herself while the marriage relation existed. It was held by the supreme court that the wife was not attempting to secure alimony, but was only trying to recover property that she had helped to accumulate and in which she had an interest. The court said:

"Plaintiff and defendant were husband and wife in law and in fact until the divorce was granted. She did not sue as wife, but she sought to recover part of the property which justly belonged to her and which the Texas decree did not preclude her from recovering."

A rather hasty examination of the statutes of the various states leads to the conclusion that no other state of the Union goes so far as does the Kansas statute in compelling recognition of foreign decrees of divorce based upon constructive service. It was the thought of the Council that steps should be taken to correct the evils that are prone to occur under the present statute and to bring Kansas in line with a great majority of the other states. Accordingly the Council prepared and recommended for passage the following act amending section 60-1518, R. S. 1923:

*"A judgment or decree of divorce rendered in any other state or territory of the United States, or in any foreign country, in conformity with the laws thereof, shall be given full faith and credit in this state; except, that in the event the defendant in such action, at the time of such judgment or decree, was a resident of this state and had not been served personally with process, or did not personally appear and defend the action in the court of such foreign state, territory, or country, all matters relating to alimony, or to the property rights of the parties and to the custody and maintenance of the minor children of the parties, shall be subject to inquiry and determination in any proper action or proceeding brought in the courts of this state within two years after the date of the foreign judgment or decree, to the same extent as though the foreign judgment or decree had not been rendered."*

The italicized words represent the proposed changes in the present statute. The bill was introduced at the first Special Session of the 1933 legislature and passed the senate without a dissenting vote. It was recommended for passage by the judiciary committee of the house, but the session closed before the house had had an opportunity to act upon the bill.

It will be observed that the proposed amendment preserves one important feature of the present law and the courts of this state will still be required to recognize the validity of foreign decrees in so far as the dissolution of the marriage relation is concerned. This declaration of public policy eliminates the possibility of the occurrence of dangerous consequences prophesied by Mr. Justice Holmes as a result of the majority holding in the Haddock case. During the course of a strong dissenting opinion he said: "I think that the decision

not only reverses a previous well-considered opinion of this court, but is likely to cause considerable disaster to innocent persons, and to bastardize children hitherto supposed to be the offspring of lawful marriage."

The ease with which divorce decrees may now be obtained in some of the states, and particularly in one of the states of the Republic of Mexico, necessitates a change in our present statute if the courts of this state are no longer to be hampered in affording relief against a peculiarly vicious species of fraud and imposition.

---

### **The Administration in Kansas of Property Belonging to Nonresident Decedents**

By RAY H. BEALS

In this short article, and in the limited time allowed for its preparation, I can review only a few of the Kansas cases relating to the subject.

In the case of *Denny et al. v. Faulkner, as Administratrix*, 22 Kan. 75, a bill of sale was executed in Illinois upon personal property situated in Nebraska, and the court held that the bill of sale was valid as between the parties, although intended only as security for advances, and although the bill of sale was neither filed nor recorded in Illinois or Nebraska, and although possession of the property was not delivered; that the administratrix of the vendor in such a bill of sale had no greater rights in said property than did her intestate and could make no other defenses than he had against this bill of sale; also, that where a person died domiciled in Nebraska leaving personal property in Kansas and an administration was duly taken out at the place of his domicile in Nebraska and the administratrix so appointed took peaceable possession of the personal property in Kansas and there was no opposing administration of this estate and no local creditors, the courts of this state would *ex comitate* recognize the possession of the administratrix as rightful and protect it as fully as though she had taken out letters of administration in this state; also, that where a sheriff in Nebraska, with process issued by a Nebraska court, came into this state and levied upon personal property within the limits of this state, such levy was void and conferred no right of possession or title upon the sheriff, but where the sheriff with such process levied upon the property within the limits of his own jurisdiction he established his title and right of possession, which would be recognized and protected in the courts of this state, although while holding possession of such property so levied upon he temporarily moved the property into this state and while the property was in this state it was seized upon process issued out of a court in Kansas.

In the case of *Moore, as Administratrix, v. Jordan et al.*, 36 Kan. 271, it appeared that one Moore lived in Illinois, but died intestate in Colorado while there temporarily and had with him at the time of his death certain notes given by parties who lived in Kansas, which notes were secured by a mortgage upon Kansas land. Letters of administration were taken out in Colorado by the widow, and she, as administratrix, took possession of the notes and mortgage; and letters of administration were granted also to a son of the deceased in Illinois, but the notes and mortgage did not come into possession of the administrator appointed in Illinois. No administration was ever taken out in Kansas. The administratrix appointed in Colorado brought an action in Kan-

sas to recover upon the notes and to foreclose the mortgage. The defendants, among other things, claimed that the notes and mortgage were not assets in the hands of the plaintiff and denied her right to maintain the action. The court held that the title to the debt evidenced by the notes and mortgage could not vest in the plaintiff and that she could not maintain the action; that the letters of administration conferred no authority beyond the limits of the state granting them and that no state is required, under any rule, to surrender the effects or debts due to an intestate domiciled elsewhere to the detriment of its own citizens. The court calls attention to the fact that there was a statute in Kansas permitting a foreign administratrix to sue an estate, and that under our statute an administrator of this estate may be appointed in Kansas who may maintain an action to recover any debts due to the estate and persons resident in Kansas, and after the local creditors are paid the surplus, if any, should be paid to the administrator in Illinois. But the court said that in no view of the case could the plaintiff, under her appointment, have any authority to maintain the action.

In the case of *Higgins et al. v. Reed, as Administrator, et al.*, 48 Kan. 272, the court held that where an executrix is appointed in another state on the estate of a person dying out of the state, and no executor, executrix or administrator thereon is appointed in this state, a foreign executor may file an authenticated copy of her appointment in the probate court of any county in this state in which there is real estate of the deceased, and then may be authorized, under an order of the court, to sell the real estate for the payment of debts of the deceased and the charges of administration, in the manner and upon the terms and conditions prescribed by the statute in Kansas.

In the case of *Calloway v. Cooley et al.*, 50 Kan. 743, the court held that the statute which authorized foreign executors and administrators with the will annexed to convey real estate in pursuance of the power contained in the will, was constitutional and valid, and that the act was applicable to all wills which were executed and proved in another state or territory prior to its passage as well as those executed and proved after its passage. The court held, also, that where a will executed, proved and admitted to probate in another state was presented for record in the probate court of a county in this state in which land belonging to the estate was situated, and such court, upon the evidence submitted, finds and adjudges that the authentication of the copy presented for record is sufficient, its adjudication thereon cannot be collaterally attacked.

In the case of *Manley, Executor, v. Mayer*, 68 Kan. 377, one George Manley, a resident of New Jersey, died owning real estate in Kansas, and jurisdiction was obtained by attaching this property as that of the executor, also a non-resident. The statute provided that an executor or administrator duly appointed in any other state or county can sue or be sued in any court in this state in his capacity of executor or administrator in like manner and under like restrictions as a nonresident may sue or be sued. It was claimed that this statute is only intended to authorize a nonresident executor to be sued as a resident executor might be, and that a creditor of the estate could only collect by sharing in due proportion with other creditors in the proceeds of an orderly administration under the direction of the probate court, and not by seizing and selling specific property; that the title to the real estate was in the devisees under the will, not in the executor, and that it could not be levied on under

process against the latter. It was urged, also, that under the construction given it the statute conflicted with section 17 of the bill of rights, with section 2 of article 4 of the federal constitution, and with the fourteenth amendment to it, in that it made a distinction between citizens of Kansas and those of other states, denying to the latter the privileges and immunities of the former and depriving them of property without due process of law. The claim was made, also, that the statute discriminated against a nonresident executor by permitting suit to be brought against him in the district court, where a resident executor could only be sued in the probate court; in permitting specific assets under his control to be segregated for the benefit of particular creditors, whereas resident executors were allowed to apportion the proceeds of the property equitably among the creditors; also, in permitting him to be sued in attachment upon no other ground than that he was a nonresident. The court, however, upheld the statute, holding that it was not in conflict with the provisions of the state or federal constitution, and upheld the attachment.

In the case of *Allbright et al v. Bangs et al.*, 72 Kan. 435, it appeared that one Britton died testate in Illinois. His will was duly probated in Illinois. Executors were named and qualified. These executors represented to the probate court of Cowley county at the time of his death that the testator owned certain real and personal property in that county and asked that the will be there admitted to probate, and an order was made admitting the will to record upon the strength of it having been approved by the Illinois court, and letters testamentary were granted the executors, who qualified as required by the Kansas statute and entered upon the performance of their duties, and they sold certain real estate under their appointment. About fifteen years afterward one Peek made a showing to the probate court of Cowley county that the Illinois court had appointed him administrator *de bonis non* with the will annexed on account of one of the executors having died and the others having refused to act, and he asked the probate court of Cowley county to make an order recognizing him as such administrator with authority to sell real estate, and an order was made, accordingly, recognizing such administrator, and he, as administrator, then presented an application to the Cowley county probate court representing an indebtedness against the estate, reciting the order of sale made fifteen years before, and asking that appraisers be appointed to sell enough real estate to satisfy the debt. Appraisers were named, appraisements were had, a tract of land was sold, the sale was confirmed, a deed was ordered and executed, and the purchaser went into possession. Thereafter several conveyances of the property were made, the last grantees being Stafford and Allbright. Afterward an action was brought by the Britton devisees against Stafford and Allbright for recovery of the possession of the land under the claim that the administrator's sale was absolutely void, and they recovered a judgment. The court held that the administrator Peek gave no notice of the hearing of the petition, and the sale was void. The court called attention to the fact that when a will was duly approved in another state, and an authenticated copy of the will in probate produced in the probate court of any county in this state in which there is property upon which the will may operate, the procedure is to admit it to record; and that there was another method, by which, when an executor or administrator was appointed in any other state or territory and no executor or administrator was appointed in this state, the foreign

executor or administrator can file an authenticated copy of his or her appointment in the probate court of any county in which there is real estate, after which he could be authorized to sell real estate for the payment of debts, and so forth. The court held that the administrator should have been appointed in Kansas, and given notice, and the notice given by the executors fifteen years before did not avail him; that he did not succeed them in the capacity in which they had acted in giving the notice and obtaining the order of sale, and that he was not their successor with respect to their appointment and qualification in Kansas, and that the notice which the executors gave and the order they procured from the Kansas court were solely in virtue of their appointment in Kansas, and although they chanced to be the same persons to whom letters testamentary had already been issued in Illinois it does not follow that the person appointed to succeed them there acquired the authority to complete the acts begun in their capacity as Kansas appointees. The court held the administrator's deed void and constituted no defense to the action of ejectment brought by the owners of the land.

In the case of *Thomas et al. v. Williams, as Executor, etc.*, 80 Kan. 633, it appears that one Jones, a resident of New York, died owning land in Kansas which he devised to Jones and Thomas. His will was probated in New York, and one Williams qualified as executor. The devisees conveyed the land by warranty deed, and afterward the executor applied to the probate court of the county in which it was situated for an order to sell it for the payment of debts and charges of administration, under the statute. The petition was granted over the objection of the devisees, and Price, who bought the land, appealed to the district court, where the decision was affirmed, and the case was taken to the supreme court, where the appellants contended, first, that the proceedings for the sale of the real estate was not maintainable, being brought too late; second, that the only evidence introduced to prove the indebtedness against the estate was an order of the New York surrogate court allowing it, and was inadmissible against the devisees; and, third, that Price was an innocent purchaser for value. The court held the action not brought too late, and that the order of the foreign court allowing the claim was properly admitted in evidence, and that Price, the purchaser of the land, stood upon no better footing than the devisees, because he knew that their grantors acquired title through the will of William Jones, who was presumed to know that under the law the property might be charged with the payment of indebtedness of Jones owing to a creditor who had not lost his remedy by inaction, and that the purchaser was bound at least to inquire whether a settlement of the estate had been had.

In the case of *Parnell, as Executor and Administrator, v. Thompson et al.*, 81 Kan. 119, it appeared that a resident of England left two separate and distinct wills, one being called the English will, the other the American will. The American will contained a declaration relating solely and exclusively to the testator's property in the United States, not elsewhere. The English will disposed of all his property in that country. The American will was never probated in England. At the time of marriage the testator owned a large amount of real and personal property in Kiowa county, Kansas. The American will was brought to Kansas and probated in the probate court of the county where the real estate and personal property belonging to the deceased was situated.

The will was executed and attested in accordance with the laws of Kansas and disposed of the property situated here in a form not repugnant to the laws or policy of this state. The court held that the probate court had jurisdiction to probate the original will; further, that where a testator executed two separate and distinct wills, one relating solely to property at his domicile, and the other relating solely to property situated in a foreign state or country, both the wills are valid if executed, attested and approved in accordance with the laws of the place where the property disposed of was situated.

In the case of *McLain, as Executrix, v. Parker*, 88 Kan. 717, the court held that upon the death of the plaintiff, in an action upon a judgment rendered in another state, both parties being residents of Kansas, a revivor was properly had in the name of the executor appointed in this state notwithstanding an administrator has been appointed in the state where the judgment was rendered.

In the case of *Metrakos, Special Administrator, v. The Kansas City, Mexico & Orient Railway Company*, 91 Kan. 342, which was an action for death by wrongful act, it appears that a resident of Kansas was killed in Sedgwick county, and that no administration was taken out in Kansas, but that the plaintiff was appointed special administrator by a Nebraska court, where the deceased had left certain property. Afterward the plaintiff brought a suit in the district court to recover, for the next of kin, damages for the death. The court held that the plaintiff could not maintain the action, and stated that they could find no authority or reason for holding that either a special or general administrator of another state could demand judicial recognition to recover for the death of one whose residence and death was in Kansas.

In the case of *Pickens et al. v. Campbell, etc.*, 98 Kan. 518, a resident of Kansas died intestate and the widow was appointed administratrix by a California court. One Campbell was appointed administrator in Kansas and filed an inventory showing over twenty thousand dollars of personal property in his hands, and paid one thousand dollars to each of the collateral heirs and received from them writings releasing all claims against the estate in favor of the widow. Afterward two of the heirs brought an action against the administrator and his bondsmen to have the settlement set aside for fraud. The court held the action was maintainable and stated that the statute contemplated that the net proceeds of the property of a nonresident intestate administered in this state shall, in accordance with the usual practice, be paid over to the foreign administrator, and that while the heirs may have had no absolute right to a distribution at the hands of any one except the domiciliary administrator, the funds in the hands of the ancillary administrator were subject to the control of the court and might, in some circumstances, have been ordered paid directly to the final beneficiaries.

In the case of *Ames, as Administratrix, etc., v. Citizens National Bank et al.*, 105 Kan. 83, a resident of New Mexico died there intestate, the owner of certificates of deposit issued by a bank in Kansas, and the administrator was duly appointed by the probate court in New Mexico and brought suit in this state against the bank to recover the indebtedness represented by the certificates. An administrator who had been appointed by the probate court in this state intervened and claimed the right to recover the debt. The court held that the administration here was ancillary to the principal administration at the domicile of the deceased, and that it was error to render judgment in favor of the

ancillary administrator. The court held that the plaintiff, who was appointed administrator at the domicile of the deceased, and who had possession of the certificates, held the title superior to that of the administrator in Kansas, who was only the ancillary administrator and who never had in his possession the certificates; and the court held, further, that if the ancillary administrator had secured possession of the evidence of debt and had brought suit and recovered the amount due thereon, it would have been his duty, after satisfying any indebtedness against the estate owing to residents of Kansas, to remit the balance to the principal administrator.

In the case of *Loveland, as Administratrix, v. Hemphill, as Ancillary Administrator*, 122 Kan. 577, an action to subject a half-section of Leavenworth county to the payment of claims of Missouri judgment creditors of the estate of John T. Loveland of Pettis county, Missouri, who died seized of real and personal property in both Kansas and Missouri, an administration of the Loveland estate was begun in Missouri, and an ancillary administration was had in Kansas. The administration in Kansas was wound up and the ancillary estate closed and the Kansas administrator discharged before the claims of certain creditors presented in Missouri against Loveland's estate had been adjudicated. The ancillary administrator, duly qualified, paid all bills exhibited and allowed in the Leavenworth county probate court and closed and settled the ancillary administration of the estate in some two years and two months and, by order of the probate court of Leavenworth county, remitted the net balance of funds in his hands to the Missouri executor and received his final discharge. The court held that the action could not be maintained against a defendant purchaser for value who held a conveyance by general warranty deed from the devisee and who bought the property in Kansas relying on the record title, which included the record of the probated will and of the closed Kansas administration of the testator's estate, and who was likewise without notice or knowledge of any existence of any adverse claim or interest affecting the title, and that a warranty deed of the Kansas land devised by the testator, executed by his devisee under the testator's will, which was duly probated in Kansas, after the settlement of the testator's Kansas estate and the final discharge of the Kansas administrator, conveyed to the grantee a good title against claimants whose rights were barred under the Kansas statute and concerning whose rights the grantee had neither actual nor constructive notice.

In the case of *Quinton v. Kendall*, 122 Kan. 814, the court held that a judgment of a Michigan probate court having jurisdiction of the parties and the subject matter construing a will and administering an estate in accordance with the law of Michigan, was not open to collateral attack, and when such judgment was neither reversed nor modified by appeal it was *res judicata*.

## Administration on Estate of Person Living—Presumption of Death

By CHESTER STEVENS

This article will review, very briefly, two decisions by the supreme court of the United States in reference to the right of a state to enact legislation providing for the administration of the estates of persons who have disappeared from their domicile and have remained absent for more than seven years, whereby a presumption of their death arises, as well as where the courts of the state charged with the administration of the estates of deceased persons undertake, in the absence of such state legislation, to administer on such estates.

Kansas has no statute relating to the subject, and evidently no effort has been made or attention given to the necessity for such legislation, if practicable, or to the question of the jurisdiction of the probate courts of Kansas to administer the estates of such persons.

Section 8, article 3, of the Kansas constitution provides:

"There shall be a probate court in each county, which shall be a court of record, and have such probate jurisdiction and care of estates of deceased persons, minors, and persons of unsound minds, as may be prescribed by law . . ."

Under the foregoing provision of the constitution the legislature has provided, as to the jurisdiction of probate courts, as follows:

*"Courts of record; jurisdiction.* The probate courts shall be courts of record, and, within their respective counties, shall have original jurisdiction: *First*, to take the proof of last wills and testaments, and admit them to probate, and to admit to record authenticated copies of last wills and testaments executed, proved and admitted to probate in the courts of any other state, territory or country; *second*, to grant and revoke letters testamentary and of administration; *third*, to direct and control the official acts of executors and administrators, settle their accounts and order the distribution of estates; *fourth*, to appoint and remove guardians for minors, persons of unsound mind, and habitual drunkards, and make all necessary orders relating to their estates, to direct and control their official acts, and to settle their accounts; *fifth*, to bind apprentices, and exercise such control and make such orders respecting them and their masters as the law prescribes; *sixth*, to hear and determine cases of *habeas corpus*; *seventh*, to have and exercise the jurisdiction and authority provided by law, respecting executors and administrators, and the settlement of the estates of deceased persons." (R. S. 20-1101.)

With reference to the distribution of the property of a deceased person dying intestate and his granting of letters of administration, the legislature has provided as follows:

*"Property distributed according to article.* After allowing to the widow and children of any deceased intestate of this state the homestead provided in the next section of this act, and the personal property and other allowances provided by law respecting executors and administrators and the settlement of the estates of deceased persons, the remainder of the real estate and personal effects of the intestate, not necessary for the payment of debts, shall be distributed as hereinafter provided." (R. S. 22-101.)

*"Grant of letters testamentary or of administration.* That upon the decease of any inhabitant of this state, letters testamentary or letters of administration on his estate shall be granted by the probate court of the county in which the deceased was an inhabitant or resident at the time of his death; and when any



person shall die intestate in any other state or country, leaving any estate to be administered within this state, administration thereof shall be granted by the probate court of any county in which there is any estate to be administered; and the administration which shall be first lawfully granted in the last-mentioned case shall extend to all the estate of the deceased within this state, and shall exclude the jurisdiction of the probate court in every other county." (R. S. 22-301.)

It is evident from the simple and direct language of the constitutional provision, as well as the statutes enacted pursuant thereto, that the jurisdiction of the probate court with reference to estates of deceased persons is confined to those estates whose owners have died. In other words, there is no provision for the exercise of the jurisdiction of the probate court in the absence of proof of actual death.

The question of the jurisdiction of the state court charged with the power to administer on the estates of deceased persons in the absence of an express statute covering the proposition, came directly before the supreme court of the United States in the case of *Scott v. McNeal*, (1894) 154 U. S. 34, 38 L. Ed. 896, 14 Sup. Ct. 1108. Paragraphs 2 and 3 of the syllabus only are pertinent to the question, and they are as follows:

"2. The jurisdiction conferred by Code Wash. Terr. Pr. 1299, on probate courts, to grant letters of administration, is limited, in the light of the common law and of other code provisions relating to the subject, to estates of deceased persons. Such a court has no jurisdiction to determine that a living man is dead, and thereupon undertake to dispose of his estate; its decision on the question whether he is living or dead cannot bind or estop him, or deprive him, while alive, of the title or control of his property. Notice to those who, after his death, may be interested in his estate, cannot be notice to him, and neither creditors nor purchasers can acquire any rights in his property through the action of a probate court, or of an administrator appointed by such court, dealing, without notice to him, with his whole estate as if he were dead. 31 Pac. 837, 5 Wash. 309, reversed.

"3. The *prima facie* evidence of the death of a person by presumption from his being absent and not heard of for seven years, on which a probate court may assume him to be dead, and appoint an administrator of his estate, may be overthrown by proof, under proper pleadings, even in a collateral suit, that he was alive at the time of the appointment of the administrator. 31 Pac. 873, 5 Wash. 309, reversed."

The facts disclosed in the above case were that Moses H. Scott commenced an action against John McNeal *et al.*, on January 14, 1892, in the superior court of Thurston county, state of Washington, to recover possession of a tract of land. It appeared that Moses H. Scott, the owner of the land, disappeared from his domicile in March, 1881, and remained continuously away without any communication with those with whom he had associated until July, 1891, and it was decided that he was dead. On April 2, 1888, Mary Scott presented to the probate court of Thurston county, Washington, a petition for the appointment of an administrator, alleging the disappearance of Moses H. Scott for more than seven years; careful inquiry by relatives and friends at different times and places relative to his disappearance resulting in no information or trace of his whereabouts, and that the petitioner believed Scott to be dead; that he left real estate in the county and that his only heirs were three minor children of a deceased brother. Notice of the petition was given by posting, in three public places as required by law, and at the time appointed the pro-

bate court heard the evidence and found that he had disappeared more than seven years before, with no tidings in the meantime, and that, under the circumstances shown, it appeared that he was murdered and, therefore, he was dead to all legal intents and purposes, and an administrator was appointed for his estate. The administrator, after giving the usual notice, obtained an order for the sale of his real estate and sold the same at public auction to Samuel C. Ward, who thereafter conveyed to McNeal, who went into and ever since retained the possession thereof and made valuable improvements thereon.

Scott claimed that the probate court proceedings as to his death were absolutely void and that the judgment of the probate court deprived him of his property without due process of law and was contrary to the fourteenth amendment to the constitution of the United States.

The supreme court of the United States in passing upon the validity of the judgment, which had been affirmed by the supreme court of the state of Washington, reviewed the decisions, and said:

"The fundamental question in the case is whether letters of administration upon the estate of a person who is in fact alive have any validity or effect as against him."

That under the law of England and America before the Declaration of Independence and for almost a century afterwards, the absolute nullity of such letters was treated as beyond dispute, and that the nullity of letters of administration granted on the estate of a living person has been directly and distinctly recognized in the courts of many states.

It noted that in the case of *Devlin v. Com.*, 101 Pa. St. 273, the granting of letters of administration upon the estate of a person who had been absent and unheard of for fifteen years and therefore presumed to be dead, but who afterwards appeared to be in fact alive, was absolutely void, and that these letters could be impeached collaterally. That the supreme judicial court of Massachusetts, upon full consideration, had held that the appointment of an administrator of a person who is in fact alive, but who had been absent and unheard of for more than seven years, was void, and payment to an administrator of his estate was no bar to an action by the supposed decedent upon his return.

In the opinion the Civil Code of Louisiana is described wherein provision is made for the custody and care of the property of a person who has disappeared and been unheard of, and giving to such person upon his return the right to recover his whole property or the proceeds thereof and certain revenues thereon depending upon the duration of his absence, and that the object and purpose of the provisions of the Louisiana Code is to take charge of and preserve and protect the property of the absent owner and not for the purpose of depriving him of it because of the assumption that he is dead.

It was further held in the opinion that:

"The estate of a person supposed to be dead is not seized or taken into the custody of the court of probate upon the filing of a petition for administration, but only after and under the order granting that petition; and the adjudication of that court is not upon the question whether he is living or dead, but only upon the question whether and to whom letters of administration shall issue."

It was further held that under the statute of Washington the jurisdiction of the probate court was confined to the probating of wills and the granting of letters testamentary or of administration upon the estates of deceased persons,

and that under such a statute the jurisdiction of the probate court does not attach or take effect before the death of the person, and that all proceedings therein depend upon the fact that a person is dead, "and are null and void if he is alive. Their jurisdiction in this respect being limited to the estates of deceased persons, they have no jurisdiction whatever to administer or dispose of the estates of living persons of full age and sound mind, or to determine that a living man is dead, and thereupon undertake to dispose of his estate."

"A court of probate must, indeed, inquire into and be satisfied of the fact of the death of the person whose will is sought to be proved or whose estate is sought to be administered, because, without that fact, the court has no jurisdiction over his estate; and not because its decision upon the question, whether he is living or dead, can in any wise bind or estop him, or deprive him, while alive, of the title or control of his property."

"As the jurisdiction to issue letters of administration upon his estate rests upon the fact of his death, so the notice given before issuing such letters assumes that fact, and is addressed not to him, but to those who after his death may be interested in his estate, as next of kin, legatees, creditors or otherwise. Notice to them cannot be notice to him, because all their interests are adverse to his. The whole thing, so far as he is concerned, is *res inter alios acta*."

"Next of kin or legatees have no rights in the estate of a living person. His creditors may, upon proper proceedings and due notice to him, in a court of law or of equity, have specific portions of his property applied in satisfaction of their debts. But neither creditors nor purchasers can acquire any rights in his property through the action of a court of probate or of an administrator appointed by that court, dealing, without any notice to him, with his whole estate as if he were dead."

"The appointment by the probate court of an administrator of the estate of a living person, without notice to him, being without jurisdiction, and wholly void as against him, all acts of the administrator, whether approved by that court or not, are equally void. The receipt of money by the administrator is no discharge of a debt, and a conveyance of property by the administrator passes no title."

In the opinion it was further said:

"No judgment of a court is due process of law if rendered without jurisdiction in the court, or without notice to the party."

Another important case that came before the supreme court of the United States was *Cunnius v. Reading School District*, 198 U. S. 458, 49 L. Ed. 1125, 25 Sup. Ct. 721, 3 Ann. Cas. 1121, involving the validity of the statute of Pennsylvania, as against the fourteenth amendment to the constitution of the United States, which provided for the administration of the estates of absentees, irrespective of the fact of death, in the proper courts of that state. The state law related to the grant of letters of administration upon the estates of persons presumed to be dead, by reason of long absences from their former domicile, and authorized application to the register of wills for letters of administration, requiring notice of the application to be published in a newspaper of the county once each week for four successive weeks, the day of hearing to be at least two weeks after the last publication, and upon that date the court may, if satisfied by proof that the legal presumption of death is sustained, to so decree, and further providing that thereupon a notice should be inserted for two successive weeks in the newspaper of the county, and when practicable in a newspaper published at or near the place beyond the state

where the absentee was last heard from, requiring the absentee, if alive, or any other person for him, to produce in court within twelve weeks from the last insertion of the notice satisfactory evidence of the continuance in life of the absentee. Power was given the court to revoke the letters at any time on proof that the absentee is alive and required security to be given, approved by the court, from those to whom the estate should be distributed, conditioned that if the absentee should be in fact alive a refund, with interest, would be made by the distributees to such absentee.

The Pennsylvania act was upheld on the ground that it did not violate the fourteenth amendment to the constitution for the reasons that it provided for adequate security to the absentee for his property and was based upon adequate notice to vest the court with jurisdiction, and it was held that legislation upon this difficult and important subject is created by necessity for the following reasons: the interest of the person who has disappeared; the duty of the lawmaker to consider the rights of third persons against the absentee; the general interest of society which may require that property be not abandoned without someone representing it and without an owner.

Construing these two interesting decisions by the supreme court of the United States, it seems to be the inevitable conclusion that without such a statute the courts of the respective states vested with jurisdiction over the property of decedents have no jurisdiction because the fact of the actual death of the absentee is not established except by a rebuttable presumption, and that to take charge of the property of an absentee it is essential that there be enacted a law by the legislature meeting the requirements of the fourteenth amendment to the constitution and providing adequate security for indemnity to the absentee upon his return, if in fact alive, for the property so taken.

This legislation has nothing to do with the right of a creditor in a proper proceeding in a court of law or of equity to subject the property of the absentee to the payment of his just debts. Presumably it would be unnecessary to enact any legislation to take care of partition suits. However, upon partition, under the present laws of Kansas, and in view of the decisions of the supreme court of the United States, there would be no place for the safe-keeping of the absentee's share of the proceeds of the sale on partition except, possibly, by leaving it with the clerk of the district court to await the indefinite time when the absentee, if alive, would return and claim it.

No doubt the Bar of Kansas knows of many instances where persons have disappeared and have been unheard of for more than seven years, leaving property with no fixed or definite or sufficient procedure to take possession thereof and preserve and protect it. It is particularly important from the viewpoint of the absentee's real estate, and no doubt if this matter is called to the attention of the legislature, a proper law would be enacted wherein provision could be made for the relatives, business associates or friends of the absentee to protect and preserve the property, and to prevent the sacrifice of the property for taxes, and indemnify the absentee for the property if he returned.

## Revised Draft of Probate Law Relating to Guardianship of Minors, Incompetents, and Imprisoned Convicts

By SAMUEL E. BARTLETT

NOTE.—This is an attempt to restate the probate law relating to the guardianship of minors, incompetents, and imprisoned convicts. It contemplates that the proposed code of probate procedure, with proper revision and necessary amendments, will be adopted. Attorneys, probate judges, and others are urged to make criticisms and suggestions for the improvement of this draft.

SECTION 1. This act shall be known as the guardianship act of the state of Kansas.

SEC. 2. All proceedings relating to the guardianship of minors, incompetents, and imprisoned convicts shall be had under and in accordance with the provisions of the code of probate procedure and this act.

SEC. 3. As used in this act, the term "guardian" means any person, association, or corporation (other than a guardian under the uniform veterans' guardianship act) appointed by the probate court to have the care and management of the person, or of the estate, or both, of a minor, incompetent, or imprisoned convict. The term "ward" means any person for whom a guardian as herein defined is acting. The term "resident guardian" means a guardian appointed by a probate court in this state to have the care and management of property in Kansas belonging to a nonresident ward. The term "foreign guardian" means a guardian appointed by a nonresident court for a nonresident ward. The term "incompetent" includes insane, lunatic, idiot, imbecile, distracted person, feeble-minded person, drug habitue, and habitual drunkard. The terms "insane," "lunatic" and "feeble-minded person" include every species of insanity or mental derangement and mean any person, who, by reason of advanced age, improvidence, or mental disability or infirmity, is incapable of taking care of himself or his property or neglects or fails to provide for his family or for other persons for whom he is charged by law to provide. The term "idiot" means a person foolish from birth, or supposed to be naturally without a mind. The term "imbecile" means any person who, not born idiotic, has become so. The term "distracted person" means any person incapable of acting rationally in the ordinary affairs of life or of comprehending the nature and value of property and incapable of transacting or procuring to be transacted ordinary business. The term "drug habitue" means any person who, by reason of the continued use of drugs, is incapable of taking proper care of himself or of his property, or who neglects or fails to provide for his family or for other persons for whom he is charged by law to provide. The term "habitual drunkard" means any person who, by reason of intemperance or habitual drunkenness, is incapable of taking proper care of himself or of his property, or who neglects or fails to provide for his family or for other persons for whom he is charged by law to provide. The term "imprisoned convict" means any person who is imprisoned in the penitentiary under the sentence of any court. The term "state hospital" includes the state hospitals at Topeka, Osawatimie and Larned, the state hospital for epileptics at Parsons, and the state training school at Winfield. Singular number includes plural, and masculine gender includes feminine.

SEC. 4. When it is necessary, the probate court shall appoint a guardian of the person, or of the estate, or of both, of a minor or incompetent, or a guardian of the estate of an imprisoned convict.

SEC. 5. The father and mother are the natural guardians of the persons of their minor children. If either dies, or is incapable of acting, the natural guardianship devolves upon the other.

SEC. 6. The survivor may, by last will, appoint a guardian for any of his children, whether born at the time of making the will or afterward, to continue during the minority of the child, or for a less time; and every such

testamentary guardian shall have the same power and shall perform the same duties with regard to the person and the estate of the ward, as natural guardians, subject to the provisions of the will. If without such will both parents be dead or disqualified to act as guardian, the probate court may appoint one. Whenever a testamentary guardian is appointed, his duties, powers, and liabilities in all other respects shall be governed by the law relating to guardians not appointed by will, except as otherwise specially provided.

SEC. 7. Although the parents are living and of sound mind, yet if the minor has property not derived from either of them, a guardian shall be appointed by the court to manage such property, except as otherwise provided.

SEC. 8. The father or mother, or both, may be appointed the guardian to take charge of the property of their minor child, if deemed by the court suitable for that purpose.

SEC. 9. If the minor be over the age of fourteen years and of sound intellect, he may select his own guardian, subject to the approval of the court; but if the surviving parent, by last will, appoints a guardian for such minor, the person so named shall have preference in appointment over the person selected by such minor.

SEC. 10. Guardians of the persons of minors have the same power and control over them that parents would have, if living.

SEC. 11. If the whole estate of the ward does not exceed five hundred dollars in value, and the ward be a minor, the court may in its discretion, without the appointment of a guardian, or the giving of bond, authorize the deposit thereof in a savings bank, payable to the ward upon his attaining the age of majority; or the court may authorize the payment or delivery thereof to the natural guardian of the minor, or to the person by whom the minor is maintained, or to the minor himself.

SEC. 12. Any appointment of a corporation as guardian shall apply to the estate only and not to the person.

SEC. 13. Any person alleged to be incompetent shall have the right to be present at the trial, to be assisted by counsel, and if no counsel be selected the court shall appoint an attorney to act for him.

SEC. 14. Every guardian, before entering upon the execution of his trust, shall take and subscribe to an oath that he will faithfully and impartially and to the best of his ability discharge the duties of guardian, and shall receive letters of guardianship from a probate court having jurisdiction of the subject matter of the trust. No act or transaction of a guardian shall be valid prior to the issuance of letters of appointment to him.

SEC. 15. Unless otherwise provided by law or by the will making the appointment, every guardian shall, prior to the issuance of his letters, file in the probate court in which the letters are to be issued, a bond with penal sum in such amount as may be fixed by the court, but in no event less than two hundred per centum of the probable value of the personal estate and the annual real estate rentals which will come into his hands as such guardian, if executed by personal sureties, or one hundred twenty-five per centum thereof if executed by corporate surety or sureties: *Provided*, That the penal sum of the guardian for the person only may be the same per centum of the probable expenditures to be made by such guardian for the ward during one year. Such bond shall be in such form as the court shall approve, shall be signed by such sureties as are required by law and approved by the court, and shall be conditioned that the guardian will faithfully and impartially and to the best of his ability discharge the duties devolving upon him as such guardian.

SEC. 16. No bond of a guardian shall be approved unless executed by two or more personal sureties, or one or more corporate sureties. The qualifications of personal and corporate sureties shall be such as are provided by law.

SEC. 17. When the testator in the will appointing the guardian shall have ordered or requested that such bond shall not be given, the bond shall not be required, unless from a change in the situation or circumstances of the guard-

ian, or for other sufficient cause, the court shall deem it proper to require such bond; but no provision in an instrument authorizing a guardian therein named to serve without bond, shall be construed to relieve a successor guardian from the necessity of giving bond, unless the instrument clearly evidences such intention.

NOTE.—There should be some uniform provisions relating to executors, administrators, guardians, and trustees, stating the law relative to the qualifications of sureties on their bonds, the requirements for new or additional bonds, successor bonds, deposit of funds in lieu of bonds, release of sureties, and depositories of trust funds.

SEC. 18. Every guardian of the person and estate, or of the estate only, of a ward shall, within thirty days from the time of his appointment and qualification as such, cause notice of his appointment to be published for three consecutive weeks in some newspaper of the county authorized by law to publish legal notices.

SEC. 19. When a guardian is appointed to take charge of the estate of a ward, his duties are as follows: 1. To cause forthwith an appraisalment to be made, by three commissioners appointed by the court, of the real and personal estate of the ward and of the yearly rent of the real estate. 2. Within sixty days after his appointment to make and file a full inventory, verified by oath, of the real and personal estate of his ward, with its value and the value of the yearly rent of the real estate. Failing to do so for thirty days after he has been notified of the expiration of the time by the probate court, the court shall remove him and appoint a successor. 3. To manage the estate for the best interest of the ward. 4. To pay all just debts due from such ward out of the estate in his hands, and collect all debts due the ward; in case of doubtful debts, to compound them, to appear for and defend, or cause to be defended, all suits against his ward. 5. To settle and adjust, when necessary or desirable, the assets which he may receive, in kind, from an executor or administrator, as may be most advantageous to his ward; but before such settlement and adjustment shall be valid and binding, it must be approved by the court. 6. With like approval, to hold the assets as received from the executor or administrator, or what may be received in the settlement and adjustment of such assets. 7. To obey all orders and judgments of the proper courts touching the guardianship. 8. When for the best interests of the ward, to bring suit in his behalf. 9. Such other duties as are provided by law.

SEC. 20. When a guardian is appointed to have the custody, maintenance, and (if the ward be a minor) to have charge of the education of a ward, his duties are: 1. To protect and control the person of his ward. 2. To provide a suitable maintenance for his ward, when necessary, which must be paid out of the estate of such ward in the hands of the guardian thereof, on the order of the guardian of the person of such ward. 3. When the ward is a minor and has no father or mother, or having a father or mother such parent is unable or fails to maintain and educate the ward, the guardian so appointed shall provide for him such maintenance and education as the amount of his estate justifies, which shall be paid out of his estate in the hands of the guardian thereof, on order of the guardian of the person of such ward. 4. To obey all the orders and judgments of the court touching the guardianship. 5. Such other duties as are provided by law. However, no part of the ward's estate shall be used for the support, maintenance, or education of a ward unless ordered and approved by the court.

SEC. 21. When a person is appointed to have the custody of the person and to take charge of the estate of a ward, his duties shall be those required by law of a guardian of the estate and of those required by law of a guardian of the person.

SEC. 22. A guardian may sue in the name of his ward, describing himself as a guardian of the ward in whose name he sues. When his guardianship ceases by his death, removal, or otherwise, or by the death of his ward, actions or

proceedings then pending shall not abate, if the right survives. His successor as guardian, or the executor or administrator of the ward's estate or the ward himself, if the guardianship has terminated other than by the ward's death, as the case may require, shall be substituted as party to the suit or other proceedings, as is provided by law for making an executor or administrator party to a suit or proceeding of a like kind, where the plaintiff dies during its pendency.

SEC. 23. When personal injury is caused to a ward by wrongful act, neglect, or default, such as would entitle the ward to maintain an action and recover damages therefor, the guardian of the estate of such ward is authorized to adjust and settle said claim with the advice, consent, and approval of the probate court, and in such settlement, if the ward be a minor, his parent or parents may waive all claim for damages on account of loss of service of such minor, and such claim may be included in such settlement. The spouse, if any, of the ward may likewise waive all claim for damages, and such claim may be included in such settlement.

SEC. 24. The guardian of the person and estate, or estate only, when for the best interest of the ward, may sell all or any part of the personal estate of the ward.

SEC. 25. If the estate of a ward is insolvent, or will probably be insolvent, it shall be settled in like manner, and like proceedings may be had as are required for the settlement of the insolvent estate of a deceased person.

SEC. 26. A guardian, whether appointed by a court in this state or elsewhere, shall have authority, by order of the court and with its approval, to complete any real contract of his ward, or any authorized contract of a guardian who has died or been removed, or to agree to its alteration or cancellation with the consent of the other party. If at the hearing the court is satisfied that it is to the best interests of the ward or his estate, it may order the guardian to complete said contract or to agree to its alteration or cancellation, and to execute and deliver such deeds or other instruments for and on behalf of his ward to the purchaser as are required to make the order of the court effective. Before making such order the court shall cause to be secured to or for the benefit of the estate of the ward its just part of the consideration of the contract. Such deeds or other instruments as are executed and delivered pursuant to such order shall recite the order and be as binding as if made by the ward prior to his disability.

SEC. 27. A guardian having funds belonging to the trust which are to be invested may invest them in the following: 1. Bonds or other interest-bearing obligations of the United States or of the state of Kansas. 2. Bonds or other interest-bearing obligations of any county, city, school district, or other legally constituted political taxing unit within the state of Kansas, provided such county, city, school district or other taxing unit has never defaulted in the payment of the principal or interest on any of its bonds or other interest-bearing obligations. 3. Bonds or other interest-bearing obligations of any other state which has never defaulted in the payment of principal or interest on any of its bonds or other interest-bearing obligations. 4. Notes or bonds secured by first mortgage on real estate of at least double the value of the total amount secured by such mortgage, provided such notes or bonds, if they comprise a part only of the obligations secured by such mortgage, belong to the highest and most preferred class of obligations secured by such mortgage, and have equal priority with all other obligations in the same class so secured. The buildings on the mortgaged property, if any, must, by the terms of the mortgage, be insured in an amount equal to their full insurable value against loss by fire, the proceeds of any insurance policies in the event of loss to be applied first for the benefit of the owners of the notes and bonds of the class in which the guardian has invested. On failure of the mortgagor to keep the premises insured as herein required, the mortgagee shall insure them and the expense of such insurance shall be repaid by the mortgagor to the mortgagee and be a lien on the property concurrent with the mortgage. 5. With



the approval of the probate court, in productive real estate located within the state of Kansas, provided neither the guardian nor any member of his family has any interest in such real estate or in the proceeds of the purchase price paid therefor. The title to any real estate so purchased must be taken in the name of the ward. 6. In such other securities or property as the court having control of the administration of the trust approves.

SEC. 28. A guardian may retain, until maturity, any security or investment which was a part of the trust estate as received by him, even though such security or investment is not of the class permitted to guardians under the law, unless the circumstances are such as to require the guardian to dispose of such security or investment in the performance of his duties according to law.

SEC. 29. A guardian entitled to a distributive share of the assets of an estate or trust shall have the same right as other beneficiaries to accept or demand distribution in kind, and may retain any security or investment so distributed to him as though it were a part of the original estate received by him.

SEC. 30. A guardian of the person and estate, or of the estate only, without application to the court, may lease the possession or use of any real estate of his ward for a term not exceeding three years, provided such term, if the ward be a minor, does not extend beyond the minority. If the lease extends beyond the death of the ward, or beyond the removal of the disability of a ward other than a minor, such lease shall determine on such death or removal of disability, unless confirmed by the ward or his legal representative. In the event of such determination, the tenant shall have a lien on the premises for any sum expended by him in pursuance of the lease in making improvements, and for which compensation was not paid in rent or otherwise.

SEC. 31. When it is to the best interest of the ward a guardian shall have authority, by order of the court and with its approval, to do the following: 1. To survey, plat, and lay out in town lots any real estate of which the ward is seized. 2. To borrow money and mortgage any real estate, which may be subject to sale by the guardian. 3. To use the moneys and personal estate of the ward in improving the ward's real estate.

SEC. 32. When it is sought to have real estate laid out in town lots and the court has authorized the survey and platting thereof, on subsequent return of such survey and plat, the court, if it approves such survey and plat, shall authorize the guardian, on behalf of his ward, to sign and acknowledge the plat in that behalf for record.

SEC. 33. Before the court makes an order authorizing a guardian to mortgage real estate for the purpose of borrowing money to make repairs or improvements on real estate, it shall appoint three judicious and disinterested commissioners whose duty it shall be fully to investigate the question as to the necessity for and the advisability of making such repairs or improvements, and their probable cost, and they shall make their report to the court.

SEC. 34. If on the final hearing it appears to be for the best interests of the ward that authority to mortgage be granted, the court shall fix the amount necessary to be borrowed, direct what real estate or interest therein shall be encumbered by mortgage to secure the debt, and issue an order to such guardian directing him to ascertain and report to the court the rate of interest and time for which he can borrow such amount.

SEC. 35. If the report of the guardian and the terms proposed be satisfactory to the court and accepted and confirmed, the guardian, as such, shall be ordered to execute a note or notes for such amount, and a mortgage on the real estate or interest therein so designated, which shall be a valid lien thereon. The guardian in no way shall be personally liable for the payment of the sum so borrowed or any part of it, but such real estate solely shall be held and bound therefor. The court shall direct the distribution of the fund, and the guardian shall report to the court for its approval the execution of such notes and mortgages and his distribution of the fund.

SEC. 36. The amount and money and personal estate of the ward expended in making any improvements on the ward's real estate shall be fully and specifically reported under oath by the guardian to the court within sixty days after the improvement is completed. In case of the ward's death before the removal of the disability, if there are heirs or devisees who inherit real estate only from him, then such money and personal estate so expended, shall descend and pass the same as his other personal estate, and may be a charge and lien on the premises so improved in favor of the heirs and legatees who inherit the personal estate.

SEC. 37. Whenever it is necessary for the education, support, or the payment of the just debts of the ward, or for the discharge of liens on his real estate, or wherever the real estate of the ward is suffering unavoidable waste, or a better investment of its value can be made, or whenever a sale of the real estate will be for the benefit of the ward or his children, if any, the guardian of the person and estate, or of the estate only, of a ward shall have authority, by order of the court and with its approval, to do the following (except as otherwise provided): 1. To sell any real estate of the ward or any interest therein of which the ward is seized, including minerals and the right to mine them. 2. To lease the possession and use of the real estate of his ward or any part thereof for a term of years, renewable or otherwise, or by perpetual lease, with or without the privilege of purchase, and to lease, on such terms and for such time as the court approves, any real estate belonging to the ward for mining purposes and for the purpose of drilling, mining, or excavating for and removing any mineral substance or substances therefrom.

SEC. 38. A guardian shall not have authority to sell, lease, or mortgage the following: 1. Any real estate in contravention of the terms of any will. 2. An equitable estate in real estate placed by deed of trust or other instrument beyond the power of the ward to do so. 3. The homestead of the ward without the consent of the spouse, if any, of the ward. To be effective, such consent must be in writing, signed by the spouse, and filed with the court at the time of the filing of the application to sell, lease, or mortgage, or prior thereto; and no guardian's deed or other instrument executed by virtue of any order shall be valid unless such spouse shall join in the deed or other instrument as one of the grantors therein.

SEC. 39. In proceedings to lease real estate belonging to the ward, the commissioners shall appraise the value of the real estate, the value of the annual rental upon the terms and conditions of the proposed lease, and if said lease be for the mining or removal of mineral or other substances, they shall report their opinion as to the probability of the real estate containing such substances, the amount thereof, and the terms on which it would be advantageous to the ward to lease for mining or removing such mineral or other substances. In their report they shall state whether in their opinion the proposed lease will be for the best interests of the ward, or his estate, and they may suggest any change in the terms or conditions proposed in the application.

SEC. 40. On report of the commissioners the court shall determine whether a lease shall be executed and the terms and conditions of any lease to be executed. If the lease be for the mining or removal of mineral or other substances and the guardian is unable to lease the real estate on the terms and conditions ordered, he may report such fact to the court, and it may change the terms of leasing, but not below the customary royalty in the vicinity of such real estate.

SEC. 41. If an appraisal of such real estate is contained in the inventory, the court may order a sale in accordance therewith; or it may order a new appraisal. If a new appraisal is not ordered, the value set forth in the inventory shall be the appraised value of the real estate. If the court orders a new appraisal the value returned shall be the appraised value of the real estate.

SEC. 42. If a new appraisal is ordered, the court shall appoint three judicious and disinterested commissioners to appraise the real estate in whole

and in parcels at its true value in money. Where the real estate lies in two or more counties the court may appoint commissioners in any or all of the counties in which the real estate or a part thereof is situated.

SEC. 43. No real estate shall be sold at private sale for less than the appraised value thereof, nor at public sale for less than two-thirds of the appraised value thereof, except as otherwise specially provided.

SEC. 44. When the actual market value of the real estate to be sold is less than five hundred dollars as determined by the court, it may in its discretion by summary order authorize the sale of the real estate at private sale, on such terms as it deems proper; and in such proceedings the other requirements of this act as to sale proceedings shall be waived.

SEC. 45. If, in private sales, the guardian makes a *bona fide* effort to sell and no sale has been effected; or if, in public sales, the real estate remain unsold for want of bidders when offered pursuant to advertisement, then the court may fix the price for which such real estate may be sold, or it may set aside the appraisal and order a new appraisal. If such new appraisal does not exceed five hundred dollars, and on the first offer thereunder at public sale there are no bids, then the court may, on its own motion or otherwise, order the real estate to be readvertised and sold at public sale to the highest bidder.

SEC. 46. Before any sale, lease, or mortgage of real estate, the guardian may be required by the court, if it deems it necessary, to give an additional bond in such sum as the court shall determine, to secure the further assets arising from the sale, lease, or mortgage of the real estate. In case of sale under the terms of any lease, the guardian may be required to give such additional bond before the confirmation of the sale.

SEC. 47. If the court is satisfied that it is to the best interests of the ward to sell the real estate and that a sale thereof may be authorized, it shall order the real estate described in the application, or so much thereof as the court may deem proper, to be sold at public or private sale, as the court may direct, by the guardian, for cash in hand or upon deferred payments with interest as shall be ordered by the court.

SEC. 48. The court, with the consent of the mortgagee, may authorize the sale of real estate subject to mortgage, but such consent shall release the estate of the ward from the debt secured by such mortgage, should a deficit later appear.

SEC. 49. The order of sale shall describe the real estate to be sold, and shall prescribe the terms and conditions of the sale and payment of the purchase money, either in whole or in part, for cash in hand or on deferred payments.

SEC. 50. In all public sales of real estate the guardian shall give notice containing a particular description of the real estate to be sold, and stating the time, place, and terms of sale, by advertising the same in the manner provided by law for the sale of real estate upon execution.

SEC. 51. The guardian shall make return of his proceedings under the order of sale, stating that he did not directly or indirectly purchase such real estate, or any part thereof, or any interest therein, and that he is not directly or indirectly interested in the property sold, except as stated in the report.

SEC. 52. The court shall examine such return, and if it be satisfied that the sale has been in all respects legally made, it shall confirm the same and order the guardian to execute and deliver a deed to the purchaser. The deed shall refer to the order of sale and the court by which it was made, and shall convey to the purchaser all the right, title, and interest of the ward in the premises sold.

SEC. 53. Such order shall require that before delivery of such deed the deferred installments, if any, of the purchase money be secured by mortgage on the real estate sold, and mortgage note or notes bearing interest at such rate as the court may prescribe. But if, after the sale is made and before delivery of such deed, the purchaser offers to pay the full amount of the purchase

money in cash, the court may order that it be accepted, if for the best interest of the estate or the ward, and direct its distribution.

SEC. 54. The court in such order may also direct the sale, without recourse, of any or all of the notes taken on deferred payments, if for the best interest of the estate or the ward, at not less than their face value with accrued interest, and direct the distribution of the proceeds.

SEC. 55. The money arising from the sale of the real estate shall be applied and distributed as provided by law and in the manner and upon such terms as shall be approved by the court.

SEC. 56. The court may in its discretion allow a real-estate commission, but such allowance shall be passed upon by the court prior to the sale and found to be reasonable.

SEC. 57. The court shall have authority to allow reasonable payment for certificate or abstract of title or policy of title insurance in connection with the sale of any real estate or the mortgage thereof.

SEC. 58. All commissioners appointed by the court shall be under the direction thereof; they shall take and subscribe to an oath that they will faithfully and impartially and to the best of their ability discharge their duties as commissioners, and they shall make their report in writing under oath.

SEC. 59. When a person appointed by the court as a commissioner fails to discharge his duties, the court, on its own motion or otherwise, may appoint another.

SEC. 60. Commissioners shall be paid for the services performed by them such compensation as the court shall find reasonable and proper.

SEC. 61. When compensation is not otherwise fixed by law, the court shall make such allowance to guardians for their services and expenses in executing their trust as it deems reasonable and proper.

SEC. 62. No guardian shall at any time make any personal use of the funds or property belonging to the trust, and for any violation of this provision he shall be liable, and also his bond, in an action for any loss occasioned by such use and for such additional amount by way of penalty not exceeding the amount of the loss occasioned by such use as may be fixed by the court hearing such cause. Such amounts shall be payable for the benefit of the ward or his estate.

SEC. 63. Guardians shall not buy from or sell to themselves or have any dealings with the corpus of the estate.

SEC. 64. If the whole estate of a ward or of several wards jointly, under the same guardianship, does not exceed five hundred dollars in value, the guardian shall only be required to render account upon the termination of his guardianship, or upon the order of the court made on its own motion or otherwise for good cause shown.

SEC. 65. The probate court at any time may accept the resignation of any guardian, upon his proper accounting, if such guardian was appointed by, or is under the control of, or accountable to such court. The court may remove any such guardian for habitual drunkenness, neglect of duty, incompetency, fraudulent conduct, removal from the state, because the interest of the trust demands it, or for any other cause authorized by law.

SEC. 66. If a sole guardian dies, is dissolved, declines to accept, resigns, is removed, or becomes incapacitated or otherwise unable to act, prior to the termination of the trust, the court shall require a final account of all dealings of such trust to be filed forthwith by such guardian if a living person and able to act; or if such guardian be a living person but unable to act, by his guardian, if any, or if there be no guardian, by some other suitable person in his behalf, appointed or approved by the court; or if such guardian be a deceased person, by his executor or administrator; or if such guardian be a dissolved corporation, by such person or persons as may be charged by law with winding up the affairs of such corporation. Thereupon the probate court shall cause such proceedings to be had as are provided by law as to other accounts filed by guard-

ians. Whenever such a vacancy occurs and such contingency is not otherwise provided for by law, or by the instrument creating the trust, or whenever such instrument names no guardian whatever, the court shall, either on its own motion or otherwise, appoint and issue letters of appointment as guardian to some competent person or persons who shall qualify according to law and execute the trust to its proper termination. Such vacancy, and the appointment of a successor guardian shall not affect the liability of the former guardian, or his sureties, previously incurred.

SEC. 67. When two or more guardians have been appointed jointly to execute a trust, and one or more of them dies, declines, resigns or is removed, the title shall pass to the surviving or remaining guardian or guardians who shall execute the trust, unless the creating instrument expresses a contrary intention or unless the court otherwise determines. The surviving guardian or guardians shall, within ninety days after the death, resignation or removal of a co-guardian, file in the court a complete account covering all matters to the time of such death, resignation or removal.

SEC. 68. At least once each year, unless otherwise provided by law, every guardian must render an account of the execution of his trust to the probate court of the county in which he was appointed, including in such account an itemized statement of receipts and expenditures verified by vouchers or proof of all investments and of any changes in investments since the filing of his last account. An account shall be rendered by the guardian at any other time or times, on order of the court made upon its own motion or otherwise for good cause shown. At the expiration of his trust, the guardian must fully account for and pay over the trust estate to the proper person or persons. No account of a guardian shall be approved until there are exhibited to the court, for its examination, the security or securities shown in said account as being in the hands of the guardian, or the certificate of the person in possession of such securities if held as collateral, and a pass book or certified bank statement showing as to each depository the fund deposited therein to the credit of the trust.

SEC. 69. The probate court may examine under oath all guardians touching their accounts. If it deems it proper to do so, it may reduce such examination to writing, and require the guardian to sign it. Such examination shall be filed in the case.

SEC. 70. If a guardian neglects or refuses to file an account when due, according to law or when ordered by the court, the court may on its own motion or otherwise issue citation by publication or otherwise to compel the filing of the overdue account. If the guardian fails to file such account within thirty days after he has been notified by the probate court to do so, no allowance shall be made for his services unless the court finds that the delay was reasonable.

SEC. 71. The probate court may hear and determine all matters relative to the manner in which the guardian has executed his trust, and as to the correctness of his accounts, and also require any guardian appointed within such county, on the determination of his trust, or removal, resignation, or on his death his executor or administrator, to render a final account of the manner in which he executed his trust; and such court may hear and determine all matters relating thereto.

SEC. 72. The determination of the court on the settlement of an account shall have the same force and effect as a judgment at law or decree in equity, as the particular case may require, and shall be final as to all persons having notice of the hearing, except: (1) Upon appeal according to law; (2) when an account is settled in the absence of a person adversely interested and without actual notice, it may be opened as provided by law; (3) upon any settlement of an account mistakes or errors in any former account may be corrected with leave of the court upon good cause shown; (4) in case of fraud or collusion; (5) as against rights which are saved by statute to persons under disability.

SEC. 73. When a minor arrives at the age of majority the guardianship thereof shall cease, the accounts of the guardian be settled by the court, and full control of his property delivered to the person entitled thereto.

SEC. 74. The probate court may determine that any person under guardianship for incompetency has been restored to his right mind or to temperate habits and that the necessity for the guardianship no longer exists. Thereupon the guardianship shall cease, the accounts of the guardian be settled by the court, and the full control of his property restored to the person entitled thereto. Such determination shall have the full force and effect of an adjudication by the court that such person is restored to sanity and legal capacity.

SEC. 75. When an imprisoned convict is lawfully discharged from his imprisonment, the guardianship thereof shall cease, the account of the guardian be settled by the court, and full control of his property restored to the person entitled thereto.

SEC. 76. When a ward, for whom a guardian has been appointed in this state, removes to another state or territory, and a guardian of such ward is there appointed, the guardian in this state may be removed and required to settle his account.

SEC. 77. The foreign guardian of any nonresident ward may be appointed guardian of such ward by the probate court of the county having jurisdiction, to sell, or collect, manage, lease, and take care of his property.

SEC. 78. When a nonresident ward has real estate or personal property in this state and no foreign guardian thereof has been appointed in this state, the probate court of the county having jurisdiction may appoint a guardian of such ward, to sell or collect, manage, lease, and take care of his property. Such appointment may be made whether or not the ward has a guardian or other conservator in the state of his residence; and the control and authority of the resident guardian appointed in this state shall be superior as to all property of the ward in this state.

SEC. 79. The appointment of a foreign or resident guardian, first made, shall extend to all the property of the ward in this state and exclude the jurisdiction of the probate court of any other county.

SEC. 80. Such resident or foreign guardian shall qualify in the manner provided by law for guardians of the estate of a ward residing in this state; and when so appointed and qualified shall have and exercise the same rights, powers, and duties as are prescribed by law for other guardians of the estate.

SEC. 81. When a nonresident ward for whom a resident or foreign guardian was appointed by a probate court of this state, becomes a resident of this state, and a guardian has been appointed for him, the court shall remove the resident or foreign guardian previously appointed in this state and require an immediate settlement of his accounts.

SEC. 82. Guardians appointed by nonresident courts for nonresident wards, without further appointment in this state, may bring and maintain actions and enforce the collection of judgments, rendered in such cases in their favor in the manner and to the extent that they could do if appointed under the laws of this state, upon giving security for costs which may accrue therein in the manner other nonresidents are required to do.

SEC. 83. A resident guardian, by order of the court and with its approval, may be authorized or required, for good cause shown or when the purpose of the guardianship has been accomplished, to pay or deliver to a foreign guardian of his ward all or any of the moneys or property in the hands of such resident guardian. At the hearing the court shall make such order as it deems for the best interests of such nonresident ward of his estate.

SEC. 84. When any ward is married and does not have the property in his own right or name, it shall be lawful for the ward's guardian, jointly with the spouse of such ward, to sell, mortgage, or lease, for mining purposes or otherwise, any real estate, and such sale, mortgage, or lease shall be valid when

ordered and approved by the probate court, without the proceedings being had as required by other provisions of this act; and any resident guardian or foreign guardian of any such nonresident ward, who has been duly appointed and qualified in a probate court of this state, is authorized in like manner to sell, mortgage, or lease, for mining purposes or otherwise, any such real estate: *Provided*, That no guardian's deed or other instrument executed by virtue of such order shall be valid unless the spouse of the ward shall join in the deed or other instrument as one of the grantors therein.

SEC. 85. A certified copy of any proceedings relating to guardianship in a probate court may be filed and recorded in the probate court of any other county, and when so filed and recorded shall have the same force and effect in such county as in the county of origin.

SEC. 86. Unless otherwise provided by the instrument creating the trust or inconsistent with the provisions thereof or otherwise provided by law, the probate court shall have jurisdiction over trusts created by deeds of trust, declarations of trust, wills, or otherwise, in favor of persons under disability, and shall have jurisdiction of the accounts in favor of such persons under disability; and the trustees for such persons shall be subject to the provisions of law relating to guardians. The same proceedings may be had by or with reference to such trustees as may be had by or with reference to guardians of wards.

SEC. 87. The expense attending the support, care, and safe-keeping of an incompetent person shall be paid by the guardian out of his estate, or by any person who is bound by law to provide for and support such person, or the same shall be paid out of the county treasury. In case of any appropriation out of the county treasury for such purpose, the amount thereof may be recovered by the county from the estate of such person, or from any person who is bound by law to provide for and support such person.

SEC. 88. In the case of any insane person admitted to a state hospital, either with or without bond, the state may recover a sum of not more than five dollars per week, to be fixed by the state board of administration, as payment of a part of the cost of the maintenance, care, and treatment of such person at such state hospital, and may recover any sum expended in behalf of such person for clothing or funeral expenses, from the estate of such person, unless said estate is needed for the support in whole or in part of the spouse, children, parents, grandchildren, grandparents, brothers, or sisters of such person; or the state may recover such sums for said purposes from any person who is bound by law to provide for and support such person.

SEC. 89. In any event the amount of expense incurred by the state for the treatment and maintenance of any person, as limited in this act, shall be a charge against his estate, in his lifetime and after his death. Such amount shall be collected quarterly, and the state board of administration is authorized to bring suit against the estate of any person failing to make payment as herein required. If judgment is obtained it shall constitute a lien against such part of the estate as may be described in the petition.

SEC. 90. It shall be the duty of the county attorney to cooperate with and assist the state board of administration and the attorney-general in collecting any such money due the state.

SEC. 91. The following relatives shall be bound by law to provide for and support the persons referred to in the three preceding sections of this act: The husband for the wife and the wife for the husband, the parent for his children and the children for their parents.

SEC. 92. Whenever there appears probable cause to believe, in a court of record during the hearing of any person charged with a crime, that the person is incompetent and subject to detention in a state hospital or otherwise, the court shall summarily remand such person to the probate court for examination according to law. If such person be not adjudged incompetent and sub-

ect to such detention, the court shall in like manner remand such person to aid court of record for further proceedings therein.

SEC. 93. This act shall not modify the provisions of chapter 353 of the Session Laws of 1901, providing for inquest in lunacy in certain cases, and as to such cases and the commitment of insane persons to state hospitals, that act shall govern. All guardians appointed under section 62 of said act shall have and exercise the same rights, powers, and duties as guardians appointed under this act: *Provided*, Such appointment shall be made by the probate court of the county in which such insane person is a resident.







---

# KANSAS JUDICIAL COUNCIL BULLETIN

---

OCTOBER, 1934

PARTS 2 AND 3—EIGHTH ANNUAL REPORT

---

## TABLE OF CONTENTS

---

	PAGE
FOREWORD .....	35
SUMMARY OF THE WORK OF THE SUPREME COURT FOR THE YEAR ENDING JUNE 30, 1934 .....	36
SEVEN-YEAR SUMMARY TABULATED .....	38
RECOGNITION OF FOREIGN ATTORNEYS.....	41
UNIFICATION OF THE BAR.....	41
PLEADING AN ALIBI .....	42
DEPOSITIONS ON BEHALF OF THE PROSECUTION IN CRIMINAL CASES.....	43
APPEALS IN CRIMINAL CASES.....	44
ESTATE OF DECEDENT WITHOUT KNOWN HEIR OR WILL .....	46
PROPOSED CONSTITUTIONAL AMENDMENT .....	48
PROPOSED STATUTES RELATING TO:	
Probate and County Court .....	50
Books and Records of Courts.....	52
Civil Code Amendments .....	53
Criminal Code Amendments .....	54
Pleadings in Divorce Action.....	54
Foreign Decree of Divorce.....	55
Selection of Persons for Jury Service.....	55
Juries of Six (two bills).....	56

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER .....	Kansas City.
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS .....	St. John.
Judge Twentieth Judicial District.	
HAL E. HARLAN .....	Manhattan
Chairman Senate Judiciary Committee.	
SCHUYLER C. BLOSS .....	Winfield.
Chairman House Judiciary Committee.	
CHARLES L. HUNT .....	Concordia.
ROBERT C. FOULSTON .....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the  
 state,

For the improvement of our Judicial System and its more  
 efficient functioning.

# KANSAS JUDICIAL COUNCIL BULLETIN

---

Published Quarterly by the KANSAS JUDICIAL COUNCIL, Topeka, Kan.

OCTOBER, 1934

---

## FOREWORD

The press of other business on members of the Council delayed and finally prevented our getting out the July BULLETIN. This issue of the BULLETIN is devoted to the summary of the work of the supreme court for the year ending June 30, 1934, with tabulations of the summaries for seven years. It contains a discussion of matters of immediate interest, which need not be enlarged upon here, and also contains proposed amendments to our constitution and statutes previously worked out in definite form by the Council and submitted to the legislature. We are convinced all these measures should be passed upon favorably by the legislature, and that such action will be given whenever time can be found to devote to it.

Our December issue will contain the list of motion days of the various district courts for 1935. In addition to that it will be devoted almost exclusively to probate courts, procedure therein, and the law of estates. We are now collecting data from the probate courts throughout the state which is being summarized and tabulated for that BULLETIN. We are also devoting such time as we can spare to it to the laws pertaining to estates of decedents and of minors and other incompetents and the procedure in probate court. Much work already has been done upon these questions, not only by members of the Council, but by bar associations and other attorneys in the state who appreciate fully the need of a thorough revision of our statutes pertaining to those matters. However, we find it to be a large task, and yet we hope to get it worked out in time to summarize it more completely in our December BULLETIN and to have the measures prepared to be introduced in our next session of the legislature.

### Summary of the Work of the Supreme Court

The following is a summary of the work of the supreme court for the year ending June 30, 1934, and of cases pending on that date:

There were 427 appealed civil cases disposed of within the year ending June 30, 1934. Of this number 149 were dismissed without having been presented on the merits and 278 were submitted on the merits, 169 were affirmed, 91 reversed, and in 18 the judgment of the trial court was modified.

The court also disposed of 52 appealed criminal cases. Of this number 30 were dismissed without having been presented on the merits and 22 were submitted on the merits and written opinions filed. Of this number 19 were affirmed and 3 reversed.

The court also disposed of 42 original cases, of which 11 were dismissed before having been presented on the merits, 26 were submitted on the merits and written opinions filed and 5 were submitted on the merits and decided without written opinions.

This makes a grand total of 522 cases disposed of by the supreme court, of which 190 were dismissed without having been presented on the merits, 327 were submitted on the merits and written opinions filed, (in 10 cases there were rehearings, making 2 opinions in each of those cases) and 5 were submitted on the merits and decided without written opinions.

The cases pending on July 1, 1934, were as follows: 307 appealed civil cases, 38 appealed criminal cases, and 21 original cases.

Of the 327 cases submitted to the supreme court on their merits and in which written opinions were filed (in 10 cases there were rehearings, making 2 opinions in each of those cases with a total of 337 opinions filed), in 12 cases the opinions were filed before the first regular opinion day, in 301 cases on the first regular opinion day, in 17 cases on the second opinion day, in 5 cases on the third opinion day, in 1 case on the 4th opinion day, and in 1 case on the 6th opinion day after they were submitted. The regular opinion day ordinarily is a month after the case is submitted; more accurately, it is the Saturday of the week hearings are had the next month after the case is submitted.

In the appealed civil cases disposed of within the year ending June 30, 1934, and pending on that date, the time between the date of judgment appealed from and the date notice of appeal was filed in the trial court is as follows: Within 10 days, 203 cases; 10 to 30 days, 139 cases; in 1 to 2 months, 96 cases; in 2 to 3 months, 73 cases; in 3 to 4 months, 59 cases; in 4 to 5 months, 40 cases; in 5 to 6 months, 81 cases; over 6 months, 38 cases; time not stated, 5 cases.

In the appealed civil cases disposed of within the year ending June 30, 1934, and pending on that date, the time between the date notice of appeal was filed in the trial court and the date notice of appeal was filed in the supreme court is as follows: Within 5 days, 286 cases; in 5 to 10 days, 141 cases; in 10 to 20 days, 136 cases; in 20 to 30 days, 74 cases; in 1 to 2 months, 54 cases; in 2 to 3 months, 18 cases; in 3 to 4 months, 9 cases; in 4 to 5 months, 2 cases; over 5 months, 12 cases; time not given, 2 cases.

In the appealed civil cases disposed of within the year ending June 30, 1934, and pending on that date, the time between the date the notice of appeal was filed in the supreme court and the date deposit for costs was made is as follows: Within 5 days, 177 cases; in 5 to 15 days, 128 cases; in 15 to 30 days, 181 cases; in 1 to 2 months, 63 cases; in 2 to 3 months, 22 cases; over 3 months, 18 cases; time not stated, 145 cases.

In the appealed civil cases disposed of within the year ending June 30, 1934, the time between the date the notice of appeal was filed in this court and the date the case was submitted on its merits is as follows: Within 3 months, 7 cases; in 3 to 4 months, 3 cases; in 4 to 5 months, 23 cases; in 5 to 6 months, 29 cases; in 6 to 9 months, 140 cases; in 9 to 12 months, 51 cases; in 12 to 15 months, 16 cases; in 15 to 18 months, 8 cases; in 18 months to 2 years, 1 case.

In the appealed criminal cases disposed of within the year ending June 30, 1934, and pending on that date, the time between the date of the judgment appealed from and the date the notice of appeal was filed in the trial court is as follows: On the same day, 19 cases; not the same day but within 5 days, 9 cases; from 5 to 10 days, 7 cases; from 10 to 20 days, 16 cases; from 20 to 30 days, 12 cases; from 1 to 2 months, 14 cases; from 2 to 3 months, 5 cases; from 3 to 4 months, 1 case; from 4 to 5 months, 1 case; from 6 to 12 months, 5 cases; from 18 months to 2 years, 1 case.

In the appealed criminal cases disposed of by the supreme court within the year ending June 30, 1934, and pending on that date, the time between the date the notice of appeal was filed in the trial court and the date it was filed in the supreme court is as follows: Within 5 days, 41 cases; in 5 to 10 days, 16 cases; in 10 to 20 days, 15 cases; in 20 to 30 days, 8 cases; in 1 to 2 months, 5 cases; in 2 to 3 months, 2 cases; in 4 to 5 months, 1 case; in 6 months to 1 year, 2 cases.

In the appealed criminal cases disposed of within the year ending June 30, 1934, and pending on that date, the time between the date notice of appeal was filed in the supreme court and the date deposit for costs was made is as follows: Within 5 days, 5 cases; in 5 to 15 days, 3 cases; in 15 to 30 days, 36 cases; in 1 to 2 months, 15 cases; in 2 to 3 months, 4 cases; over 3 months, 3 cases; time not stated, 24 cases.

In the appealed criminal cases disposed of within the year ending June 30, 1934, the time between the date the notice of appeal was filed in the supreme court and the date the case was submitted on its merits, is as follows: Within 3 months, 1 case; in 3 to 4 months, 2 cases; in 4 to 5 months, 5 cases; in 6 to 9 months, 5 cases; in 9 to 12 months, 7 cases; in 12 to 15 months, 1 case; in 15 to 18 months, 1 case.

In the appealed civil cases disposed of within the year ending June 30, 1934, the costs in 427 cases reported on is as follows: Minimum amount \$3.10; maximum, \$39.50; aggregate, \$5,322.60; average, \$12.46.

In the appealed criminal cases disposed of within the year ending June 30, 1934, the costs in 52 cases reported on is as follows: Minimum amount \$4.95; maximum, \$35.85; aggregate, \$623.05; average, \$11.98.

In the original cases disposed of within the year ending June 30, 1934, the costs in 42 cases reported on is as follows: Minimum, \$3.90; maximum, \$493.05; aggregate, \$1,440.67; average, \$34.30.

In the year ending June 30, 1934, the court disposed of 1,007 motions, of

which 37 were withdrawn before presented, 770 were allowed, 168 denied, and 32 were pending on July 1, 1934.

There were pending in the supreme court July 1, 1934, a total of 366 cases, compared with 333 on the same date in 1933; 357 in 1932; 393 in 1931; 397 in 1930; 376 in 1929; and 341 in 1928.

### Supreme Court: Seven-year Summary

In the seven years the clerk of the supreme court has furnished us detailed information of the work of that court, it has disposed of 4,177 cases, of which 1,319 were dismissed before final submission, and 2,858 were submitted on the merits and written opinions filed.

SEVEN-YEAR SUMMARY, KANSAS SUPREME COURT

YEAR ENDING JUNE 30.	Cases.	Disposed of.	Dismissed.	Submitted.
1928.....	Appealed, civil.....	529	143	386
	Appealed, criminal.....	101	44	57
	Original.....	43	13	33
	Totals.....	673	200	473
1929.....	Appealed, civil.....	475	128	347
	Appealed, criminal.....	72	29	43
	Original.....	36	18	18
	Totals.....	583	175	408
1930.....	Appealed, civil.....	504	143	331
	Appealed, criminal.....	77	37	40
	Original.....	52	16	36
	Totals.....	633	196	437
1931.....	Appealed, civil.....	490	131	359
	Appealed, criminal.....	63	29	34
	Original.....	38	13	25
	Totals.....	591	173	418
1932.....	Appealed, civil.....	522	159	363
	Appealed, criminal.....	74	45	29
	Original.....	32	6	26
	Totals.....	628	210	418
1933.....	Appealed, civil.....	459	135	324
	Appealed, criminal.....	66	35	31
	Original.....	23	5	18
	Totals.....	548	175	373
1934.....	Appealed, civil.....	427	149	278
	Appealed, criminal.....	52	30	22
	Original.....	42	11	31
	Totals.....	521	190	331
	Grand totals.....	4,177	1,319	2,858

Of the 2,858 cases submitted, there were 5 cases decided without written opinions. Written opinions were filed in 52 cases before the first regular opinion day; 2,598 on the first regular opinion day; 180 on the second; 21 on the third; 8 on the fourth; 3 on the fifth and 1 on the sixth regular opinion day after

## DISPOSITION OF APPEALED CASES BY WRITTEN OPINIONS

YEAR ENDING JUNE 30.	Cases.	Affirmed.	%	Re- versed.	%	Modi- fied.	%	Total.
1928. ....	Appealed, civil. ....	261	68	104	27	21	5	386
	Appealed, criminal. ....	52	91	5	9	0	0	57
1929. ....	Appealed, civil. ....	238	69	94	27	15	4	347
	Appealed, criminal. ....	39	91	4	9	0	0	43
1930. ....	Appealed, civil. ....	258	72	92	25	11	3	361
	Appealed, criminal. ....	31	78	9	22	0	0	40
1931. ....	Appealed, civil. ....	258	72	73	20	28	5	359
	Appealed, criminal. ....	28	82	6	18	0	0	34
1932. ....	Appealed, civil. ....	267	74	80	22	16	4	363
	Appealed, criminal. ....	24	83	5	17	0	0	29
1933. ....	Appealed, civil. ....	215	66	87	27	22	7	324
	Appealed, criminal. ....	26	84	5	16	0	0	31
1934. ....	Appealed, civil. ....	169	61	91	33	18	6	278
	Appealed, criminal. ....	19	86	3	14	0	0	22
Totals..	Appealed, civil. ....	1,666	69	621	26	131	5	2,418
Totals..	Appealed, criminal. ....	219	86	37	14	0	0	256
	Grand totals. ....	1,885	.....	658	.....	131	.....	2,674

they were submitted. In 10 cases there were rehearings, making two opinions in each of those cases. The regular opinion day ordinarily is a month after the case is submitted, more accurately it is the Saturday of the week hearings are had the next month after the case is submitted.

The number of cases pending in the supreme court July 1, 1928, was 341; July 1, 1929, 376; July 1, 1930, 397; July 1, 1931, 393; July 1, 1932, 357; July 1, 1933, 333; July 1, 1934, 366. The following data may be of interest:

## APPEALED CIVIL CASES DISPOSED OF

Time between date of judgment appealed from and notice of appeal filed in trial court

YEAR ENDING JUNE 30.	In 1 mo.	1-2 mos.	2-3 mos.	3-4 mos.	4-5 mos.	5-6 mos.	After 6 mos.	Total.
1928. ....	188	80	66	55	48	65	15	517
1929. ....	163	102	50	40	40	45	21	461
1930. ....	209	77	69	34	38	58	17	502
1931. ....	178	87	65	41	31	50	24	476
1932. ....	210	71	64	42	44	57	27	515
1933. ....	168	83	60	34	29	48	19	441
1934. ....	219	45	38	30	26	45	22	425
Totals. ....	1,335	545	412	276	256	368	145	3,337



## APPEALED CRIMINAL CASES DISPOSED OF

Time between date of judgment appealed from and filing notice of appeal in trial court

YEAR ENDING JUNE 30.	10 days.	10-30 days.	1-2 mos.	2-3 mos.	3-4 mos.	4-5 mos.	5-6 mos.	After 6 mos.	Total.
1928.....	62	14	7	3	2	4	0	6	98
1929.....	37	12	6	6	1	1	1	2	66
1930.....	53	8	8	3	1	0	0	0	73
1931.....	40	6	8	0	0	0	2	7	63
1932.....	26	25	12	4	3	1	0	3	74
1933.....	32	13	8	3	3	0	2	3	64
1934.....	19	15	8	4	0	1	0	5	52
Totals.....	269	93	57	23	10	7	5	26	490

## APPEALED CIVIL CASES DISPOSED OF

Time between notice of appeal was filed in trial court and date it was filed in supreme court

YEAR ENDING JUNE 30.	10 days.	10-20 days.	20-30 days.	1-2 mos.	2-3 mos.	3-4 mos.	4-5 mos.	5-6 mos.	After 6 mos.	Total.
1928.....	316	93	44	32	17	10	5	3	0	520
1929.....	244	108	37	47	11	19	0	0	0	466
1930.....	233	117	41	13	6	4	1	1	2	418
1931.....	300	82	31	28	13	12	2	1	2	471
1932.....	277	85	61	55	21	9	6	2	2	518
1933.....	247	87	47	48	8	8	3	2	0	450
1934.....	266	68	39	28	9	6	2	8	0	426
Totals.....	1,883	640	300	251	85	68	19	17	6	3,269

## APPEALED CRIMINAL CASES DISPOSED OF

Time between date notice of appeal was filed in trial court and date it was filed in supreme court

YEAR ENDING JUNE 30.	10 days.	10-20 days.	20-30 days.	1-2 mos.	2-3 mos.	3-4 mos.	4-5 mos.	5-6 mos.	After 6 mos.	Total.
1928.....	48	21	13	8	2	1	5	1	1	100
1929.....	33	28	15	12	2	2	0	0	0	92
1930.....	44	10	6	7	3	2	0	3	2	77
1931.....	29	6	4	10	5	8	0	0	1	63
1932.....	35	12	8	3	7	2	4	2	1	74
1933.....	32	11	7	6	5	1	0	2	0	64
1934.....	37	9	4	1	1	0	0	0	0	52
Totals.....	258	97	57	47	25	16	9	8	5	522

## Recognition of Foreign Attorneys

At times our trial courts have difficulty in setting and disposing of cases when the only attorney representing a party is a nonresident of the state. Attorneys in this state representing the other party in the litigation have experienced similar difficulty. In some states a foreign attorney is required by statute to have associated with him a local attorney upon whom service of copies of pleading, notices of hearings and the like may be made. In some other states and in some, if not all, of the federal districts rules of court to the same effect have been promulgated. It is suggested that such a rule be promulgated in this state. We would like advice from the judges and attorneys on the advisability of asking the supreme court to promulgate a rule reading as follows:

"An attorney residing outside of this state, in good standing as an attorney at the place of his residence, will be recognized as an attorney by the courts of this state, for any action or proceeding in court, only if he has associated with him as attorney of record an attorney of this state residing in the county in which the action or proceeding is pending, upon whom service may be had in all matters connected with such action or proceeding proper to be served upon an attorney of record."

---

## Unification of the Bar

The question of unity of action among the lawyers of the state respecting such matters as they of necessity have as a common interest and purpose, such as the admission of new members of the bar, the investigation of questionable practices of those previously admitted, with appropriate discipline or disbarment, the prevention of the practice of law by unauthorized persons, and in general improving and maintaining the standards of the profession, has been the subject of much discussion in recent years, not only in this state but elsewhere. In some states statutes have been enacted, usually spoken of as statutes for the incorporation of the bar. However, the entire subject is a judicial one and properly falls in the field of the judicial branch of our government. There is no reason why all of it cannot be handled by appropriate rules promulgated by the court. Indeed, much of it is so handled now in this state. Last spring the supreme court of Missouri appointed a committee of attorneys to investigate the question and make recommendations to the court. This was done. As a result of these investigations and recommendations the supreme court of Missouri has promulgated four rules, numbers 35, 36, 37 and 38, effective November 1, 1934.

The first of these, rule 35, sets out and promulgates canons of ethics, most of which were adopted from those of the American Bar Association, and adds: "Nothing herein contained shall be construed as a limitation upon the power of the courts to reprimand and discipline any member of the bar for conduct which, in the opinion of the court, is fraudulent, unlawful and unethical."

Rule 36 provides the machinery and sets up procedure for the hearing of any complaints against any lawyer charged with professional misconduct, and for the final disposition by the court of such complaints. Rule 37 requires each practicing attorney of the state to pay an annual fee of \$3 to create a fund to

make the rules effective, and rule 38 deals with the admission of new attorneys to the bar.

In this state our rules respecting the admission of new attorneys to the bar are already of such a high standard that a statewide unification of the bar is not especially needed for that purpose. The other purposes to be accomplished by such a unification of the bar, however, are needed and might well be combined with our provisions for the admission of new attorneys in such a manner as to cover the entire subject completely. We would be glad to have the views of the attorneys throughout the state as to the advisability of unifying the bar for its better protection and to render it a more useful unit in the administration of justice. Perhaps the wording of the rules adopted in Missouri should be modified in some respects to be best adapted to our needs, but those are details which can be worked out if we once reach the agreement that the measure as a whole should be carried out.

---

### Pleading an Alibi

In the prosecution of offenses the commission of which requires the personal presence of the criminal at the time and place of the crime—for example, highway robbery—prosecuting officers frequently are confronted with evidence on behalf of defendant in support of an alibi. This evidence is presented under the general issue raised by the defendant's plea of not guilty and at a time in the trial after evidence in chief on behalf of the prosecution is completed. Then for the first time the prosecuting attorney learns where defendant claims to have been when the crime was committed. It is impossible for him then to investigate the facts and produce evidence in rebuttal. The result frequently is a miscarriage of justice, for, as it is later learned, the evidence given in support of the alibi has been fabricated in whole or in part. While prosecutions for perjury would lie for false evidence in support of an alibi, there are practical difficulties in such a prosecution, as a result of which they are not often brought.

This situation has been so general and has continued for so long in this state that a defense of alibi is looked upon with suspicion by the public generally and by jurors, and this fact is sometimes enlarged upon by prosecuting officers. The result of this is that honest evidence in support of an alibi is given little credence, and on the other hand it sometimes happens that one guilty of a heinous crime escapes merited punishment.

To remedy both of these defects it has been suggested that one charged with crime, the nature of which requires the presence of the criminal at the time and place of the crime, who contemplates offering evidence in support of an alibi, should plead that fact, setting out where he was at the time the crime is alleged to have been committed, and perhaps the names of the witnesses by whom he expects to support the plea, a sufficient length of time before the case comes on for trial to enable the prosecuting attorney to investigate the facts. In support of this suggestion it is argued an investigation by the prosecuting attorney of the plea of alibi might result in a dismissal of the case, if he thought the alibi well sustained, and on the other hand would enable the prosecuting officer to prevent a failure of justice when it was improperly raised.

This is a comparatively new thought in criminal procedure, but that is no

good reason for not requiring it in this state if we deem it to be needed. We are told that three states recently have enacted statutes of this kind. The official draft of the code of criminal procedure by the American Law Institute contains no suggestion of such a plea, but does contain a provision (§ 235) for a similar plea by one who proposes to show in evidence that he was insane or mentally defective at the time of the alleged offense. Our statute (R. S. 62-1532) relating to criminal insane has enabled us to get away from the difficulties inhering in pleas of insanity by defendants in criminal cases. We mention these matters only to show that such a special plea may be provided for in a code of criminal procedure, or statutes may be enacted pertaining to a particular defense which have the effect of eliminating the practical difficulties arising from having such special defenses presented under the general issue of not guilty.

If a statute were enacted in this state requiring defendant in such a case to make a special plea of alibi it would be necessary to require the prosecution, either in the information or in a bill of particulars, to fix definitely the time and place of the offense charged, for naturally a defendant cannot well plead that he was at some other place when an alleged crime was committed when he does not know with certainty the time and place it is claimed the crime was committed. Requiring the prosecuting attorney to fix definitely the time and place of an alleged crime has its practical difficulties in some cases. It is possible, however, that this question of pleading could be worked out, if given careful attention, in such a way as to be fair both to the prosecution and to one charged with crime.

---

### Depositions on Behalf of the Prosecution in Criminal Cases

In the prosecution of criminal cases it sometimes happens that the prosecuting attorney finds material evidence in possession of witnesses who are non-residents of the state, or of a witness in this state who, by reason of illness or some other good cause, cannot be produced at the trial. Because of our constitutional provision, common to the constitutions of most states, to the effect that one charged with crime shall be allowed "to meet the witness face to face," it has been thought the testimony of such witnesses could not be used. This has resulted in a serious handicap to the prosecution in many cases, and no doubt in some cases has resulted in the nonprosecution or verdicts of not guilty of those actually guilty of serious crime. In a number of states statutes have been enacted to provide for the taking of testimony of such witnesses in harmony with the constitutional provision. A number of the decisions on these statutes are collected in the annotations 90 A. L. R. 368. We deem it proper to enact such a statute in this state. Perhaps the statute of Wisconsin, herein set out, should be changed in some respects before it is adopted in this state, but it serves well as a basis of discussion, and we would appreciate the views of judges and attorneys as to the advisability of adopting a similar statute.

In *State, ex rel. Drew, v. Shaughnessy*, 249 N. W. 522, 90 A. L. R. 368, the supreme court of Wisconsin sustained an order of a trial judge of that state for the taking of depositions by the state in a criminal action at Chicago. The case was one charging embezzlement over a term of years, in which the prosecution set out that certain persons in Chicago were in possession of docu-

mentary evidence necessary in the prosecution. The statutes involved read as follows:

"Section 326.06, Stats., provides:

"(1) In any criminal or quasi-criminal action or examination in a court of record or before a judge thereof, depositions may be taken when allowed by an order of the court or presiding judge; such order may be made only when the court or judge is satisfied that due diligence has been used in making such application, that the person whose deposition is wanted is a material witness, and is in imminent danger of death, or that he resides without the state, at the time of the examination or the trial, and that his attendance cannot, by the use of due diligence, be procured upon the examination or the trial. Such application by the defendant shall be accompanied by proof of notice to the district attorney of the time and place it is to be presented; and such an application on the part of the state shall be accompanied by proof of a like notice to the defendant or his attorney of record. The order shall direct whether the deposition shall be taken on oral or written interrogatories.

"(2) When the state procures such an order, its notice (in addition to what is required by the section) shall inform the defendant that he is required to personally attend at the taking of such deposition, and that his failure so to do shall constitute a waiver of his right to face the witness whose deposition is to be taken; and failure to attend shall constitute such waiver unless the court or judge is satisfied, when the deposition is offered in evidence, that the defendant was physically unable to attend. If the defendant be not then in jail he shall be paid witness fees for travel and attendance; but, in case the defendant be in jail, the sheriff, at the request of the district attorney, shall at the expense of the county have the defendant in attendance at the taking of such deposition. If the defendant is in custody, leave to take such deposition on behalf of the state shall not be granted, unless all states in which the sheriff will travel with the defendant in going to the place where such deposition is to be taken shall have conferred upon the officers of this state the right to hold and convey prisoners in and through them."

---

### Appeals in Criminal Cases

There has been discussion lately about the delay which sometimes occurs between the trial of a criminal case in the district court and its submission to the supreme court on appeal. Instances have been pointed out in which it is apparent that there was considerable unnecessary delay. Our study of the matter indicates several causes contribute to this result. Our statute fixes no definite time in which a motion for a new trial shall be filed in a criminal case, except that it shall be before sentence. The records of some cases show a lapse of several weeks, and even months, between the date of the verdict of guilty and the time a motion for a new trial is finally determined and sentence pronounced. After this is done and notice of appeal is served there are cases in which there is a delay of several weeks, or even months, in sending the notice of appeal with copy of journal entry to the clerk of the supreme court. Necessary transcripts are not always ordered promptly, which fact may force a continuance of the case in the supreme court. We hear no criticism with respect to the promptness with which the case is disposed of by the supreme court after it is submitted. The difficulty comes from the delay in the disposition of the motion for a new trial and sentence in the trial court and in the preparation of the appeal for submission to the supreme court. To avoid such unnecessary delays we are suggesting a statute embodying in substance the following:

In any criminal case tried to a jury in district court, in which a verdict of guilty is returned, if defendant is not then in custody of the sheriff, he shall be taken into custody at once; and unless he announces that he desires to file a motion for a new trial, he shall be sentenced either on that date or at some time within ten days.

If he announces that he desires to file a motion for a new trial, the court shall fix a time, not exceeding three days, in which to file the motion for a new trial, and such motion shall be heard and determined as expeditiously as possible and in no event later than thirty days after it is filed. Pending the filing and hearing of the motion for a new trial, if defendant desires to be at liberty on bond and the offense is bailable after conviction, the court shall fix the amount of the bond, which bond shall be approved by the court, or, if the court so directs, by the clerk of the court. If the motion for a new trial is overruled, sentence shall be imposed at once. If defendant desires to appeal promptly, and has given bond pending the hearing of his motion for a new trial, the court may order the bond to be in force pending the application to the supreme court for bond.

Proceeding on appeal: (a) If defendant does not seek to have execution of his sentence stayed, or release from custody on bond pending his appeal, he may appeal at any time within two years from the date of the sentence by serving notice of appeal on the county attorney of the county in which he was tried and filing the same with the clerk of the district court. He shall then prepare and present his appeal in accordance with the statutes and rules of court applicable thereto. (b) If defendant seeks stay of execution of the sentence, or release from custody, or both, pending his appeal, he shall serve notice of his intention to appeal on the county attorney and file the same with the clerk of the court, order a transcript of the testimony needed to present his case on appeal, see that the journal entry of trial and sentence is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry to be filed with the clerk of the supreme court within ten days after sentence. On the application of defendant the supreme court, or any justice thereof, shall order execution of the sentence stayed, and if the offense is bailable after conviction shall fix the amount of the bond and direct that it be approved by the supreme court, or any justice thereof, or its clerk, or by the trial court, or its clerk. Defendant shall thereafter prepare and present his appeal in accordance with statutes and rules of court applicable thereto.

If the state desires to appeal in any case mentioned in R. S. 62-1703, the county attorney, within ten days after the ruling complained of, shall serve notice of appeal upon the defendant and file the same with the clerk of the court, order a transcript of testimony needed to present the case on appeal, see that the journal entry of the ruling complained of is filed, and cause copies of such notice of appeal with proof of service, order for transcript and journal entry, to be filed with the clerk of the supreme court within ten days after the notice of appeal is filed with the clerk of the district court. On application by the county attorney or attorney-general, and due notice to defendant, the supreme court may make such order respecting the custody or bail of defendant pending the appeal as the circumstances of the case justify. The state shall thereafter prepare and present its appeal in accordance with statutes and rules of the court applicable thereto.

### **Estate of Decedent Without Known Heir or Will**

Several cases have arisen in recent years involving the question of how to handle the estate of one who dies leaving no heir or will known to his business associates or immediate acquaintances. Our constitution provides that the proceeds of all estates of persons dying "without heir or will" shall go to the support of the common schools. Even though one dies without known heir or will, persons may later be found, or show up, who are able to establish the fact that they are heirs of the decedent, in which event they are and should be entitled to the estate or its proceeds, for it is only the estate of one who dies without heir or will which, by our constitution, goes to the school fund.

Our statutes on the question (R. S. 22-933 to 935; 22-1201 to 1206; 67-238), while dealing with the subject, leave much uncertainty about what action should be taken, and by whom, and in what court, for the preservation and disposition of the estate of one who dies without known heir or will. Many other states have statutes dealing specifically with the matter. Our statutes upon the question should be clear enough that responsible officials should know what steps to take and in what court they should be taken. In view of our constitutional provision that probate courts shall have such probate jurisdiction and care of estates of deceased persons as may be prescribed by law, we see no reason why the original jurisdiction of all questions pertaining to such an estate could not be vested exclusively in the probate court, with the right of appeal, of course, to those aggrieved at its ruling. We suggest a statute on the question substantially as follows:

When it shall be brought to the attention of the probate court of any county that a resident of the county has died without known heir or will, but leaving an estate, the court shall appoint some suitable person as special administrator to take possession of the estate and administer the same under the supervision of the court. The probate court shall have exclusive original jurisdiction of all questions arising in the determination and distribution of such an estate.

The administrator so appointed shall qualify by taking an oath and giving bond in such sum as the court may direct for the faithful administration of the estate. He shall cause notice to be published of his appointment, which notice shall give the name of the decedent and recite that he died without known heirs or will, and shall invite those who claim as heir, or under a will of decedent, to present their claims to the probate court. The court shall take into possession all property of the decedent of whatever kind or character, and wheresoever situated, and shall prepare and file an inventory thereof. The court shall direct the personal property to be converted into cash as expeditiously as possible, and also shall direct the administrator to collect the rents, income, or profits, and to pay the taxes upon and care for the real property. Creditors of decedent may present claims against the estate, which claims shall be considered and disposed of as similar claims against estates of other decedents. If no one appears to establish his claim as an heir, devisee, or legatee of the decedent within two years of the appointment of the administrator, the court shall direct the real property of the decedent to be sold for cash, and at that time also shall order to be sold any of the personal property of the decedent in the hands of the administrator, and the estate shall be closed.

The proceeds of the estate shall be paid to the state treasurer and become temporarily a part of the state school fund. The state school fund commissioners shall invest and handle this money as other moneys of the state school fund, except that it shall be kept as a temporary fund until ten years after it shall have been first received, at which time it shall be covered into the permanent school fund of the state, provided no one in the meantime has established his right thereto as an heir, devisee, or legatee of the decedent.

One who claims the estate, or some part thereof, as heir of decedent, or upon any other ground, shall present his claim therefor to the probate court not later than ten years after the administrator was appointed, or such claim shall be forever barred. If he establishes his claim it shall be allowed by the court. If two or more such claimants have claims pending at the same time, the court shall determine which of such claimants has established his claim, and the share or portion of the estate each is entitled to receive. If the estate is in the hands of the administrator at the time of such determination the same, less claims previously allowed and cost of administration, shall be delivered or paid to those found entitled to receive it. If at the time of such determination the proceeds of the estate have been delivered to the state treasurer, and are temporarily a part of the state school fund, the school fund commissioners shall pay to such claimants the sum or portion of the estate the court has adjudged they are entitled to receive. A party aggrieved at the ruling or judgment of the probate court may appeal to the district court as other appeals are taken in the probate court. If the estate or its proceeds have been delivered or paid to one whose claim to the estate, or some part thereof, as an heir of decedent, or on some other ground, and whose claim was established, and later, but within ten years after the administrator was appointed, someone else presents to the probate court a claim for the estate, or some portion thereof, as heir of decedent, or upon some other ground, and upon a hearing establishes his claim, neither the state nor the school fund commissioners shall be liable to such claimants for moneys they previously had paid out, but the party in whose favor such later claim was established shall have a cause of action in the district court against the party to whom such payment was made with respect to their respective rights to the property or its proceeds.

Upon the hearing of all claims against such an estate by a creditor, or one claiming as an heir, or in any other capacity, the county attorney shall appear in opposition to the claim. In all such cases the burden of proof shall be upon the claimant, and care shall be exercised by the county attorney and by the court that fraudulent or unjust claims be not established.

The above suggested statutory provisions would take the place of R. S. 22-933 to 935; 22-1201 to 1206. We have not attempted as yet to draft this proposed measure in final form. Perhaps it should contain some provision not suggested above, or those suggested should be modified. The half-dozen or more substantial estates of this class which our courts have had to wrestle with in the last three or four years make it clear that our present statutes pertaining to the question are entirely inadequate.



## Proposed Constitutional and Statutory Changes

We have heretofore prepared and caused to be introduced in the legislature a proposed amendment to art. 3 of our constitution relating to the judiciary; also several bills designed to improve the functioning of our judicial system. These measures and the purposes they are designed to accomplish have been discussed in our previous Reports and Bulletins. We shall not take space here to repeat this discussion. All of them have received much favorable comment, and each of the proposed statutes has been reported favorably by one or more of the legislative committees to which it was referred. Several of them have passed one house of the legislature, and because they reached the other house late in the session when its members had their time taken up with other important matters, they failed of final passage. They will be presented for consideration to the next regular session of the legislature. We print them at this time to direct attention to them and with the hope that time will be found for their passage.

A PROPOSITION to amend article III of the constitution of the State of Kansas, relating to the Judiciary.

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:*

SECTION 1. There is hereby recommended and submitted to the qualified electors of the state of Kansas, to be voted upon at the next general election for representatives, for their approval or rejection, a proposition to amend article III of the constitution of the state of Kansas, relating to the judiciary, so as to read as follows:

### ARTICLE III.—THE JUDICIARY.

Section 1. All of the judicial power of this state shall be vested in a system of courts composed of a supreme court, district courts, county courts, and such other courts, inferior to the supreme court, as may be created by law.

Sec. 2. The supreme court, district courts, and county courts shall be courts of record, and each shall have a seal to be used in the authentication of all process and records.

Sec. 3. The supreme court shall be the highest court in the judicial system of the state. It shall have original jurisdiction in actions and proceedings presenting questions of law only, submitted on a written statement of agreed facts, and in proceedings in quo warranto, mandamus and habeas corpus. It shall have appellate jurisdiction from the final decision of the district court in civil and criminal actions and special proceedings, and such other appellate jurisdiction as may be provided by law. It shall consist of seven justices until the number shall be changed by law. It may make rules for the practice and procedure in all state courts. It may designate any district judge to sit temporarily as judge of another district or division with the same power and jurisdiction as the regular judge. It may call a judge of a district court to sit on the supreme court in the event a member of that court be ill or disqualified. In original proceedings in the supreme court which involve controversies of fact the supreme court may direct a judge of a district court to hear the evidence and make findings of fact and conclusions of law and report them to the supreme court. The justices of the supreme court may sit separately in divisions with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division and the concurrence of three shall be necessary to a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all of the justices, and the concurrence of a majority shall be necessary to a decision in cases so heard. The justice who is

senior in continuous term of service shall be chief justice, and in case two or more have continuously served during the same period the senior in years of these shall be the chief justice, and the presiding justice of each division shall be selected from the judges assigned to that division in like manner.

Sec. 4. Justices of the supreme court, judges of the district courts, and judges of county courts may be removed from office by resolution of both houses of the legislature if two-thirds of the members of each house concur. But no such removal by such proceeding shall be made except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice and opportunity to be heard.

Sec. 5. The supreme court, not more than two justices voting in the negative, after a hearing, on complaint and due notice, may ask the resignation of, or by order remove, a justice of that court or a judge of any court for the good of the service, and may prescribe rules of procedure therefor; and by like vote, after notice and hearing, may retire any justice of the supreme court or judge of a district court who shall have reached the age of seventy years, or whose physical or mental infirmities have rendered such retirement advisable. Such retirement shall be upon such conditions relating to pay or otherwise as may be provided by law.

Sec. 6. The supreme court shall appoint a reporter and a clerk for that court, who shall hold office during the pleasure of the court, and shall prescribe their respective duties.

Sec. 7. There shall be a district court in each county, but several counties may compose one district, and there may be divisions of the district court as the business therein may require. Judicial districts consisting of one or more counties, and the division of each district court and the number of judges therein, as they may exist at the time of the adoption of this amendment, shall continue to exist until changed by law. The district court shall be a court of original general jurisdiction for the trial of all civil and criminal actions and proceedings, except as the exclusive jurisdiction of any civil or criminal action or special proceeding is hereby vested in some other court, and shall have appellate jurisdiction in all civil and criminal actions and special proceedings originating in courts inferior to the district court and before boards, commissions, officers and tribunals when exercising judicial functions, and such other jurisdiction as may be provided by law.

Sec. 8. There shall be a county court in each county, which shall have exclusive original jurisdiction for the probate of wills and in all matters relating to the estates of decedents, minors and incompetent persons, and also shall have such jurisdiction in matters relating to the person of minors and incompetent persons, and in civil and criminal actions and special proceedings, as may be provided by law. The judge or judges of such court shall be examining magistrates in prosecutions for felonies. There shall be at least one judge of the county court in each county, and such additional judges as may be provided by law. At the first session of the legislature following the adoption of this article the legislature shall provide for the organization of county courts in accordance with this section, the transferring to such courts of the records and pending business of trial courts inferior to the district court, and for the election of judges for such courts at the next general election, so that such county courts may be fully organized and equipped to take care of the business on the second Monday in January following such general election.

Sec. 9. In each county there shall be a court clerk who shall be selected as provided by law and who shall act as clerk for both the district court and the county court in such county, and whose duties shall be prescribed by rule of the supreme court.

Sec. 10. To be eligible to hold the office of justice of the supreme court or judge of the district court a person must be duly admitted to practice law in this state, and shall be a citizen and resident of the state and district for which he is selected or appointed, and before taking such office must have been engaged in the active practice of law or shall have served

as judge of a court of record, or both, in the aggregate as follows: For justice of the supreme court, ten years; for judge of the district court, five years. Additional requirements of eligibility may be provided by law. No person shall be ineligible to hold any judicial office in this state on account of his holding another judicial office therein at the time of his election or appointment. No person shall hold more than one judicial office concurrently. A justice of the supreme court, or a judge of the district court or county court, shall not be a candidate for a nonjudicial office, and in the event he files for, or accepts a nomination for, or an appointment to, a nonjudicial office, his office of justice or judge shall become vacant immediately.

Sec. 11. Justices of the supreme court and judges of the district courts and county courts shall be selected in such manner and shall hold office for such terms as may be provided by law, but terms shall be not less than six years for justices of the supreme court nor less than four years for judges of district and county courts.

Sec. 12. All appeals from county courts shall be to the district court, and all appeals from the district court shall be to the supreme court.

Sec. 13. The justices of the supreme court and judges of the district courts and county courts shall, at stated times, receive for their services such compensation as may be provided by law, but no such justice or judge shall receive any other fee or perquisites, nor shall he practice law during his continuance in office.

Sec. 14. The several justices and judges of courts of record in this state shall have such jurisdiction at chambers as may be provided by rule of the supreme court.

Sec. 15. Provision shall be made by rule of the supreme court for the selection of a judge *pro tem.* of the district court or county court.

Sec. 16. In the event of a vacancy in the office of a justice or judge of any of the courts of record of this state the governor, with the written concurrence of a majority of the justices of the supreme court, shall appoint some eligible person to fill the position for the unexpired term and until his successor is selected and qualified as provided by law.

Sec. 17. The style of all process shall be "The State of Kansas," and all prosecutions shall be carried on in the name of the state. All process from any of the courts of the state shall be executed by a sheriff, undersheriff or deputy, or by the clerk of the district court if the sheriff be the party to be served.

SEC. 2. This proposition shall be submitted to the electors of the state of Kansas at the general election in 1936. The amendment hereby proposed shall be known on the official ballot by the title, "The Judiciary Amendment to the State Constitution," and the vote for and against such proposition shall be taken as provided by law.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

AN ACT relating to the judiciary, creating courts inferior to the district court, limiting the jurisdiction of justices of the peace, and repealing all acts in conflict herewith.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In each county in the state there shall be a court known as a probate and county court, which is hereby created, and is to be organized so as to come into existence on the second Monday in January, 1937.

SEC. 2. The probate and county court shall be a court of record, and the court and the judge thereof shall have such jurisdiction as is now conferred upon probate courts and the judges thereof, and such jurisdiction as is now conferred upon justices of the peace, and in addition thereto shall have jurisdiction in civil actions for the recovery of personal property or money only where the amount claimed does not exceed one thousand dollars, and in proceedings for attachment and garnishment in such actions.

SEC. 3. The supreme court shall by rule prescribe the procedure for all actions and proceedings in the probate and county court and in appeals therefrom, which rules, when made, shall supersede any statutes relating thereto. When the volume of business in any probate and county court is sufficient to justify it, the supreme court may create divisions of the probate and county court, and when so created there shall be a judge for each division. The judges of the extra divisions so created shall, by virtue of their positions, be judges *pro tem.* of probate court. The supreme court may by rule provide the procedure for designating a judge *pro tem.* for the probate and county court for temporary purposes. Where the centers of population in a county are such as to justify it the supreme court may by rule provide for the sitting of the probate and county court at some place in the county in addition to the county seat, either for the trial of specific cases or for permanent division of the court in such county. The supreme court shall, before the first Monday of March, 1936, designate divisions of the probate and county court in counties where such is deemed necessary, and the cities other than the county seat in which a division of the probate and county court shall sit, and changes in such divisions and places where the court shall sit shall not be made oftener than once in two years.

SEC. 4. The judges of the probate and county court shall be elected at the general election held biennially in November, the first election to be held in November, 1936, and shall hold their offices for a term of two years, beginning on the second Monday in January following such election. No one shall be qualified to act as judge of the probate and county court who is not regularly admitted to practice law in this state, or who has not served as a probate judge in this state for as long as two years prior to the beginning of his term as judge of the probate and county court. No judge of the probate and county court shall, while serving in this capacity, practice law in any of the courts of the state.

SEC. 5. The salary of the judge of the probate and county court in the various counties of this state shall be as follows: In counties with a population of less than five thousand, \$2,000; in counties with a population from five to ten thousand, \$2,400; in counties with a population from ten to twenty-five thousand, \$3,000; in counties with a population of more than twenty-five thousand and not more than sixty thousand, \$3,600; and in counties with a population over sixty thousand, \$4,000; the salaries to be paid by the county in monthly payments. All fees received by the judge of the probate and county court for services performed by virtue of his office, except fees for performing marriage ceremonies, shall be by him paid into the county treasury and become a part of the general fund of the county. The county commissioners shall provide such facilities in the way of a court room, supplies and clerical and stenographic help as may be necessary properly to conduct the business of the court. The clerical help shall be appointed by the judge, or judges, of the probate and county court and hold their positions at the pleasure of the court.

SEC. 6. On or before the first Monday in March, 1936, the board of county commissioners in each county shall divide the county, outside of the county seat, into not fewer than three nor more than seven magistrate districts, having due regard for the centers of population in the county. There is hereby created in such magistrate districts a magistrate court, which shall be organized so as to come into existence on the second Monday of January, 1937. At the general election of 1936, and every two years thereafter, one magistrate shall be elected in each of such magistrate districts, which election shall be for a term of two years, beginning on the second Monday in January after such election.

SEC. 7. Magistrate courts shall have jurisdiction to entertain complaints charging offenses under the laws of the state and to issue warrants thereon, including peace warrants and warrants for search and seizure; and where the complaint charges an offense which is a misdemeanor under the laws of the state, and the defendant enters a plea of guilty thereon, to impose the punishment provided by statute. But in the event a plea of not guilty is made the cause shall be transferred by the magistrate to the probate and county court, where it shall be docketed and proceeded with as though originally brought in that court. Where the magistrate shall issue a warrant for an offense charging

a felony, he shall promptly send the complaint on which the warrant was issued, together with a statement that the warrant was issued, giving the date, to the probate and county court, and the person arrested under such warrant shall be brought before the probate and county court, which shall handle the action as though the complaint had been originally filed and the warrant issued by that court. And the magistrate court shall have jurisdiction in civil actions only for the recovery of money where the amount claimed does not exceed \$100, and to issue garnishment or attachment in such cases, and to render judgment in the event there is no contest. But in the event the defendant contests the claim of the plaintiff on the merits, or contends that property sought to be taken by garnishment or attachment is exempt in whole or in part, the action shall be transferred to the probate and county court, where it shall be docketed and proceeded with as though originally brought in that court.

SEC. 8. The supreme court shall by rule prescribe the procedure in magistrate courts and in appeals therefrom.

SEC. 9. Each magistrate shall receive a salary, to be paid by the county and to be determined by the board of county commissioners, and which shall not exceed \$120 per year, payable in monthly payments. All fees received by the magistrate by virtue of his official position shall be paid into the county treasury, to become a part of the general fund of the county.

SEC. 10. All process issued by the probate and county court, or magistrate court, shall be executed by the sheriff.

SEC. 11. On and after the first Monday in January, 1937, justices of the peace in this state shall have no jurisdiction in any case, civil or criminal, except in civil actions for the recovery of money only in which the amount claimed does not exceed one dollar.

SEC. 12. The following statutes are hereby repealed, the repeal to take effect on the second Monday of January, 1937: Sections 20-801 to 20-819, inclusive, and sections 20-1401 to 20-2025, inclusive, 80-204, and 80-701 to 80-707, inclusive, of the Revised Statutes of Kansas 1923, and all acts and parts of acts in conflict herewith. Courts existing under statutes repealed by this section shall cease to function at the time the repeal goes into effect, and the dockets, records and files of such courts shall be transferred to and become a part of the records and files of the probate and county court, and all actions then pending in such courts shall proceed in the probate and county courts as though ordinarily brought in that court.

SEC. 13. This act shall take effect and be in force from and after its publication in the statute book.

AN ACT relating to books and records of courts of record, authorizing the supreme court to promulgate rules relating thereto, and repealing sections 60-3801, 60-3802, 60-3803, 60-3804, 60-3805, 60-3811, 60-3812, 60-3813 of the Revised Statutes of Kansas of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. The supreme court may by rules of the court provide a uniform system of dockets, records and bookkeeping for the district courts, probate courts, and other courts of record of the state, with rules for the making of entries therein to apply to judges, clerks, sheriffs and other court officials.

SEC. 2. It shall be the duty of the judge of any court of record in this state to see that the books and records of the court are kept as prescribed by the rules of the supreme court, and that the clerk and other court officials promptly make the proper entries therein.

SEC. 3. The clerks of the district court and the clerks of other courts of record shall preserve the records and books and papers of their respective courts and shall record the judgments, decrees, orders and proceedings thereof, and perform such other clerical duties relating to the administration of justice by the court as may be prescribed by uniform rules of the supreme court, or in default thereof by rule or direction of the court for which he is clerk.

SEC. 4. That Revised Statutes of Kansas of 1923, 60-3801, 60-3802, 60-3803, 60-3804, 60-3805, 60-3811, 60-3812 and 60-3813, be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its publication in the statute book.

AN ACT relating to civil procedure, amending sections 60-3001, 60-3309, 60-3312, 60-3314 of the Revised Statutes of 1923, and repealing said original sections, and also repealing section 60-3313 of the Revised Statutes of 1923.

*be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-3001 of the Revised Statutes of 1923 be amended so as to read as follows: A new trial is a reëxamination in the same court of issues of law or of fact which arose, or were determined, in the trial of the case, after a verdict by a jury, report of a referee, or a decision by the court. The former verdict, report or decision shall be vacated and a new trial granted, on the application of the party aggrieved, when it appears that the rights of the party are substantially affected:

*First.* Because of abuse of discretion of the court, misconduct of the jury or party, or accident or surprise which ordinary prudence could not have guarded against, or for any other cause whereby the party was not afforded a reasonable opportunity to present his evidence and be heard on the merits of the case.

*Second.* Erroneous rulings or instructions of the court.

*Third.* That the verdict, report or decision was given under the influence of passion or prejudice.

*Fourth.* That the verdict, report or decision is in whole or in part contrary to the evidence.

*Fifth.* For newly discovered evidence material for the party applying, which he could not, with reasonable diligence, have discovered and produced at the trial.

*Sixth.* That the verdict, report or decision was procured by the corruption of the party obtaining it. In this case the new trial shall be granted as a matter of right, and all the costs made in the case up to the time of granting the new trial shall be charged to the party obtaining the decision, report or verdict.

SEC. 2. That section 60-3309 of the Revised Statutes of 1923 be amended so as to read: The appeal shall be perfected within two months after the rendition of the judgment or order appealed from, and security for costs in cases appealed to the supreme court shall be given within such time and in such manner as such court, by rule or special order, may provide: *Provided, however,* That appeals from judgments and appealable orders entered or rendered before this act shall take effect may be perfected within two months from the date of such judgment or order.

SEC. 3. That section 60-3313 of the Revised Statutes of 1923 be amended so as to read: In all cases in which a transcript of the evidence is not necessary in order to review the questions presented on appeal, the abstract of appellant shall be served on the opposing party or his counsel and filed in the supreme court within thirty days after the notice of appeal is filed with the clerk of the trial court, and in all cases in which a transcript of the testimony is necessary to present the questions presented on appeal the abstract of appellant shall be so served and filed within four months after the notice of appeal is filed with the clerk of the trial court. The abstract of the appellant shall contain a synopsis of so much and of such parts of the pleadings, record, evidence and proceedings in the case as appellant deems necessary for the consideration of the court. If appellee deems the abstract of appellant to be insufficient to present the questions for review he may, within thirty days after the service upon him of appellant's abstract, serve upon appellant, or his counsel, and file with the clerk of the supreme court a counter abstract. Abstracts not challenged shall be deemed accurate and sufficiently complete to present the questions sought to be reviewed. In the event the accuracy of any abstract is challenged, the court shall make such an order as the nature of the case and justice warrant. Abstracts shall be printed unless, on application therefor and for good cause shown, the court orders that they be presented otherwise. The abstract may be bound separately or with the brief, as the party presenting the same desires.

SEC. 4. That section 60-3314 of the Revised Statutes of 1923 be amended so as to read: When notice of appeal has been served in a case and the appellee desires to have a review of rulings and decisions of which he complains, he shall, within twenty days after the notice of appeal is filed with the clerk of

the trial court, give notice to the adverse party, or his attorney of record, of his cross-appeal and file the same with the clerk of the trial court, who shall forthwith forward a duly attested copy of it to the clerk of the supreme court.

Sec. 5. When a party appeals from a final judgment he may have reviewed any ruling adverse to him which was made at any time in the case.

Sec. 6. That sections 60-3001, 60-3309, 60-3312, 60-3313 and 60-3314 of the Revised Statutes of 1923 be and the same are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the official state paper.

---

AN ACT relating to procedure in criminal cases, amending sections 62-1402, 62-1403, 62-1405, 62-1420 of the Revised Statutes of 1923, and repealing said original sections, and repealing section 62-1404 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1402 of the Revised Statutes of 1923 be amended so as to read as follows: Each defendant in an indictment or information shall be entitled to peremptory challenge of jurors as follows:

*First*, If the offense charged is murder, to the number of nine, and no more.

*Second*, If the offense charged is a felony other than murder, to the number of six, and no more.

*Third*, If the offense charged is a misdemeanor, to the number of three, and no more.

Sec. 2. That section 62-1403 of the Revised Statutes of 1923 be amended so as to read as follows: In all criminal trials the state may challenge peremptorily the same number of jurors allowed the defendant, or defendants, by the preceding section.

Sec. 3. That section 62-1405 of the Revised Statutes of 1923 be amended so as to read as follows: No person shall be retained as a juror whose answers to questions propounded by counsel or the court discloses that he has any opinion, bias or prejudice which would prevent him from giving both to the prosecution and to the defendant a fair and impartial trial, or whose physical infirmity or lack of knowledge of the English language would prevent him from comprehending the business being conducted in court.

Sec. 4. That section 62-1420 of the Revised Statutes of 1923 be amended so as to read as follows: No person shall be rendered incompetent to testify in criminal causes by reason of his being the person injured or defrauded, or intended to be injured or defrauded, or that would be entitled to satisfaction for the injury, or is liable to pay the costs of the prosecution; or by reason of his being the person on trial or examination; or by reason of his being the husband or wife of the accused; but any such facts may be shown for the purpose of affecting his or her credibility: *Provided*, That no person on trial or examination, nor wife or husband of such person, shall be required to testify except as a witness on behalf of the person on trial or examination: *And further provided*, That the neglect or refusal of the person on trial to testify, or of a wife to testify in behalf of her husband, shall not raise any presumption of guilt, nor shall that circumstance be referred to by any attorney prosecuting in the case, nor shall the same be considered by the court or jury before whom the trial takes place. The violation of this proviso shall require the granting of a new trial.

Sec. 5. That sections 62-1402, 62-1403, 62-1404, 62-1405 and 62-1420 of the Revised Statutes of 1923 be and the same are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the official state paper.

---

AN ACT relating to procedure in actions for divorce or alimony, or both, and supplementing section 60-1501 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That in all actions for divorce, or for alimony, or for both divorce and alimony, the petition, or cross petition, shall allege the causes relied upon, as nearly as possible in the language of the statute (R. S. 60-1501), and

without detailed statement of facts. If the opposing party desires a statement of facts relied upon the same shall be furnished to him by the petitioner or cross-petitioner in a bill of particulars. A copy of this bill of particulars shall be furnished to the court and shall constitute the specific facts upon which the action is tried. The statements therein shall be regarded as being denied by the adverse party, except as they may be admitted. The bill of particulars shall not be filed with the clerk of the district court, nor become a part of the records of such court, but if the action be appealed, and the question sought to be reviewed relate to the facts set forth in the bill of particulars, it shall be embodied in the abstract for the supreme court.

SEC. 2. This act is supplemental to section 60-1501 of the Revised Statutes of 1923.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

---

AN ACT relating to foreign judgments of divorce, amending section 60-1518 of the Revised Statutes of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-1518 of the Revised Statutes of 1923 be amended so as to read: Section 60-1518. A judgment or decree of divorce rendered in any other state or territory of the United States, or in any foreign country, in conformity with the laws thereof, shall be given full faith and credit in this state; except, that in the event the defendant in such action, at the time of such judgment or decree, was a resident of this state and had not been served personally with process, or did not personally appear and defend the action in the court of such foreign state, territory, or country, all matters relating to alimony, or to the property rights of the parties and to the custody and maintenance of the minor children of the parties, shall be subject to inquiry and determination in any proper action or proceeding brought in the courts of this state within two years after the date of the foreign judgment or decree, to the same extent as though the foreign judgment or decree had not been rendered.

SEC. 2. That section 60-1518 of the Revised Statutes of 1923 be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

---

AN ACT relating to the selection of jurors, creating a board of jury commissioners, and repealing sections 43-101, 43-102, 43-103 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That in all counties of this state having a population of less than 90,000 there is hereby created a board of jury commissioners which shall be composed of the judge of the district court, the county clerk, the clerk of the district court and the probate judge. Such jury commissioners shall, prior to November first of each year, advise the trustee of each organized township and the mayor of any city not included in any corporate limits of any township, either orally or in writing, as to the duties of such officers in compiling the list of jurors hereinafter provided for. Pursuant to such instructions and advice each of such trustees and mayors in each county shall, during the month of November of each year, make a list of persons to serve as jurors for the ensuing year as hereinafter provided.

SEC. 2. They shall select from those assessed on the assessment roll for the current year suitable persons having the qualifications of electors, and in making such selection they shall choose only those who are not exempt from serving on juries and who are possessed of good moral character and of proved integrity, in possession of their natural faculties, with a good knowledge of the English language, who are not infirm or decrepit, and who are well informed and free from legal exceptions. Such selection shall be in the proportion of two persons for each fifty inhabitants of such township or city: *Provided*, That no person shall be selected as such juror who, either in person or by any other means, shall solicit his selection as such.



SEC. 3. In making such selection each person who shall have served as a juror in a court of record within the year next preceding such selection shall be excluded from a list of jurors for the then ensuing calendar year, and if any such person shall be selected or drawn it shall be the duty of the court to which such juror shall be summoned to strike the names of such persons from the list of jurors, and it shall be good cause of challenging any juror that such juror shall have served as a juror in any court of record during the year preceding any such selection, and no juror called or summoned who shall have so served during such preceding year shall draw any pay for more than one day during the term of court to which he shall be so summoned. A list of the persons so selected shall be immediately after such selection certified by the officers making the same to the county clerk of such county. Such lists shall be accompanied by a written statement made by the officer preparing the same, setting forth the correct name, age, occupation and general characteristics of each person whose name shall appear on such lists, together with such other information as such officer may deem of value in determining the fitness and qualification of such person as a juror. Within thirty days after the certification of such list, the board of jury commissioners shall examine the same, inquire into the qualifications and general fitness of such persons as jurors, and shall select therefrom the name of one person for each fifty inhabitants of each township and each city not included in any corporate limits of any township in the county, and such list shall be filed with the county clerk, and the same shall constitute the list of jurors for the year beginning January first thereafter.

SEC. 4. That sections 43-101, 43-102 and 43-103 of the Revised Statutes of 1923 be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its publication in the statute book.

---

AN ACT relating to civil procedure, amending section 60-2903 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-2903 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: 60-2903. Issues of fact arising in actions for the recovery of money or of specific real or personal property shall be tried by jury, unless a jury trial is waived or a reference be ordered as hereinafter provided. All other issues of fact shall be tried by the court, subject to its power to order any issue or issues to be tried by a jury or referred as provided in this code. *Unless a jury of twelve be demanded by either party within ten days after the issues are joined the trial shall be by six jurors.*

SEC. 2. That section 60-2903 of the Revised Statutes of Kansas of 1923, and all acts or parts of acts in conflict herewith, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

---

AN ACT relating to criminal procedure, amending section 62-1401 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1401 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: 62-1401. The defendant and prosecuting attorney, with the assent of the court, may submit the trial to the court, except in cases of felonies. All other trials shall be by jury, to be selected, summoned and returned as prescribed by law. *In all misdemeanor cases, unless a jury of twelve be demanded by the defendant or complainant or prosecuting attorney before the case is called for trial, they shall be tried by six jurors.*

SEC. 2. That section 62-1401 of the Revised Statutes of Kansas of 1923, and all acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

# KANSAS JUDICIAL COUNCIL BULLETIN

DECEMBER, 1934

PART 4—EIGHTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
LETTER OF TRANSMITTAL .....	59
GROUP PORTRAIT OF SUPREME COURT JUSTICES .....	60
PREFACE .....	61
PROPOSED STATUTES PERTAINING TO:	
Appointment of Judge <i>Pro Tem</i> .....	65
Depositions in Criminal Actions .....	65
Pleading an Alibi .....	67
Defendant's Testimony in a Criminal Action .....	69
DISCUSSION OF AUTHORITY OF TRIAL JUDGES TO COMMENT ON EVIDENCE..	70
PROPOSED STATUTES PERTAINING TO:	
Appeals in Criminal Actions .....	71
Administration Upon Estate of Decedent Without Known	
Heir or Will .....	72
Administration Upon Decedent's Real Property .....	74
Probate Code .....	77
SUGGESTED PROVISION RELATING TO ALL ESTATES	
By Samuel E. Bartlett .....	79
SUMMARY OF PROBATE COURT REPORTS .....	86
"MOTION DAYS" FOR 1935 .....	88

## LETTER OF TRANSMITTAL

---

TOPEKA, KAN., December 1, 1934.

*Excellency, Alf M. Landon, Governor of Kansas:*

in accordance with the provisions of chapter 187 of the Laws of 1927, we herewith transmit to you the eighth annual report of the Judicial Council, in three parts.

W. W. HARVEY, *Chairman,*  
J. C. RUPPENTHAL, *Secretary,*  
EDWARD L. FISCHER,  
RAY H. BEALS,  
HAL E. HARLAN,  
S. C. BLOSS,  
CHARLES L. HUNT,  
ROBERT C. FOULSTON,  
CHESTER STEVENS,  
*Members of the Judicial Council.*



## FOREWORD

herewith a group picture of the justices of the supreme court  
ember 1, 1934, the day the chief justice had completed fifty years  
as service as a member of the court. At the general election in  
1884, W. A. Johnston was elected to the supreme court for the  
term of David J. Brewer, who had resigned earlier in the year to  
appointment upon the federal court, and who later became a mem-  
supreme court of the United States. Justice Johnston, having  
l to fill an unexpired term, was eligible to take office as soon as  
cnvassing board completed its canvass of the returns of the No-  
tion and issued to him a certificate, which was done on December  
e served the remainder of the unexpired term of Justice Brewer,  
to succeed himself as a member of the court, and has been re-  
six years since that time. By virtue of seniority of service he  
f justice, January 12, 1903. His present term will not expire until  
37.

---

BULLETIN contains a schedule of motion days for the various district  
e state for the year 1935. This schedule is prepared from lists  
s made by the various district judges throughout the state and  
e clerks of the courts in their respective counties and with the  
e supreme court in accordance with rules relating thereto here-  
uligated by the supreme court on the recommendation of the  
uncil. These motion days have proved to be such an aid in the  
business in district courts, and so satisfactory to the courts, at-  
litigants, that they may be said to have become a part of our  
ecture.

---

recommending a statute, supplemental to existing statutes, relat-  
appointment of a judge *pro tem.* in certain cases by the chief  
e supreme court. We feel sure this measure will be welcomed.

---

te a part of this BULLETIN to suggested changes in our criminal  
Heretofore we have had occasion to say and now repeat, that  
collected by us from year to year from clerks of the district courts  
k of the supreme court clearly establish the fact that on the whole  
y speaking there is very little delay in the disposition of criminal  
s state. Many of the cases are tried in district court on their  
n thirty days after the information is filed, a great many of them  
days, and very few later than six months. The business of our  
ts is such that a county attorney does not have to wait long,  
try a case when he is ready to try it, and the supreme court dis-  
e cases with reasonable promptness after they once are submitted  
record of our courts in these respects compared with that of some

other states of which we have information shows greatly to the disadvantage of our own state. While some of our statutes pertaining to trial procedure have been improved upon, and we have suggested measures to bring about further improvements, there are, broadly speaking, two things which bring about an unreasonable delay as exists in the final disposition of criminal cases in our state. The first of these is the preparation of the case for trial. Our statutes relating to duties of county attorneys and sheriffs with respect to investigating crime and procuring evidence thereto are decidedly meagre and inefficient. Most county attorneys and sheriffs do much more along these lines than any statute specifically prescribes for them to do. Even with the best activity on their part they are handicapped in procuring evidence and are unable to enable many criminal cases to be tried successfully by a lack of funds and other means for investigating crimes reported to them and procuring the evidence necessary for successful prosecutions. Since the Judicial Council has been organized primarily to study our courts and recommend improved procedure, it has had plenty to do, and since the detecting and investigating of crime and procuring evidence in a sense antedates procedure in court, we have not undertaken a complete study of the subject so as to suggest the needed legislation thereon, but, as pointed out in some of our reports, there should be something in the nature of a state bureau of investigation, well equipped with appliances and personnel sufficient and capable of investigating crime, apprehending the criminals and procuring evidence for successful prosecutions. We have not given this sufficient study to enable us to express an opinion as to whether that should be simply a state bureau, or whether comparatively a few capable men working in conjunction with the county city peace officers, or whether it should be more on the plan of a bureau of investigation system such as has been organized and exists in many of the other states. We understand the legislative council has given this matter attention, and we hope it will give the legislature the benefit of its study. We urge that the council give to give its recommendations favorable consideration. One thing is certain, we cannot hope to convict persons charged with crime without evidence. In many instances we cannot expect county officers, however zealous, to be able to procure the necessary evidence in many cases without sufficient equipment and with a limited personnel and without adequate funds.

The second principal thing which at times causes unreasonable delay in the final disposition of criminal cases concerns appeals from the district courts to the supreme court. Now the burden is not on the defendant to appeal, but his appeal is promptly filed in the supreme court, and frequently the necessary papers are done. There are delays about ordering transcripts and the preparation of briefs and abstracts which could well be avoided. Since this has been the procedure, we have prepared and print herein, with some comments, a proposed amendment of our laws relating to appeals in criminal cases. If the statute is enacted as outlined it will do away with all, or practically all, of the unreasonable delay between the time of the trial in the district court and the submission to the supreme court.

We recommend, also, bills pertaining to the better selection of jurors for jury service. Other bills for the trial by six jurors unless two-thirds of the jury requested. It may be of interest to know that it costs the counties more than a quarter of a million dollars per year to pay nothing for the maintenance of jurors diem and mileage of jurors called to serve in the district courts.

sed measures would reduce that expense materially—certainly as 0,000, perhaps as much as \$100,000 per year.

prepared and submit in this BULLETIN a statute authorizing the positions in criminal cases not only by the defendant, but by the that is necessary; also a bill with respect to requiring defendant alibi if he desires to rely upon that as one of his defenses; also rizing comment upon and consideration of the fact that defendant ify. We also have prepared measures giving the state the same peremptory challenges of jurors as defendant, and other amend-ur criminal statute. We also have a discussion on the authority dge to comment on the evidence in criminal cases. Perhaps these measures do not cover all that could be done, but we urge the each of these proposed measures, assured that each will effect a improvement.

mer the Judicial Council has collected data from judges of the rts. Summaries and tables compiled from the reports made to us where in this BULLETIN. These reports from probate judges and ndence with them disclose what we have known in part before, t of the counties of the state the records of business transacted in rts are incomplete. Particularly that is true in most counties prior of service of the present probate judges. It appears that most ent judges are aware of the prudence and necessity of keeping ete and accurate records than previously were kept in the courts. em, at the expense of much time and labor, have gone back into rs and records and attempted to complete unfinished records and cases. It is not infrequent for a probate judge to advise us that veral hundred cases (apparently the number not definitely known) to twenty years old, and some of them older, in which it is ex-icuit—in many cases impossible—to determine what action was e court, or how the cases finally were disposed of. Indeed, a great em never have been finally closed. These reports and the cor-ncerning them disclose more forcibly that it can be stated ne inadequacy of our statutes pertaining to probate courts, the law with respect to the business to be transacted therein, the w with reference to how it should be transacted, and especially ce to the record of what is done. They also disclose the mag-usiness handled in those courts. Perhaps they do not fully dis-ut they do show that the property being administered and liti-in the probate courts exceeds in value that being litigated in the ts of the state. While there is no way to compute it with ac-feel confident in saying that the economic waste and expense to thers interested in matters being litigated in probate courts ex-the present cost of maintaining such courts. This is not said in probate judges, either individually or collectively, but is directed quacy of our statute which makes such a condition possible. The selves are reputable, honorable citizens, desirous of performing o the best of their ability. One trouble is, the majority of them o training for the work they are called upon to do. They do the an, or as someone tells them to do, without in many instances independent judgment as to how it should be done. Problems

arising in the probate of wills, the administration and distribution of decedents, and the appointment of guardians and handling the present many legal questions of importance. This appears to be so because of what we speak of as the "depression," by reason of which the estates are heavily encumbered. Of the 105 probate judges of them have had legal training; perhaps that many more have sufficient experience and by their application to the matters and they have a fairly good conception of the law pertaining to their duties. They sorely need not only better statutes but a more capable person to handle the business of our probate courts. In this issue of the BULLETIN we have outlined a proposed act for the administration of the estates of those who die without known heir or will, discussed at page 46 of our October, 1934 issue. We also propose two acts designed to make it more certain as to the custody of a decedent to be handled by the administrator and provide for the administration upon real as well as personal property. There is also proposed an act outlining a skeleton code of probate procedure and administration. Mr. Bartlett on revision of our statutes.

---

Some of us who have given thought to the matter are coming to feel with respect to the structure of our judicial system that what is needed in this state, and all we need below the supreme court, is a trial court in each county, with general legal and equitable jurisdiction in all classes of cases and proceedings, including probate and juvenile court matters. We propose a court equipped to handle any class of business which comes before it, let it be open all the time for the transaction of business. Have a clerk in each county, with authority to issue process, serve notices, perform other duties clerical in their nature. In sparsely settled counties or more counties might have the same judge. In our larger counties could be divisions of the court, as there now are of the district courts. This not only would assure a competent court to handle every class of case but would avoid troublesome questions of jurisdiction which now arise. Appeals from such courts, of course, would be to the supreme court on questions of law only. The thought is worthy of careful consideration.



### Appointment of Judge *Pro Tem*.

have a statute (R. S. 1933 Supp. 20-311) for the appointment by justice of the supreme court of a judge *pro tem*. for the district court in limited situations. We see no reason why that should not apply in instances when a judge *pro tem*. of the district court is necessary and has not been selected by the bar. Frequently there are practical difficulties in selecting a judge *pro tem*. by the bar, and unsatisfactory results are often obtained. Naturally, if the selection can be made satisfactorily in that way, there is no objection to it, but sometimes that cannot be done, or results in a considerable delay in the dispatch of business. In many instances resort is made to some agreement for another judge to come in and try a case, or to hold a term of court. These methods frequently result in delay and often the plan proves unsatisfactory in other respects. To overcome these difficulties we suggest the enactment of a bill as follows:

Acting to district courts, providing for the appointment of a judge *pro tem*. under certain circumstances, being supplemental to existing statutes relating to the selection of judges *pro tem*. for the district court.

*Enacted by the Legislature of the state of Kansas:*

1. In any circumstance in which it is necessary or proper under existing statutes to select a judge *pro tem*. of the district court for the trial of an action, or several actions, or for holding a term of court, and a judge has not been selected by the bar of the state, and these facts are certified to the supreme court by the clerk of the district court, if the judge is needed for a term of court, or for the trial of several actions, or if the supreme court by an attorney of record in an action where the judge *pro tem*. is required for a single action, the chief justice of the supreme court may select some other district judge of the state and appoint him as judge *pro tem*. to hold the term of court, or to try the several actions, or the term of court, as the case may be. Such judge *pro tem*. so appointed shall have the same authority to hear and determine all actions and matters arising in the case as the regular judge of the district court. This act shall be construed as supplemental to existing statutes pertaining to the selection or appointment of a judge *pro tem*. of the district court.

This act shall be construed as supplemental to existing statutes pertaining to the selection or appointment of a judge *pro tem*. of the district court.

This act shall take effect and be in force from and after its publication in the official state paper.

### Depositions in Criminal Cases

Our statutes (R. S. 62-1313, 62-1314 and 62-1315) make provision for the taking of depositions on behalf of a defendant in a criminal action, but they are limited in their provisions (*State v. McCarty*, 54 Kan. 52, 59, 36 Pac. 101). Sometimes it is essential to the successful prosecution of crime that the accused be present in court. If the accused, because of illness or other good reason, cannot be in attendance upon court, our statutes make no provision for such a situation. Perhaps this is due to the thought that no such statute would be valid in view of the constitutional provision (§ 10, Bill of Rights) that the accused shall be

allowed to meet the witness face to face. Under similar constitutional provisions, however, it has been held in other states that a statute which for the taking of depositions on behalf of the state, and which has an appropriate provision for the defendant to attend the taking of such depositions and thereby meet the witness face to face, is valid as meeting the requirements of the constitutional provision. (See our October, 1934, BULLETIN.) There is no reason the state should be handicapped in its prosecution by the lack of material evidence which could be given by a witness who cannot attend court, or who cannot be compelled to attend because of distance of residence. The state and the defendant should be put to the same conditions and be entitled to the same advantages with respect to the taking of depositions by witnesses, except that the state should make provision for the attendance of the defendant at the time and place of the taking of the depositions. We therefore recommend the enactment of a statute substantially as follows:

AN ACT relating to criminal procedure and providing for the taking of depositions, and repealing sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the state of Kansas:*

SECTION 1. In any criminal action or proceeding pending in a court of this state, or before a judge thereof, depositions may be taken when allowed by the order of the court or judge; such order may be made only when the judge is satisfied that due diligence has been used in making application for, that the person whose deposition is wanted is a material witness, that he resides without this state, or, residing in this state, is pregnant, is infirm, or is about to or likely to leave the state, and that his attendance at the trial or examination cannot be procured by the use of ordinary diligence. Such application by the defendant shall be accompanied by proof to the county attorney of the time and place it is to be presented. An application on the part of the state shall be accompanied by proof of notice to the defendant or to his attorney of record. The order for the taking of the depositions shall direct whether they shall be taken on oral examination or by written interrogatories.

SEC. 2. When the state procures such an order its notice, in addition to what is required by the preceding section, shall inform the defendant that he is required personally to attend the taking of such deposition and that failure to do so shall constitute a waiver of his right to face the witness. If a deposition is to be taken; and the failure of defendant to attend the taking of such depositions shall constitute such waiver unless the court is satisfied when the deposition is offered in evidence that defendant is physically unable to attend. If the defendant be not then in custody he shall be paid by the county in which the action or proceeding is pending the expenses for travel and attendance upon the taking of such deposition. If the defendant be in custody the sheriff, at the request of the county attorney, shall have the defendant in attendance at the taking of such deposition and the expense to be paid by the county.

SEC. 3. Depositions taken under the provisions of this act may be introduced as evidence upon the hearing of the action or proceeding, subject to the same rules applicable to the reception of evidence in a civil action of deposition taken upon due notice.

SEC. 4. Sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of 1923 be and the same are hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its publication in the official state paper.

### Pleading an Alibi

discussed this question briefly in our October, 1934, BULLETIN (page 42). A suitable statute on this question, fairly administered, should produce favorable results. A similar practice has existed in Scotland for many years. Laws of Scotland, p. 227; Macdonald, Criminal Law of Scotland, p. 329). It was advocated by Professor Burdick in an article on "Justice in America" (1925), 11 American Bar Association Journal, and Willoughby's "Principles of American Administration," p. 450. In 1927 (§ 20, ch. 8, Public Acts, 1927), and Ohio, in 1929 (Public Acts, 1929, § 52), enacted statutes requiring such a plea. Some questions arising from these statutes have been construed by the courts. (*People v. Miller*, 250 N. W. 475; *People v. Wudarski*, 253 Mich. 83, 234 N. W. 157; *State v. Nooks*, 123 Ohio St. 287, 173 N. E. 206; *State v. Nooks*, 123 Ohio St. 287, 173 N. E. 206; *State v. Thayer*, 124 Ohio St. 1, 176 N. E. 656; *Reed v. State*, 185 N. E. 558. For general discussion, see Journal of Criminal Law and Criminology, vol. 24, p. 849.) These statutes are said to have been "a result of organized crime." New Jersey passed an alibi defense law in 1934, effective January 1, 1935. (See "The Panel" vol. 12, p. 25.) A statute proposed in New York was not enacted, possibly because it required the defendant to furnish the prosecution with the names and addresses of witnesses by which he expected to prove the alibi. The Utah legislature is considering the adoption of such a statute. (See The Utah Law Review, November, 1934, pp. 152, 153.) In this state, where the prosecutor is required to endorse the names of the state's witnesses on the information, there appears to be no reason why a similar requirement should not be placed on the defendant with respect to his plea of alibi. One of the practical difficulties arising on the application of such a statute grows out of the fact that prosecuting officers cannot in all cases, with prudence, allege the specific time and place of the crime in the complaint or information. Clearly, when the time and place of the crime are not specifically alleged, defendant cannot, as a matter of course, plead that he was at some other place at the time in question. The proposed statutes enacted or suggested require similar notice if the defendant expects to plead insanity at the time the crime was alleged to have been committed, or at the time of trial. In this state there is little if any reason why such a plea by defendant. As regards insanity at the time of the commission of the crime, our statute (R. S. 62-1532) relating to criminal procedure has been construed by our courts (*In re Ostatter*, 103 Kan. 487, 197 Pac. 217; *In re Wadleigh*, 108 Kan. 682, 197 Pac. 217; *In re Timm*, 129 Kan. 863; *Hodison v. Rogers*, 137 Kan. 950, 22 P. 2d 491), does away with the difficulty, if not entirely, with the old difficulties arising by a plea on behalf of insanity at the time the crime was committed. Insanity at the time of trial is a different question. But this also is covered by our statute (R. S. 62-1531) and our decisions (*State v. Ossweiler*, 111 Kan. 358, 207 Pac. 1071; *State v. Dettar*, 125 Kan. 218, 263 Pac. 1071, and *State v. Brotherton*, 125 Kan. 218, 263 Pac. 954). These provisions respecting a defense of insanity at the time of the commission of the crime, or insanity at the time of trial,

are fully and apparently satisfactorily covered by existing statutes not be included in any statute relating to the plea of alibi.

We suggest the following statute on the question and believe it worked out in such a way as to be beneficial in its purposes and application:

AN ACT relating to criminal procedure.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In the trial of any criminal action in the district court the complaint or information charges specifically the time and place of the offense alleged to have been committed, and the nature of the offense, as necessitated by the personal presence of the one who committed the offense, and the defendant proposes to offer evidence to the effect that he was at some other place at the time of the offense charged, he shall give notice in writing of that fact to the county attorney. The notice shall state the defendant contends he was at the time of the offense, and shall be endorsed thereon the names of witnesses which he proposes to use in support of such contention. On due application, and for good cause shown, the court may permit defendant to endorse additional names of witnesses on the notice, using the discretion with respect thereto now applicable to the county attorney to endorse names of additional witnesses on the complaint or information. The notice shall be served on the county attorney as much as ten days before the action is called for trial, and a copy thereof, with a statement of such service, filed with the clerk of the court: *Provided*, on due application, and for good cause shown the court may permit the notice to be amended at any time before the jury is sworn to try the action. In the event the time and place of the offense are not specifically stated in the complaint or information, on application of defendant that the time and place be stated in order to enable him to offer evidence in support of a contention that he was not present, and upon due notice thereof, the court may permit the county attorney either to amend the complaint or information to state the time and place of the offense as accurately as possible, or to file a bill of particulars so stating the time and place of the offense, and the defendant shall give the notice above provided if he proposes to offer evidence to the effect that he was at some other place at the time of the offense charged. Unless the defendant gives the notice as above provided he shall not be permitted to offer evidence to the effect that he was at some other place at the time of the offense charged. In the event the time and place of the offense charged, and the time of the offense has not been specifically stated in the complaint or information, and the court directs it be amended, or a bill of particulars filed, the defendant may do so on the facts as he has been informed concerning them; or, if during the progress of the trial the evidence discloses a time or place of the offense other than alleged, but within the period of the statute of limitations applicable to the offense and within the territorial jurisdiction of the court, the defense shall not abate or be discontinued for either of those reasons, but defendant may, without having given the notice above mentioned, offer evidence to the effect that he was at some other place at the time of the offense.

SEC. 2. This act shall take effect and be in force from and after its publication in the official state paper.

## Defendant's Testimony in a Criminal Action

ated, our statute (R. S. 62-1420, 62-1421) now provides that a criminal action, or his wife (or husband) shall not be required to appear as a witness on behalf of defendant, and that the neglect or refusal of any person to testify shall not raise any presumption of guilt nor shall it be considered by the court or the jury. These provisions became a part of our law in 1871 (Ch. 118, Laws 1871). At that time we appear to have had no statute on the subject. That the statute now exists is unsatisfactory has long been recognized, and for many recent years has been the subject of much criticism. On the one hand, it is said, why should the state not be allowed to call as a witness the person who knows most about the question whether the crime charged has been committed, namely, the defendant. Further it is said the fact that the defendant did not testify cannot be kept from the jury or the court, since the witnesses are bound to know whether he testified or not. On the other hand, it is said that the fact of his failure to testify is almost sure to have an influence on the jury, however much they may endeavor to keep it from doing so. On the other hand, it is said that one charged with crime is presumed to be innocent, that the burden is on the state to prove his guilt, hence that he is not required to do anything and may sit mute; that any other rule would destroy the sense that presumption of innocence. In practice it frequently happens that a prosecuting attorney to argue a case effectively without his own witnesses to some degree brings out or emphasizes the fact that defendant did not testify as the witness stand—when that is the case—even though the attorney strives to avoid any such reference. At times some of the attorneys do strive so hard to avoid it and succeed in making that fact a part of the case by cunning indirection. In one case (*State v. Smith*, 114 Kan. 186, 1900), the county attorney specifically referred in his argument to the fact that the wife of defendant did not testify, and it was held on appeal that the error should not be reversed for that reason unless defendant was prejudiced thereby. From the very nature of the case, however, such a showing could not be made, for it repeatedly has been held that jurors are not permitted to testify as to what influenced them in reaching their verdict.

The Judicial Council considered this matter as early as its 1928 Report and Recommendation (page 14): "That the statute (R. S. 62-1420) be so amended that the county counsel for the state to comment upon and the jury to consider whether the defendant, or his wife, did not testify (if they did not). The statute should be so amended, or should be changed so as to make such consideration reversible error."

The Council more specifically to call it to the attention of the legislature and the Council prepared a bill amending several sections of our criminal code and other things recommending that R. S. 62-1420 be amended by the last proviso therein: "The violation of this proviso shall require the granting of a new trial." Commenting on that in our 1929 Report (page 10) we said regarding the statute as it now reads: "The principal objection was that the violation of the last proviso should require the

granting of a new trial. As at present construed its violation is an error, but reversible only in the event defendant can show that he is innocent. But the nature of the matter is such that there is no practical way of undoing what influence the violation of the provision has on the jury. The provision should either be omitted from the law or made effective."

Since then the matter has received much more discussion. The Kansas Bar Association and its legislative committee earnestly urge that the law prohibiting the county attorney from commenting upon, or the court from considering the fact that a defendant did not testify, be repealed. The Judicial Council at a recent meeting joined in that recommendation and therefore recommend the enactment of a statute reading as follows:

AN ACT relating to criminal procedure, amending section 62-1420 of the Revised Statutes of 1923 and repealing said original section, and repealing section 62-1421 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1420 of the Revised Statutes of 1923 be amended so as to read as follows: Section 62-1420. No person shall be incompetent to testify in criminal causes by reason of his being injured or defrauded, or intended to be injured or defrauded, or because he is not entitled to satisfaction for the injury, or is liable to pay the costs of the prosecution; or by reason of his being the person on trial or examination by reason of being the husband or wife of the accused; but any person may be shown for the purpose of affecting his or her credibility. That no person on trial or examination, nor wife or husband of the person on trial or examination, shall be required to testify except as a witness on behalf of the person on trial or examination.

SEC. 2. That sections 62-1420 and 62-1421 be and the same be repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

### Authority of Trial Judge to Comment on Evidence

For many years the question of whether a trial judge should be permitted to comment upon the evidence in cases tried to juries, or in criminal cases so tried, has been a subject of much discussion, and different views have been expressed. Recently we have been recommended to recommend a statute specifically authorizing and permitting the judge to discuss his view of the evidence on the trial of a criminal action. It may be pointed out that neither our constitution nor our statutes contain any specific prohibition upon such comment. Indeed, one section of our criminal code appears to take it for granted that the trial judge has such authority. The Judicial Council is of the opinion that additional legislation on the subject is not desirable. Naturally, it is a power or authority which must be used with care, if used at all, but if so used will serve a good purpose. The section of the statute referred to reads as follows (we have inserted the sentence which seems to assume such authority to exist):

"The judge must charge the jury in writing, and the charge shall be placed among the papers of the cause. In charging the jury he must state the facts and all matters of law which are necessary for their information in reaching a verdict. *If he presents the facts of the case, he must inform the jury that the facts are the exclusive judges of all questions of fact.*" (R. S. 62-1447.)

## Proposed Statutory Changes

relating to appeals in criminal actions and repealing sections 62-1702, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713, 62-1714 of the Revised Statutes of Kansas of 1923.

as amended by the Legislature of the State of Kansas:

1. In any criminal case tried to a jury in district court, in which the defendant is found guilty, if the defendant is not then in custody of the court, he shall be taken into custody at once; and unless he announces that he desires to file a motion for a new trial, he shall be sentenced either on probation or at a fixed time within ten days.

If at the time the verdict of guilty is returned the defendant announces he desires to file a motion for a new trial, the court shall fix a time, not exceeding three days, in which to file the motion for a new trial, and such motion shall be heard and determined as expeditiously as possible and in no case more than thirty days after it is filed. Pending the filing and hearing of the motion for a new trial, if the defendant desires to be at liberty on bond, such bond shall be bailable after conviction, the court shall fix the amount of such bond, which bond shall be approved by the court, or, if the court so orders, the clerk of the court. If the motion for a new trial is overruled, the bond shall be imposed at once. If the defendant desires to appeal promptly, he may give bond pending the hearing of his motion for a new trial, the court shall order the bond to be in force pending the application to the court for bond.

Proceeding on appeal: (a) If defendant does not seek to have execution of his sentence stayed, or release from custody on bond pending his appeal, he may appeal at any time within six months from the date of the conviction. He shall serve notice of appeal on the county attorney of the county in which he was tried and filing the same with the clerk of the district court. He shall then prepare and present his appeal in accordance with the statutes of this state of court applicable thereto. (b) If defendant seeks stay of execution of his sentence, or release from custody, or both, pending his appeal, he shall give notice of his intention to appeal on the county attorney and file the same with the clerk of the court, order a transcript of the testimony in the case to be presented his case on appeal, see that the journal entry of trial and conviction is filed, and cause copies of such notice of appeal, with proof of service, to be filed with the clerk of the court within ten days after sentence. On the application of the defendant to the supreme court, or any justice thereof, shall order execution of his sentence stayed, and if the offense is bailable after conviction shall fix the amount of the bond and direct that it be approved by the supreme court, or any justice thereof, or its clerk, or by the trial court, or its clerk. Defendant shall then prepare and present his appeal in accordance with statutes of this state of court applicable thereto: *Provided*, If the offense of which he was convicted was a misdemeanor, and the bonds mentioned in sections 1705 of the Revised Statutes of Kansas of 1923 have been given, and duly certified, as required by section 62-1706 of the Revised Statutes of Kansas of 1923, defendant shall not be kept in custody pending his appeal.

If the state desires to appeal in any case mentioned in section 62-1702 of the Revised Statutes of 1923, the county attorney, within ten days after the ruling complained of, shall serve notice of appeal upon the defendant and file the same with the clerk of the court, order a transcript of testimony in the case to be presented to the supreme court, or any justice thereof, to be filed with the clerk of the court within ten days after the ruling complained of is filed, and cause copies of such notice of appeal, with proof of service, to be filed with the clerk of the court. The appeal by the state in no case stays or affects the execution of the ruling or judgment appealed from until the ruling or

judgment is reversed. The state shall thereafter prepare and present a writ of habeas corpus in accordance with statutes and rules of the court applicable to such cases.

SEC. 5. The supreme court shall have authority to make such rules, not repugnant to statute, as it may deem necessary or proper to facilitate the prompt and orderly preparation and presentation of appeals and to carry into effect the final order of the court in such actions.

SEC. 6. Sections 62-1702, 62-1704, 62-1709, 62-1710, 62-1711, 62-1712 and 62-1714 of the Revised Statutes of Kansas of 1923 are hereby repealed. *Provided*, That appeals in criminal actions in which the verdict of the jury is returned before the effective date of this act may be appealed and the appeals disposed of under the statutes in force at the time the verdict is returned.

SEC. 7. This act shall take effect and be in force from and after January 1, 1935, and its publication in the statute book.

AN ACT relating to the administration upon an estate of one who dies without known heir or will, and repealing sections 22-933, 22-934, 22-935, and 22-1202, 22-1203, 22-1204, 22-1205 and 22-1206 of the Revised Statutes of Kansas of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. When it shall be brought to the attention of a probate court of any county that a resident of the county has died without known heir or will, but leaving an estate, the court shall appoint some suitable person as administrator to take possession of the estate and administer the same under the supervision of the court, and shall notify the county attorney of the appointment. The probate court shall have exclusive original jurisdiction of all claims, legal or equitable, arising in the administration and distribution of the estate.

SEC. 2. The administrator so appointed shall qualify by taking and giving bond unto the state of Kansas in such sum as the court may determine, the faithful administration of the estate, which bond may be secured by one or more additional sureties required when the court deems that necessary and proper. He shall cause to be published in a newspaper of the county in which he resides, to publish legal notices, for five consecutive weeks, a notice of his appointment, which notice shall give the name and last place of residence of the decedent and recite that he died without known heir or will, and shall notify those who claim as heirs, or under a will of decedent, to present their claims to the probate court, and also those who have claims against decedent to present their claims in accordance with statutes pertaining to the presentation of claims against the estates of decedents. The administrator so appointed shall take into his possession all property of the decedent of whatever kind or location and wheresoever situated and shall prepare and file an inventory thereof within sixty days after his appointment, or earlier if ordered by the court. He shall direct the personal property to be converted into cash as expedient, as far as possible, and also shall direct the administrator to collect the rents and profits, and to pay the taxes upon and to care for the real property of the decedent. Creditors of decedent may present claims against the estate, which claims shall be considered and disposed of as similar claims against estates of other decedents. If no one appears to claim as an heir, devisee or legatee of the decedent, one year after the appointment of the administrator the court shall order the real property of the decedent to be sold for cash, and also shall order the sale of any of the personal property of the decedent in the hands of the administrator, and the estate shall be closed as are the estates of other decedents.

SEC. 3. The net proceeds of the estate shall be paid to the state treasurer and become temporarily a part of the state school fund. The state school board and commissioners shall invest and handle this money as other monies



fund, except that it shall be kept as a temporary fund until ten years after it shall have been first received, at which time it shall be covered by the perpetual school fund of the state, provided no one in the meantime has exercised his right thereto as heir, devisee or legatee of the decedent.

Any person who claims the estate, or some part thereof, as heir of decedent, must file his claim therefor to the probate court not later than ten years after the administrator was appointed or such claim shall be forever barred. The court shall allow his claim if it shall be allowed by the court. If two or more persons have claims pending at the same time the court shall determine which claimant has established his claim and the share or portion of the estate which is entitled to receive. If at the time of such determination the estate is still in the hands of the administrator, the same shall be delivered to the person found entitled to receive it, less claims previously allowed and paid. If at the time of such determination the proceeds of the estate have been delivered to the state treasurer and are temporarily a part of the state school fund, the school fund commissioners shall pay to such person the sum or portion of the estate the court has adjudged they are entitled to receive. A party aggrieved at the ruling or judgment of the probate court may appeal to the district court as other appeals are taken from the probate court, and the appeal when so taken shall be tried *de novo* in the district court, and a party aggrieved at the ruling or judgment of the district court may appeal to the supreme court as in civil actions.

If the estate or its proceeds, or some part thereof, has been delivered to any person or more who claimed as an heir of decedent and whose claim was established, and later, but within ten years after the administrator was appointed, someone else presents to the probate court a claim for the estate, or some part thereof, as heir of decedent, and upon a hearing establishes his claim, the state nor the school fund commissioners shall be liable to the claimant for moneys previously paid out to those found to be heirs of the decedent, but the party in whose favor such later claim was established may bring a cause of action in the district court against the party to whom the moneys were made, to determine their respective rights to the property and the proceeds.

The state shall be regarded as a party to all actions in the probate court for the administration or distribution of the estate of a resident of this state who dies without known heir or will. The county attorney shall represent the state and shall be the legal adviser of the administrator of such an estate. He shall diligently protect, defend and conserve such estate for the benefit of the state school fund and closely scrutinize all claims of whatever character against such estate, including claims of heirs, and diligently defend the estate in all courts actions or proceedings against all claims not clearly established.

Those having claims of any character against such an estate shall be required to establish their respective claims by clear and convincing evidence. Expenses incurred by the county attorney in representing the state in such actions or proceedings shall be paid by the county, as are other expenses incident or necessary to the conduct of the office of the county attorney. The county attorney, the probate court, the administrator, or any other person, in his interest, or on his own motion, the attorney-general may appear and represent the state, and upon permission or order of the probate court, the attorney-general, or the governor, may take full charge of the conduct of the estate in the probate court. Expenses of the attorney general incident or arising from his conduct of the case shall be paid from the funds provided for the use of the attorney-general's office. In no event shall attorneys' fees be paid from the estate to anyone representing the state or the probate court.

This act in its main is designed to be procedural and to apply to the estates of residents of this state who have died without known heir or will and whose estates have not heretofore been administered, or whose estates are not in the process of administration, as well as to the estates of residents of this state who hereafter die without known heir or will. It is not intended to

apply to such estates previously administered or now in process of administration, except that in those estates the regularity of the appointment of an administrator, the fact that the administrator took charge of and administered the real property of the decedent, and orders of the probate court regarding the costs of administration, including attorneys' fees, if any, shall not be inquired into, and such acts and proceedings and orders shall be final.

SEC. 8. Sections 22-933, 22-934, 22-935, 22-1201, 22-1202, 22-1203, 22-1204, 22-1205 and 22-1206 of the Revised Statutes of Kansas of 1923 be and the same are hereby repealed.

SEC. 9. This act shall take effect and be in force from and after its publication in the official state paper.

### **Administration Upon Decedent's Real Property**

Many questions have arisen respecting the extent of the authority of an administrator of an intestate decedent with respect to real property. Where a decedent left a will the authority of the executor over both real and personal property ordinarily is governed by the terms of the will, aided by legal principles. When the decedent left no will the general rule is that the administrator has nothing to do with the real property of the decedent. If such property, or part of it, is necessary to pay debts of the decedent, though this general rule has existed since the organization of our courts, in many instances it appears that the administrator, the heirs of the decedent, and even the probate court, are not aware of it, with the result that the administrator assumes the same general authority over real property as he does over personal property—perhaps makes leases, collects rents, pays taxes and insurance, expends money for upkeep, and at times pays or principal on encumbrances—to find out, perhaps at the close of the administration, that none of this was done under his authority as administrator and perhaps to learn to his sorrow that he must account to heirs for money so collected and disbursed by him. To avoid the financial loss resulting from such a situation, courts sometimes have regarded the administrator as agent for the heirs, by their acquiescence or consent, even though no such agency was specifically created. But that holding is difficult or impossible to enforce as against minor or other incompetent heirs. On the other hand, courts sometimes find that the income from the property has been dissipated by the administrator, and that he is not liable on his administrator's bond. As to what income, if any, of the real property becomes a part of the personalty of the estate for the payment of debts of decedent sometimes are in doubt. All of these difficulties can be avoided by a statute providing that the administrator shall take charge of and administer nonexempt real property substantially in the same way as he administers nonexempt personal property. The laws of many states so provide. No reason suggests itself why statutes making such provisions should not be enacted in Kansas. Simplicity and certainty of the law with respect to the authority of the administrator and his duties and with respect to what property of the decedent is available for the payment of his debts will avoid much confusion and the unnecessary litigation. To correct our statutes in these regards we propose certain measures. The first of these amends certain sections of our existing

is more comprehensive in its scope and more complete in its pro-  
both of them should be enacted. They are as follows:

specting executors and administrators and the settlement of the  
of deceased persons, amending sections 22-504, 22-507, and 22-601  
Revised Statutes of Kansas of 1923, and section 22-702 of the  
Statutes Supplement of 1931, and repealing said original sections.

*as amended by the Legislature of the State of Kansas:*

1. That section 22-504 of the Revised Statutes of Kansas of 1923  
amended to read as follows: Section 22-504. The personal estate  
, together with the real estate chargeable with the payment of  
prised in the inventory, shall be appraised by three disinterested  
rs of the county, who shall be appointed by the court.

That section 22-507 of the Revised Statutes of Kansas of 1923 is  
ended to read as follows: Section 22-507. The appraisers shall  
estimate and appraise the personal property, together with the real  
nterest in real estate, chargeable with the payment of debts, and  
or item of personal property and each tract of real estate, shall be  
separately, with the value thereof in dollars and cents, distinctly,  
opposite to the articles or items of personal property, or tracts of  
respectively.

That section 22-601 of the Revised Statutes of Kansas of 1923 is  
ended to read as follows: Section 22-601. The executor or adminis-  
trator, within such time as the court may order, sell the whole of the  
property belonging to the estate, not exempt by law from payment  
and is assets in his hands to be administered: *Provided*, That such  
property as is specifically bequeathed shall not be sold until the  
court order, shall have determined the residue of the personal estate,  
the payment of debts, to be insufficient for the payment of debts  
ate and costs of administration, and direct the personal property  
bequeathed to be sold: *And provided further*, That whenever the  
find that the sale of the personal property, or any part thereof, is  
ary for the payment of debts, legacies, or costs of administration, it  
discretion, order such property not sold.

That section 22-702 of the Revised Statutes Supplement of 1931 is  
ended to read as follows: Section 22-702. All demands, whether  
become due, whether absolute or contingent, not thus exhibited  
year shall be forever barred, saving to infants, persons of unsound  
minded, or absent from the United States, one year after the removal  
disabilities, the right to participate in any assets remaining un-  
ended in the hands of the executor or administrator.

That sections 22-504, 22-507, and 22-601 of the Revised Statutes of  
1923, and section 22-702 of the Revised Statutes Supplement of  
1931, are hereby repealed.

That this act shall take effect and be in force from and after its  
passage in the statute book.

---

relating to decedents' estates, providing what property of deceased  
shall be chargeable with payment of debts and costs of admin-  
istration, and for the possession, management, control, and disposition of  
property, and the rents, issues, and profits thereof, by executors and  
administrators.

*as amended by the Legislature of the State of Kansas:*

1. The property of the deceased persons shall be chargeable with  
payment of debts and costs of administration in the following order:  
the personal property belonging to the deceased, except that allowed

as exempt to the widow or minor children, under existing statute including emblements or annual crops raised by labor, and whether served from the land of the deceased at the time of his death. *Second.* Rents, issues, and profits of the real estate of the deceased, except as exempt as the homestead, whether such rents accrued before, or after the death of the deceased, and including rents, issues, and profits, during the running of the redemption period, of real estate of the deceased, except as his homestead, sold at execution or judicial sale, whether at execution or judicial sale was held before or after the death of the deceased. *Third.* All of the real estate of the deceased, or any interest he had in any real estate situated within this state, except that exempt as homestead, including redemption rights in any real estate, except the homestead, sold at execution or judicial sale either before or after the death of the deceased.

SEC. 2. The executor or administrator shall have a right to the property and shall have the management and control, of all of the real and personal property of the deceased chargeable with the payment of debts, including real estate in which there are redemption rights from execution or judicial sales thereof held either before or after the death of the deceased.

SEC. 3. Upon the order of the court, administrators or executors shall have the real estate under their control for any term not more than three years, and shall receive the rents, issues, and profits of all such real estate, subject to approval of the court, keep up the repairs, insurance, and taxes thereon, or such part thereof as the court may direct.

SEC. 4. If in the judgment of the court it will promote the interests of the estate, and not be prejudicial to creditors, the court shall have power to order the administrator or executor to pay interest or installments of principal on any mortgage or other lien on any real or personal property chargeable with payments of debts of the deceased, or to entirely discharge or pay off such liens, or to redeem, for the benefit of the estate, any nonexempt real estate sold at execution or judicial sale either before or after the death of the deceased, out of the personal assets of the estate in the hands of the administrator or executor, or to order the sale of any of the nonexempt real estate to provide funds for any of the purposes mentioned in this section: This act shall not be construed so as to take away or alter the right of the heirs or devisees of the deceased to redeem, for their own benefit, personal property, or to redeem, for their own benefit, real estate sold at execution or judicial sale, in the event that the executor or administrator does not elect to redeem for the benefit of the estate any such personal property or real estate, and upon the application of any of the heirs or devisees interested in such pledged personal property, or real estate subject to such lien, the court, if such redemption appears to be to the best interests of the estate and the creditors, shall make an order directing the executor or administrator to redeem such property for the benefit of the estate, but if the court shall find that such redemption will not be to the best interests of the estate or creditors, the court shall order such redemption right surrendered and the property turned over to the heirs or devisees.

SEC. 5. Whenever the court shall be satisfied that any real estate sold or leased for the payment of debts of the estate, legacies, or other claims, in administration, the executor or administrator may be ordered to deliver possession of the same to those entitled to it as heirs or devisees.

SEC. 6. Upon final settlement and distribution of the estate, all real estate not sold for the payment of debts, legacies, or costs of administration, remaining in the possession of the administrator or executor, shall be turned over to the heirs or devisees entitled to the same.

SEC. 7. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 8. That this act shall take effect and be in force from and after its passage and publication in the statute book.

## Probate Code

More than a year the Judicial Council has given considerable thought to the subject of probate procedure. The necessity for such a code is recognized and the Council has given the subject serious attention. In attempting to draft a code we found that many sections of our present statute relating to probate law of estates of decedents, minors and other incompetents were woven in them provisions relating to procedure. If a code of probate is formulated it is thought that it will be necessary to redraft the probate law pertaining to such estates in such a way as to eliminate the procedural provisions mingled therein. This altogether has proven to be more than the Council has had time to complete, in the way its members must work upon such a task. We have, however, outlined an act, together with our proposed act relating to probate and county courts (No. 50 to 52, October, 1934, BULLETIN), if both are adopted, will enable the Council to complete the formulation of such a code of probate law, to be promulgated by rules of the supreme court. Mr. Samuel H. Pett, of Ellsworth, who has found time to give a great deal of detailed thought to the matter, and whose suggestions concerning guardianship estates were published in our BULLETIN, has combined sections pertaining to estates with similar provisions pertaining to estates of decedents. We publish this, under the title of "General Provisions Relating To All Estates," for the more comprehensive study of those questions. The proposed act mentioned is as follows:

AN ACT providing for a code of probate procedure.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. This act shall be known as the code of probate procedure of the State of Kansas.

The rule of the common law, that statutes in derogation thereof are strictly construed, has no application to this code. Its provisions, and proceedings under it, shall be liberally construed, with a view to promote its purpose and to assist the parties in obtaining justice.

As used in this act, the term "fiduciary" includes executor or administrator (except special administrator), guardian (other than a guardian under the Kansas Soldiers' and Sailors' Guardianship Act) of the estate of a minor, an incompetent, an imprisoned convict, and trustee for the estate of a person under disability and subject to the jurisdiction of the probate court. The term "under disability" includes a minor, an incompetent, and an imprisoned convict.

The term "incompetent" includes insane, lunatic, idiot, imbecile, feeble-minded person, drug habitue, and habitual drunkard. The term "imprisoned convict" means any person who is imprisoned in the State Prison under the sentence of any court.

All proceedings relating to the estates of decedents or of persons under disability or for the appointment of a fiduciary thereof shall be adversary in nature and shall be by action in the probate court. There shall be no other form of action, which shall be called a probate action.

Each of the following proceedings shall constitute one probate proceeding: (1) the proceedings for the appointment of an administrator and all proceedings necessary for the full and final administration of the estate of a decedent; (2) the proceedings for the admission of a will to probate, the appointment of an executor or administrator thereunder, and all matters

necessary for the full and final administration of the property of the testator, whether disposed of under the terms of the will or not; (3) the procedure for the appointment of a guardian of the estate of a person under disability and all matters connected with such guardianship; and (4) the procedure for the appointment of or relating to a trustee for a person under disability and all matters connected therewith over which the probate court has jurisdiction. Whenever property passes by the laws of intestate succession under a will to a beneficiary or beneficiaries not named in such will, the proceedings in the probate court shall include a determination of the persons entitled to such property. This enumeration of probate actions does not include others within the jurisdiction of the probate court.

SEC. 6. An action for the appointment of an administrator or for the revocation of a will to probate must be brought in the county in which the decedent was a resident at the time of his death. An action for the appointment of a guardian must be brought in the county in which the person under disability is a resident. If an imprisoned convict has no known place of residence, an action shall be brought in the county in which the conviction was had. If case probate actions are pending in two or more counties for the probate of a will or the appointment of a fiduciary, jurisdiction being claimed in each, the controversies and proceedings as to jurisdiction shall be determined by the authority and in the manner prescribed by rule of the supreme court. An appointment of a fiduciary for the estate of a nonresident decedent or of a resident person under disability may be made by the probate court of any county of the state in which property of such estate is located. The appointment, first made, shall extend to all the property of the estate within the state and shall exclude the jurisdiction of the probate court of any other county.

SEC. 7. The supreme court shall have the power to prescribe and enforce by general rules for the probate courts of the state, the necessary and proper forms for parties to probate actions, the forms of process, notice, writs, pleadings, motions, and the practice and procedure in probate actions, including the provisions for the presentation and allowance of claims, the time and manner of appeals to the district court, and the security and payment of costs. The rules shall neither abridge, enlarge, nor modify the substantive rights of any litigant. They shall take effect three months after their promulgation and publication in the official state paper, and thereafter all laws in conflict therewith shall be of no further force or effect.

SEC. 8. Issues of fact on the trial of a probate action, or the determination of any controverted matter therein, shall be in accordance with the rules of evidence provided for civil cases by the code of civil procedure.

SEC. 9. Trials and hearings in probate actions shall be by the court, and the decision of the court therein or in any matter pertinent thereto shall have the same force and effect as a judgment at law or a decree in equity, except that in a particular case may require, and shall be final as to all persons having notice of the hearing, except: (1) upon appeal according to law; (2) in case of fraud or collusion; (3) as against rights which are saved by statute to persons under disability; (4) nothing in this act shall be construed to abridge or modify the provisions of chapter 160 of the Laws of 1925 relating to the correction of errors in wills in the district court.

SEC. 10. Every judgment in a probate action, and every order which affects the substantial rights of a party, is appealable to the district court of the county. The district court shall on appeal try and determine the same as originally filed therein and may, in its discretion, order further or amended pleadings to be filed therein.

SEC. 11. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 12. This act shall take effect and be in force from and after its publication in the statute book.

## General Provisions Relating to All Estates

ors, administrators, guardians, and trustees that are subject to the jurisdiction of the probate court)

BY SAMUEL E. BARTLETT

—The chief criticism of the proposed guardianship act as published, as such criticisms have come to the writer, has been that the draft is too long. It has seemed to the writer that fully half of the sections of the act published in the JUDICIAL COUNCIL BULLETIN (April, 1934) may be combined with like sections relating to decedents' estates. It appears that such sections relating to the oath, letters of appointment, bonds and qualifications of sureties, the requirements for new or additional bonds, successor release of sureties, depositories of trust funds, inventory and appraisal of personal property, sale of real property, investment of funds, assignment of real contracts, insolvent estates, accounting, etc., do admit of a concise statement that will do much to clarify and simplify any restatement of substantive probate law that may be undertaken. This draft of forty sections is an attempt to unite such provisions, which are similar in character and will admit of a uniform statement. It will be noted that this draft does not undertake to say when a trustee is subject to the jurisdiction of the probate court. What is left of the guardianship act may be rewritten or reorganized and placed in a separate article.

### CONTENTS

Definition of Fiduciary.	26. Sale Subject to Mortgage.
Investment of Funds.	27. Contents of Order of Sale.
Letters of Appointment.	28. Notice of Sale of Real Property.
Letters of Appointment.	29. Report of Sale.
Letters of Appointment.	30. Confirmation of Sale.
Letters of Appointment.	31. Proceeds from Sale.
Letters of Appointment.	32. Sale of Deferred Payment Notes.
Letters of Appointment.	33. Distribution of Proceeds.
Letters of Appointment.	34. Real Estate Commission and Abstract.
Letters of Appointment.	35. Compensation of Fiduciary.
Letters of Appointment.	36. Personal Use of Trust Property Prohibited.
Letters of Appointment.	37. Resignation and Removal of Fiduciary.
Letters of Appointment.	38. Accounting in Case of Death or Removal.
Letters of Appointment.	39. Survivor May Act.
Letters of Appointment.	40. Annual Accounting.
Letters of Appointment.	41. Examination of Fiduciary.
Letters of Appointment.	42. Citation to Account.
Letters of Appointment.	43. Power of Probate Court to Hear and Determine.
Letters of Appointment.	44. Judgment.
Letters of Appointment.	45. Proof of Publication.
Letters of Appointment.	46. Authenticated Copy of Proceedings.

as used in this act, the term "fiduciary" means guardian as herein defined, executor or administrator, or any other person, association, or corporation appointed by the probate court, or under the control thereof, or acting in a fiduciary capacity for any person, asso-

ciation, or corporation, or charged with duties in relation to any property, interest, trust, or estate for the benefit of another.

2. Every fiduciary, before entering upon the execution of his trust, shall take and subscribe an oath that he will faithfully and impartially and to the best of his ability discharge the duties of fiduciary, and shall receive no compensation for his services from the estate or fund over and above the fee of appointment from a probate court having jurisdiction of the subject matter of the trust. No act or transaction of a guardian shall be valid prior to the issuance of letters of appointment to him, except necessary acts for the preservation of the trust estate and an executor named in a will may be allowed funeral expenses.

3. Unless otherwise provided by law or the instrument making the appointment, every fiduciary shall, prior to the issuance of his letters, file with the probate court in which letters are to be issued, a bond with a penal sum of such amount as may be fixed by the court, but in no event less than two hundred per centum of the probable value of the personal estate and the real estate rentals which will come into his hands as such fiduciary, if executed by personal sureties, or one-hundred twenty-five per centum thereof if executed by corporate surety or sureties: Provided, that the penal sum for a guardian of a person only may be the same per centum of the probable expenditures to be made by the guardian for the ward during one year. The bond shall be in such form as the court shall approve, shall be signed by the sureties as are required by law and approved by the court, and shall be conditioned that the fiduciary will faithfully and impartially and to the best of his ability discharge the duties devolving upon him as such fiduciary.

4. No bond of a fiduciary shall be approved unless executed by one or more personal sureties or one or more corporate sureties. The qualifications of personal and corporate sureties shall be such as are provided by law.

5. When a testator or other person in the instrument appointing a fiduciary shall have ordered or requested that such bond shall not be required, the bond shall not be required, unless from a change in the situation or circumstances of the fiduciary, or for other sufficient cause, the court shall find it proper to require such bond; but no provision in an instrument authorizing a fiduciary therein named to serve without bond, shall be construed to authorize a successor fiduciary from the necessity of giving bond, unless the instrument contains clearly evidences such intention.

6. If the bond is executed by personal sureties, one or more of such sureties shall be resident of the county in which the appointment is made, and the sureties shall own real property worth double the sum to be secured, over and above all encumbrances, and shall have property in this state liable to execution equal to that amount. No corporate surety shall be acceptable on a bond in the probate court unless such surety is acceptable to the United States government on surety bonds in like amount, as shown by inclusion in a list published by the Secretary of the Treasury of the United States, and the surety shall be qualified to do business in this state.

7. The court by which a fiduciary is appointed may, on its own motion, or otherwise, require a new or an additional bond or new or additional sureties whenever, in the opinion of such court, the interests of the trust demand it. Such court may also reduce the amount of the bond of such fiduciary when time for good cause shown.

8. In any case where a bond is or shall be required by the probate court from a fiduciary, and the value of the estate or fund is so great that the probate court deems it inexpedient to require security in the full amount prescribed by law, the court may direct that any certificates of stock, bonds, notes, or other securities belonging to the estate or fund be deposited with the state or national bank or trust company, duly incorporated and authorized to do business in this state as a trust company as may be designated by the probate court.

9. Such deposit shall be made in the name of the fiduciary, and the certificates, bonds, notes, or other securities thus deposited shall not be



from the custody of such bank or trust company except upon the special order of the probate court; and no fiduciary shall receive or collect the whole or part of the principal represented by such certificates, bonds, notes, or securities so deposited without special order of the probate court. Such order can be made in favor of the fiduciary only when the penalty of the bonds theretofore given and then in force will be sufficient in amount to satisfy the provisions of law relating to the penalty thereof, if the property drawn is also reckoned in the estate or fund.

A surety of a fiduciary or the executor or administrator of a surety may be released as such surety if, on application duly made, and after hearing by the court, the court is of the opinion that there is good reason therefor. Such release may be made by the surety, his executor or administrator, or by the fiduciary. If, upon the hearing, the court is of the opinion that there is good reason to release said sureties, it shall order said fiduciary to file an affidavit as provided by law, and said sureties shall be released upon said affidavit and the filing of a new bond and its approval by the court. Such original sureties shall not be released until the fiduciary so gives bond, but the surety or sureties shall be liable for said fiduciary's acts only from the time of the executing of the original bond to the filing and approval by the court of the new bond.

Every fiduciary (except a guardian of the person only) shall within ten days after his appointment and qualification as such, cause notice of his appointment to be published for three consecutive weeks in some newspaper of the county authorized by law to publish legal notices.

Every fiduciary (except guardian of the person only), within one month after his appointment and qualification as such unless the court for good cause shown grants an extension of time, shall make and return upon oath a true inventory of all the real and personal property of the trust, including real and personal property and, in case of guardians, the yearly rent of the real estate shall be duly appraised by three commissioners appointed by the court as hereinafter provided. Where the real estate lies in two or more counties the court may appoint commissioners in any or all of the counties in which the real estate or a part thereof is situated.

The probate court shall have power to appoint three disinterested and competent persons as commissioners to perform any duties provided by law. The commissioners appointed by the court shall be under the direction thereof; they shall take and subscribe to an oath that they will faithfully and impartially perform to the best of their ability discharge their duties as commissioners and they shall make their report in writing under oath. When a commissioner appointed by the court as a commissioner fails to discharge his duties, the court on its own motion or otherwise, may appoint another. Commissioners shall be paid for the services performed by them such compensation as the court shall find reasonable and proper.

If an estate is or becomes insolvent it shall be settled by proceedings in the probate court and the assets remaining in the hands of the fiduciary shall be prorated and paid over to and among such creditors as prove their claims pursuant to such order as is made by the court. Such creditors as have not been paid shall not be liable to refund any part of what was received by

A fiduciary, whether appointed by a court of this state or elsewhere, shall have authority, by order of the court and with its approval, to complete or execute the contract of his ward or decedent, or any authorized contract of a person who has died or been removed, or to agree to its alteration or cancellation with the consent of the other party. If at the hearing the court is of the opinion that it is to the best interests of the ward or estate, it may order the fiduciary to complete said contract or to agree to its alteration or cancellation and to execute and deliver such deeds or other instruments for and on behalf of his ward or estate to the purchaser as are required to make the order of the court effective. Before making such order the court shall cause to be ascertained whether the same is for the benefit of the estate of the ward or decedent its

just part of the consideration of the contract. Such deeds or other instruments as are executed and delivered pursuant to such order shall remain in full force and be as binding if made by the ward prior to his disability or death of the decedent in his lifetime.

16. No executor or administrator shall have authority to invest the property belonging to the estate without the approval of the probate court unless the will or other instrument creating the trust permits. Except as otherwise provided by the instrument creating the trust, a fiduciary having funds belonging to the trust which are to be invested may invest them in the following: 1. Bonds or other interest-bearing obligations of the United States or the state of Kansas. 2. Bonds or other interest-bearing obligations of any city, school district, or other legally constituted political taxing unit of the state of Kansas, provided such county, city, school district or other unit has never defaulted in the payment of the principal or interest on its bonds or other interest-bearing obligations. 3. Bonds or other interest-bearing obligations of any other state which has never defaulted in the payment of principal or interest on any of its bonds or other interest-bearing obligations. 4. Notes or bonds secured by first mortgage on real estate at least double the value of the total amount secured by such mortgage. 5. Notes or bonds secured by such notes or bonds, if they comprise a part only of the obligations secured by such mortgage, belong to the highest and most preferred class of obligations secured by such mortgage, and have equal priority with all other obligations in the same class so secured. The buildings on the mortgaged property, if any, must, by the terms of the mortgage, be insured in an amount equal to their full insurable value against loss by fire, the proceeds of such insurance policies in the event of loss to be applied first for the benefit of the owners of the notes and bonds of the class in which the fiduciary is invested. On failure of the mortgagor to keep the premises insured as required, the mortgagee shall insure them and the expense of such insurance shall be repaid by the mortgagor to the mortgagee and be a lien on the property concurrent with the mortgage. 5. With the approval of the probate court, the fiduciary may invest in productive real estate located within the state of Kansas, provided the fiduciary nor any member of his family has any interest in such real estate or in the proceeds of the purchase price paid therefor. The title to any real estate so purchased must be taken in the name of the ward. 6. In such cases, the securities or property as the court having control of the administration of the trust approves.

17. A fiduciary may retain, until maturity, any security or investment which was a part of the trust estate as received by him even though such security or investment is not of the class permitted to fiduciaries under the law, if the circumstances are such as to require the fiduciary to dispose of such security or investment in the performance of his duties according to the law. The fiduciary entitled to the distributive share of the assets of an estate of a decedent shall have the same right as other beneficiaries to accept or demand distribution in kind, and may retain any security or investment so distributed in kind as though it were a part of the original estate received by him.

18. In all public sales of personal property the fiduciary shall give notice containing a particular description of the personal property to be sold, stating the time, place, and terms of sale, by advertising the same in the manner provided by law for the sale of personal property on execution out of the district court.

19. Within thirty days after any public or private sale of personal property the fiduciary shall make a report thereof in writing under oath to the probate court. Such report shall include proof of proper notice of such sale and of the public auction, and if a clerk was employed for such sale shall be accompanied by a sale bill signed by such clerk.

20. In all sales of real estate, if an appraisal of the real estate is not obtained in the inventory, the court may order a sale thereof in accordance with; or it may order a new appraisal. If a new appraisal is ordered, the value set forth in the inventory shall be the appraised value.

l estate. If the court orders a new appraisalment the value returned e the appraised value of the real estate. If a new appraisalment is e, the court shall appoint three commissioners to appraise the real estate e and in parcels at its true value in money.

No real estate shall be sold at private sale for less than the appraised hereof, nor at public sale for less than two-thirds of the appraised value , except as otherwise specially provided.

When the actual market value of the real estate to be sold is less than ndred dollars as determined by the court, it may in its discretion by ry order authorize the sale of the real estate at private sale, on such as it deems proper; and in such proceedings the other requirements of t as to sale proceedings shall be waived.

If, in private sales, the fiduciary, makes a *bona fide* effort to sell and has been effected; or, if in public sales the real property remains unsold e bidders when offered pursuant to advertisement; then the court x the price for which such real estate may be sold, or it may set aside appraisalment and order a new appraisalment. If such new appraisalment ot exceed five hundred dollars, and on the first offer thereunder at public ere are no bids, then the court may on its own motion or otherwise he real estate to be readvertised and sold at public sale to the highest

Before any sale or lease of real estate, the fiduciary may be required by urt, if it deems it necessary, to give an additional bond in such sum as urt shall determine, to secure the further assets arising from the sale or t of the real estate. In case of sale under the terms of any lease, the ry may be required to give such additional bond before the confirma- the sale.

If the court is satisfied that it is to the best interests of the estate to e real estate and that a sale thereof may be authorized, it shall order al estate described in the application, or so much thereof as the court eem proper, to be sold at public or private sale, as the court may direct, fiduciary, for cash in hand or upon deferred payments with interest as e ordered by the court. In sales by executors or administrators pay- shall not exceed one year, with interest.

The court, with the consent of the mortgagee, may authorize the sale estate subject to mortgage, but such consent shall release the estate he debt secured by such mortgage, should a deficit later appear.

The order of sale shall describe the real estate to be sold, and shall e the terms and conditions of the sale and payment of the purchase e either in whole or in part for cash in hand or on deferred payments.

In all public sales of real estate the fiduciary shall give notice contain- particular description of the real estate to be sold, and stating the time, and terms of sale, by advertising the same in the manner provided by r the sale of real estate upon execution.

The fiduciary shall make return of his proceedings under the order of tating that he did not directly or indirectly purchase such real estate, r part thereof, or any interest therein, and that he is not directly or tly interested in the property sold, except as stated in the report.

The court shall examine the return, and if it be satisfied that the sale en made in all respects in conformity to law and equity, it shall confirm e and order the fiduciary to execute and deliver a deed to the pur- . The deed shall refer to the order of sale and the court by which it ade, and shall convey to the purchaser all the right, title, and interest e decedent or the ward in the premises sold.

Such order shall require that before delivery of such deed the deferred ments, if any, of the purchase money be secured by mortgage on the estate sold, and mortgage note or notes bearing interest at such rate as urt may prescribe. But if after the sale is made and before delivery of

such deed the purchaser offers to pay the full amount of the purchase in cash, the court may order that it be accepted, if for the best interest of the estate, and direct its distribution.

32. The court in such order may also direct the sale, without recourse to any or all of the notes taken on deferred payments, if for the best interest of the estate, at not less than their face value with accrued interest, and direct the distribution of the proceeds.

33. The money arising from the sale of the real estate shall be paid to and distributed as provided by law and in the manner and upon such terms as shall be approved by the court.

34. The court in its discretion may allow a real estate commission on such allowance shall be passed upon by the court prior to the sale and the amount to be reasonable. The court shall have authority to allow reasonable payment for certificate or abstract of title or policy of title insurance in connection with the sale of any real estate or the mortgage thereof.

35. When compensation is not otherwise fixed by law, the court shall allow a reasonable allowance to fiduciaries for their services and expenses in executing their duties as it deems reasonable and proper.

36. No fiduciary shall at any time make any personal use of the funds or property belonging to the trust, and for any violation of this provision the fiduciary shall be liable and also his bondsmen in an action for any loss occasioned by such use and for such additional amount by way of penalty not exceeding the loss occasioned by such use as may be fixed by the court hearing such action. Such amounts shall be payable for the benefit of the beneficiaries, if they are living and to their estates if they are dead. Conservators shall not buy from the estate or sell to themselves or have any dealings with the corpus of the estate.

37. The probate court at any time may accept the resignation of a fiduciary, upon his proper accounting, if such fiduciary was appointed by the court, is under the control of, or accountable to such court. The court may remove any such fiduciary for habitual drunkenness, neglect of duty, incompetence, fraudulent conduct, removal from the state, because the interest of the estate demands it, or for any other cause authorized by law.

38. If a sole fiduciary dies, is dissolved, declines to accept, resigns, is removed, or becomes incapacitated or otherwise unable to act, prior to the termination of the trust, the court shall require a final account of all dealings of such trust to be filed forthwith by such fiduciary if a living person and unable to act; or if such fiduciary be a living person but unable to act, by his guardian, if any, or if there be no guardian, by some other suitable person on his behalf, appointed or approved by the court, or if such fiduciary be a deceased person, by his executor or administrator; or if such fiduciary be a dissolved corporation, by such person or persons as may be charged with winding up the affairs of such corporation. Thereupon the probate court shall cause such proceedings to be had as are provided by law as to the accounts filed by fiduciaries. Whenever such a vacancy of fiduciary occurs and such a contingency is not otherwise provided for by law, or by the instrument creating the trust, or where such instrument named no fiduciary, the court shall, either on its own motion or otherwise, appoint one or more letters of appointment as fiduciary to some competent person or persons who shall qualify according to law to execute the trust to its proper termination. Such vacancy, and the appointment of a successor fiduciary, shall not affect the liability of the former fiduciary, or his sureties, previously incurred.

39. When two or more fiduciaries have been appointed jointly to execute a trust, and one or more of them dies, declines, resigns, or is removed, the title shall pass to the surviving or remaining fiduciary or fiduciaries, who shall execute the trust, unless the creating instrument expresses a contrary intention or unless the court otherwise determines. The surviving fiduciaries shall, within ninety days after the death, resignation, or removal

fiduciary, file in the court a complete account covering all matters to the such death, resignation, or removal.

At least once each year, unless otherwise provided by law, every must render an account of the execution of his trust to the probate the county in which he was appointed, including in such account an statement of receipts and expenditures verified by voucher or proof vestments and of any changes in investments since the filing of his unt. An account shall be rendered by the fiduciary at any other time , on order of the court made upon its own motion or otherwise for use shown. At the expiration of his trust, the fiduciary must fully for and pay over the trust estate to the proper person or persons.

The probate court may examine under oath all fiduciaries touching counts. If it deems it proper to do so, it may reduce such examination ing, and require the fiduciary to sign it. Such examination shall be he case.

If a fiduciary neglects or refuses to file an account when due, accord- law or when ordered by the court, the court may on its own motion wise issue citation by publication or otherwise to compel the filing overdue account. If the fiduciary fails to file such account within days after he has been notified by the probate court to do so, no e shall be made for his services unless the court finds that the delay onable.

The probate court may hear and determine all matters relative to ner in which the fiduciary has executed his trust, and as to the cor- of his accounts, and also require any fiduciary appointed within such on the determination of his trust, or removal, or resignation, or on h, his executor or administrator, to render a final account of the in which he executed his trust; and such court may hear and deter- matters relating thereto.

The determination of the court on the settlement of an account shall e same force and effect as a judgment at law or decree in equity, as icular case may require, and shall be final, as to all persons having f the hearing, except: (1) Upon appeal according to law; (2) When unt is settled in the absence of a person adversely interested and actual notice, it may be opened as provided by law; (3) Upon any nt of an account mistakes or errors in any former account may be l with leave of the court upon good cause shown; (4) In case of collusion; (5) As against rights which are saved by statute to persons asability.

Every notice by publication shall be proved by the affidavit of the or other person knowing the same; and such affidavit shall be filed cause.

A duly authenticated copy of any proceedings relating to any estate probate court in this state may be filed and recorded in the probate any other county of the state, and when so filed and recorded shall same force and effect in such other county as in the county of origin.

## SUMMARY OF PROBATE COURTS

The following is a summary of the business of the probate courts of the state, compiled from reports sent us from the probate judges, covering the counties in the state in so far as they have reported:

There were 3,117 decedents' estates and 841 estates of minors, insane persons and other incompetents closed within the year ending July 1, 1934. There have been 34 defalcations by guardians, executors, or administrators since July 1, 1930. The amount of the defalcations was \$154,631.25, the amount recovered being \$68,542.32. The reports indicate there have been 82 judges and officers employed under the supervision of the probate judges since July 1, 1933, some of such officers being part time only, and the amount of salaries received was \$14,491.05. There have been 19 habeas corpus cases since July 1, 1933. In cases pending in district courts, 249 orders have been issued by probate judges since July 1, 1933, in the absence of the district judges of the county. There have been 50 proceedings in aid of execution since July 1, 1933. There have been 240 adoptions with the consent of parents, and 1 adoption without the consent of one or both parents, since July 1, 1933.

There were 9,955 estates of deceased persons pending July 1, 1934. Of this number 2,023 had been pending 6 months or less, 1,735 from 6 months to 1 year, 2,146 from 1 to 2 years, 1,379 from 2 to 3 years, 1,198 from 3 to 4 years, 302 from 4 to 5 years, 711 from 5 to 10 years, and 461 more than 10 years. There were 5,249 wills filed and in 61 cases the wills were contested. The gross value of the estates was \$108,558,423.35, the number of cases in which values were given were 8,383. In 6,723 cases inventories were filed within 30 days. There were 5,129 annual reports. There were 80 citations issued. There were 90 appeals to the district court. The total costs as allowed to date were \$771,309.01. The total executors' or administrators' fees as allowed to date were \$446,995.79. The total attorneys' fees as allowed to date were \$135.58. The estimated value of property listed but not appraised was \$452.44.

There were 4,413 estates of minor persons, 1,194 estates of insane persons and 444 estates of other incompetents pending July 1, 1934. Of these 564 had been pending 6 months or less, 407 from 6 months to 1 year, 688 from 1 to 2 years, 688 from 2 to 3 years, 678 from 3 to 4 years, 493 from 4 to 5 years, 1,461 from 5 to 10 years, 1,072 more than 10 years. There were 13 cases tried by jury and 1,395 cases tried by commission. The gross value of the estates was \$11,365,099.11, the number of cases in which values were reported being 3,725. In 1,907 cases inventories were filed within 30 days. There were 13,096 annual reports. There were 39 citations issued. There were 10 appeals to the district court. The total costs as allowed to date were \$470.81. The total executors' or administrators' fees as allowed to date were \$109,502.42. The total attorneys' fees as allowed to date were \$80,555.81. The estimated value of property listed but not appraised was \$421,859.61.

There were 918 juvenile cases pending July 1, 1934. Of this number 232 had been pending 6 months or less, 232 from 6 months to 1 year, 131 from 1 to 2 years, 295 more than 2 years. In 462 cases paroles were granted. There were 188 cases the children were sent to state institutions, in 6

ns' homes, in 165 cases to private homes and in 36 cases no disposal shown. The causes in these cases are as follows: dependent and independent, 266 cases; stealing, 221 cases; forgery, 4 cases; arson, 3 cases; incest, 121 cases; immoral conduct, 39 cases; delinquent, 264 cases. The amounts as allowed to date were \$2,410.36.

---

Tables prepared from probate court reports will be printed in our next issue.

## MOTION DAYS IN DISTRICT COURTS

Country.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1935.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Allen.....	Iola.....	Frank R. Forrest.....	N. C. Kerr.....	37	5 12 19 26	2 9 16 23	2 9 16 23	6 13 20 27	4 11 18 25	1 8 15 22	7 14 21 28	5 12 19 26	2 9 16 23	7 14 21		
Anderson.....	Garnett.....	Hugh Means.....	Erma Miller.....	4	4	1	4	5	3	10	6	14	1	2		
Atchison.....	Atchison.....	Lawrence Day.....	Hal Waisner.....	2	5 12 19 26	2 9 16 23	2 9 16 23	6 13 20 27	4 11 18 25	1 8 15 22	7 14 21 28	5 12 19 26	2 9 16 23	7 14 21 28		
Barber.....	Medicine Lodge.....	George L. Hay.....	Edith Myers.....	24	10	11	9	22	10	14	7	28	8	6		
Barton.....	Great Bend.....	Ray H. Beals.....	Jack Morrison, Jr.....	20	2	2	5	6	4	4	7	5	2	7		
Bourbon.....	Fort Scott.....	W. F. Jackson.....	Geo. T. Farmer.....	6	5 12 19 26	2 9 16 23	2 9 16 23	6 13 20 27	4 11 18 25	1 8 15 22	7 14 21 28	5 12 19 26	2 9 16 23	7 14 21 28		
Brown.....	Hiawatha.....	C. W. Ryan.....	H. N. Zimmerman.....	22	29	26	26	23	28	18	24	29	26	19		
Butler.....	El Dorado.....	A. T. Ayres, Geo. J. Benson.....	Charles Smith.....	13	5	2	4	5	4	10	7	5	11	3		
Chase.....	Cottonwood Falls.....	Lon C. McCarty.....	Clinton W. Scott.....	5	25	22	29	26	31	28	27	25	29	27		
Chautauqua.....	Sedan.....	A. T. Ayres, Geo. J. Benson.....	R. S. Floyd.....	13	19	5	18	1	11	4	2	8	4	2		
Cherokee.....	Columbus.....	V. J. Bowersock.....	Ernest Milton.....	11	8	5	5	2	7	4	3	8	5	3		
Galena Div.....	Galena Div.....			10	7	7	7	4	9	6	5	10	7	5		
Cheyenne.....	St. Francis.....	E. E. Kite.....	Minnie A. Lawless.....	17	26	16	25	1	27	7	14	12	25	2		



COUNTY.	County seat.	Judge.	Clerk.	Jur.	Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.
Clay.....	Clay Center.....	Edgar C. Bennett.....	Harold Crawford.....	21	3	8	4	4	10	3	5	10	4	4
Cloud.....	Concordia.....	Tom Kennett.....	Lawrence Johnston.....	12	7	5	5	1	7	4	23	22	19	16
Coffey.....	Burlington.....	Lon C. McCarty.....	Bernice Thompson.....	5	28	25	25	29	27	24	30	28	25	30
Comanche.....	Coldwater.....	Karl Miller.....	Jessie Channess.....	31	16a	13a	13a	10a	15a	12a	4a	9a	6a	11a
Cowley.....	Winfield.....	O. P. Fuller.....	Mrs. Marie Snyder.....	19	7 21	4 18	4 18	1 15	6 20	3 17	3 16	7 21	4 18	2 16
Crawford Clarendon Div. Husburg Div.	Girard.....	L. M. Resler.....	Jean Bell.....	38	14 21	4 18	4 18	1 15	6 13	3 17	2 16	7 21	4 18	2 16
Decatur.....	Oberlin.....	E. E. Kite.....	Dorothy McGee.....	17	24	14 25	15	12	13	5	12	8 14	7	10
Dickinson.....	Ahilene.....	C. M. Clark.....	Seth Barter, Jr.....	8	7a	15a	4c	13c	20a	3c	9a	18a	11c	14a
Doniphan.....	Troy.....	C. W. Ryan.....	L. D. Swiggett.....	22	31	28	28	25	29	20	26	31	27	20
Douglas.....	Lawrence.....	Hugh Means.....	John Callahan.....	4	5	4	2	6	6	1	7	5	4	7
Edwards.....	Kinsley.....	Lorin T. Peters.....	C. E. Burke.....	33	9	4	6	2	1	5	4	21	7	5
Elk.....	Howard.....	A. T. Ayres, Geo. J. Benson.....	Mary E. Johnson.....	13	7	4	16	6	6	3	16	7	5	3
Ellis.....	Hays.....	Herman Long.....	C. J. Werth.....	23	18	4	13	11	20	14	12	21	15	12
Ellsworth.....	Dallas Grover.....	Dallas Grover.....	James M. Wilson.....	30	21	16	6	22	10	5	7	14	6	27
Finney.....	Garden City.....	Fred J. Evans.....	Mrs. Walter Harvey.....	32	14	6	8	10	13	13	10	23	12	6
Ford.....	Dodge City.....	Karl Miller.....	Susan A. Evans.....	31	19a	16a	16a	13a	18a	15a	7a	12a	9a	14a
Franklin.....	Ottawa.....	Hugh Means.....	Ann M. Shiras.....	4	7	2	1	1	4	8	9	4	2	6

## MOTION DAYS IN DISTRICT COURTS—CONTINUED

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1935.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Geary.....	Junction City.....	C. M. Clark.....	Geo. J. Webster.....	8	7c	15c	4a	13a	20c	3a	9c	18c	11a	14c		
Gove.....	Gove City.....	Herman Long.....	J. B. Chenoweth.....	23	21	18	18	22	17	17	13	4	18	13		
Graham.....	Hill City.....	W. K. Skinner.....	Elsie Parks.....	34	19	4	7	16	20	14	16	2	15	10		
Grant.....	Ulysses.....	F. O. Rindom.....	Jewell Rowland.....	39	2d	4d	4b	8b	1d	10d	7d	7d	4d	2b		
Gray.....	Cimarron.....	Karl Miller.....	Molly Parks.....	31	14e	11e	11e	8e	13e	10e	2e	7e	4e	9e		
Greeley.....	Tribune.....	Fred J. Evans.....	T. P. Tucker.....	32	10c	11	13a	9	9	11a	13c	21	8	28		
Greenwood.....	Eureka.....	A. T. Ayres, Geo. J. Benson.....	Warren Willis.....	13	21	6	15	5	20	10	3	14	6	4		
Hamilton.....	Syracuse.....	Fred J. Evans.....	Amelia J. Minor.....	32	11	25	16	13	17	15	19	28	16	14c		
Harper.....	Anthony.....	George L. Hay.....	Ed C. Wolff.....	24	14	7	8	8	9	17	6	14	7	5		
Harvey.....	Newton.....	J. G. Somers.....	Lloyd L. McMullen.....	9	9	11	15	3	13	7	18	28	12	6		
Haskell.....	Sublette.....	F. O. Rindom.....	Edith M. Yarbrough.....	39	2b	4b	11b	3b	1b	10b	16b	7b	4d	9b		
Hodgeman.....	Jetmore.....	Lorin T. Peters.....	Frank Phillips.....	33	10	18	7	3	13	6	5	8	4	6		
Jackson.....	Holton.....	Lloyd Morris.....	H. E. Hestetter.....	36	14	8	8	4	- 6	7	5	7	8	5		
Jefferson.....	Oskaloosa.....	Lloyd Morris.....	Marguerite N. McCoy.....	36	18	4	4	5	10	3	6	11	4	6		
Jewell.....	Manketo.....	W. R. Mitchell.....	Bernice Howard.....	15	5	2	4	13	3	3	18	10	11	21		
Johnson.....	Olath.....	G. A. Roberts.....	Mabel K. Adams.....	10	7	25	20	8	6	24	3	28	18	9		
Kearny.....	Lakin.....	Fred J. Evans.....	Paul Wood.....	32	4	14	11	11	21	18	24	11	14a			
Kingman.....	Kingman.....	George L. Hay.....	Nell H. Walter.....	24	12	9	25	6	11	3	23	5	9	9		
Kiowa.....	Greenbush.....	Karl Miller.....	Herbert Miller.....	31	15d	19d	19d	0d	14d	11d	9d	9d	9d	10d		

1935.

COUNTY.	County seat.	Judge.	Clerk.	No. Ind. Dist.	1895.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Lafayette. Oswego division. Parsons division.	Oswego.	L. E. Goodrich.	H. L. Lane.	16	25 21	22 18	29 18	26 8	28 27	23 17	13 16	25 18	25 16	20 16		
Lanc.	Dighton.	Fred J. Evans.	Q. H. Jewett.	32	8	13a	25	23a	14	12a	11	16a	25	10a		
Leavenworth.	Leavenworth.	J. H. Wendorf.	Howard Oliver.	1	5 19	2 16	2 16	6 20	4 15	1 21	7 15	5 16	2 21	7 17		
Lincoln.	Lincoln.	Dallas Grover.	Ernest D. Harlow.	30	5	18	8	5	13	4	4	1	11	28		
Linn.	Mound City.	W. F. Jackson.	C. B. Platt.	6	1 14	4 18	4 18	8 22	6 20	3 17	3 16	7 21	4 18	2 16		
Logan.	Russell Springs.	Herman Long.	Alfred Rogge.	23	4	15c	14c	1	10c	12c	2	18c	13c	2		
Lyon.	Emporia.	Lon C. McCarty.	J. J. McClure.	5	30	27	27	24	29	26	25	30	27	26		
Marion.	Marion.	C. M. Clark.	Peter P. Fleming.	8	19a	4	16	8	6	15	3a	7	4a	21		
Marshall.	Marysville.	Edgar C. Bennett.	Wallace Koppes.	21	4	4	8	5	6	7	6	7	7	6		
McPherson.	McPherson.	J. G. Somers.	Donald S. Clark.	9	10 11	14 15	11 15	4 5	16 17	3 20	19 30	29 15	14 15	2 ...		
Meade.	Meade.	Karl Miller.	Mrs. Lottie Stamper.	31	18b	15b	15b	12b	17b	14b	6b	11b	8b	13b		
Miami.	Paola.	G. A. Roberts.	Hugh W. Campbell.	10	21	4	18	22	20	3	5	7	12	16		
Mitchell.	Beloit.	W. R. Mitchell.	Herbert Shafer.	15	14	1	1	15	1	27	23	4	9	20		
Montgomery. Independence div. Coffeyville div.	Independence.	Jos. W. Holden.	Clyde K. Gamble.	14	5 19	2 16	2 16	6 20	4 18	1 15	7 21	5 19	2 16	7 21		
Morris.	Cornell Grove.	C. M. Clark.	J. A. Burton.	8	10c	16	15	1	18	17	3c	19	4c	2		
Morton.	Richfield.	F. O. Rindom.	Kathleen Crawford.	39	3d	11b	5b	4b	2d	11d	2b	8d	5d	10b		
Nemaha.	Sereca.	C. W. Ryan.	Clifford Hannum.	22	28	25	25	22	27	17	23	28	25	18		

## MOTION DAYS IN DISTRICT COURTS—CONCLUDED

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1935.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Sumner.....	Wellington.....	Wendell Ready.....	Jessie Haverstock.....	25	1	7	7	4	7	6	3	3	7	5		
Thomas.....	Colby.....	W. K. Skinner.....	N. C. Knudson.....	34	4	2	18	13	2	17	27	17	4	12		
Trego.....	Wakeeney.....	Herman Long.....	J. W. Bingham.....	23	19	16	4	13	18	3	14	19	4	14		
Wabaunsee.....	Alma.....	Robert T. Price.....	Lizzie Frey.....	35	22	5	5	9	7	4	4	1	5	3		
Wallace.....	Sharon Springs.....	Herman Long.....	Ida Ward.....	23	3	15a	14a	15	16a	12a	16	18a	13a	16		
Washington.....	Washington.....	Tom Kennett.....	J. W. Haster.....	12	9	6	4	3	8	3	25	23	19	18		
Wichita.....	Leoti.....	Fred J. Evans.....	Mrs. Kate Elder.....	32	10a	13c	13c	22	27	11b	13a	16c	21a	18		
Wilson.....	Fredonia.....	J. T. Cooper.....	Leslie V. York.....	7	1	5	5	2	7	4	3	1	5	3		
Woodson.....	Yates Center.....	Frank R. Forrest.....	Kathryn P. Maxwell.....	37	4	1	1	5	3	7	6	4	1	6		
					11		12	12		11	11	11	9	13		
							22	19		21		18	12	20		
							22	26		28		25	22			
							29									
Wyandotte.....	Kansas City.....	E. L. Fischer.....	Pal E. Bush, 1st division.....	29	5	2	2	6	4	1	7	5	2	7		
		Willard M. Berton.....	2d division.....		12	9	9	13	11	8	14	12	9	14		
		Wm. H. McCanish.....	3d division.....		19	16	16	20	18	15	21	19	16	21		
		C. A. Miller.....	4th division.....		26	23	23	27	25	22	28	26	23	28		

a = 9:00 a. m. b = 10:00 a. m. c = 1:30 p. m. d = 2:00 p. m. e = 1:00 p. m. mountain time.

NOTE.—The four divisions of the court in Wyandotte county work with three jury divisions and one "law division," which is rotated among the judges. The "law division" has a motion day each week. The day of the week is designated by the judge at the beginning of the term. Except as modified by the work of the "law division," the motion days are as shown in the above tabulation.

NOTE.—For the months of July and August, in the judicial districts having two or more divisions, one or more judges holds court for the hearing of matters needing prompt attention, and in all the judicial districts some provision is made for the hearing of urgent matters. The days for such hearing are





# KANSAS JUDICIAL COUNCIL BULLETIN

PART 1—NINTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
.....	3
ENACTED INTO LAW, RELATE TO:	
ings in Divorce Cases.....	5
n Decrees of Divorce Rendered on Constructive Service.....	6
e of Citations for Contempt in Civil Actions.....	6
<i>pro tem.</i> for the District Court.....	7
ng an Alibi .....	8
tate of Decedent Without Known Heir or Will.....	9
RECOMMENDED BUT NOT ENACTED INTO LAW, RELATE TO:	
ls in Criminal Cases.....	11
ls in Civil Actions.....	14
Trials of Defendants Jointly Charged.....	15
itions in Criminal Cases.....	16
Trials by Six Jurors Unless Twelve Requested.....	17
istering Decedents' Estates.....	18
te Procedure .....	21
te and County Court.....	23
roposed Constitutional Amendment.....	27
MPILED FROM PROBATE COURTS, June 30, 1934.....	32

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita
CHESTER STEVENS.....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the state,

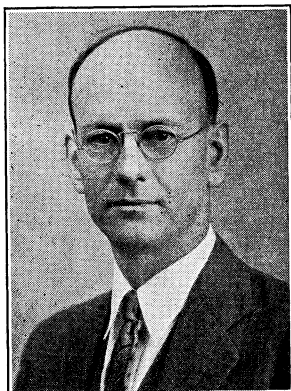
For the improvement of our Judicial System and efficient functioning.





H. H. REES

**Our  
New  
Members**



O. P. MAY

**FOREWORD**

come to our work on the Judicial Council two new members. Senator Rees, of Emporia, chairman of the judiciary committee of the senate, and Senator Hal E. Harlan, of Manhattan, who resigned from the senate while in a campaign for congress. Senator Rees served as a member of representatives for three terms before his election to the senate. In addition to his legislative experience he has given much attention to the practice to the law of estates of deceased persons, minors and other matters. Since this is a subject on which the Council is spending much time, his familiarity with the subject will be especially helpful. Hon. Rees succeeded Hon. S. C. Bloss as chairman of the judiciary committee of the senate, and by virtue of the statute becomes a member of our Council. Due to his previous legislative experience Mr. May was formerly attorney of Jefferson county and for several years has been engaged in the general practice of the law, being a member of the firm of Waggoner & May, of Atchison. He also has been an active member of the council. Both Senator Rees and Mr. May have devoted all the time they could spare to the work of the Council and were energetic in urging the passage of bills recommended to the legislature by the Judicial Council. The legislature of 1935 gave more thoughtful attention to bills recommended by the Judicial Council than any legislature since the Council was organized. Only six measures so recommended were enacted into law. They are listed in this BULLETIN, with some comments on their purpose. Several other bills recommended by the Judicial Council received favorable consideration of them being passed by one or the other branch of the legislature, failing to receive final favorable action by the other. Only four of

the measures suggested met defeat under such circumstances as that they were not wanted. We feel reasonably confident, however, that the measures suggested will be enacted into law when they are more fully understood and can be presented at such a time as to be fairly considered.

We print in this issue tables compiled from reports gathered last year from probate judges. We planned to have this in our December issue but some of the reports reached us later than they should, with the result that our copy got to the state printer at a time when he was loaded up with the printing of various biennial reports. To avoid delay in getting the tables out we asked him to omit the tables and print them in this issue. This is the best thing we could do, with some comment respecting them.

In the event a special session of the legislature is held we plan to present them, and recommend the enactment into law, of the measures presented at the recent session which did not have time, or for some reason did not get enacted. These measures are printed in this BULLETIN, in whole or in part, with some comment concerning their purpose. While we think all the measures should be enacted, we are especially anxious for the legislature to sanction the proposed amendment of the judicial article of the constitution.

The legislature enacted several statutes pertaining in one way or another to the courts, or procedure therein, which had not been prepared by the Judicial Council. Several of them, however, were suggested by matters which have been discussed in our BULLETIN from time to time, and with respect to some of them some member of the Judicial Council was consulted in their preparation. We are not printing these statutes for lack of space in this BULLETIN but they will appear soon in the session laws.

We heretofore have given considerable study to a code of probate procedure, and first and last have printed quite a little of what has been done in this connection. It is our plan between now and the next regular session of the legislature to endeavor to work that matter into shape so it can be presented to the legislature as a completed work. We think it will be necessary to revise the substantive law pertaining to estates of decedents, minors, and incompetents—not so much with the view of changing that law as for the purpose of segregating the substantive law from the procedural provisions, so much as that can reasonably be done. In addition to that we hope to have prepared a code of probate procedure which can be adopted as law by the legislature, or promulgated as rules of the court, as it may be deemed advisable at that time to do it.

We are glad to have the views of the lawyers and judges of the state respecting the work we are attempting to do. Within the last few years a large number of letters have been received from lawyers and judges throughout the state concerning some measure suggested or recommended by the Judicial Council. We welcome all such letters, whether they are in accord with our suggestions or otherwise. It is our purpose to work with the bar of the state to bring about such improvements in the functioning of our judiciary as can reasonably be accomplished.

## MEASURES ENACTED INTO LAW

---

the measures recommended by the Judicial Council were enacted. These with some discussion of their purposes are as follows:

### Pleadings in Divorce Cases

In our work we recognized the advisability in an action for divorce or alimony that a statute should require the cause of action to be stated in detail in the petition or cross petition. We mentioned this in our 1928 report, page 10, and in our 1929 report, page 23. It has been introduced in each regular session of the legislature since that time. On two occasions it passed the house of representatives but failed to receive final action in the senate. Its purpose is to avoid having scandalous charges against a party to the action appear upon the permanent record of the court, unless that should be actually necessary. This is especially important when there are minor children of the marriage. Sometimes charges were made or threatened when there was little or no foundation for them with a purpose of forcing a settlement or compromise. This propriety, to the shame or disgrace of one or both of the parties to the action and to their children. It is seldom necessary to make such charges even when the grounds for them exist. This year the bill was introduced by the judiciary committee, H. B. No. 97, and passed both houses without amendment. It becomes effective when published in the statute book. It reads

relating to procedure in actions for divorce or alimony, or both, and supplementing section 60-1501 of the Revised Statutes of 1923.

*Enacted by the Legislature of the State of Kansas:*

1. That in all actions for divorce, or for alimony, or for both divorce and alimony, the petition or cross petition shall allege the causes relied upon as early as possible in the language of the statute (R. S. 60-1501), and shall be followed by a detailed statement of facts. If the opposing party desires a statement of facts in reply thereto, the same shall be furnished to him by the petitioner or respondent in a bill of particulars. A copy of this bill of particulars shall be filed with the court and shall constitute the specific facts upon which the action is based. The statements therein shall be regarded as being denied by the party, except as they may be admitted. The bill of particulars shall not be filed with the clerk of the district court, nor become a part of the record of such court, but if the action be appealed, and the question sought to be reviewed relate to the facts set forth in the bill of particulars, it shall be treated as a part of the record in the abstract for the supreme court.

This act is supplemental to section 60-1501 of the Revised Statutes

This act shall take effect and be in force from and after its publication in the statute book.

## Foreign Decrees of Divorce Rendered on Constructive Service

R. S. 60-1518, relating to foreign decrees of divorce, rather impopularly enacted in the first instance, proved to result in some injustices. This was pointed out in an article by Senator Harlan in our April, 1934, Bulletin, page 5. We proposed an amendment to that statute recognizing such foreign decrees to the extent only that they dissolved the marriage relationship. Drawn, the bill applied to such decrees rendered in foreign countries other than those rendered in other states of the union. The senate judiciary committee thought best not to give any statutory recognition to decrees of divorce rendered in a foreign country on constructive service, and eliminated that part of the proposed bill. The bill, passed as H. B. No. 146, became effective January 11, 1935, and reads as follows:

AN ACT relating to foreign judgments of divorce, amending section 60-1518 of the Revised Statutes of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-1518 of the Revised Statutes of 1923 be amended to read as follows: Section 60-1518. A judgment or decree of divorce rendered in any other state or territory of the United States, in conformity with the laws thereof, shall be given full faith and credit in this state; except in the event the defendant in such action, at the time of such judgment or decree, was a resident of this state and had not been served personally with process, or did not personally appear or defend the action in the court of that state or territory, all matters relating to alimony, and to the property of the parties and to the custody and maintenance of the minor children of the parties, shall be subject to inquiry and determination in any proper proceeding brought in the courts of this state within two years after the date of the foreign judgment or decree, to the same extent as though the judgment or decree had not been rendered.

SEC. 2. That section 60-1518 of the Revised Statutes of 1923 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

---

## Service of Citations for Contempt in Civil Actions

It appears there was no statute specifically authorizing a citation for contempt in a civil action to be served in any county other than the county in which the citation was issued. The question arose more frequently in cases for divorce or alimony in which an order was made that defendant pay a certain sum per week or per month for temporary alimony or for the support of the children. Frequently defendant was not in the county in which the action was brought when it was commenced, or thereafter left that county and went to another. In such cases when payments were not made and citation for contempt were issued most of the trial judges have been holding, we are told, that the citation could not be issued to and served by the sheriff of the county in which defendant then was. This made it possible for defendant, if so disposed, to avoid being called before the court for failure to make payment by the simple process of going to another county. To avoid

a measure which the legislature enacted into law, H. B. No. 239, became effective March 19, 1935, and which reads as follows:

relating to the service of citations for contempt in civil actions.

*Enacted by the Legislature of the State of Kansas:*

1. When it is duly made to appear to the district court, or judge at an order made by such court or judge in a civil action, the violation of such order is punishable by contempt, has been violated, the court or judge shall issue a citation for the party charged with the violation of such citation when so issued may be directed to and served by the county in which such citation was issued, or of any county in the county in which such sheriff, or any of them, or their undersheriffs or deputies, may serve the citation in the manner therein directed and may bring the party charged with violating the order before the court or judge issuing the citation at such time and place as the nature of the case and the facts pertaining thereto

This act shall take effect and be in force from and after its publication in the official state paper.

### **Judge *pro tem.* for the District Court**

The constitution, art. 3, § 20, directs provision to be made for the selection of a *pro tem.* judge of the district court when the judge is absent or unable or disqualified to sit. The legislature has made such provision (R. S. 20-301 to 20-311). Some of these sections have been amended (R. S. 1933 Supp. 20-306 to 20-313). Concluding the constitutional provision mentioned did not necessarily provide the exclusive method of selecting a *pro tem.* the legislature (R. S. 1933 Supp. 20-311) provided such a judge might be named by the chief justice of the supreme court under the circumstances referred to in that section. The authority has been exercised on at least two occasions. Deeming it advisable to have the *pro tem.* judge selected by the chief justice in any circumstance requiring the selection of a *pro tem.* when the members of the bar have not selected one, we and the legislature enacted the following (H. B. No. 197); which became effective March 18, 1935:

relating to district courts, providing for the appointment of a judge under certain circumstances, being supplemental to existing statutes relating to the selection of judges *pro tem.* for the district court.

*Enacted by the Legislature of the State of Kansas:*

1. In any circumstance in which it is necessary or proper, under the statutes, to select a judge *pro tem.* of the district court for the trial of a civil action, or several actions, or for holding a term of court, and a judge *pro tem.* has not been selected by the bar of the state, it shall be the duty of the clerk of the district court to certify the facts to the supreme court. If a judge *pro tem.* is needed for the trial of a specific action an attorney of the district court may certify such facts to the supreme court and serve as opposing counsel that such certificate has been made. When such a certificate is filed in the supreme court the chief justice of the supreme court shall select some other district judge of the state and appoint him as judge *pro tem.* to hold the term of court, or to try the several actions, or the specific case may be. Such judge *pro tem.* so appointed shall have power and authority to hear and determine all actions and matters arising therein

covered by his appointment to the same extent as the regular judge would have were he not so disqualified or absent.

SEC. 2. This act shall be construed as supplemental to existing statutes relating to the selection or appointment of a judge *pro tem.* of the court.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

In view of this statute we understand the law now to be that in any circumstance provided by statute in which a judge *pro tem.* is needed for the trial of a single case, or several cases, or to hold a term of court, the judge *pro tem.* may be elected by members of the bar, but if this is not done the court certificate may be made to the supreme court and the chief justice may appoint some other district judge of the state as judge *pro tem.* to try the case or several cases, or hold the term of court, as may be necessary.

### Pleading an Alibi

In our December, 1934, BULLETIN, page 67, we discussed the advisability of a statute requiring defendant in a criminal case to plead an alibi, if he intends to rely upon one for his defense. In preparing a bill on this subject we examined the statutes of Michigan, Ohio and court decisions of those states construing the statutes and other available authority. From this we prepared a bill and the legislature enacted House bill No. 193, which went into effect January 18, 1935, and which reads as follows:

AN ACT relating to criminal procedure, and providing for the plea of alibi, being supplemental to our code of criminal procedure.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In the trial of any criminal action in the district court upon the complaint, indictment or information charges specifically the place of the offense alleged to have been committed, and the nature of the offense is such as necessitated the personal presence of the one who committed the offense, and the defendant proposes to offer evidence to show that he was at some other place at the time of the offense charged, the county attorney shall give notice in writing of that fact to the county attorney. The notice shall state where defendant contends he was at the time of the offense, and shall have endorsed thereon the names of witnesses which he proposes to call in support of such contention. On due application, and for good cause shown, the court may permit defendant to endorse additional names of witnesses on such notice, using the discretion with respect thereto now applicable to the county attorney to endorse names of additional witnesses on the indictment or information. The notice shall be served on the county attorney at least seven days before the action is called for trial, and a copy thereof, together with a copy of such service, filed with the clerk of the court: *Provided,* On due application and for good cause shown the court may permit the notice to be served at any time before the jury is sworn to try the action. In the event the time and place of the offense are not specifically stated in the complaint, indictment or information, on application of defendant that the time and place of the offense be definitely stated in order to enable him to offer evidence in support of his contention that he was not present, and upon due notice thereof, the court shall direct the county attorney either to amend the complaint or information to state the time and place of the offense as accurately as possible, or to prepare a bill of particulars to the indictment or information so stating the time and place of the offense, and thereafter defendant shall give the notice as required by this section.

proposes to offer evidence to the effect that he was at some other place at the time of the offense charged. Unless the defendant gives the reasons above provided he shall not be permitted to offer evidence to the effect that he was at some other place at the time of the offense charged. In the event the time or place of the offense has not been specifically stated in the indictment, information, and the court directs it be amended, the court may, upon the facts as he has been in-  
cerning them; or if in the progress of the trial the evidence discloses the time or place of the offense other than alleged, but within the period of limitations applicable to the offense and within the territorial jurisdiction of the court, the action shall not abate or be discontinued for those reasons, but defendant may, without having given the notice required, offer evidence tending to show he was at some other place at the time of the offense.

This act shall take effect and be in force from and after its publication in the official state paper.

### Estate of Decedent Without Known Heir or Will

In recent cases, *Holmes v. Conway*, 128 Kan. 430; *State, ex rel., v. Conway*, 128 Kan. 685; *McVeigh v. First Trust Co.*, 140 Kan. 79; *State, ex rel., v. Conway*, 140 Kan. 162; and *State v. Braun*, 140 Kan. 188, called our attention to the fact that there appears to be a hiatus in our statute with respect to administering upon the estate of one who dies without known heir or will. This was discussed in our October, 1934, BULLETIN, page 46, and a draft measure on that subject was set forth in our December, 1934, BULLETIN, page 72. Section 7 of the proposed draft was eliminated at the time of those handling such estates now in process of administration. It was introduced as S. B. No. 258 and was enacted into law and becomes a part of the publication in the statute book, and reads as follows:

Relating to the administration upon an estate of one who dies without known heir or will, and repealing sections 22-933, 22-934, 22-935, and 22-1201, 22-1203, 22-1204, 22-1205 and 22-1206 of the Revised Statutes of 1923.

Enacted by the Legislature of the State of Kansas:

1. When it shall be brought to the attention of the probate court of any county in this state (a) that a resident of the county has died without known heir or will, but leaving an estate consisting of real or personal property, or (b) that a nonresident of this state has died without known heir or will, and real property situated in the county in this state, the court shall appoint a suitable person as administrator to take possession of the estate of the decedent, or of the real property in this state of such nonresident, as the case may be, and administer the same under the supervision of the court, and shall notify the county attorney and the attorney-general of its action. The probate court shall have exclusive original jurisdiction of all questions, legal or equitable, arising in the administration of such an estate.

The administrator so appointed shall qualify by taking oath and posting bond to the state of Kansas in such sum as the court may direct for the administration of the estate, which bond may be changed in the amount of additional sureties required when the court deems that necessary. He shall cause to be published in a newspaper authorized to publish notices in the county, for five consecutive weeks, a notice of his appointment, which notice shall give the name and last place of residence of the

decedent and recite that he died without known heir or will (and in the case of a nonresident decedent, that he left real property in the county), notify those who claim as heirs, or under a will of decedent, to present their claims to the probate court, and also those who have claims against the estate to present their claims in accordance with statutes pertaining to the distribution of claims against the estates of decedents. The administrator so appointed shall take into his possession (a) if decedent was a resident, all property of such decedent of whatever kind or character and wheresoever situated; if decedent was a nonresident, all the real property of such decedent situated in this state, and shall prepare and file an inventory thereof within six months after his appointment, or earlier if ordered by the court. The court shall direct the personal property to be converted into cash as expeditiously as possible, and also shall direct the administrator to collect the rents, interest, and profits, including income from mining leases, if any, and to pay the taxes and to care for the real property. Creditors of decedent may present claims against the estate, which claims shall be considered and disposed of as claims against estates of other decedents. If no one appears to claim as heir, devisee or legatee of the decedent within one year after the appointment of the administrator the court shall direct the real property of the decedent to be sold for cash, and also shall order to be sold any of the personal property of the decedent in the hands of the administrator, and the estate shall be distributed as are the estates of other decedents.

SEC. 3. The net proceeds of the estate shall be paid to the state and become temporarily a part of the state school fund. The state school fund commissioners shall invest and handle this money as other moneys in the state school fund, except that it shall be kept as a temporary fund for five years after it shall have been first received, at which time it shall be turned into the perpetual school fund of the state, provided no one in the meantime has established his right thereto as heir, devisee or legatee of the decedent.

SEC. 4. One who claims the estate, or some part thereof, as heir or devisee shall present his claim therefor to the probate court not later than six months after the administrator was appointed or such claim shall be forever barred. If he establishes his claim it shall be allowed by the court. If two or more persons claim as heirs or devisees at the same time the court shall determine which of such claimants has established his claim and the share or portion of the estate each is entitled to receive. If at the time of such determination the estate is still in the hands of the administrator, the same shall be delivered and paid to those found entitled to receive it, less claims previously allowed and the cost of administration. If at the time of such determination the proceeds of the estate have been delivered to the state treasurer and are temporarily in the state school fund the school-fund commissioners shall pay to such claimant the sum or portion of the estate the court has adjudged they are entitled to receive. A party aggrieved at the ruling or judgment of the probate court may appeal to the district court, as other appeals are taken from the probate court, and the appeal when so taken shall be tried *de novo* in the district court. A party aggrieved at the ruling or judgment of the district court may appeal to the supreme court as in civil actions.

SEC. 5. If the estate or its proceeds, or some part thereof, has been paid to one or more who claimed as an heir of decedent and when the claim was established, and later, but within ten years after the administrator was appointed, someone else presents to the probate court a claim for the estate or some portion thereof, as heir of decedent, and upon a hearing establishes his claim, neither the state nor the school-fund commissioners shall be liable for such claimants for moneys previously paid out to those found to be entitled to the estate of the decedent, but the party in whose favor such later claim was established shall have a cause of action in the district court against the party to whom such payment was made, to determine the rights of the respective parties to the property or its proceeds.

SEC. 6. The state shall be regarded as a party to all actions in the probate court for the administration or distribution of such an estate to the extent of its interest in the estate.



ed to notice and an opportunity to be heard upon all claims, and in all orders and judgments of the court. The county attorney shall the state and shall be the legal adviser of the administrator of such estate. He shall diligently protect, defend and conserve such estate for the the state school fund and closely scrutinize all claims of whatever against such estate, including claims of heirs, and diligently defend d all courts actions or proceedings against all claims not clearly s. Those having claims of any character against such an estate shall burden of establishing their respective claims by clear and convincing Expenses incurred by the county attorney in representing the state tions or proceedings shall be paid by the county, as are other ex- dent or necessary to the conduct of the office of the county attorney. t of the county attorney, the probate court, the administrator, or any terest, or on his own motion, the attorney-general may appear and county attorney; and upon permission or order of the probate court, n of the governor, may take full charge of the conduct of the estate the county attorney. Expenses of the attorney-general incident or to his conduct of the case shall be paid from the funds provided for es of the attorney-general's office. In no event shall attorney's fees or paid from the estate to anyone representing the state or the ad- r. The state, by its county attorney or attorney-general, may in- maintain any action or proceeding deemed necessary or proper in ng of such an estate in any appropriate court or tribunal, or defend ction or proceeding brought by any other party.

Sections 22-933, 22-934, 22-935, 22-1201, 22-1202, 22-1203, 22-1204, d 22-1206 of the Revised Statutes of Kansas of 1923 be and the same repealed.

This act shall take effect and be in force from and after its publica- statute book.

---

## MEASURES RECOMMENDED BUT NOT ENACTED INTO LAW

---

preciate the fact that the legislature enacted into law the six measures led by the Judicial Council and hereinbefore set out. Each effects ial improvement in our judicial system. We realize also that a cannot be expected to enact into law all meritorious measures pre- it. We deem it appropriate, however, to call attention to other ve recommended and which for one reason or another were not en- law. We believe each of them has substantial merit and that dy of them will demonstrate the advisability of their enactment. o present them to the legislature again at the earliest opportunity.

---

### Appeals in Criminal Cases

these proposed measures had to do with appeals in criminal cases esigned to eliminate such unnecessary delay as sometimes occurs in between the time they are presented to the supreme court on their this state the business of our district courts is such that a county as little difficulty in getting to try a criminal case, as soon as he can or trial. When such cases are presented on appeal to the supreme

court they are heard and disposed of promptly. But one who is convicted of a crime in the district court who desires to put off the day of his punishment as long as possible, with the aid of ingenious counsel, can find a number of ways to delay the presentation of his case to the supreme court. On an example, our statute now fixes no time within which a motion for a new trial shall be filed in a criminal case, except it shall be filed before sentence is imposed; nor does it fix a time when sentence shall be imposed, nor a time when a new trial shall be disposed of. The proposed statute fixed time for these things. The present law places no duty upon a defendant who has been convicted and desires to appeal to see that his appeal is lodged in the supreme court. The proposed bill placed that duty upon him. The proposed bill is in our law R. S. 62-1701, which gives any defendant in a criminal case the right of appeal; also left in the law 62-1703, giving the state the right to appeal in certain cases, and also left in the law the sections in regard to appeals in civil cases on appeal. The purpose of the measure was to place upon the appellant, whether that be the defendant or the state, the burden of seeing that his appeal is lodged in the supreme court promptly. If that be done, unnecessary delay in presenting such appeals to the supreme court could be almost entirely eliminated. At present more than forty per cent of appeals in criminal cases are never presented to the supreme court on the merits. Clear delay of these are taken simply for delay. Sometimes the appellant will delay along by one device or another for a year or a year and a half and finally have his case to be dismissed. The theory of the proposed bill is that a defendant is aggrieved at the judgment of a trial court should have the right to appeal, but that he should not have the right to use appellate procedure when there is no merit in the appeal and simply to delay execution of the judgment of the trial court. The measure was introduced as H. B. No. 196 and passed the house late in the session. It was killed by the senate judiciary committee. We are not advised the reasons urged. The bill had the active support of the state bar association and of others who think unnecessary delay should be avoided in such cases. It reads as follows:

AN ACT relating to appeals in criminal actions, and repealing sections 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713, 62-1714 of the Statutes of Kansas of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In any criminal action in which defendant pleads guilty or is found guilty by a jury, or by the court if the trial is to the court, if defendant is not then in custody of the sheriff, he shall be taken into custody of the sheriff, and unless he announces that he desires to file a motion for a new trial, he shall be sentenced either on that date or at a fixed time within ten days.

SEC. 2. If at the time the plea, verdict, or finding of guilty is made, defendant announces that he desires to file a motion for a new trial, the court shall fix at time, not exceeding five days, in which to file the motion for a new trial, and such motion shall be heard and determined as expeditiously as possible and in no event later than thirty days after it is filed. Pending the filing and hearing of the motion for a new trial, if defendant desires to be released on liberty on bond, and the offense is bailable after conviction, the court shall fix the amount of the bond, which bond shall be approved by the court, if the court so directs, by the clerk of the court. If the motion for a new trial is overruled, sentence shall be imposed at once. If defendant appeals promptly, and has given bond pending the hearing of his motion,

the court may order the bond to be in force pending the application to the supreme court for bond.

*Proceeding on appeal:* (a) If defendant does not seek to have execution of sentence stayed, or release from custody on bond pending his appeal, he may appeal at any time within six months from the date of the sentencing, by serving notice of appeal on the county attorney of the county in which the offense was committed and filing the same with the clerk of the district court; and such notice, within ten days after such notice is filed with him, shall send a certified copy of such notice with proof of service and a certified copy of the journal entry of defendant's conviction to the clerk of the supreme court. Defendant shall then prepare and present his appeal in accordance with the rules of court applicable thereto. (b) If defendant seeks stay of execution of the sentence, or release from custody, or both, pending his appeal, he shall serve notice of his intention to appeal on the county attorney and file the same with the clerk of the court, order a transcript of so much of the evidence as is needed to present his case on appeal, see that the journal entry of the sentence is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry to be filed with the clerk of the supreme court within ten days after sentence. On the application of defendant to the supreme court, or any justice thereof, shall order execution of sentence stayed, and if the offense is bailable after conviction shall fix the amount of the bond and direct that it be approved by the supreme court, or any justice thereof, or its clerk, or by the trial court, or its clerk. Defendant shall thereafter prepare and present his appeal in accordance with the rules of court applicable thereto: *Provided*, If the offense of which the defendant was convicted was a misdemeanor, and the bonds mentioned in sections 62-1705 of the Revised Statutes of Kansas of 1923 have been given, and a certified copy duly certified as required by section 62-1706 of the Revised Statutes of Kansas of 1923, no further bond shall be required.

If the state desires to appeal in any case mentioned in section 62-1705 of the Revised Statutes of 1923, the county attorney, within ten days after the ruling complained of, shall serve notice of appeal upon the defendant, or his attorney of record, and file the same with the clerk of the court, order a transcript of so much of the testimony as is needed to present the case on appeal, and see that the journal entry of the ruling complained of is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry, to be filed with the clerk of the supreme court. The provisions of this act shall not operate to stay or affect the operation of the ruling or judgment appealed from until the ruling or judgment is reversed. The state shall thereafter prepare and present its appeal in accordance with statutes and rules of court applicable thereto.

The supreme court shall have authority to make such additional provisions as may be repugnant to statute, as it may deem necessary or proper in order to carry out the prompt and orderly preparation and presentation of the appeal to the supreme court into effect the final order of the court in such appealed actions.

Sections 62-1702, 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713 and 62-1714 of the Revised Statutes of Kansas of 1923 are hereby repealed: That appeals in criminal actions in which the verdict of guilty was rendered before the effective date of this act may be appealed and the appeal shall be heard under the statutes in force at the time the verdict was returned.

This act shall take effect and be in force from and after July 1, 1924, and its publication in the statute book.

## Appeals in Civil Actions

A companion bill sought to do away with unnecessary delay in the trial of civil actions. This was introduced as H. B. No. 353 rather late in the session. It was favorably recommended by the house judiciary committee. It was among many other measures on the calendar which the house had no time to act upon. It would greatly improve the functioning of the judicial system and we think it merits enactment. It reads as follows:

AN ACT relating to civil procedure, amending sections 60-3307, 60-3309 and 60-3314 of the Revised Statutes of Kansas of 1923, and repealing sections 60-3307, 60-3309, 60-3312 and 60-3313 of the original sections, and also repealing section 60-3313 of the Revised Statutes of Kansas of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-3307 of the Revised Statutes of Kansas be amended so as to read: Section 60-3307. When the appeal is perfected by proof of service of notice of the appeal, or the affidavit provided for in the preceding section showing inability to make service on a nonresident defendant, and the appeal is filed with the clerk of the trial court, he shall forthwith make a certified copy of such notice and proof of service or affidavit and transmit the same to the clerk of the supreme court, together with a certified copy of the judgment or order from which the appeal is taken. The failure of the clerk of the trial court without just cause to make such copies and transmit them to the clerk of the supreme court within ten days after the notice of appeal or affidavit above mentioned is filed with him, shall be ground for removal from office.

SEC. 2. That section 60-3309 of the Revised Statutes of Kansas be amended so as to read: Section 60-3309. The appeal shall be perfected within two months from the date of the judgment or order from which the appeal is taken: *Provided*, That appeals from judgments and appealable orders shall be taken within four months immediately prior to the taking effect of the judgment or order, and the appeal shall be perfected within two months after the effective date of this act.

SEC. 3. That section 60-3312 of the Revised Statutes of Kansas be amended so as to read: Section 60-3312. In all cases in which a transcript of the evidence is not necessary in order to review the questions presented on appeal, the abstract of appellant shall be served on the opposing party, the attorney of record and filed in the supreme court within forty days after the notice of appeal is filed with the clerk of the trial court, and in all cases in which a transcript of the testimony is necessary to present the questions presented on appeal the abstract of appellant shall be so served and filed within four months after the notice of appeal is filed with the clerk of the trial court. The abstract of the appellant shall contain a synopsis of so much of the pleadings, record, evidence and proceedings in the case as the appellant deems necessary for the consideration of the court. If the appellant deems the abstract of appellant to be insufficient to present the questions presented on appeal, he may, within thirty days after the service upon him of appellant's abstract, serve upon appellant, or his counsel, and file with the clerk of the trial court a counter abstract. Abstracts not challenged shall be deemed to be complete and sufficiently complete to present the questions sought to be reviewed. In the event the accuracy of any abstract is challenged, the court shall issue such an order as the nature of the case and justice warrant. Abstracts shall be printed unless, on application therefor and for good cause shown, the court orders that they be presented otherwise. The abstract may be presented separately or with the brief, as the party presenting the same desires.

SEC. 4. That section 60-3314 of the Revised Statutes of Kansas be amended so as to read: Section 60-3314. When notice of appeal is served in a case and the appellee desires to have a review of rulings or decisions of which he complains, he shall, within twenty days after the

Filed with the clerk of the trial court, give notice to the adverse attorney of record, of his cross-appeal and file the same with the trial court, who shall forthwith forward a duly attested copy of it to the clerk of the supreme court.

When a party appeals, after a final judgment against him, the fact of the ruling of which he complains was made more than two months before he filed his appeal shall not prevent a review of the ruling.

That sections 60-3307, 60-3309, 60-3312, 60-3313 and 60-3314 of the Statutes of Kansas of 1923 be and the same are hereby repealed.

This act shall take effect and be in force from and after its publication in the official statute book.

### Joint Trials of Defendants Jointly Charged

Article (R. S. 62-1429) now provides that when two or more persons are jointly charged with the same offense any one of them can demand a separate trial if the offense charged is a felony, but if the offense charged is a misdemeanor or they may be tried together or separately in the discretion of the court. The fact that two or more persons charged jointly with the same offense insist on their request be tried separately has resulted in numerous separate trials, frequently at great expense and with no corresponding benefit to the public. If two or more persons come into town and rob a bank, or a place of business, or individual, and are apprehended and jointly charged with the offense it seems unnecessary to require separate trials for each on their request. Most of the county attorneys in the state have complained by this statute to go through two, or as many as five or six trials for many defendants who collectively constituted a gang of robbers. In such cases the trial of but one of them can be had at the same term of court in case of the necessity of having a new panel of jurors. Many times these trials will drag along for a year, or possibly two years, before the case can be tried, each trial being an expensive one for the county, with the loss of material witnesses. In the federal court and in many of the state courts such trials are conducted jointly, whether the charge be a felony or misdemeanor, or, unless the court in its discretion grants a severance. (16 C. J. 100) Our proposed measure on this matter was H. B. No. 180. It was favorably reported by the House judiciary committee. We think it might very easily be enacted into law. It reads as follows:

Acting to criminal procedure, amending section 62-1429 of the Revised Statutes of 1923, and repealing said original section.

*Enacted by the Legislature of the State of Kansas:*

1. That section 62-1429 of the Revised Statutes of 1923 be amended to read: Section 62-1429. When two or more defendants are jointly charged with the same offense in the same complaint, indictment, or information, they shall be tried jointly: *Provided*, The court, upon the hearing of an application for separate trials, timely made, may order separate trials in the interest of justice.

That section 62-1429 of the Revised Statutes of 1923 is hereby repealed.

This act shall take effect and be in force from and after its publication in the official state paper.

## Depositions in Criminal Cases

We discussed this matter in our October, 1934, BULLETIN, page 45 and our December, 1934 BULLETIN, page 65. We need not repeat what we stated further than to say that the state should not be handicapped in prosecuting crime by the lack of material evidence essential to the prosecution which could be given by a witness too ill to attend court, or who is otherwise compelled to attend because he lives without the state. The constitutional provision (§ 10, Bill of Rights), that the accused shall be allowed to confront his witness face to face can be provided for by a statute in the taking of depositions. Our proposed measure on this subject was introduced as House Bill No. 195. It was reported adversely by the judiciary committee. We think it might well have been enacted. As proposed it reads as follows:

AN ACT relating to criminal procedure and providing for the taking of depositions, and repealing sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In any criminal action or proceeding pending in a court of this state, or before a judge thereof, depositions may be taken when allowed by the order of the court or judge. Such order may be made only when the judge is satisfied that due diligence has been used in making application therefor, that the person whose deposition is wanted is a material witness, that the witness resides without this state; or, residing in this state, is infirm, sick, or infirm, or is about to or likely to leave the state, and that his presence at the trial or examination cannot be procured by the use of due diligence. Such application by the defendant shall be accompanied by a copy of notice to the county attorney of the time and place it is to be taken, and such an application on the part of the state shall be accompanied by a copy of like notice to the defendant or to his attorney of record. The order for the taking of the depositions shall direct whether they shall be taken orally or by written interrogatories.

SEC. 2. When the state procures such an order its notice, in addition to what is required by the preceding section, shall inform the defendant that if he is required personally to attend the taking of such deposition and that he fails to do so shall constitute a waiver of his right to face the witness at the taking of such deposition is to be taken; and the failure of defendant to attend the taking of such depositions shall constitute such waiver unless the court or judge is satisfied when the deposition is offered in evidence that defendant was prevented from attending. If the defendant be not then in custody he shall be released from the county in which the action or proceeding is pending a sum equal to the fees for travel and attendance upon the taking of such deposition; if the defendant be in custody the court shall adjudge, direct and order the county to convey defendant to and from the place the deposition is to be taken, and to have the defendant in attendance at the taking of such deposition, the cost of which shall be paid by the county. If the order for the taking of the depositions has been made upon application of the state, and defendant shows to the satisfaction of the court that he desires his attorney present and that he is unable financially to pay the expense of his attorney to attend the taking of such deposition, the court shall order a sum equal to witness fees for travel and attendance to be paid by the county for the use of his attorney in attending, on behalf of defendant, the taking of such deposition. Any sum the court orders to be paid by the county under the provisions of this act, to enable defendant or his attorney to be present at the taking of such deposition, shall be paid by the county promptly before the taking of the deposition.

SEC. 3. Depositions taken under the provisions of this act may be received in evidence upon the hearing of the action or proceeding subject to the rules applicable to the reception in evidence in a civil action of depositions taken upon due notice.

Sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of and the same are hereby repealed.

This act shall take effect and be in force from and after its publication in the official state paper.

House bills No. 180 and No. 195 had been reported adversely, sentimentable to them was reported to exist in the legislature. Thereupon measures were combined and introduced in the Senate as S. B. No. 195 was recommended favorably by the Senate judiciary committee, but was defeated in the committee of the whole. We attribute the lack of success of these measures to the fact that the purposes sought to be accomplished by them are matters concerning which many people have given no attention. We feel confident that when they are given attention, as no doubt they will be enacted into law.

### **Jury Trials by Six Jurors Unless Twelve Requested**

As an economy measure we recommended two bills authorizing the trial of misdemeanor criminal actions and civil actions by juries of six unless twelve are requested. When we collected data on cost of jury trials for the year ending June 30, 1931, we found the cost to the various counties in the state for the *per diem* and mileage of jurors in district courts amounted to \$14,400, with Leavenworth county not reporting (December, 1932 BULLETIN 147). In that same year the district courts disposed of 16,658 civil actions (and 5,264 divorce cases). Only 1,590 of these were tried by jury, so the expense to the counties of juries was more than a quarter of a cent per dollar, and juries were used in less than ten per cent of the cases. Judges and attorneys who have tested the matter out find about the same satisfactory results in trying civil and misdemeanor cases to juries of six as when they have tried them to juries of twelve. In some states a party who asks for a jury trial in a civil action is required to deposit a sum of money which goes to the county to help pay the cost of the expense of juries. In Kansas. We understand in Colorado the party is required to deposit \$40; in Missouri the party must pay each day the fees of the jurors for that day, and in our present statute provides with respect to juries in justice court. (Section 60-122.) We are told these statutes, if enacted and complied with, will result in a saving in each of the several large counties in the state of as much as \$8,000 per year, without any loss of efficiency of our judicial system. There is reason to believe there would be a saving in each county if the bills were taken into account. We see no objection to these statutes except in position not to want to change from an established practice. The bills were introduced as H. B. No. 189 and No. 192, and were reported adversely by the Senate judiciary committee. The bills as proposed read as follows:

relating to civil procedure, amending section 60-2903 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-2903 of the Revised Statutes of Kansas of 1923 be and the same is hereby amended to read as follows: Section 60-2903. In fact arising in actions for the recovery of money or of specific real or personal property shall be tried by jury, unless a jury trial is waived or a

reference be ordered as hereinafter provided. All other issues of fact tried by the court, subject to its power to order any issue or issues tried by a jury or referred as provided in this code. Unless a jury of twelve is demanded by either party within ten days after the answer is filed the trial shall be by six jurors. The party demanding a jury of twelve at the time demand is made shall deposit \$18 with the clerk of the court, which sum shall be paid to the county treasurer and become a part of the county's general fund. The clerk of the court shall tax the amount as costs in the case, and the final disposition of the action the same shall be adjudged against the party liable for costs.

SEC. 2. That section 60-2903 of the Revised Statutes of Kansas of 1923, and all acts or parts of acts in conflict herewith, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

---

AN ACT relating to criminal procedure, amending section 62-1401 of the Revised Statutes of Kansas of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1401 of the Revised Statutes of Kansas of 1923, be and the same is hereby amended to read as follows: Section 62-1401. In all criminal cases the defendant and prosecuting attorney, with the assent of the court, may demand the trial to the court, except in cases of felonies. All other trials shall be by jury, to be selected, summoned and returned as prescribed by law: . . . Misdemeanor cases shall be tried by a jury of six, unless the defendant, complaining witness, or the prosecuting attorney, in writing filed with the clerk of the court ten days before the case is called for trial, shall demand a jury of twelve: *And further provided,* That upon due application and for good cause shown the court may, in its discretion, permit the demand to be made at any time before the day the case is called for trial.

SEC. 2. That section 62-1401 of the Revised Statutes of Kansas of 1923, and all acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

---

## Administering Decedents' Estates

In order to make our statute more definite with respect to the procedure in administering the estate of a decedent to be administered upon and procedure in the probate of wills relating thereto we proposed two measures. They were introduced as S. B. No. 228 and S. B. No. 278. Both passed the senate. No. 228 was favorably reported and recommended by the house judiciary committee but was among the bills not taken up for consideration on the house calendar. The other one reached the house calendar late for action by its judiciary committee. These measures if enacted into law would do much to clarify several important questions which are now confused. They are as follows:

AN ACT relating to decedents' estates, providing what property of persons shall be chargeable with payment of debts and costs of administration, and for the possession, management, control, and disposition of the property, and the rents, issues, and profits thereof, by executors and administrators.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. The property owned by a deceased person at the time of his death, except such as is specifically exempt therefrom, shall be chargeable



of his debts and the costs of administration, and shall be applied as follows: *First*, the personal property; *second*, the rents, issues and profits of the real property, whether accrued before or after the death of decedent, including income by whatever name called from leases on such property; *third*, the real property, including any interest or right which decedent had in or to such property, or which devisees or legatees had therein by reason of his death. If a debt is not provable, against the estate is secured by specific real or personal property the property securing such debt shall be used to pay or apply upon it before other property of decedent is used for that purpose.

The administrator or executor (unless other provision is made by a will) shall have the right to the possession of all the real and personal property of the estate not chargeable with the payment of debts, and shall control and manage the same under the direction and orders of the probate court. When ordered to do so by the court the administrator or executor may have in his control, or any part thereof, for a term not exceeding one year, and shall receive the rents, issues and profits therefrom, and in the direction or order may keep up the repairs, insurance and taxes, on the real property. The administrator or executor may join with the heirs of any real property under his control in executing a mining lease on such property, the income therefrom by whatever name called to be paid to the administrator or executor and to be chargeable with debts of decedent as are other rents, issues and profits of real property.

If in the judgment of the court it will promote the interest of the estate and not be prejudicial to creditors, the court shall have power to order the administrator or executor to pay interest or installments of principal on any mortgage or other lien on any real or personal property chargeable with the payment of debts of the deceased, or to entirely discharge or pay off any such debt, or to redeem, for the benefit of the estate, any nonexempt real estate by execution or judicial sale either before or after the death of the decedent, or of the personal assets of the estate in the hands of the administrator or executor, or to order the sale of any of the nonexempt real estate and the proceeds therefrom to be used for any of the purposes mentioned in this section: *Provided*, that such sale shall not be construed so as to take away or alter the right of the devisees of the deceased to redeem, for their own benefit, pledged personal property, or to redeem, for their own benefit, real estate sold at auction or by judicial sale, in the event that the executor or administrator does not redeem for the benefit of the estate any such personal property or real estate, and upon the application of any of the heirs or devisees, interested in the real estate, or the pledged personal property, or real estate subject to redemption, the court shall order such redemption to appear to be to the best interest of the estate and the creditors, shall make an order directing the executor or administrator to order such property for the benefit of the estate, but if the court shall find that such redemption will not be to the best interest of the estate or creditors the court shall order such redemption right surrendered and the property delivered over to the heirs or devisees.

Whenever the court shall be satisfied that any real estate need not be sold or leased for the payment of debts of the estate, legacies, or costs of administration, the executor or administrator may be ordered to deliver possession of the same to those entitled to it as heirs or devisees.

Upon final settlement and distribution of the estate all real estate not sold or leased for the payment of debts, legacies, or costs of administration, and remaining in the possession of the administrator or executor, shall be turned over to the heirs or devisees entitled to the same.

All acts and parts of acts in conflict herewith are hereby repealed.

This act shall take effect and be in force from and after its passage and publication in the statute book.

AN ACT relating to executors and administrators, providing for hearing demands against decedents' estates, amending sections 22-507 and 22-601 of the Revised Statutes of 1923, and sections 22-702 and 22-729 of the Revised Statutes Supplement of 1933, and repealing said sections.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 22-504 of the Revised Statutes of 1923 be amended to read as follows: Section 22-504. The personal estate and together with the real estate chargeable with the payment of debts, contained in the inventory, shall be appraised by three disinterested householders of the county, who shall be appointed by the court.

SEC. 2. That section 22-507 of the Revised Statutes of 1923 be amended to read as follows: Section 22-507. The appraisers shall prepare and estimate and appraise the personal property, together with the real interest in real estate, chargeable with the payment of debts, and each item of personal property and each tract of real estate shall be appraised separately, with the value thereof in dollars and cents, distinctly in opposition to the articles or items of personal property, or tracts of real estate, respectively.

SEC. 3. That section 22-601 of the Revised Statutes of 1923 be amended to read as follows: Section 22-601. The executor or administrator shall, within such time as the court may order, sell the whole of the personal property belonging to the estate, not exempt by law from payments of debts, and which constitutes assets in his hands to be administered: *Provided*, that such personal property as is specifically bequeathed shall not be sold by the court, by its orders, shall have determined the residue of the personal property subject to the payment of debts, to be insufficient for the payment of the debts of the estate and costs of administration, and direct the personal property specifically bequeathed to be sold: *And provided further*, That when the court shall find that the sale of the personal property, or any part thereof, is not necessary for the payment of debts, legacies, or costs of administration, it may, in its discretion, order such property not sold.

SEC. 4. That section 22-702 of the Revised Statutes Supplement of 1933 be hereby amended to read as follows: Section 22-702. All demands against the estate, whether due or to become due, whether absolute or contingent, prohibited as required by statute within one year after the date of the administration bond, shall be forever barred, including any demand arising out of any statutory liability of decedent or on account of or arising from the liability of decedent as surety, guarantor or indemnitor; saving to the persons of unsound mind, imprisoned or absent from the United States within one year after the removal of their disabilities, from payment by an administrator or by an executor unless a provision of a will requires payment of a claim to be filed later.

SEC. 5. That section 22-729 of the Revised Statutes Supplement of 1933 be hereby amended to read as follows: Section 22-729. Any creditor or person claiming a right of action shall not accrue within the said one year after the date of the administration bond, must nevertheless present his demand at that time, and if on examination thereof it shall appear to the court that the same is justly due from the estate, it may by consent of that creditor or of the executor or administrator, order the same to be discharged in like manner if due, after discounting interest as mentioned in this article, or the court may order the executor or administrator to retain in his hands sufficient to pay the same; or if any of the heirs of the deceased, or devisees, or persons interested in the estate, shall offer to give bond to the alleged creditor for sufficient surety or sureties, for the payment of the demand in case the same shall be proved to be due from the estate, the court may, if it think proper, order such bond to be taken instead of ordering the claim to be paid as aforesaid, and instead of requiring the executor or administrator to pay the assets as aforesaid.

. Contingent claims or demands against an estate shall be heard and decided by the court in accord with the rights of the parties respecting such claims and in such a way as not to delay the closing of the estate, if that can be done with justice to the parties.

. That sections 22-504, 22-507 and 22-601 of the Revised Statutes of Kansas, section 22-702 of the Revised Statutes Supplement of 1933, and section 22-703 of the Revised Statutes of Kansas, Supplement of 1933, are hereby amended.

. This act shall take effect and be in force from and after its publication in the statute book.

## Probate Procedure

The Council has done considerable work on a code of probate procedure. We were unable to complete to our satisfaction a measure embodying a full code of procedure in time for the legislative session. We find it to be quite a task, however, we are going forward with that work and hope to have it completed by the time of a next regular session of the legislature. In the meantime we thought it advisable for the legislature to authorize that proper rules of court so we could draft the rules accordingly. We thereupon introduced a measure to be introduced as S. B. No. 394. It did not meet the approval of the senate judiciary committee, perhaps being deemed somewhat premature. It would have authorized one of the methods of working out the code. It is our present plan to work out such a code of procedure in such a way it can be adopted as a law by the legislature or promulgated by the court as may be deemed best. The measure as suggested is as follows:

AN ACT providing for a code of probate procedure.

*acted by the Legislature of the State of Kansas:*

SECTION 1. This act shall be known as the code of probate procedure of the State of Kansas.

2. The rule of the common law, that statutes in derogation thereof are strictly construed, has no application to this code. Its provisions, and its meanings under it, shall be liberally construed, with a view to promote justice and to assist the parties in obtaining justice.

3. As used in this act, the term "fiduciary" includes executor or administrator (except special administrator), guardian (other than a guardian of the uniform veterans' guardianship act) of the estate of a minor, an incompetent, or an imprisoned convict, and trustee for the estate of a person under disability and subject to the jurisdiction of the probate court. The term "person under disability" includes a minor, an incompetent, and an imprisoned convict. The term "incompetent" includes insane, idiot, imbecile, feeble-minded person, drug habitué, and habitual drunkard. The term "imprisoned convict" means any person who is imprisoned in the penitentiary under the sentence of any court.

4. All proceedings relating to the estates of decedents, or of persons under disability, or for the appointment of a fiduciary thereof, shall be had in their nature and shall be by action in the probate court. There shall be but one form of action, which shall be called a probate action.

5. Each of the following proceedings shall constitute one probate proceeding: (1) The proceedings for the appointment of an administrator and all proceedings necessary for the full and final administration of the estate of a decedent; (2) the proceedings for the admission of a will to probate, the appointment of an executor or administrator thereunder, and all matters nec-

essary for the full and final administration of the property of the testator, whether disposed of under the terms of the will or not; (3) the procedure for the appointment of a guardian of the estate of a person under disability and all matters connected with such guardianship; and (4) the procedure for the appointment of or relating to a trustee for a person under disability and all matters connected therewith over which the probate court has jurisdiction. Whenever property passes by the laws of intestate succession, or a will to a beneficiary or beneficiaries not named in such will, the proceedings in the probate court shall include a determination of the persons entitled to such property. This enumeration of probate actions does not exclude any other action within the jurisdiction of the probate court.

SEC. 6. An action for the appointment of an administrator or for the revocation of a will to probate must be brought in the county in which the decedent was a resident at the time of his death. An action for the appointment of a guardian must be brought in the county in which the person under disability is a resident. If an imprisoned convict has no known place of residence, such action shall be brought in the county in which the convict was imprisoned. In case probate actions are pending in two or more counties, jurisdiction of a will or the appointment of a fiduciary, jurisdiction being concurrent in each, the controversies and proceedings as to jurisdiction shall be determined by the authority and in the manner prescribed by rule of the supreme court. The appointment of a fiduciary for the estate of a nonresident decedent or of a nonresident person under disability may be made by the probate court of any county of the state in which property of such estate is located. Such appointment, first made, shall extend to all the property of the estate in the state and shall exclude the jurisdiction of the probate court of any other county.

SEC. 7. The supreme court shall have the power to prescribe and determine by general rules for the probate courts of the state, the necessary and proper forms and parties to probate actions, the forms of process, notice, writs, pleadings, motions, and the practice and procedure in probate actions, including the rules for the presentation and allowance of claims, the time and manner of appeals to the district court, and the security and payment of costs. Such rules shall neither abridge, enlarge, nor modify the substantive rights of any litigant. They shall take effect three months after their promulgation by publication in the official state paper, and thereafter all laws in conflict with them shall be of no further force or effect.

SEC. 8. Issues of fact on the trial of a probate action, or the determination of any controverted matter therein, shall be in accordance with the rules of evidence provided for civil cases by the code of civil procedure.

SEC. 9. Trials and hearings in probate action shall be by the court, and the decision of the court therein or in any matter pertinent thereto shall have the same force and effect as a judgment at law or a decree in equity, except in a particular case may require, and shall be final as to all persons having notice of the hearing, except: (1) Upon appeal according to law; (2) in case of fraud or collusion; (3) as against rights which are saved by statute to a person under disability; (4) nothing in this act shall be construed to abridge or modify the provisions of chapter 160 of the laws of 1925 relating to the review of wills in the district court.

SEC. 10. Every judgment in a probate action, and every order which affects the substantial rights of a party, is appealable to the district court of the county. The district court shall on appeal try and determine the merits of the case if originally filed therein and may, in its discretion, order further or amended pleadings to be filed therein.

SEC. 11. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 12. This act shall take effect and be in force from and after its publication in the statute book.

## Probate and County Court

In previous Reports and Bulletins we have pointed out the advisability of improving our judicial system with respect to courts inferior to the district courts. There is no general complaint of the structure and efficiency of our judicial system so far as the supreme court and district courts are concerned, but in the courts inferior to the district courts there is much dissatisfaction, not with the structure of our system, but with the lack of efficiency of its operation. This bill is designed to improve that situation, not radically, but by

beginning with what we had justices of the peace and probate courts. Generally speaking, the justice of the peace courts have entirely outlived their usefulness. The people do not elect more than twenty per cent of those who are eligible to be elected under the law. There may be two for each township, in some townships three. Of those elected quite a few do not qualify, although there is a statute making it an offense for them not to do so. This is due to the fact that in most localities the people do not regard justice of the peace courts as being of any utility. There are a few, perhaps as many as forty or fifty justices of the peace in the state who perform their duties very well and are respected in their respective communities, but these are exceptions to the general rule.

Too many of them, either because they are unfamiliar with the law, or for other reasons, permit their courts to be used by designing persons to oppress the poor. Some of them, attracted by the possibility of making money out of the office, either directly or indirectly foster and promote unnecessary and vexatious litigation. Others, ambitious to obtain fees paid by parties in criminal cases, enter actively into the contest as to who shall be county attorney. On the whole, the state will be better off without the justice of the peace and their constables. This bill practically does away with the limiting jurisdiction of justices of the peace to civil actions in which the amount claimed does not exceed one dollar, and repealing those statutes which relate to the duties of constables, since their work can much better be done by the county sheriffs.

The probate courts stand on a different plane. They direct and supervise the administration of estates of deceased persons, minors and other incompetent persons. Our state has reached that period of its growth when that part of its business has become very important. In practically every county in this state the business of being administered upon in probate courts is of much greater value than the business which is being litigated in the district courts. (See list made from reports of probate judges as of July 1, 1934.) The legal questions arising in the administration of these estates frequently are as important and as difficult of solution as those which ordinarily arise in cases in the district courts. Especially so that is true since the financial depression, because many of the estates are heavily encumbered. Administering upon estates is only a part of the business of our probate courts. Guardianship of the person of minors and other persons, adoption of children, inquisitions in insanity cases, administering oaths, and similar courts, are committed to the probate courts or their judges. In addition to these many other duties from time to time have been imposed upon probate courts or judges. They have been authorized to issue marriage licenses to perform marriage ceremonies, to organize municipal corporations, to hold

criminal courts, to act as judges in contested election cases, or take deputy sheriffs to enter townships under federal statutes and act as trustees for occupied lands, may conduct hearings for the purchase of state school lands, may appoint receivers, grant restraining orders, appoint receivers, conduct proceedings for the aid of execution under certain circumstances in cases pending in the court, and act as judges of county courts in the smaller class of civil and criminal actions. This list of duties is not complete, but is sufficient to show that from the beginning in our state the people have felt the need of a court or courts in each county for that miscellaneous class of judicial or semijudicial matters which need prompt or constant attention. It is obvious that the people of each county need and really want a court or tribunal constantly available to which matters of these kinds can be handled. To be of real service to the people such courts must be equipped to handle with reasonable promptness and efficiency the matters brought before them.

Generally speaking, these courts are just as efficient as the judges take their side over them. Naturally, they should have some knowledge of legal principles gained either by the study and practice of law, or by services on such matters. There was a time in this state when county attorneys were not required to be lawyers. Indeed, there was a time in this state when neither our constitution nor our statutes required judges of the district or the supreme court to be lawyers. No one now would think of committing the duties of these courts to persons without legal training. Such training is just as essential to the proper conduct of the probate and county court. All persons who have given the matter careful consideration regard this as true. This bill provides that judges of the probate and county court shall be an attorney at law, or one who is qualified to hold the office of probate judge.

The procedure in our probate courts, permitting important orders to be made *ex parte* without notice to those interested, and permitting the business of the court to be done in a sort of slipshod manner, frequently results in injustice and almost always in unnecessary delay. Frequently the loss to heirs and distributees of estates arising from this method of doing probate business runs into large figures. In many of the courts proper records are not kept. In many of our probate courts are unfinished estates which have been pending as long as ten or fifteen or twenty years. In fact, in only a comparatively few counties in the state are the records systematically kept. There has been quite an improvement in that respect in the last three or four years, and current business in most of the counties is fairly well recorded. In many of them the earlier business has been indexed, classified and entered on cards, and an effort made to close old estates, but in many of them the older records are in a decidedly unsatisfactory condition. This work is far too important to be done in this slipshod, imperfect manner. This bill authorizes the establishment of an appropriate procedure for the probate and county courts.

Procedure in courts sometimes is provided by rules of court, sometimes by an appropriate method, and sometimes by statutory enactment. This bill provides for such procedure to be outlined by rules of court. The theory is that by the time the courts provided for by this act come into being this procedure will be worked out and established. The legislature will be at liberty to let the procedure stand as outlined by rules of court, or to embody the principles in statutes either in harmony with the rules, or with such modifications as may be deemed necessary.

deems wise. We regard it as the best way to work out a suitable for these courts.

It provides that the process of the probate and county court shall be served by the sheriff, except that when he is a party defendant the court may appoint a suitable person to serve process upon him. The effect of this is to make the sheriff of each county the head of the peace officer force of that county (outside of police officers of cities). This is thought to be an advantage which avoids conflict of duties and authority between sheriffs, constables, or marshals, and will enable the people of the county to look to the sheriff and hold him in a sense hold him responsible respecting the duties of peace officers in the county.

Of the first class, which are the county seats in several of the larger counties, in order to do away with justice of the peace courts, have organized city courts, which are performing useful functions in the respective cities. These city courts have their own clerks and marshals. This bill was first drawn for the counties containing such city courts. There are many reasons which would apply to them as well as to other counties, but practical difficulties were encountered. The duties of the marshals of such courts would be added upon the sheriff and the duties of the clerks upon clerks of the probate court. That would require modification of several statutes pertaining to the duties of such officers in those counties, which hardly was possible to work into the bill. Hence, the members of the judiciary committee thought best to exempt those counties from this bill, and later, perhaps at a special session of the legislature, if one is held, to work out the details of a bill, or severally making it practical for those counties to be within the provisions of the bill, so that our judicial system may be uniform in structure, in jurisdiction and in procedure throughout the state.

The measure was introduced as H. B. No. 338. It was purposely held up in order to allow time until extra copies could be printed. Some of these were sent to the judges and at least one attorney in every county in the state. They were asked to discuss the matters with others in their county and write the results to the legislature and the Judicial Council their views of the bill. The Judicial Council had answers from more than eighty counties favoring the measure. The general need of a law such as this seemed almost unanimous. The letters received by the Council were definitely opposed to it. Some of the letters mentioned some detail of the measure which the writer thought to see slightly different, but these were of a character that either could be easily remedied or would work themselves out, or if found to be a substantial objection could be easily remedied. After careful consideration the measure was approved by the house judiciary committee, but reached the calendar late in the session, because of other measures on the calendar, it did not receive attention. Our information is the bill would have passed the house could it have been brought up. There was also a favorable attitude toward it in the senate. We plan to present it again at the first opportunity. We regard it as the most desirable measures we have ever recommended to the legislature. It reads as follows:

AN ACT relating to the judiciary, creating courts inferior to the district courts, limiting the jurisdiction of justices of the peace, and repealing sections 20-801 to 20-819, inclusive, and sections 20-1601 to 20-1634, inclusive, of the Revised Statutes of Kansas of 1923, and sections 80-701 to 80-707, inclusive, of the Revised Statutes of Kansas of 1923, and chapter 154, Laws of 1925, and chapter 170, Laws of 1927, and chapter 167, Laws of 1929, and chapter 170, Laws of 1933, and all acts of the present session of the legislature amending or supplementing any of the statutes above mentioned, and fixing a time when such repeal shall become effective.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In each county in the state except counties in which there is no city seat is the city of the first class having a city court there shall be created a probate and county court, which is hereby created, and shall be organized so as to come into existence on the second Monday in January, 1937. The probate judge shall be judge of the probate and county court.

SEC. 2. The probate and county court shall be a court of record. The judge of the court and the judge thereof shall have such jurisdiction as is now exercised by the probate courts and the judges thereof, and such jurisdiction as may be conferred upon justices of the peace, and in addition thereto shall have jurisdiction in civil actions for the recovery of personal property or money, where the amount claimed does not exceed one thousand dollars, and in proceedings for attachment and garnishment in such actions.

SEC. 3. The supreme court by rule may prescribe the procedure in all actions and proceedings in the probate and county court and in appeals from such courts, which rules, when made, shall supersede any statutes relating to such procedure. When the volume of business in any probate and county court is such as to justify it, the supreme court may by rule create divisions of the probate and county court, and when so created there shall be a judge for each division. The judges of the extra divisions so created shall, by virtue of their office, be judges *pro tem.* of probate court. The supreme court may by rule provide for the procedure for designating a judge *pro tem.* for the probate and county court for temporary purposes. Where the centers of population in a county are such as to justify it the supreme court may by rule provide for the holding of the probate and county court at some place in the county in addition to the county seat, either for the trial of specific cases or for permanent sessions of the court in such county. The supreme court shall, before the first of March, 1936, designate divisions of the probate and county court in each county where such is deemed necessary, and the cities other than the county seat in which a division of the probate and county court shall sit, and the counties in which such divisions and places where the court shall sit shall not be made more than once in two years.

SEC. 4. The judge of the probate and county court shall be elected at the general election held biennially in November, the first election to be held in November, 1936, and shall hold their offices for a term of two years, beginning on the second Monday in January following such election. Any person who shall be qualified to act as judge of the probate and county court who is regularly admitted to practice law in this state, or who has not served as probate judge in this state for as long as two years prior to the beginning of his term as judge of the probate and county court. No judge of the probate and county court shall, while serving in this capacity, practice law in any of the courts of the state.

SEC. 5. The salary of the judge of the probate and county court in the various counties of this state shall be as follows: In counties with a population of less than five thousand, \$1,800; in counties with a population of five to ten thousand, \$2,100; in counties with a population from ten to twenty thousand, \$2,400; in counties with a population of more than twenty thousand and not more than sixty thousand, \$2,700; and in counties with a population over sixty thousand, \$3,000; the salaries to be paid by the county in monthly payments. All fees received by the judge of the probate and county court except fees for performing marriage ceremonies for



by virtue of his office shall be by him paid into the county treasury as a part of the general fund of the county. The county commissioner shall provide such facilities in the way of a court room, supplies and stenographic help as may be necessary properly to conduct the business of the court. The clerical help shall be appointed by the judge, or the probate and county court and hold their positions at the pleasure of the court.

All process issued by the probate and county court shall be executed by the sheriff. If the sheriff is the party to be served the court shall appoint another person not interested in the case as a special officer to make the service.

On and after the first Monday in January, 1937, justices of the peace in each and every county in this state shall have no jurisdiction in any civil or criminal, except in civil actions for the recovery of money only in an amount claimed does not exceed one dollar.

The following statutes are hereby repealed, the repeal to take effect on the first Monday of January, 1937: Sections 20-801 to 20-819, inclusive, of the Revised Statutes of 1923, and sections 80-701 to 80-704, inclusive, of the Revised Statutes of 1923, and chapter 154, Laws of 1925, and chapter 178, Laws of 1927, and chapter 167, Laws of 1929, and chapter 167, Laws of 1933, and all acts of the present session of the legislature amending or supplementing any of the statutes above mentioned, and all acts and parts in conflict herewith. Courts existing under statutes repealed by this act shall cease to function at the time the repeal goes into effect, and all dockets, records and files of such courts shall be transferred to and become a part of the records and files of the probate and county court, and all cases then pending in such courts shall proceed in the probate and county court as though originally brought in that court.

This act shall take effect and be in force from and after its publication in the statute book.

When this bill becomes effective a bill should be passed creating courts of limited jurisdiction for the use of merchants and others in cities or communities outside of the county seat of any county, such as the proposed courts mentioned in sections 6 and 7 of our suggested bill, p. 51 of the November 1934 BULLETIN.

---

## Our Proposed Constitutional Amendment

Improvements in the structure of our judicial system and methods of conducting business therein can be and have been brought about without changing our constitution, we early recognized that such a change was advisable. As our 1928 Report, page 9, we suggested the advisability of revising article III of our constitution, dealing with the judiciary, with certain changes in mind. The subject, first and last, has received much attention from the Judicial Council. Proposed redrafts of the article have been discussed and commented upon in several of our Reports and Bulletins. It has received much favorable comment from the lawyers and judges throughout the state. In the main two objections have been made to it. *First*, that it is too long. It contains about the same number of words as our present article dealing with the judiciary and has fewer sections by four, so we regard this criticism as unfounded. *Second*, it occasionally is suggested that we have simply copied the judicial section of the federal constitution which vests the judicial power of the United States in one supreme court and in such inferior courts as Congress may establish, the judges to hold their office during good behavior and their salaries not to be diminished while they are in office. We

heretofore have considered that suggestion and concluded it would not be desirable for a state judicial system. In the first place, other sections of the constitution pertain to the judiciary. Then, for some reason, no state regarded the federal set-up of the judicial system as being appropriate for its state. We shall not here undertake a discussion of the reasons for this. Indeed, we may not be familiar with all of them. At best it would be a novation the wisdom of which would be seriously debatable. In any event, we thought it best simply to modify our present judicial article in the manner most suitable to the needs of our state judicial system.

The principal changes made by our proposed amendment are as follows:

It provides a system of courts as distinct from separate judicial departments.

It contemplates but three classes of courts—the supreme court, district courts, and county courts—but it does not prohibit the legislature from creating other courts.

The supreme court retains the original jurisdiction it now has in mandamus, quo warranto and habeas corpus, but is given original jurisdiction in all cases presenting questions of law only, where the facts have been agreed to by the parties. It is given appellate jurisdiction from the final judgment of any court in any case, and such other appellate jurisdiction as may be provided by law. It consists of seven judges until the number is changed by law. It may make rules of procedure for all state courts. It may transfer one judge temporarily to another district. It may call a district judge to sit on the supreme court. In original proceedings where the facts are controverted, it may refer the action to the district court to find the facts.

The district court is made a general trial court substantially as now. It may hear appeals from inferior courts, boards, commissions, or other tribunals exercising judicial functions.

The county court is given exclusive original jurisdiction respecting estates of decedents, minors and incompetent persons, and has such jurisdiction over the person of minors and other incompetents, and jurisdiction in civil actions and actions as may be provided by law. It is the examining magistrate in criminal cases.

The amendment provides for removal or retiring of judges in certain circumstances. A court clerk shall be selected in each county, who shall be a member of the district and county court. It provides qualifications for judges of the supreme court and judges of the district court and authorizes the legislature to make additional qualifications for judges of any state court.

It removes the present disqualification of a district judge to become a judge of the supreme court.

It prohibits a justice of the supreme court, or judge of a district court, from accepting or being a candidate for a nonjudicial office.

It leaves the manner of selection of judges to the legislature, which may fix terms of judicial office—not less than six years for the supreme court, nor less than four years for the district and county courts.

It leaves salaries of judges to be fixed by the legislature without limitation on its authority either to increase or decrease.

It provides for appointment to fill vacancies until a judge can be elected, as provided by law.

It requires all process to be executed by the sheriff or his assistant.

Under our proposed amendment the legislature has authority:

vide other courts if they should be found necessary.

ge the number of justices of the supreme court.

ove judges by two-thirds vote of each house.

vide terms of retirement of judges.

nge judicial districts.

e county courts jurisdiction of:

The person of minors and other incompetents;

In certain civil actions, and

In certain criminal cases.

ermine how the court clerk shall be selected, and for what time.

ke additional qualifications of judges.

ermine how judges shall be selected, and for what time.

salaries of judges.

ermine how a judge shall be selected to fill a vacancy after the appointments.

proposed amendment was introduced as senate concurrent resolution and was favorably reported by the senate judiciary committee. It was commented upon by some of the leading newspapers. It received support of a special committee of the State Bar Association. Being a sentiment which seemed to prevail in the senate that no constitutional amendment should be submitted at this time, which sentiment resulted in the defeat of two other constitutional amendments which had been recommended by committees, the senators in charge of this resolution decided best not to call it up for action.

most earnestly urge a careful study of this proposed amendment with a view to holding any special session of the legislature which may be called to submit a vote of the people at a next general election. The proposed amendment reads as follows:

**SECTION 1.** To amend article III of the constitution of Kansas relating to the judiciary by substituting in lieu thereof a new article III.

*Resolved by the Legislature of the State of Kansas, two-thirds of the members elected to each house thereof concurring therein:*

**SECTION 1.** There is hereby recommended and submitted to the qualified electors of the state of Kansas, to be voted upon at the next general election, for their approval or rejection, a proposition to amend the constitution of the state of Kansas relating to the judiciary by substituting in lieu thereof a new article III to read as follows:

#### ARTICLE III.—THE JUDICIARY

**SECTION 1.** All of the judicial power of this state shall be vested in a system of courts composed of a supreme court, district courts, county courts, and inferior courts, inferior to the supreme court, as may be created by law.

The supreme court, district courts, and county courts shall be courts of record, and each shall have a seal to be used in the authentication of all judgments and records.

The supreme court shall be the highest court in the judicial system of this state. It shall have original jurisdiction in actions and proceedings presenting questions of law only, submitted on a written statement of agreed facts, and in proceedings in quo warranto, mandamus and habeas corpus. It shall have appellate jurisdiction from the final decision of the district court in civil actions and special proceedings, and such other appellate jurisdiction as may be provided by law. It shall consist of seven justices until the

number shall be changed by law. It may make rules for the practice and procedure in all state courts. It may designate any district judge to sit temporarily as judge of another district or division with the same power and authority as the regular judge. It may call a judge of a district court to sit on the supreme court in the event a member of that court be ill or disqualified. It may refer the original proceedings in the supreme court which involve controversies to the supreme court, may refer the proceedings to a district court, or may refer them, in whole or in part, thereof, to hear the evidence and make findings of fact and conclusions of law, and report them to the supreme court. The justices of the supreme court may sit separately in divisions with full power in each division to determine the cases assigned to be heard by such division. Three justices shall constitute a quorum in each division and the concurrence of three shall be necessary for a decision. Such cases only as may be ordered to be heard by the whole court shall be considered by all the justices, and the concurrence of a majority shall be necessary to a decision in cases so heard. The justice who is senior in continuous term of service shall be chief justice, and in case two or more justices have been continuously served during the same period the senior in years of the three shall be the chief justice, and the presiding justice of each division shall be one of the judges assigned to that division in like manner.

SEC. 4. Justices of the supreme court, judges of the district court, and judges of county courts may be removed from office by resolution of both houses of the legislature if two-thirds of the members of each house concur. But no such removal by such proceeding shall be made except upon evidence of the substance of which shall be entered upon the journal, nor until the person charged shall have had notice and opportunity to be heard.

SEC. 5. The supreme court, not more than two justices voting in the affirmative, after a hearing, on complaint and due notice, may ask the resignations of any justice, or by order remove, a justice of that court or a judge of any state court, if in the opinion of the court he is not in the good of the service, and may prescribe rules of procedure therefor; and any justice or judge, after notice and hearing, may retire any justice of the supreme court or judge of a state court who shall have reached the age of seventy years, or whose physical or mental infirmities have rendered such retirement advisable. Such retirement shall be upon such conditions relating to pay or other matters as may be provided by law.

SEC. 6. The supreme court shall appoint a reporter and a clerk of the supreme court, who shall hold office during the pleasure of the court, and shall perform their respective duties.

SEC. 7. There shall be a district court in each county, but several counties may compose one district, and there may be divisions of the district court if the business therein may require. Judicial districts consisting of one or more counties, and the division of each district court and the number of judges therein, as they may exist at the time of the adoption of this amendment, shall continue to exist until changed by law. The district court shall be the court of original general jurisdiction for the trial of all civil and criminal actions and proceedings, except as the jurisdiction of any civil or criminal action or proceeding is hereby vested in some other court, and shall have the jurisdiction in all civil and criminal actions and special proceedings originating in courts inferior to the district court and before boards, commissions, and tribunals when exercising judicial functions, and such other jurisdiction as may be provided by law.

SEC. 8. There shall be a county court in each county, which shall have exclusive original jurisdiction for the probate of wills and in all matters relating to the estates of decedents, minors and incompetent persons, and shall also have such jurisdiction in matters relating to the person of minors and incompetent persons, and in civil and criminal actions and special proceedings as may be provided by law. The judge or judges of such court shall examine and examine magistrates in prosecutions for felonies. There shall be at least one judge of the county court in each county, and such additional judges as may be provided by law. At the first session of the legislature following the adoption of this article the legislature shall provide for the organization of county

ence with this section, the transferring to such courts of the records and business of trial courts inferior to the district court, and for the of judges for county courts, so that such courts may be fully organized and equipped to take care of the business on a date fixed by law, shall not be later than the end of the term for which probate judges have been elected.

In each county there shall be a court clerk who shall be selected as by law and who shall act as clerk for both the district court and the court in such county, and whose duties shall be prescribed by rule of the court.

To be eligible to hold the office of justice of the supreme court or the district court a person must be duly admitted to practice law in and shall be a citizen and resident of the state and district for which elected or appointed, and before taking such office must have been engaged in the active practice of law or shall have served as judge of a court of both, in the aggregate as follows: For justice of the supreme court, five years; for judge of the district court, five years. Additional requirements for judges of any state court may be provided by law. No person ineligible to hold any judicial office in this state on account of his another judicial office. No person shall hold more than one judicial office currently. A justice of the supreme court, or a judge of the district court, shall not be a candidate for a nonjudicial office, and in the files for, or accepts a nomination for, or an appointment to, a nonjudicial office, his office of justice or judge shall become vacant immediately.

Justices of the supreme court and judges of the district courts and county courts shall be selected in such manner and shall hold office for such terms as may be provided by law, but if terms are fixed they shall be not less than four years for justices of the supreme court nor less than four years for judges of the district and county courts.

All appeals from county courts shall be to the district court, and all appeals from the district court shall be to the supreme court.

The justices of the supreme court and judges of the district courts and county courts shall, at stated times, receive for their services such compensation as may be provided by law, but no such justice or judge shall receive any other fee or perquisites, nor shall he practice law during his continuance in office.

The several justices and judges of courts of record in this state shall exercise such jurisdiction at chambers as may be provided by rule of the court.

Provision shall be made by rule of the supreme court for the selection of a judge *pro tem.* of the district court or county court.

In the event of a vacancy in the office of a justice or judge of any court of record of this state the governor shall appoint some eligible person to fill the position until his successor is selected and qualified as provided by law.

The style of all process shall be "The State of Kansas," and all legal actions shall be carried on in the name of the state. All process from the courts of the state shall be executed by a sheriff, undersheriff or deputy sheriff, or by the clerk of the district court if the sheriff be the party to be served.

This proposition shall be submitted to the electors of the state of Kansas at the general election in 1936. The amendment hereby proposed shall appear on the official ballot by the title, "The Judiciary Amendment to the Constitution," and the vote for and against such proposition shall be counted as provided by law.

This act shall take effect and be in force from and after its publication in the statute book.

TABLE I.—Miscellaneous information, year ending July 1, 1934  
(Compiled from Form 10)

COUNTY.	Judge.	Time judge has served; years—months.	Decedents' estates closed in year ending July 1, 1934.	Estates of minors, insane and other incompetents closed in year ending July 1, 1934.	Defalcations since July 1, 1930, by guardian, executor or administrator.		Juvenile officers under supervision of judge since July 1, 1933.		Habeas corpus cases since July 1, 1933.	Orders in absence district judge since July 1, 1933.	Proceedings in aid of execution since July 1, 1933.	Adoptions with consent of parent since July 1, 1933.	Adoptions without consent of one or both parents since July 1, 1933.
					No.	Amount.	Amount received.	No.	Amount paid.				
Allen.....	Travis Morse.....	6-7	26	4	0	\$0.00	\$0.00	1	\$126.70	0	0	0	0
Anderson.....	L. H. Spohn.....	6	32	5	0	0	0	1	0	0	0	0	0
Atchison.....	F. P. Wertz.....	1-6	50	9	0	0	0	1	333.65	5	0	3	5
Barber.....	S. P. Garrison.....												
Barton.....	H. A. Hall.....	25-6	54	22	2	600.00	600.00	1	156.00	1	0	2	0
Bourbon.....	C. E. Hulett.....	1-6	41	8	1	6,612.59	0	0	0	2	0	0	0
Brown.....	J. M. Johnson.....	6	41	10	0	0	0	2	233.07	0	0	0	0
Butler.....	W. N. Hawkins.....	0-7	47	23	0	0	0	0	0	1	0	0	0
Chase.....	S. H. Baker.....	8-6	5	6	0	0	0	0	0	0	0	0	0
Chautauqua.....	W. H. Helmick.....	1-6	9	4	0	0	0	0	0	1	0	1	0
Cherokee.....	Walter Largent.....	1-6	56	13	1	500.00	500.00	1	0	0	0	5	2
Cheyenne.....	C. E. Curry.....	1-6	4	1	0	0	0	1	0	1	0	5	0
Clark.....	A. Baker.....	11-6	1	0	0	0	0	1	0	0	0	0	0
Clay.....	Frank H. Meek.....	1-6	42	7	1	300.00	300.00	1	150.00	10	0	1	0
Cloud.....	E. W. Thompson.....	10-0	41	10	0	0	0	1	69.35	4	2	0	0
Coffey.....	J. W. Whitney.....	1-6	43	0	0	0	0	0	0	7	8	0	1
Conanche.....	M. M. Cosby.....	16-0	5	4	0	0	0	0	0	3	0	1	0
Cowley.....	Ellis Fink.....	0-3	66	20	2	350.00	350.00	2	1,161.55	0	0	27	0
Crawford.....	R. W. Colborn.....	13-6	97	22	1	974.00	974.00	1	285.00	0	0	3	1
Decatur.....	J. E. Kulp.....	9-6	23	0	0	0	0	0	0	4	0	3	2
Dickinson.....	D. W. Nickles.....	1-6	53	16	0	0	0	2	39.00	19	0	0	1

COUNTY.	Judge.	How long he has served; months.....	Estate closed ending July 1,	Minors, insane or incompetents year ending 1934.....	No.	Amount.	Amount received.	No.	Amount paid.	Deposits since July 1, 1933.	Deposits in aid of estate since July 1,	Without consent of both parents July 1, 1933.....
	Peter Holzmeister .....	1-6	55	8	0	\$0 00	\$0 00	1	\$8.00	1	0	0
Ellis .....	Frank Vitek .....	5-6	17	6	1	2,000 00	1,800 00	1	0	4	0	0
Elsworth .....	Edgar Foster .....	3-6	2	0	0	0	0	1	87 50	2	0	1
Finn .....	R. W. Evers .....	6-3	20	8	0	0	0	1	0	4	2	1
Ford .....	Clive H. Owen .....	3-6	67	17	4	26,540 71	26,540 71	1	0	5	4	4
Franklin .....												0
Gee .....	Wm. W. Pease .....	8-0	0	0	1	530 00	0	1	0	4	0	0
Geary .....	Geo. F. Turner .....	7-6	9	0	0	0	0	0	0	2	0	0
Gove .....	E. L. McClure .....	9-6	13	3	0	0	0	1	12 00	0	0	0
Graham .....	Mae Gay .....	12-6	0	0	0	0	0	1	0	0	0	0
Grant .....	Edith M. Johnston .....	3-6	0	0	0	0	0	0	0	1	0	0
Gray .....												0
Greeley .....	J. G. Riden .....	1-6	0	0	0	0	0	0	0	2	0	0
Greenwood .....	Roy L. Hamlin .....	3-6	31	17	1	338 29	338 29	0	0	12	0	0
Hamilton .....	E. H. Murray .....	1-6	8	0	0	0	0	0	0	6	0	1
Harper .....	D. C. Hawk .....	24-0	44	10	0	0	0	2	48 00	3	0	1
Harvey .....	Grant Mitchell .....	3-6	43	7	0	0	0	0	0	1	0	6
Haskell .....	L. G. Meairs .....	12-0	5	0	0	0	0	0	0	1	0	1
Hodgeman .....	Jacob Soren .....	1-6	2	0	0	0	0	0	0	0	14	0
Hogland .....	A. P. Hoagland .....	1-6	25	6	0	0	0	1	0	0	2	0
Hoffman .....	John A. Decker .....	15-6	21	3	0	0	0	1	18 00	4	5	1
Jefferson .....	Frank Kissinger .....	3-6	37	3	1	250 00	250 00	0	0	2	0	0
Jewell .....	V. K. Campbell .....	3-6	49	10	0	0	0	1	27 60	0	0	0
Johnson .....	Geo. F. Geer .....	1-6	6	1	0	0	0	0	0	0	0	0
Kearny .....	L. W. Kabler .....	7-6	19	9	0	0	0	3	10 00	0	0	0
Kingman .....	Don P. Reed .....	6-6	4	0	0	0	0	0	0	1	0	0
Kiowa .....	C. S. Carlton .....	12-0	32	13	0	0	0	1	0	0	2	1
Labette .....												0
Lane .....	J. A. Radford .....	5-6	7	1	0	0	0	0	0	0	0	0
Leavenworth .....	Duke Hooper .....	32-6	36	4	0	0	0	1	0	1	0	0
Lincoln .....	A. Artman .....	1-6	42	17	0	0	0	0	12 00	6	0	2
Linn .....	Owen E. Root .....	5-6	17	0	0	0	0	3	0	0	0	1
Logan .....	Winnie Seitz .....							0	0	0		0

TABLE 1.—CONTINUED. Miscellaneous information, year ending July 1, 1934

County.	Judge.	Time judge has served; years—months.....	Decedents' estates closed in year ending July 1, 1934.....	Estates of minors, insane and other incompetents closed in year ending July 1, 1934.....	Defalcations since July 1, 1930, by guardian, executor or administrator.			Juvenile officers under supervision of judge since July 1, 1933.		Habeas corpus cases since July 1, 1933.....	Orders in absence district judge since July 1, 1933.....	Proceedings in aid of execution since July 1, 1933.....	Adoptions with consent of parent since July 1, 1933.....	Adoptions without consent of one or both parents since July 1, 1933.....
					No.	Amount.	Amount received.	No.	Amount paid.					
Lyon.....	R. H. Hudkins.....	1-6	49	18	0	\$0.00	\$0.00	1	\$1,080.00	0	5	0	2	1
Marion.....	J. E. Hargett.....	6-0	61	8	1	10,000.00	0	0	0	0	4	0	1	0
Marshall.....	P. R. Fullene.....	1-6	45	8	1	2,830.00	330.00	0	0	0	1	0	0	0
McPherson.....	J. J. Heidebrecht.....	9-0	58	14	1	1,600.00	1,600.00	1	0	0	19	0	5	0
Meade.....	Florida DeCov.....	9-6	7	2	1	16,627.29	17,532.71	0	0	0	0	2	0	1
Miami.....	C. E. Rossman.....	9-6	29	20	2	2,268.21	2,268.21	2	0	0	4	2	5	1
Mitchell.....	J. M. Rodgers.....	3-6	46	9	0	0	0	0	0	0	5	0	1	0
Montgomery.....	Grace A. Miles.....	6-0	121	28	0	0	0	4	1,000.00	0	0	0	2	6
Morris.....	W. F. Williams.....	4-0	35	5	0	0	0	0	0	1	6	0	3	0
Morton.....	Jennie Smallwood.....	4-6	2	0	0	0	0	0	0	0	0	0	0	0
Nemaha.....	L. S. Slocum.....													
Neosho.....	C. C. Yockey.....		9	7	0	0	0	1	0	0	0	0	0	0
Ness.....	J. M. Anderson.....	1-6	18	2	0	0	0	1	0	0	3	0	1	0
Norton.....	W. A. Hendrickson.....	5-6	42	16	0	0	0	1	100.00	0	5	1	1	0
Osage.....	Robert T. Price.....													
Osborne.....	James W. Bell.....	10-0	44	3	0	0	0	1	4.00	0	1	4	1	2
Ottawa.....	G. R. King.....	1-6	34	6	0	0	0	3	6.00	0	1	0	0	1
Pawnee.....	Blaine Roberts.....	3-6	6	3	1	15,000.00	0	1	13.50	0	3	0	0	0
Phillips.....	Fred Kelly.....	1-6	45	0	0	0	0	0	0	0	2	0	2	1
Pottawatomie.....	Frank Brooks.....													
Pratt.....	E. R. Barnes.....	8-5	22	10	3	29,002.51	5,000.00	2	50.00	0	6	0	1	0
Rawlins.....	M. H. Bird.....	1-6	0	0	0	0	0	0	0	0	0	0	2	1
Reno.....	A. B. Leigh.....	1-6	65	22	0	0	0	1	0	0	0	1	7	0
Republic.....	H. H. VanNatta.....	15-6	51	18	1	0	0	0	0	0	0	0	0	3
Rice.....	Calvin G. Cook.....	10-0	30	10	0	0	0	1	25.00	0	2	0	1	0



COUNTY.	Judge.	Time judge has served; years—months.....	Decedents' estates closed in year ending July 1, 1934.....				Insane and other incompetents closed in year ending July 1, 1934.....		Defalcations since July 1, 1930, by guardian, executor or administrator.			Juvenile officers under supervision of judge since July 1, 1933.		Labels corpus cases since July 1, 1933.....	Orders in absence district judge since July 1, 1933.....	Proceedings in aid of execution since July 1, 1933.....	Adoptions with consent of parent since July 1, 1933.....	Adoptions without consent of one or both parents since July 1, 1933.....
			No.	Amount.	Amount received.	No.	Amount paid.											
Scott.....	James H. Foree.....	1-6	9		\$0.00	0	\$0.00	0	\$0.00	0	0	0	0	1	0	0	1	0
Sedgwick.....	Clyde M. Hudson.....	1-0	84	0	0	0	0	3	4,560.00	0	0	1	0	28	39	0	0	0
Seward.....	L. A. Etzold.....	9-0	11	0	0	0	0	1	71.50	0	0	0	0	1	0	0	0	0
Shawnee.....	John F. Kaster.....	4-0	112	0	0	0	0	3	380.00	0	0	0	0	10	28	0	0	0
Sheridan.....	N. F. McWilliams.....	2-0	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sherman.....	Bessie M. Flick.....	12-0	9	2,105.42	1,637.25	1	30.00	2	30.00	0	0	1	1	2	0	0	0	0
Smith.....	Charles Buell.....	1-6	7	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0
Stafford.....	W. T. Buckle.....	3-6	28	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stanton.....	W. F. Hoover.....	7-6	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Stevens.....	I. B. Erwin.....	1-3	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sumner.....	Chas. P. Hagen.....	12-0	40	0	0	0	0	1	360.00	0	0	0	0	3	5	0	0	0
Thomas.....	O. A. Snell.....	1-6	20	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Trego.....	Walter F. Swiggett.....	1-6	13	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0
Wabunsee.....	H. R. Williams.....	1-6	28	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0
Wallace.....	L. V. Thomas.....	3-6	0	0	0	0	0	1	0	0	0	0	0	0	1	0	0	0
Washington.....	R. L. Rust.....	3-6	37	4,828.00	1,200.00	1	200.00	1	200.00	1	1	3	1	0	0	0	0	0
Wichita.....	J. I. Robison.....	13-6	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wilson.....	D. J. Sheedy.....	15-6	34	0	0	0	0	1	0	0	0	1	0	1	0	0	0	0
Woodson.....	Frank C. Woodruff.....	5-6	18	25,010.81	0	1	15.70	1	15.70	0	0	0	0	0	0	0	0	0
Wyandotte.....	Henry Meade.....	9-6	230	0	0	2	0	3	4,560.00	0	0	0	0	34	13	0	0	0
Totals.....			3,126	\$154,631.25	\$68,542.32	34	\$16,129.12	82	\$16,129.12	20	50	250	241	149				

TABLE II.—Summary, probate courts. Estates of deceased persons pending July 1, 1934  
(Compiled from Form 11)

COUNTY.	No. pending July 1, 1934	Pending 6 months or less	From 6 months to 1 year	From 1 to 2 years	From 2 to 3 years	From 3 to 4 years	From 4 to 5 years	From 5 to 10 years	More than 10 years	No. of wills	No. of wills contested	Gross value.	No. cases, value given	Inventories within 60 days	No. annual reports filed	No. citations issued	No. appeals to district court	Total costs.	Executor's or administrator's fees.	Attorney's fees.	Estimated value of property listed but not appraised.
Allen	123	18	25	24	14	14	5	19	4	68	1	\$869,171.00	110	69	97	1	5	\$10,772.00	\$5,557.00	\$3,154.00	\$131,655.00
Anderson	108	27	11	24	15	4	3	23	1	57	2	418,077.23	80	55	13	0	2	16,941.44	16,615.00	1,900.50	272,018.02
Archison	*115	40	50	25	0	0	0	0	0	64	0	870,041.58	85	76	4	0	2	1,161.20	0	0	540,725.00
Barber	158	24	29	33	14	14	11	21	12	103	3	4,217,468.72	140	140	70	1	1	835.85	17,575.00	12,003.50	0
Barton	196	24	17	23	17	7	6	39	63	111	0	459,083.93	124	105	52	1	1	3,863.46	50.00	25.00	354,340.50
Bourbon	130	38	28	23	6	10	6	18	1	77	0	1,720,879.82	126	106	118	0	0	10,358.68	8,729.01	1,949.17	0
Brown	86	26	20	22	14	4	0	0	0	51	1	1,825,075.95	71	49	0	1	1	0	0	0	0
Butler	36	10	3	10	4	3	2	3	1	15	1	223,227.67	30	24	37	1	1	393.40	1,308.60	6,873.02	140,752.51
Chase																					
Chautauqua																					
Cherokee	166	39	27	25	15	15	7	25	13	89	0	678,404.96	134	121	35	0	0	345.00	0	0	0
Cheyenne	34	6	6	3	4	5	1	8	1	19	1	362,499.57	31	31	28	2	1	470.10	2,325.95	3,791.50	7,500.00
Clerk	10	23	30	1	1	2	3	0	0	4	0	169,527.32	8	6	3	0	0	967.45	100.00	760.00	0
Clay	97	23	30	18	14	5	0	5	2	50	0	1,219,156.81	90	83	34	1	0	9,197.75	1,300.00	125.00	4,171.00
Cloud	54	26	28	0	0	0	0	0	0	34	0	788,579.86	49	43	3	0	0	1,156.75	1,540.12	2,500.00	0
Coffey	77	20	17	10	8	9	4	6	3	29	2	401,850.74	70	67	16	1	0	1,607.61	0	195.00	0
Comanche	21	6	4	3	3	3	1	0	1	42	2	22,023.41	18	18	21	0	2	463.30	150.00	50.00	0
Cowley	101	20	27	30	8	14	0	2	0	57	0	1,989,569.87	100	77	59	0	2	2,902.05	18,935.00	9,195.00	13,000.00
Crawford	218	47	30	36	23	22	18	38	4	89	3	1,537,786.81	204	176	116	1	4	22,423.08	11,180.00	3,303.00	32,650.00
Decatur	34	11	9	7	2	0	2	3	0	22	0	404,919.78	34	31	12	1	0	322.86	200.00	50.00	0
Deer	140	20	24	20	12	12	7	18	9	90	0	1,885,208.69	114	90	149	0	0	11,550.01	5,769.14	1,000.00	31,380.50

Ellis.....	25	0	2	23	0	0	16	0	\$182,286.54	23	23	18	0	0	\$246.10	\$75.00	\$1,940.00	\$0.00
Ellsworth.....	81	19	18	16	0	0	45	0	883,134.53	77	62	12	0	0	2,603.31	1,359.45	980.00	0
Finley.....	38	16	22	0	0	0	17	0	175,770.26	25	22	4	0	0	2,481.50	2,221.00	250.00	5,000.00
Ford.....	88	12	16	10	0	0	32	1	933,557.11	63	45	21	1	2	2,344.97	756.92	314.05	0
Franklin.....	105	23	26	14	1	2	59	4	1,657,687.15	102	97	50	4	2	16,319.30	9,300.00	7,963.27	0
Geary.....	55	19	14	1	0	0	26	0	761,271.83	47	44	2	1	0	13,045.00	0	0	0
Gove.....	24	5	5	0	2	0	8	0	211,072.39	24	24	17	0	0	631.03	5,450.00	2,560.00	2,500.00
Graham.....	21	7	7	0	0	0	10	0	160,008.29	21	19	3	0	0	357.00	425.00	275.00	0
Grant.....	28	10	4	0	0	0	14	0	420,444.53	23	23	10	0	0	212.00	25.00	75.02	0
Gray.....	18	7	4	6	0	0	6	0	21,800.00	7	4	7	0	0	151.74	0	0	6,800.00
Greeley.....	158	28	34	33	0	0	72	1	2,050,344.37	149	122	56	0	1	9,442.42	6,547.59	3,505.30	9,778.05
Greenwood.....	13	2	5	5	0	0	7	0	34,350.75	12	12	9	0	2	150.35	150.00	50.00	400.00
Hamilton.....	74	19	18	16	1	8	42	1	953,377.94	71	71	56	0	0	8,271.20	4,501.00	2,950.00	0
Harper.....	169	33	22	37	21	17	94	1	1,124,064.76	80	131	102	0	1	1,697.60	0	0	0
Haskell.....	8	2	3	3	0	0	6	1	83,372.12	7	7	3	0	0	302.25	0	50.00	36,400.00
Hodgeman.....	14	3	7	4	0	0	4	1	122,591.12	12	12	0	0	0	202.25	300.00	350.00	0
Jackson.....	241	36	31	54	53	67	89	0	1,385,377.55	198	74	19	0	0	2,800.56	24.34	750.00	50,220.00
Jefferson.....	111	21	9	20	17	11	68	3	1,400,992.35	109	92	220	26	20	23,495.58	17,681.18	3,140.67	9,600.00
Jewell.....	152	22	18	15	13	14	82	0	1,605,317.41	135	98	133	2	0	7,200.37	2,901.86	1,489.05	0
Johnson.....	266	36	41	45	10	14	151	4	2,823,210.44	161	120	48	1	2	23,687.68	18,074.52	25,392.82	798,594.44
Keary.....	24	11	8	2	1	0	18	0	153,030.23	12	9	16	0	0	516.50	500.00	100.00	0
Kingman.....	61	10	10	19	11	6	35	1	910,972.03	57	57	32	0	2	4,333.77	3,751.00	1,178.50	4,025.00
Kiowa.....	29	7	5	11	6	0	7	0	302,014.43	29	29	19	0	0	1,116.75	180.00	180.00	2,350.00
Lebette.....	269	38	25	61	60	85	134	0	980,738.53	142	109	0	0	1	7,233.22	4,011.92	810.00	0
Lane.....	16	6	5	2	1	2	8	0	175,730.69	11	10	7	0	0	120.85	150.00	125.00	13,189.00
Leavenworth.....	109	19	19	23	13	4	50	0	1,591,706.58	104	86	72	1	1	3,162.62	1,205.17	110.00	4,780.00
Lincoln.....	96	19	22	5	13	9	55	4	630,093.76	90	77	132	2	1	11,525.00	5,795.00	2,300.00	0
Linn.....	19	4	4	1	2	1	7	0	277,184.76	17	16	3	1	0	211.47	75.00	850.00	0

TABLE II.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1934

COUNTY.	No. pending July 1, 1934.....	Pending 6 months or less.....	From 6 months to 1 year.....	From 1 to 2 years.....	From 2 to 3 years.....	From 3 to 4 years.....	From 4 to 5 years.....	From 5 to 10 years.....	More than 10 years.....	No. of wills.....	No. of wills contested.....	Gross value.	No. cases, value given.....	Inventories within 60 days.....	No. annual reports filed.....	No. citations issued.....	No. appeals to district court..	Total costs.	Executor's or administrator's fees.	Attorney's fees.	Estimated value of property listed but not appraised.
Lyon.....	118	30	18	26	7	11	8	13	5	72	0	\$1,583,160.13	69	55	136	1	3	\$22,300.97	\$20,023.52	\$3,245.00	\$335,789.44
Marion.....	140	35	32	27	21	13	3	7	2	78	0	1,297,514.36	129	101	112	0	0	0	0	0	0
Marshall.....	214	28	26	43	32	27	16	36	6	114	1	3,187,308.50	201	195	129	0	0	13,854.90	8,713.00	3,250.00	0
McPherson.....	107	16	10	7	13	7	1	18	35	58	2	1,759,663.34	100	90	49	7	1	1,704.21	625.00	593.00	10,000.00
Meade.....	29	7	6	3	5	3	0	5	0	20	0	1,271,249.50	29	24	24	0	1	4,959.06	2,725.00	505.00	1,425.00
Miami.....	87	28	19	32	21	9	0	1	0	47	1	1,651,534.90	86	86	71	1	4	3,504.87	25,616.75	13,630.00	437,045.50
Mitchell.....	107	23	32	31	32	9	2	0	0	39	0	1,028,068.01	91	80	6	0	0	882.90	0	0	706,018.63
Montgomery.....	324	43	29	72	69	111	0	0	0	153	0	2,301,330.58	299	289	231	1	0	199,291.71	20,764.35	13,667.56	8
Morton.....	7	3	3	1	0	0	0	0	0	3	0	14,800.57	7	5	0	0	1	97.30	0	0	5,595.00
Morris.....	82	30	18	21	10	2	0	1	0	34	0	454,722.25	71	71	17	0	0	1,917.94	1,350.00	1,075.00	0
Nemaha.....	89	22	11	19	8	11	6	7	5	62	1	1,157,988.11	86	79	110	1	0	2,412.50	1,908.42	990.00	0
Neosho.....	65	10	15	15	8	5	3	7	9	27	0	738,313.00	63	62	11	0	0	532.55	10.00	0	24,000.00
Norton.....	56	24	16	1	1	0	0	0	0	28	1	404,890.21	52	45	0	0	1	774.43	525.00	1,007.50	19,000.00
Osage.....	125	28	26	33	16	7	7	5	3	84	0	992,053.65	124	117	111	2	0	0	0	0	0
Osborne.....	81	21	13	27	6	3	2	9	0	28	1	937,053.81	78	18	10	0	0	4,790.03	3,525.00	1,100.00	21,000.00
Ottawa.....	113	0	8	33	40	32	0	0	0	55	2	1,196,880.17	111	84	132	3	2	13,079.70	6,489.84	1,832.00	12,819.71
Pawnee.....	32	8	7	7	3	0	0	2	5	20	0	597,913.00	31	26	51	0	1	15,711.41	11,050.00	2,875.00	0
Phillips.....	99	25	19	28	13	14	0	0	0	42	0	650,967.80	93	92	37	0	0	1,700.09	356.08	13.00	0
Pottawatomie.....																					
Pratt.....	55	13	11	13	12	6	0	0	0	34	1	1,164,099.09	50	15	5	2	1	600.35	0	1,700.00	18,500.00
Rawlins.....	64	17	11	11	13	2	2	8	0	25	0	91,525.25	47	50	18	0	1	751.60	0	0	76,968.14
Reno.....	168	36	19	24	25	22	7	16	19	100	0	1,320,139.44	126	82	83	1	1	2,661.10	300.00	150.00	0
Republic.....	174	9	30	53	40	41	0	0	0	86	0	1,914,455.51	159	158	31	1	2	4,107.67	6,205.11	2,325.90	0

Country.	Ending July 1, 1934.....	Long 6 months or less.....	6 months to 1 year.....	1 to 2 years.....	2 to 3 years.....	3 to 4 years.....	4 to 5 years.....	5 to 10 years.....	More than 10 years.....	Of wills.....	Of wills contested.....	Gross value.	Cases, value given.....	Stories within 60 days.....	Annual reports filed.....	Citations issued.....	Appeals to district court..	Total costs.	Executor's or administrator's fees.	Attorney's fees.	Estimated value of property listed but not appraised*.
Scott.....	21	2	6	3	3	2	0	4	1	8	0	\$206,174.58	20	20	45	2	1	\$2,546.00	\$3,895.00	\$400.00	\$4,700.00
Sedgwick.....	983	135	117	251	231	249	0	0	0	601	0	15,394,544.06	827	457	536	1	1	29,504.26	96,325.78	82,717.43	0
Sevier.....	50	10	4	7	8	3	3	9	2	25	1	835,265.84	48	33	27	0	0	720.20	2,775.00	6,635.00	35,800.00
Sherard.....	328	73	44	50	48	31	18	49	15	143	1	5,068,413.02	256	134	257	0	0	422.96	290.00	35.00	93,645.00
Sheridan.....	19	9	2	5	3	0	0	0	0	7	0	82,540.55	17	16	8	0	0	0	0	0	0
Sherman.....	25	5	3	8	5	1	2	0	1	8	1	245,918.54	24	16	14	0	2	1,412.16	700.00	650.50	0
Smith.....	82	16	16	15	7	11	5	12	0	45	0	158,167.00	73	73	62	0	0	543.55	0	42.00	543,360.00
Stafford.....	77	14	18	22	5	5	7	5	1	50	0	1,822,984.34	70	42	45	2	3	6,384.53	4,283.05	1,963.10	20,400.00
Stanford.....	8	2	1	2	2	0	0	0	0	4	0	24,288.64	8	8	5	0	1	506.45	104.75	135.00	128,245.00
Stevens.....	33	2	2	11	7	4	1	5	1	7	0	37,693.62	27	27	18	0	0	661.93	0	0	0
Sumner.....	109	31	25	27	12	14	0	0	0	63	1	908,691.00	82	55	22	0	0	3,738.00	1,326.46	885.00	30,000.00
Thomas.....	57	16	14	10	7	3	2	5	0	21	0	874,463.24	57	55	29	0	0	930.77	0	50.00	0
Trego.....	55	6	5	6	6	13	9	6	0	17	2	788,226.49	48	43	34	0	0	486.75	7,500.00	750.00	21,600.00
Wadsworth.....	111	30	12	15	13	7	2	20	12	55	2	1,763,959.01	111	99	59	0	0	15,369.22	1,837.00	535.00	11,400.00
Wallace.....	6	1	1	3	1	0	0	0	0	1	0	16,408.48	5	6	4	0	0	105.00	25.00	45.00	1,265.00
Washington.....	70	24	10	21	6	2	2	2	3	45	2	897,779.43	67	60	48	0	0	974.00	2,185.00	1,055.00	930.00
Wichita.....	8	0	7	1	0	0	0	0	0	0	0	61,998.00	8	7	0	0	0	2.50	0	15.00	0
Wilson.....	75	11	15	13	9	7	2	18	0	50	0	682,960.41	72	72	19	0	0	10,636.62	9,100.00	4,660.00	0
Woodson.....	384	103	100	109	58	14	0	0	0	203	0	1,832,903.28	289	229	30	0	0	8,571.25	0	0	0
Wyandotte.....	9,955	2,023	1,735	2,146	1,379	1,198	302	711	461	5,249	61	\$108,558,423.35	8,383	6,723	5,129	80	90	\$771,306.01	\$446,995.79	\$286,135.58	\$8,004,432.44
Totals.....	9,955	2,023	1,735	2,146	1,379	1,198	302	711	461	5,249	61	\$108,558,423.35	8,383	6,723	5,129	80	90	\$771,306.01	\$446,995.79	\$286,135.58	\$8,004,432.44

\* Cases from January 1, 1933, to July 1, 1934; about 140 cases prior to January 1, 1933.

TABLE III.—Summary, probate courts. Estates of minors, insane persons and other incompetents pending July 1, 1934

(Compiled from Form 12)

COUNTY.	Minors.....	Insane.....	Incompetent.....	Less than 6 months.....	From 6 months to 1 year.....	From 1 to 2 years.....	From 2 to 3 years.....	From 3 to 4 years.....	From 4 to 5 years.....	From 5 to 10 years.....	More than 10 years.....	Cases tried by jury.....	Cases tried by commission.....	Gross value.	No. cases value given.....	Inventories filed in 30 days...	No. annual reports filed.....	No. citations.....	Appeals to district court.....	Total costs.	Executor's or administrator's fees.	Attorney's fees.	Estimated value of property listed but not appraised.
Allen.....	41	12	0	9	5	5	7	8	6	10	3	3	9	\$128,655.00	45	15	142	0	0	\$3,795.00	\$1,097.00	\$960.00	\$1,263.75
Anderson.....	14	6	4	4	4	0	3	4	0	7	2	2	6	22,654.55	24	3	67	0	0	298.50	25.00	45.00	2,600.00
Atchison.....	14*	10	1	12	6	7	0	0	0	0	0	1	5	34,199.32	9	5	4	0	0	170.85	0	0	0
Barber.....																							
Barton.....	87	6	5	11	6	11	12	9	13	30	6	0	9	155,802.51	48	31	172	3	0	1,184.40	767.18	535.00	0
Bourbon.....	76	15	7	3	2	5	11	8	10	23	36	4	16	180,232.86	75	20	246	0	0	8,033.64	5,892.29	946.25	0
Brown.....	12	8	5	0	3	2	1	1	1	6	11	1	12	91,885.35	25	6	155	0	0	4,033.52	3,381.00	412.14	0
Butler.....	25	5	6	8	5	9	11	3	0	0	0	0	0	71,469.00	36	0	26	0	0	468.05	0	0	0
Chase.....	34	0	0	4	1	4	2	1	1	12	9	0	0	54,026.86	24	2	101	1	0	580.50	148.25	166.65	4,825.00
Chautauqua.....	0	10	7	4	4	5	1	1	1	0	0	1	16	400.00	2	2	2	0	1	236.85	35.00	30.00	7,813.00
Cherokee.....	81	80	38	16	13	16	22	23	56	33	33	9	91	5,184.50	3	2	202	0	0	0	0	0	0
Cheyenne.....	13	5	0	2	1	3	2	1	3	5	1	0	6	64,180.29	18	12	33	0	1	175.40	672.76	675.00	0
Clark.....	9	2	4	2	1	1	1	2	1	5	2	0	6	73,771.15	5	3	77	0	0	269.00	0	0	0
Clay.....	62	18	4	4	4	1	9	3	7	29	26	11	9	303,272.36	80	14	321	1	0	7,508.70	4,280.00	530.00	16,400.00
Cloud.....	11	2	1	8	6	0	0	0	0	0	0	0	3	33,331.78	13	7	3	0	0	210.34	9.64	40.00	0
Coffey.....	75	14	4	4	2	4	4	2	10	33	34	0	17	126,262.05	73	51	306	2	0	1,851.72	0	0	0
Comanche.....	9	2	3	2	0	5	1	0	1	5	0	4	4	32,640.55	11	9	34	0	0	135.85	0	0	0
Cowley.....	15	7	12	10	2	4	3	4	0	5	6	7	12	250,831.25	34	22	119	1	0	1,435.47	5,525.00	2,160.00	0
Crawford.....	163	31	6	10	8	17	19	22	20	64	40	3	33	263,954.50	197	1	639	0	0	5,291.38	1,542.00	1,934.20	0
Decatur.....	17	4	5	1	2	1	1	1	3	10	7	0	7	45,313.93	21	16	135	0	0	251.25	5.00	5.00	0

[illegible]

TABLE III.—CONTINUED. Summary, probate courts. Estates of minors, insane persons and other incompetents pending July 1, 1934

COUNTY.	Minors.	Insane.	Incompetent.	Less than 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	From 3 to 4 years.	From 4 to 5 years.	From 5 to 10 years.	More than 10 years.	Cases tried by jury.	Cases tried by commission.	Gross value.	No. cases value given.	Inventories filed in 30 days.	No. annual reports filed.	No. citations.	Appeals to district court.	Total costs.	Executor's or administrator's fees.	Attorney's fees.	Estimated value of property listed but not appraised.
Lyon.	69	25	8	11	3	10	7	12	7	32	20	2	23	\$499,373.68	48	3	267	0	0	\$5,778.05	\$3,905.00	\$490.25	\$0.00
Marion.	125	11	12	9	0	11	10	11	8	60	39	2	21	139,191.74	34	3	632	1	0	0	0	0	0
Marshall.	99	31	5	4	3	13	15	14	7	49	30	0	24	325,495.00	135	43	241	0	0	3,391.10	1,383.00	218.00	0
McPherson.	67	11	8	9	3	5	5	5	8	29	22	1	15	328,997.20	86	33	156	0	0	3,749.58	888.67	2,301.12	0
Meade.	13	4	1	2	0	1	3	3	1	8	0	1	3	30,941.00	17	17	41	0	0	236.80	100.00	120.00	0
Miami.	49	12	5	6	5	10	5	5	1	30	4	5	11	314,157.78	66	63	213	0	0	1,056.65	450.00	50.00	212,136.32
Mitchell.	34	22	9	11	9	13	15	12	5	0	0	0	1	57,808.00	28	1	22	0	0	395.50	0	0	0
Montgomery.	69	44	0	14	13	20	31	35	0	0	0	0	12	43,368.66	33	22	37	0	0	1,274.49	800.00	44.00	0
Morris.	16	11	0	0	0	0	3	3	3	4	16	4	6	26,073.21	21	20	90	0	0	5,871.10	875.00	4,650.00	0
Morton.	6	0	0	2	0	2	2	1	0	0	0	0	0	4,988.50	5	2	6	0	0	22.85	0	0	128.50
Nemaha.	52	17	14	4	2	9	8	5	5	27	23	9	20	429,849.78	81	21	450	0	0	5,768.50	5,438.38	1,523.50	0
Neosho.	37	7	0	0	2	2	6	4	6	15	11	2	4	93,030.00	37	31	60	0	0	1,424.15	241.00	67.00	0
Ness.	15	1	0	2	0	3	4	4	3	0	0	0	2	44,077.99	12	6	6	0	0	40.14	0	0	0
Norton.	21	16	4	7	7	8	3	4	3	6	3	5	14	79,696.60	37	31	82	1	0	0	0	0	0
Osage.																							
Osborne.	12	8	2	1	4	0	2	4	0	9	2	1	7	77,674.00	20	9	39	0	0	276.00	175.00	0	0
Ottawa.	10	1	3	0	3	1	5	0	4	0	1	1	3	10,537.51	9	2	24	1	0	5,857.73	2,480.00	310.00	0
Pawnee.	18	0	1	5	2	2	2	2	0	2	0	0	1	85,977.00	18	5	24	1	0	306.65	50.00	477.20	0
Phillips.	0	6	2	0	1	2	4	2	1	0	0	4	3	34,889.01	8	5	10	0	0	3,359.91	403.91	27.00	0
Pottawatomie.																							
Pratt.	19	3	0	2	0	4	5	11	0	0	0	0	3	66,231.65	21	1	5	0	0	320.43	75.00	25.00	0
Rawlins.	35	8	0	5	6	6	6	4	2	12	2	1	5	12,661.39	17	16	34	0	0	359.21	0	0	19,709.30
Reno.	166	15	16	15	9	18	15	15	21	51	44	0	22	217,695.33	75	52	334	4	0	3,911.80	350.00	322.00	0
Remick.	27	19	4	4	8	12	10	15	1	0	0	0	0	136,908.74	33	33	17	0	0	1,182.21	352.00	210.00	0



County.	rs.	ne.	mpetent.	han 6 months.	6 months to 1 year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	than 10 years.	ried by jury.	ried by commission.	Gross value.	ases value given.	stories filed in 30 days.	annual reports filed.	tations.	als to district court.	Total costs.	Executor's or administrator's fees.	Attorney's fees.	Estimated value of property listed but not appraised.
Scott.	0	2	0	0	0	0	0	0	0	1	1	1	0	\$3,900.00	1	1	3	0	0	\$29.00	\$0.00	\$5.00	\$0.00
Sedgwick.	205	53	56	1	37	64	72	84	0	0	0	8	68	489,020.77	111	83	198	0	1	3,358.93	4,782.02	2,688.76	0
Seward.	13	1	4	0	0	0	0	1	6	1	0	0	4	90,175.61	12	5	14	0	0	234.31	570.00	725.00	8,000.00
Shawnee.	286	132	2	42	28	47	46	44	20	109	75	0	133	665,252.55	235	122	1,328	0	0	0	0	0	0
Sheridan.	10	2	0	7	0	0	2	3	0	0	0	1	1	15,822.18	10	8	5	0	0	118.98	0	0	0
Sherman.	9	8	0	0	1	1	4	2	2	5	2	0	8	45,600.00	17	3	55	1	0	1,184.37	755.00	255.00	0
Smith.	14	5	2	1	2	2	3	3	5	2	1	5	5	20,383.00	13	14	58	0	0	97.50	0	0	41,915.00
Stadford.	80	2	0	0	4	7	5	10	18	19	25	0	0	75,304.95	51	31	202	0	1	2,177.63	4,901.87	1,454.77	0
Stanton.	8	0	0	0	0	2	3	2	1	1	0	0	0	12,892.00	8	5	8	0	0	99.35	33.55	30.00	0
Stevens.	1	0	1	1	1	0	0	0	0	0	0	1	0	5,740.00	.2	2	0	0	0	11.75	0	0	0
Sumner.	38	2	18	7	2	7	5	4	4	16	13	3	15	212,344.00	24	10	170	0	0	1,479.95	459.00	985.00	0
Thomas.	34	1	5	0	0	3	0	4	2	13	9	0	0	131,238.70	34	29	102	0	0	452.50	0	1,055.00	0
Trego.	17	5	0	0	3	0	1	3	6	8	1	0	0	10,300.00	1	1	19	0	0	58.00	0	0	0
Wauzusee.	28	6	2	4	5	6	0	5	2	8	6	0	5	51,387.08	36	16	65	0	0	315.00	20.00	25.00	0
Wallace.	0	0	1	0	0	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Washington.	52	17	6	1	3	8	8	7	6	23	19	4	19	165,630.28	73	65	246	0	0	1,405.70	1,517.21	629.00	1,200.00
Wichita.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wilson.	49	8	2	0	6	3	6	6	13	20	5	2	8	62,311.76	38	10	97	0	0	1,400.32	399.00	225.00	0
Woodson.	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Wyandotte.	126	20	7	25	25	46	46	11	0	0	0	4	18	183,854.16	139	54	93	0	0	2,773.55	0	0	0
Totals.	4,413	1,204	451	568	411	693	686	679	494	1,462	1,072	213	1,411	\$11,365,499.11	3,727	1,909	13,098	39	12	\$192,707.66	\$109,527.42	\$80,585.89	\$429,672.61

\* Cases from January 1, 1933 to July 1, 1934; about 34 minors and 14 insane prior to January 1, 1933.

TABLE IV.—Summary, probate courts. Juvenile cases pending July 1, 1934  
(Compiled from Form 13)

County.	Causes.							Costs.
	Dependent and neglected	Stealing.	Forgery.	Arson.	Incorrigible.	Immoral conduct.	Delinquent.	
Allen.	2	0	0	0	0	0	2	\$3.74
Anderson.	2	0	0	0	0	0	0	20.00
Acheson.	0	0	0	0	0	0	0	0
Barber.	6	0	0	0	0	0	3	10.00
Barton.	12	7	0	0	0	0	3	0
Bourbon.	0	0	0	0	0	0	0	0
Brown.	0	0	0	0	0	0	0	0
Butler.	24	11	3	5	1	0	24	159.20
Chase.	1	0	0	0	0	0	0	18.25
Chautauqua.	16	5	4	7	0	0	12	13.50
Cherokee.	2	2	0	0	0	0	1	0
Cheyenne.	0	0	0	0	0	0	0	0
Clark.	0	0	0	0	0	0	0	0
Clay.	4	4	0	0	0	3	1	0
Cloud.	3	3	0	0	0	1	0	2
Coffey.	3	0	0	3	0	1	0	0
Comanche.	0	0	0	0	0	0	0	0
Cowley.	11	6	5	0	0	4	1	2
Crawford.	7	5	2	0	0	3	0	1
Decatur.	0	0	0	0	0	1	0	0
DeWitt.	19	0	0	0	0	0	4	0

[illegible]

TABLE IV.—CONTINUED. Summary, probate courts. Juvenile cases pending July 1, 1934

COUNTY.	Causes.							Costs.
	Dependent and neglected.....	Stealing.....	Forgery.....	Arson.....	Incorrigible.....	Immoral conduct....	Delinquent.....	
Lyon.....	0	0	0	0	0	0	0	\$0.00
Marion.....	3	1	0	0	0	0	0	4.70
Marshall.....	10	5	1	0	0	0	1	47.50
McPherson.....	2	1	0	0	2	0	0	0
Meade.....	1	1	1	0	1	0	0	69.00
Miami.....	28	7	7	1	0	0	18	550.90
Mitchell.....	17	3	0	6	0	3	1	0
Montgomery.....	113	5	10	12	20	13	6	0
Morris.....	0	0	35	19	1	0	0	0
Morton.....	0	0	0	0	0	0	0	0
Nemaha.....	0	0	0	0	0	0	0	0
Neosho.....	0	0	0	0	0	0	0	0
Ness.....	5	0	0	0	0	0	0	62.56
Norton.....	0	0	1	0	0	0	0	0
Osage.....	0	0	0	0	0	0	0	0
Osborne.....	0	0	0	0	0	0	0	0
Ottawa.....	1	0	0	0	0	0	0	0
Pawnee.....	0	0	0	0	0	0	0	0
Phillips.....	0	0	0	0	0	0	0	0
Pottawatomie.....	0	0	0	0	0	0	0	0
Pratt.....	2	0	2	0	0	0	2	0
Rawlins.....	0	0	0	0	0	0	0	0
Reno.....	185	19	28	117	63	0	112	0
Republic.....	8	2	0	5	0	0	13	20.60

County.	Costs.	Delinquent.....	Immoral conduct....	Uncorrigible.....	Person.....	Morgery.....	Stealing.....	Dependent and neglected.....	tion not shown.....	on private homes.....	to state orphans'	to state institu-	led.....	an 2 years.....	o 2 years.....	months to 1 year...	6 months or less...	s pending.....	
Scott.....	\$1.20	1	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	1	2
Sedgwick.....	0	0	0	0	0	0	0	0	0	0	0	0	10	0	0	5	8	13	
Seward.....	0	0	1	3	0	0	0	0	0	0	0	3	0	0	0	0	0	0	
Shawnee.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Sheridan.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Sherman.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Smith.....	28.55	0	0	1	0	0	0	0	0	0	0	0	2	0	0	1	1	2	
Stafford.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Stanton.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Stevens.....	11.90	0	0	0	0	0	1	0	0	0	0	1	0	0	1	0	0	1	
Sumner.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Thomas.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Trego.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Wabunsee.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Wallace.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Washington.....	130.00	3	0	1	0	0	0	5	0	0	4	4	1	6	2	1	0	9	
Wichita.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Wilson.....	458.36	18	3	0	0	0	8	19	7	7	0	4	30	1	7	24	16	48	
Woodson.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Wyandotte.....	0	1	4	67	3	0	67	45	1	43	11	21	111	0	0	85	102	187	
Totals.....	\$2,410.36	264	39	121	3	4	221	266	36	165	67	188	462	295	137	232	254	918	



15-7112



# KANSAS JUDICIAL COUNCIL BULLETIN

PART 2—NINTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
WORD .....	51
KANSAS LAW OF HOMESTEAD.....	52



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1935  
15-8117

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita
CHESTER STEVENS.....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the state,

For the improvement of our Judicial **System** and efficient functioning.



## FOREWORD

ent in this issue a treatise on the Kansas Law of Homestead. This has  
ared by James W. Taylor, under the direction of the Judicial Council.  
or is a junior in the Washburn law school, whose work as a law  
nd whose prelaw training have specially qualified him for this class  
We were able to give him half-time employment sufficient for him to  
his treatise. We believe it timely and hope it may be helpful.

collecting data from clerks of the district court, similar to that pre-  
llected. Blanks for that purpose have been sent out, and letters  
ndicate the work is going forward. Summaries and tables compiled  
e reports will appear in our December BULLETIN.

ldly as we can find time to work at it we are going forward with the  
a code of procedure for probate courts and a redrafting of the law of  
We have progressed far enough in this work to appreciate its need and  
vinced that all of this may be simplified, made more definite and  
proved. When completed it will be published in our BULLETIN.

special session of the legislature, likely to be called this fall, we plan  
for its consideration most, if not all, the measures which we pre-  
the last session, but which for one reason or another were not en-  
nese were published in our April BULLETIN.

oposed redraft of article III of our constitution, relating to the  
has received a great deal of attention since the legislature adjourned.  
tee of nine members from the State Bar Association met with the  
ouncil for a day's study of the amendment. Later subcommittees of  
ies worked it over with a view of shortening it, and succeeded in re-  
o about 950 words in eleven sections. (The present article has about  
ds in twenty sections.) Copies of this redraft were sent to each  
f the Judicial Council, the committee of the State Bar Association  
ch member of the judiciary committees of the Senate and the House  
entatives. The State Bar Association invited all those persons to a  
d discussion of the proposal the evening of the first day of the meet-  
State Bar Association. About forty were present. The next day  
t judges discussed it in a meeting of their association. In all these  
s frank statements of views were encouraged. The main provisions  
posal met with almost universal approval. The need of rewriting the  
ng the lines suggested and the improvement of our judicial system  
ere generally recognized. There were divergent views as to some of  
s. No doubt these can be worked out satisfactorily. We plan to  
e proposal at the special session of the legislature, if one is called.  
be submitted to a vote of the people at the general election in 1936.

## THE KANSAS LAW OF HOMESTEAD

Our constitution (Art. 15, § 9) reads: "A homestead to the extent of five acres of farming land, or of one acre within the limits of an incorporated town, city or village, or city, occupied as a residence by the family of the owner, together with the improvements on the same, shall be exempted from forced sale in any process of law, and shall not be alienated without the joint consent of both husband and wife, when that relation exists; but no property shall be exempted from sale for taxes, or for the payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon: The provisions of this section shall not apply to any process of law by virtue of a lien given by the consent of both husband and wife; and also, R. S. 22-102, 60-3501.)

### I. Introduction

The word *homestead*, as applied to homestead-exemption law, is defined as the dwelling house constituting the family residence, together with the land upon which it is situated, and the appurtenances thereto.<sup>1</sup> It is used in its popular sense in the constitution,<sup>2</sup> meaning the family residence, etc., and for our purposes it shall mean just that. But inasmuch as we are dealing with homestead-exemption rights, we shall endeavor to make a distinction between the usual property rights in the homestead property and the special exemption privileges attached thereto,<sup>3</sup> for one person has a certain right of ownership in property as to which others, but not he, have no rights of exemption.

1. See *Morrissey v. Donohue*, 32 Kan. 646, 5 Pac. 27; *Bebb v. Crowe*, 38 Kan. 223; *Linn City Bank v. Hopkins*, 47 Kan. 580, 28 Pac. 606, 27 A. S. R. 2.

2. *Bebb v. Crowe*, supra.

3. This is especially important in considering the property and exemption rights of devisees of homestead property.

It has been stated that the homestead interest is an estate in land, but it is admittedly<sup>6</sup> a very difficult one to define. The most logical view is that "the homestead interest is not an estate in land . . . It is an exemption from sale under stated conditions. If the conditions do not exist, or have existed, are at an end, the exemption ceases."<sup>7</sup>

5. *Helm v. Helm*, 11 Kan. 19; *Coughlin v. Coughlin*, 26 Kan. 116; *Ellinger v. Edson*, 64 Kan. 180, 67 Pac. 529; *Postlethwaite v. Edson*, 102 Kan. 619, 171 Pac. 769.

6. *Coughlin v. Coughlin*, supra.

7. *Ellinger v. Thomas*, supra; quoted in *Postlethwaite v. Edson*, supra, p. 624. In the former case has been overruled, that does not have a bearing here.

Whether the homestead interest is an estate or not, it is, unlike the right of inheritance, a present interest. There are rights which the owner of a homestead has which *presently* make void an attempt by one to dispose of the property without the consent of the other.

The constitution<sup>8</sup> gives the homestead-exemption right, and although there was no such right at the common law, such provisions in constitutional and statutory law as create this right are generally deemed not in derogation of the common law right,<sup>9</sup> which makes it legally logical to construe such provisions liberally in favor of the debtor, and this has been the aim of Kansas law.

8. Article 15, sec. 9; cf. 29 C. J. 783, 787; *Howell v. McCrie*, 36 Kan. 636, 59 A. R. 584; *Dean v. Evans*, 106 Kan. 389, 188 Pac. 436.

9. Cf. C. J. 783, 787; R. S. 77-109.

10. *Howell v. McCrie*, 36 Kan. 636, 14 Pac. 257, 59 A. R. 584; *Dean v. Evans*, 106 Kan. 389, 188 Pac. 436; *McLain v. Barr*, 125 Kan. 286, 264 Pac. 75.

purpose of the homestead-exemption laws was well expressed by Justice in *Morris v. Ward*:<sup>11</sup>

is not established for the benefit of the husband alone, but for the of the family and of society—to protect the family from destitution, ty from the danger of her citizens being paupers. The homestead intended for the play and sport of capricious husbands merely, nor made liable for his weaknesses or misfortunes.”

Kan. 239, 244. See, also, *Farlin v. Sook*, 26 Kan. 397; *Howell v. McCrie*, 36 Kan. c. 259, 59 A. R. 584; *LaRue v. Gilbert*, 18 Kan. 220; *Birch v. Solomon National* Kan. 333, 246 Pac. 688, 121 Kan. 334, 246 Pac. 1007.

## II. Aquisition of Homestead Rights

an acquire the benefits of the homestead provisions of the constitu- the statutes either by establishing a home for his family, or by being ng member of the family of one establishing the homestead.<sup>12</sup>

section VII the rights of heirs and devisees of a homestead owner are discussed in

### A. WHO ARE ENTITLED

as indicated above, the purpose of the homestead laws is for the pro- of the debtor's family, rather than the debtor alone, one cannot es- residence impressed with the homestead exemptions unless he has a nssofar as the original establishment of a homestead is concerned, it ally been required that one have “dependents,” although the degree dependency is not so important.<sup>13</sup> The question of what constitutes has most commonly arisen in the consideration of the rights of sur- and in this respect the law increasingly has been interpreted for the of the *sole survivor, or sole occupant*. Thus, in *Ellinger v. Thomas*<sup>14</sup> ld that a widower, unmarried, whose children have moved away and nger dependent upon him, cannot continue to retain the homestead ns. In *Batley v. Barker*<sup>15</sup> it was held that an unmarried daughter 27 who had lived with her father on the homestead, could not, after his upy the premises alone free from the debts of her father. This ac- r the fact that in *Cross v. Benson*,<sup>16</sup> after holding that a widow alone inue to occupy the homestead free from the debts of her husband effect overruling *Ellinger v. Thomas*, if not *Batley v. Barker*, but he necessity of “overturning any prior decision”), the court held that hild who resides with her grandparents and is in fact dependent on t they are morally responsible for her nurture, is a member of their ththin the meaning of the homestead provision, without formal adop- n though her divorced father has a decree of court awarding her o him. This provides a plurality of persons, “if . . . a plurality s were required to form the family.”<sup>17</sup>

st *National Bank v. Warner*, 22 Kan. 537.

Kan. 180; 67 Pac. 529 (overr. in *Weaver v. Bank*, infra, note—).

Kan. 517, 64 Pac. 79, 56 L. R. A. 33 (overr. in *Koehler v. Gray*, infra, note—).

Kan. 495, 75 Pac. 558, 64 L. R. A. 560. See, also, *Aultman v. Price*, 68 Kan.

c. 1019, holding that a widow as sole occupier of homestead could maintain the even though the children were all living in homes of their own.

*Cross v. Benson*, supra, p. 509. That it was at one time taken for granted that a f persons was a prerequisite to having exemption rights is indicated in the case of

*reet*, 27 Kan. 270. There the wife, in fact a resident of Kansas, was married to a resident here. In allowing her exemption rights the court said: “She was, how- ead of a family, she and her youngster sister . . . living together as a family.”

s personality, not realty, involved. See, also, *Chambers v. Coz*, 23 Kan. 393.



awaiting completion of payments.<sup>32</sup> It is, therefore, clear that constructive occupancy by the family will suffice for the attachment of real rights.

*Wen v. Stephenson*, 18 Kan. 618, 44 Pac. 22; *Swenson v. Kiehl*, 21 Kan. 533; *Wittenhouse*, 28 Kan. 359; *Bebb v. Crowe*, 39 Kan. 342, 18 Pac. 223; *Ingels v. Kan.* 755, 32 Pac. 387; *Hay v. Whitney*, (K. A.) 51 Pac. 806; *Bush v. Adams*, 8, 84 Pac. 122; *Postlethwaite v. Edson*, 102 Kan. 104, 171 Pac. 769, L. R. A. n.; *Rose v. Bank*, 95 Kan. 331, 148 Pac. 745.  
*Wards v. Fry*, 9 Kan. 417; *Monroe v. May*, 9 Kan. 466; *Swenson v. Kiehl*, 21 *Gilworth v. Cody*, 21 Kan. 702; *Ingels v. Ingels*, 50 Kan. 755, 32 Pac. 387; *Cozen*, 60 Kan. 1, 55 Pac. 284, 72 A. S. R. 341; *Moore v. Sandford*, 2 K. A. 243, 34; *Evans v. Carson*, 9 K. A. 714, 59 Pac. 1091; *Lenora State Bank v. Peak*, 38, 44 Pac. 900 (overr. on other grounds); *Randolph v. Wilhite*, 78 Kan. 355, 3; *Stowell v. Kerr*, 72 Kan. 330, 83 Pac. 827; *Randolph v. Sprague*, 10 K. A. 583, 3; *Angola State Bank v. Fry*, 130 Kan. 641, 287 Pac. 245; *Hammond v. Neely*, 35, 22 Pac. 2d 726.  
*Wards v. Fry*, 9 Kan. 417; *Stowell v. Kerr*, 72 Kan. 330, 83 Pac. 827; *Monroe v. Kan.* 466; *Dobson v. Shoup*, 3 K. A. 468, 43 Pac. 817; *Ingels v. Ingels*, 50 Kan. 755, 3; *Edgerton v. Connelly*, 3 K. A. 618, 44 Pac. 22, *Angola State Bank v. Fry*, *Moore v. Reeves*, 15 Kan. 150; *Walz v. Keller*, 102 Kan. 124, 169 Pac. 196; *South-ville*, 139 Kan. 850, 23 P. 2d 6.  
*Therm v. Linville*, supra.

#### D. FUNDS USED TO ACQUIRE HOMESTEAD PROPERTY

It is held that one cannot acquire homestead rights in fraud of creditors examined in *Long v. Murphy*.<sup>33</sup> The debtor, engaged in the grocery business, traded the stock of groceries, purchased on credit, for land he claimed as homestead. The court said:

"We do not think that a debtor, being absolutely insolvent, and having creditors pressing him for payment of their claims, and fully cognizant of his duty to pay such debts, can, to defraud his creditors, transfer possession of his property purchased by him on credit and take in exchange therefor lands, in his own name or in the name of his wife, and then claim the same as a homestead against such existing creditors."<sup>34</sup>

Kan. 375 (see Bulk Sales Law, R. S. 58-101, 102, 103, 104; L. 1915, 369, §§ 1-4).  
 p. 380.

In *Wille, Hanna & Co. v. Stine*<sup>35</sup> the wife owned the stock of groceries, and permitted her husband to run the business in his own name, and buy on credit to the amount of \$500. Three months after beginning the business the goods then on hand were traded for a homestead, taken in the name of the wife. In distinguishing this case from *Long v. Murphy* the court, saying that "all reasonable inferences are to be indulged in to sustain the judgment of the trial court," held that it had not been shown that the stock purchased on credit had not been sold, and were a part of the consideration given for the homestead. While practically admitting that the stock might have been sold on execution to meet the demands of the creditors (where, as here, his apparent ownership of the entire stock was necessary to obtain credit), the court nevertheless held:

"The property may have property subject to execution, but if before there is a lien upon it, such property is exchanged for real estate and actually becomes a homestead, the homestead is exempt unless existing creditors have claims therein as settled in *Long v. Murphy*."<sup>36</sup>

Kan. 66, 1 Pac. 279.  
 p. 69.

The doctrine above stated, that homestead rights can be acquired in property purchased with nonexempt property, if there are no liens or special claims against the latter, brings us to a consideration of the case of *Loan Association*

*v. Watson*.<sup>37</sup> Land not a homestead was exchanged October 14 occupied the same day as a homestead. Watson, on October 26, got against the debtors, which judgment related back to October 4. It is held that the lots were not subject to a judgment lien.<sup>38</sup>

37. 45 Kan. 132, 25 Pac. 586. See, also, *Monroe v. May*, 9 Kan. 476; *Hizon v. Hizon*, 18 Kan. 254: "Generally, the expenditure of money in purchasing a homestead, or in subsequently paying therefor, or in making improvements thereon, can never be charged as a fraud upon the rights of the creditors, or others, unless the complaining party can show that at the time of such expenditure some special interest or claim upon the funds used for such purpose existed." (p. 257). Also, *McConnell v. Wolcott*, 70 Kan. 375, 78 Pac. 848, 3 L. R. A., n. s., 10, 454: "One may sell homestead, use proceeds, and later acquire other property with the proceeds, which property can be impressed with homestead exemption right." (p. 454).

38. It is to be deduced that the nonexempt land traded for the lots was not in Lyon county, for the court says that when the judgment was rendered, "by relation to the lots, it became a lien on all real estate owned by Cupp in Lyon county, not exempt from execution." (p. 134.)

#### E. ONE HOMESTEAD PER FAMILY

It is definitely settled that a family cannot have two homesteads for one family, as a family, cannot have two residences simultaneously. It is still be in such circumstances as to be morally entitled to the homestead exemption). But the fact of a husband leaving his family and going to another state, where he represented himself as a single person and took a homestead there, was held<sup>40</sup> not to preclude the wife, who during his absence, had deeded the property but continued to reside there, from setting up the lack of joint consent of her husband in order to show that the homestead was void. The court remarked that "it would be a lamentable result if we were compelled to hold that this peripatetic husband could by such absence destroy the homestead character of the family residence."

39. *Sarahas v. Fenlon*, 5 Kan. 592; *Atchison Sav. Bank v. Wheeler's Adm'r*, 62 Kan. 625; *Swenson v. Kiehl*, 21 Kan. 533.

40. *Thompson v. Millikin*, 102 Kan. 717, 172 Pac. 534.

### III. What Property May Be Impressed With Homestead Exemption Character

#### A. EXTENT, VALUE, LOCATION, SELECTION, NATURE, USE

*Extent.* The extent of the land which can be held exempt as a homestead is limited by the constitution, article 15, section 9, and R. S. 22-102 and 60-3501, to "one hundred and sixty acres of farming land, or . . . within the limits of an incorporated town or city." This led to dispute in the case of *Sarahas v. Fenlon*,<sup>41</sup> where the debtor owned about 100 acres of land, all in one tract, but about 17 acres were situated within the limits of an incorporated town. The family residence was located outside the town. The part of the tract within the city was held to be liable for the debt of the owner, even though it was a tract of farming land. One cannot have a homestead in all of one tract partially within and partially without the limits of an incorporated town.

41. 5 Kan. 592.

*Location.* In *Topeka Water-Supply Co. v. Root*<sup>42</sup> the tract was granted to the city for one acre, and by ordinance it had been included within the boundaries of an incorporated city, but it had never been plotted into lots, and the owner consented to the tract becoming a part of the city. The homestead



*Selection.* If the homesteader owns land more than is permitted to be exempt as a homestead, he may select (if it is farming land) any part of the land which is contiguous to and includes the land upon which he resides. This rule was held in *Bank v. Peak*<sup>59</sup> that the selection must be reasonable with reference to the recognized legal subdivisions, which rule was adhered to on appeal. If one owns a tract of farm land situate part within and part without the limits of an incorporated town he must select the one part upon which his family reside. The homestead must be either farm land wholly outside the city, or one acre or less (resided upon) within the city.<sup>61</sup>

58. *Bank v. Peak*, 3 K. A. 698, 44 Pac. 900; *Peak v. Bank*, 58 Kan. 485, 49 Pac. 775; *Willis v. Whitehead*, 59 Kan. 221, 52 Pac. 445; *Ard v. Platt*, 61 Kan. 775, 60 Pac. 400; *First Nat'l Bank v. Tyler*, 130 Kan. 308, 286 Pac. 400. See *Dean v. Evans*, 100 Kan. 188, 188 Pac. 436. House not technically on claimants' land, but was so by agreement.

59. 3 K. A. 698, 44 Pac. 400.

60. *Peak v. Bank*, 58 Kan. 485, 49 Pac. 613. The decision of the lower court was reversed, the Supreme Court holding that an attempted illegal selection should not bind the debtor to select in the legal manner. In *First Nat'l Bank v. Tyler*, 130 Kan. 308, 286 Pac. 400, it was held that the sale on execution of a tract of land including a homestead was void. On selection, see R. S. 60-3502.

61. *Sarahas v. Fenlon*, 5 Kan. 592.

*Reality-Personalty.* The constitutional and statutory provisions relating to homestead-exemption rights, might be thought to refer only to real property. However, where the mortgagor built a movable house on leased premises, reserving the right to remove it at the termination of the lease, it was held that although the house was taxed as personalty, as long as it was situated on the leased premises and was the residence of the family, an attempt to mortgage thereon, without the wife's consent, was void.<sup>63</sup> However, where a windmill and grinder, to be attached to the soil, the owner reserved to the vendor, the property remained personalty, did not include improvements, and therefore the homestead property was exempt from sale to pay for the machinery.

62. A lease will support a homestead right.

63. *Hogan v. Manners*, 23 Kan. 551, 38 Am. R. 199.

64. *Marshall v. Bacheldor*, 47 Kan. 442, 28 Pac. 168.

Crops growing on homestead property are a part thereof, and are exempt from the owner's debts, the same as is the land itself.<sup>65</sup>

65. *Isley Lumber Co. v. Kitch*, 123 Kan. 441, 256 Pac. 133.

*Appurtenances.* The homestead property includes the dwelling house constituting the family residence, together with the land upon which it is situated and the appurtenances connected therewith.<sup>66</sup> This includes ordinary buildings, and sometimes buildings used partially for business purposes, as expressed in *Hixon v. George*,<sup>68</sup> "In order that anything shall be a part of the homestead it must not only be connected therewith as one piece of land, but connected to another to which it adjoins, but it must also be used in connection therewith, as a part thereof. In legal phrase, it must be appurtenant thereto."<sup>69</sup>

66. *Morrissey v. Donohue*, 32 Kan. 646, 5 Pac. 27; *Bebb v. Crowe*, 39 Kan. 223; *Linn City Bank v. Hopkins*, 47 Kan. 580, 28 Pac. 606, 27 A. S. R. 30; *Evans*, 106 Kan. 389, 188 Pac. 456.

67. *Iola Grocery Co. v. Johnson*, 114 Kan. 89, 216 Pac. 828.

68. 18 Kan. 258.

69. Where the debtor had a public grist mill situated on land not contiguous to the land upon which he resided, and the running of the mill was an independent business, the mill was not appurtenant to the farm, so not exempt. (*Moyriquand v. Hart*, 231 Am. R. 200.)

*Use.* While it is requisite that there be a dwelling house on the land, and that it be occupied (actually or constructively) in order for the



rights to attach, it is not the style of the structure, but the use to which it is put, which determines its residential character.<sup>71</sup> As to use, it was held in *Offman v. Hill*<sup>72</sup> that "it makes no difference that the homestead or part thereof may be used for some other purpose than as a homestead, where the use of it constitutes only one tract of land not exceeding the amount required to be exempted under the homestead exemption laws, and where the land claimed as not a part of the homestead has not been totally excluded as a part thereof by making it, for instance, another person's homestead, or a part thereof, or by using it in some manner inconsistent with the interest of the husband and wife."<sup>73</sup> Perhaps the furthest degree of this liberal construction has been carried was in the recent case of *Martin*,<sup>74</sup> where a separate building on a lot was rented to a dentist, and the debtor-owner was permitted to hold the entire premises as a homestead, although occupied as a residence." Obviously this is going much further than do cases holding a part of a building may be used for business purposes by the owner,<sup>75</sup> or a part of a building rented to others.<sup>76</sup> In the *Barten* case the court, as we infer, regarded as not being in *exclusive possession* of any part of the premises, any more than he would have been had he rented a room in the building. Thus this case is distinguishable from those<sup>77</sup> holding that adjoining premises are not a part of the homestead. This latter rule does not apply to the leasing of premises during temporary absence,<sup>78</sup> or where the tenant is a family and the tenant are subordinate to the homestead occupancy of the owner.

in the process of construction, as in *Upton v. Cozen*, 60 Kan. 1, 72 A. S. R. 341; or where preparation for living be made as instructed by trial court in *Rose v. Bank*, 95 Kan. 148 Pac. 745.

*Bebb v. Crowe*, 39 Kan. 342, 18 Pac. 223.

Kan. 611, 28 Pac. 623.

pp. 603-614. In the instant case the premises were also used as a hotel and for business purposes. Held, not inconsistent use. Accord., *Hogan v. Manners*, 23 Kan. 551, 33 Pac. 29; *Rush v. Gordon*, 38 Kan. 535, 16 Pac. 700; *Bebb v. Crowe*, 39 Kan. 342, 18 Pac. 223; *Tola Groc. Co. v. Johnson*, 114 Kan. 89, 216 Pac. 828.

3 Kan. 329, 299 Pac. 614.

cases, note 73.

*Bebb v. Crowe*, 39 Kan. 342, 18 Pac. 223; *Layson v. Grange*, 48 Kan. 440, 29 Pac. 233.

*Card Sav. Bank v. Ayers*, 48 Kan. 602, 29 Pac. 1149.

*Ward v. Fry*, 9 Kan. 417, *Ashton v. Ingle*, 20 Kan. 670; *Poncelor v. Campbell*, 31 Kan. 63 Pac. 606.

*Con v. George*, 18 Kan. 253; *Upton v. Cozen*, 60 Kan. 1, 55 Pac. 284; *Shattuck v. Con*, 82 Kan. 101 Pac. 649.

*ton v. Cozen*, 60 Kan. 1, 55 Pac. 284, 72 A. S. R. 341; *Evans v. Carson*, 9 K. A. 1091; *Bank v. Warner*, 22 Kan. 537.

not necessary that all the premises be actually used or occupied by the owner.

if they are not used by others inconsistent to residential use by the owner.

In such cases the owner is regarded as constructive user of the premises.

*orrissey v. Donohue*, 32 Kan. 646, 5 Pac. 27; *Kerr v. Lawrence*, 130 Kan. 552, 21 Pac. 21.

note 73.

## B. TITLE AND ESTATE NECESSARY

title to property is sufficient to establish and maintain a homestead, when coupled with actual or constructive occupancy;<sup>82</sup> and title to property, with possession, is notice to all of homestead rights.<sup>83</sup>

includes occupation of the premises by purchaser under an executory contract.

*arrant v. Swain*, 15 Kan. 146; *Moore v. Reaves*, 15 Kan. 150; *Stowell v. Kerr*, 30 Kan. 83 Pac. 827; *Walz v. Keller*, 102 Kan. 124, 169 Pac. 196; *Southern v. Linville*, 350 Kan. 33 Pac. 2d 6.

*Moore v. Reaves*, 15 Kan. 150.

*Walz v. Keller*, supra; *Southern v. Linville*, supra.

The title may be in either the husband or wife.<sup>85</sup> The claimant a possessory interest in the property in order to have a residence avail himself of the homestead exemption,<sup>86</sup> so a remainder, vested agent, is not protected by the homestead laws.<sup>87</sup> Occupancy by parent does not give one the necessary interest to maintain homestead. Neither the holder of the bare legal title,<sup>89</sup> nor the gratuitous grantee, alienation to defraud creditors,<sup>90</sup> has sufficient interest to entitle him to the homestead exemption rights.

85. *Monroe v. May*, 9 Kan. 466; *Hixon v. George*, 18 Kan. 253; *Tootle v. Stine*, 31 Kan. 66; *Thompson v. Millikin*, 102 Kan. 717, 172 Pac. 534.

86. *Randal v. Elder*, 12 Kan. 257; *Cagle v. Warburton*, 125 Kan. 290, 200 Pac. 100; *Bank v. Carnahan*, 128 Kan. 87, 276 Pac. 57, 73 A. L. R. 110, n. But Cf. note 87.

87. *Bank v. Carnahan*, supra. (Cf., also, *Postlethwaite v. Edson*, 98 Kan. 802.)

88. *Randal v. Elder*, supra; *Bank v. Carnahan*, supra.

89. *Osborn v. Strachan*, 32 Kan. 52, 3 Pac. 767.

90. *Kline v. Cowan*, 84 Kan. 772, 115 Pac. 587.

A leasehold is sufficient to support a homestead for the lessee, but the lessor may retain homestead rights in property occupied in part by the lessee. This led to the bitter disappointment of the lessee whose homestead rights were involved in *Hay v. Whitney*.<sup>93</sup> There the lessee owned and in possession of one 80-acre tract which adjoined another 80-acre tract owned by the lessor and leased and resided upon. Relying upon the theory (expressed in *Elder*<sup>94</sup>) that one need not have equal estates or interest in adjoining tracts in order to establish contiguity with the residence, nor need he derive title from a common source, by residing upon the leased tract, he hoped to establish the adjoining 80 acres which he owned exempt as a homestead. His attempt to establish a case resulted from the fact that the lessor reserved homestead rights in the leased premises, and also resided thereupon. Since no distinct families can have overlapping homesteads for exemption purposes, the said lessee was without a homestead residence, so the adjoining 80 acres which he owned was not exempt.

91. *Hogan v. Manners*, 23 Kan. 551, 33 Am. R. 199.

92. See notes 76, 79, ante.

93. 59 Kan. 771, 51 Pac. 896.

94. 12 Kan. 257.

A life estate in possession can be impressed with homestead character, but never an estate in remainder, since it is not possessory while a remainder is. A tenant in common in possession is entitled to homestead exemption, but if his right is not precluded by his paying rent to the other cotenant.<sup>97</sup> If the cotenants cannot, as against the other, establish a homestead in the whole estate.<sup>98</sup>

95. *Goodman v. Malcolm*, 5 K. A. 285, 48 Pac. 439.

96. *Wheat v. Burgess*, 21 Kan. 407; *Tarrant v. Swain*, 15 Kan. 146; *Mercer v. Bank v. Kopplin*, 1 K. A. 599, 42 Pac. 263; *Banner v. Welch*, 115 Kan. 868, 220 Pac. 100; *Blitz v. Metzger*, 119 Kan. 760, 241 Pac. 259; see, also, *infra*, "Rights of Survivorship."

97. *Blitz v. Metzger*, supra.

98. *Banner v. Welch*, supra.

#### C. PROCEEDS FROM SALE, MORTGAGE, INSURANCE

The law as to when the proceeds from the sale of a mortgage or homestead are exempt is probably best stated in *Smith v. Gore*,<sup>99</sup> where the debtor had taken a note and mortgage as part payment when he had no homestead, and in the three years since had done nothing in the way of investing the proceeds in a new homestead. The court said:<sup>100</sup>

does not, in express terms, in any case exempt money or credits, because they are proceeds of a homestead. They are exempted only of equitable fiction drawn from the spirit of the exemption laws, and for the purpose of enabling persons to change their homesteads at their desire. But we think the intention to use the proceeds in procuring another homestead should be formed at or before the time of the sale, and the proceeds should be to procure another homestead with the proceeds of the sale."

Kan. 488, 33 Am. R. 188. Accord., *Milberger v. Veselsky*, 97 Kan. 433, 155 Pac. 490, 491.

Held in *First Nat'l Bank v. Dempsey*<sup>101</sup> that money due a debtor on the sale of his homestead which he at all times intended to invest in another homestead was exempt from garnishment, and the question of his acquiring a new homestead with the proceeds was the deciding factor.<sup>102</sup>

Kan. 608, 11 P. 2d 735. See, also, *Winter v. Ritchie*, 57 Kan. 212, where the proceeds were temporarily put in other property. *Held*, exempt. Also, *Hoefler v. Fronkier*, 151 Pac. 1112, as to proceeds from joint mortgage. In *Roberts v. First Nat'l Bank*, 126 Kan. 503, 268 Pac. 799, where the widow was entitled to \$250 of the proceeds from the sale of a homestead, her share was held to be a lien of her judgment creditor. There seemed to be no finding as to the use of the proceeds. Perhaps this was unnecessary, as the proceeds had been placed in the bank to await the outcome of the issue as to whether or not Mrs. Roberts and the bank had abandoned the homestead. "Under all the circumstances (italics ours) the bank was to have no part of the proceeds," perhaps does not mean that after the proceeds were paid over to the bank they would not be liable to be subjected to the payment of the creditor's judgment.

Where the surplus proceeds from a sale on mortgage foreclosure, it was early held that such surplus was exempt from general creditors' claims if the mortgagor or owners intended to use the surplus to redeem the property or to purchase a new homestead. But no such conditions were expressed in the case of *Brenneke v. Duigenan*.<sup>104</sup> Where an insolvent husband and his wife had mortgaged the homestead and put the proceeds in the bank in the wife's name, it was held that the theory that the right to the proceeds was her consideration<sup>105</sup> in giving the mortgage, the proceeds were held exempt from the husband's claims.

*Hutchell v. Milhoan*, 11 Kan. 617.

K. A. 229, 49 Pac. 684.

Consideration is necessary, however. *Jamison v. Bancroft*, 20 Kan. 169.

*Citizens Bank of Garnett v. Bowen*, 25 Kan. 117. See, also, *Hoefler v. Fronkier*, 151 Pac. 1112.

Where insurance is taken upon homestead property in pursuance of an agreement with the mortgagee, the mortgagee has an equitable lien on the proceeds to the amount of his mortgage.<sup>107</sup> However, the surplus is exempt,<sup>108</sup> and the exemption may be waived by the husband and wife.<sup>109</sup>

*Tipman v. Carroll*, 53 Kan. 163, 35 Pac. 1109, 25 L. R. A. 305.

*Witter v. Northrup Baking Co.*, 59 Kan. 455, 53 Pac. 520. See, also, *Continental Baking Co. v. Northrup Baking Co.*, 33 Kan. 601, 7 Pac. 158, where there was no mortgage.

*Witter v. Northrup Baking Co.*, supra.

## V. Liabilities Enforceable Against Homestead

### A. PRIOR LIENS

A judgment rendered prior to the adoption of the constitution, rendered prior to the adoption of the constitution, was not excepted from the operation of the homestead exemption provision, if it had not attached to the claimed property before the adoption (which made the exemption legally possible), or before

the exemption provision was taken advantage of by occupying the as a homestead.<sup>110</sup> A similar or analogous rule applies to such today. An ordinary judgment against the homestead claimant w enforceable against property later purchased for a homestead if such is occupied as such immediately<sup>111</sup> or within a reasonable time the for as long as it is so occupied. This is true regardless of the homes ing been purchased with nonexempt property,<sup>113</sup> unless the property was at the time subject to a special claim or lien.<sup>114</sup> However, upon ment of the homestead before sale, an ordinary judgment against th owner, or the decedent owner, will constitute a lien against the pr But if the property is sold while occupied by the judgment debtor or members of his family, the purchaser takes the property free from s ments.<sup>116</sup> However, if the lien attaches to the property before it actually or constructively occupied as a homestead, such lien take over the after-acquired homestead rights.<sup>117</sup> In determining priority judgment and attachment liens and homestead rights, the date th attaches controls, not the date of levy of execution.<sup>118</sup>

110. *Cusic v. Douglass*, 3 Kan. 123, 87 Am. D. 458; *Root v. McGrew*, 3 Kan.

111. *Cusic v. Douglass*, supra; *Loan Assn. v. Watson*, 45 Kan. 132, 25 Pac. 5 v. *Kerr*, 72 Kan. 330, 83 Pac. 827.

112. See cases cited, note 29, ante.

113. *Monroe v. May*, 9 Kan. 476; *Hixon v. George*, 18 Kan. 253; *Tootle, H v. Stine*, 31 Kan. 66, 1 Pac. 279; *Loan Assn. v. Watson*, 45 Kan. 132, 25 Pac. Connell v. *Wolcott*, 70 Kan. 375, 78 Pac. 843, 3 L. R. A., n. s., 122, 109 Am. S. R.

114. As in *Long v. Murphy*, 27 Kan. 375.

115. *Morris v. Brown*, 5 K. A. 102, 48 Pac. 750; *Barbe v. Hyatt*, 50 Kan. 694; *Stratton v. McCandless*, 32 Kan. 512, 4 Pac. 1018; *Postlethwaite v. Edson* 104, 171 Pac. 769, L. R. A. 1918 D 983; *id.*, 106 Kan. 354, 187 Pac. 688.

116. *Morris v. Ward*, 5 Kan. 239; *Moore v. Reaves*, 15 Kan. 150; *Dayton v. Tyler*, 130 Kan. 308, 286 Pac. 400; *Sage v. Ijames*, 118 Kan. 11, 233 Pac. 1013 v. *Sprague*, 10 K. A. 446, 63 Pac. 446. See other cases, note *infra*.

117. *Bullene v. Hiatt*, 12 Kan. 98; *Robinson v. Wilson*, 15 Kan. 595, 22 A *Hiatt v. Bullene*, 20 Kan. 557; *Osborne v. Schoonmaker*, 47 Kan. 667, 28 Pac. v. *Ingels*, 50 Kan. 755, 32 Pac. 387; *Aldrich v. Boice*, 56 Kan. 170, 42 Pac. 695; *Magee*, 8 K. A. 824, 57 Pac. 551; *Dobson v. Shoup*, 3 K. A. 468, 43 Pac. 817; *Connolly*, 3 K. A. 618, 44 Pac. 22; *Ellinger v. Thomas*, 64 Kan. 180, 67 Pac. 523 other grounds); *Ashton v. Ingle*, 20 Kan. 670, 27 Am. R. 197; *Arn v. Hoersem* 489.

118. See cases *supra*, note 117, and *Caple v. Warburton*, 125 Kan. 290, 264

## B. TAXES, PURCHASE PRICE, IMPROVEMENTS, MORTGAGES

In addition to valid prior existing liens the homestead is liable for the purchase price, improvements, and valid mortgages.<sup>120</sup> These are exceptions to the homestead exemption. The homestead is liable for chase price to the vendor or to one advancing money therefor, wha valid mortgage is given therefor or not.<sup>121</sup> The same rule applies to improvements,<sup>122</sup> whether owed the one furnishing the materials, or ing money therefor.<sup>123</sup> A mortgage on a homestead jointly consent both spouses is always a valid lien against the homestead, as is pro in the constitutional and statutory provisions concerning homestead-e rights.<sup>123a</sup> If the money is borrowed *with the agreement and underst* that it is to be used for paying for the homestead or making impr thereon, even though the mortgage is executed only by one of the the mortgage is a valid lien against the homestead.

119. Special assessments for paving, etc., are taxes, for the payment of homestead is liable. *Todd v. Atchison*, 9 K. A. 798, 48 Pac. 992.

120. See *Ayres v. Probasco*, 14 Kan. 175, as to equitable lien for money a remove prior existing lien.

*hols v. Overacher*, 16 Kan. 54; *Greeno v. Barnard*, 18 Kan. 518; *Foster Lumber Co. v. Overacher*, 71 Kan. 158, 80 Pac. 110; *Farmers' State Bank v. Pickering*, 111 Kan. 132, 10. The materials must not only be sold for use on homestead, but must be used in order to come within this sale. *Wichita Acetylene Mfg. Co. v. Haughton*, 97 Kan. 1078. *Ward v. Hizon*, 27 Kan. 722; *Beckenheuser v. Ferrell*, 8 K. A. 365, 55 Pac. 499; *Adams*, 22 Kan. 544; *Carter v. Des Moines Silo Co.*, 109 Kan. 342, 187 Pac. 656; *Harp*, 121 Kan. 229, 246 Pac. 521. But if one does not comply with the mechanic's does not have a lien on the homestead until judgment has been rendered on the *v. McAdams*, 22 Kan. 544. *Prudential Ins. Co. v. Clark*, 122 Kan. 109, 216 Pac. 1091. Joint mortgage homestead right to that extent. *Dreese v. Myers*, 52 Kan. 126, 34 Pac. 349, 39 A. S. R. 336, distinguishing inability for purchase money or improvements and money borrowed upon other which is subsequently used to pay the purchase money on the improvements."

### C. ALIMONY

It has been held<sup>125</sup> that courts may not declare any indebtedness on homestead, because the constitution prescribes what shall constitute a lien. In *Johnson v. Johnson*<sup>126</sup> the court not only decreed alimony against the homestead,<sup>127</sup> but required the wife to pay out of the homestead an unsecured judgment against the husband and wife. The husband claimed that this was impairing his constitutional homestead-exemption right on the ground that the judgment creditor could not compel payment from the wife, and more especially, since the husband did not object that the judgment awarded as alimony was excessive, the decree was affirmed.<sup>128</sup>

*Jenkins v. Simmons*, 37 Kan. 496, 15 Pac. 522. *Johnson v. Johnson*, 126 Kan. 546, 72 Pac. 267.

Following *Blankenship v. Blankenship*, 19 Kan. 159, which relied upon the decision in *Brandon v. Brandon*, 14 Kan. 342, awarding exclusive possession of the homestead to the wife. Also, *Hamm v. Hamm*, 98 Kan. 360, 158 Pac. 22. In a divorce decree, the homestead was awarded as alimony to the wife, subject to a lien in favor of the husband. The order of court to satisfy the husband's lien is not a violation of the wife's rights.

The homestead, no less than any other property, is subject to the right of a lien to remain.<sup>129</sup>

*Blackcheck v. Comm'rs of Shawnee Co.*, 53 Kan. 780, 37 Pac. 621.

## V. Transfer or Encumbrance

### A. NECESSITY OF JOINT CONSENT

The homestead may be sold or encumbered the same as other property, with the consent of the husband and wife.<sup>129a</sup> The question, "What is joint consent" is one of the most troublesome in homestead law. The word "joint" means that the consent must concur—it must be simultaneous.<sup>130</sup> This does not mean that both spouses be present when signing, however,<sup>131</sup> but only that both consent at the same time.

### B. WHAT IS JOINT CONSENT?

The question there are three decisions which, on superficial examination, are contradictory. In *Durand v. Higgins*,<sup>132</sup> there were findings that the husband refused to sign the deed before it was executed by the husband alone, and that the wife expressed satisfaction with the deed. The court, after holding that the consent need not be in writing,<sup>133</sup> continued:

But, while this is so, the consent must be a joint one. The husband and wife at the time the conveyance takes effect must both consent thereto. [The court] lacks much of finding that at the time of the delivery, that

being the only time the husband is shown to have consented, the wife consenting."

129a. A conveyance of a homestead cannot defraud general creditors, as they do a claim thereon. *Null v. Jones*, 83 Kan. 112, 5 Pac. 388; *Cross v. Benson*, 68 Kan. Pac. 588; *Weaver v. Bank*, 76 Kan. 540, 94 Pac. 273; *Shattuck v. Weaver*, 8 Kan. 101 Pac. 649; *Freeman v. Funk*, 85 Kan. 478, 117 Pac. 1024.

130. *Ott v. Sprague*, 27 Kan. 620; *Howell v. McCrie*, 36 Kan. 636, 14 Pac. 257; *Ins. Co.*, 54 Kan. 442, 88 Pac. 489, 45 A. S. R. 288, 26 L. R. A. 806; *Durand v. Johnson*, 110, 72 Pac. 567; *Johnson v. Samuelson*, 69 Kan. 263, 76 Pac. 867; *Bank v. Johnson*, 69 Kan. 263, 76 Pac. 867.

131. *Johnson v. Samuelson*, 69 Kan. 263, 76 Pac. 867; *Gas Co. v. Ralston*, 8 Kan. 105 Pac. 430; *Ferguson v. Nuttleman*, 110 Kan. 718, 205 Pac. 365; *Mid-West v. Wagner*, 133 Kan. 405, 300 Pac. 1067; *Bell v. Slasor*, 8 K. A. 669, 57 Pac. 138.

132. 67 Kan. 110, 72 Pac. 567.

133. The joint consent need not be in writing. See: *Dudley v. Shaw*, 44 Kan. Pac. 1114; *Pilcher v. A. T. & S. F. Rld. Co.*, 38 Kan. 516, 16 Pac. 945, 5 A. S. R. 107; *Matney v. Linn*, 59 Kan. 613, 54 Pac. 668; *Durand v. Higgins*, 67 Kan. 110, 72 Pac. 567; *Johnson v. Samuelson*, 69 Kan. 263, 76 Pac. 867; *Eakin v. Wycoff*, 118 Kan. 167, 63; *Haas v. Nemeth*, 139 Kan. 252, 31 P. 2d 6. But cf. *Morris v. Ward*, 5 Kan. 105 Pac. 430; *Dollman v. Harris*, 5 Kan. 597; *Ayres v. Probasco*, 14 Kan. 175.

In *Johnson v. Samuelson*<sup>134</sup> there was a demurrer to the evidence which was sustained by the trial court. In reversing this decision the supreme court held that although the lease was signed by the husband alone, when the wife was several miles distant, the fact that the wife acquiesced in the purchase by the tenant may be used to show joint consent; that is, there must have been a finding that there was joint consent.<sup>135</sup>

134. 69 Kan. 263, 76 Pac. 867.

135. It should be noted that in *Durand v. Higgins* the court did not say that there had not been a finding of joint consent in that case, but only said there was no such finding. Perhaps there was no request for such a finding, which if so, was perhaps a fatal error. From the facts in the two cases there might have been a finding of joint consent in the other.

The third case to be considered in this connection is *Wichita National Bank v. Ralston*.<sup>136</sup> The husband and wife owned and occupied a farm homestead, and each of them consented that the gas company lay its main line across the land. Relying on such consent the gas company completed the line and commenced an action to enjoin the landowners from destroying the line. The court held that the question as to whether such consent was material or not was not material, as this was not an action of ejectment or an action to prevent entry. Here the validity of the grant was not being tested. This case is distinguishable from *Pilcher v. A. T. & S. F. Rld. Co.*<sup>137</sup> and *Wichita National Bank v. Love*.<sup>138</sup>

136. 81 Kan. 86, 105 Pac. 430.

137. 38 Kan. 516, 16 Pac. 945.

138. 72 Kan. 140, 83 Pac. 204.

Thus far in the discussion of joint consent only the "joint" phase has been considered. In order that there be consent there must be voluntary action on the part of the wife in what is being done, which necessitates that the consenting party must not be under fraud<sup>139</sup> or duress.<sup>140</sup> But there must actually be fraud or duress in order to show lack of joint consent. Thus the statement of the wife at the time of signing to the effect that she was not signing of her own free will does not, of itself, preclude a finding supported by other evidence, that she was not coerced.<sup>141</sup> Where the wife can read and write, and signs a mortgage on her husband's request, there is no fraud or duress just because she did not know what the legal effect of her act is.<sup>142</sup> But where the mortgage agent intentionally did not disclose that the mortgage was on the homestead, and the wife was permitted to avail herself of the defense of lack of joint consent.

139. *Helm v. Helm*, 11 Kan. 19; *Bird v. Logan*, 35 Kan. 228, 10 Pac. 564 (on ground of fraud); *Warden v. Reser*, 38 Kan. 86, 16 Pac. 60; *Watts v. Myers*, 93 Kan. 824.

A. 1918 C, 920 n. See, also, *Spencer v. Iowa Mtg. Co.*, 6 K. A. 378, 50 Pac. 1094; signed mortgage to procure funds to improve homestead, mortgagee could not to antecedent debts of husband.

*Um v. Helm*, 11 Kan. 19; *Berry v. Berry*, 57 Kan. 691, 47 Pac. 837, 57 A. S. R. v. *Myers*, supra; *Tucker v. Finch*, 106 Kan. 419, 188 Pac. 235; *Anderson v. Kan.* 112 (even though grantee is innocent); *Gabbey v. Forgeus*, 38 Kan. 62, (held, not duress).

*Id-West Lumber Co. v. Wagner*, 133 Kan. 405, 300 Pac. 1067.

*Nguson v. Nuttleman*, 110 Kan. 200, 203 Pac. 925. Also, *Roach v. Karr*, 18 Kan. 277.

*rrick v. Jacobson*, 139 Kan. 522, 32 P. 2d 204.

stitutional provision as to the necessity of joint consent is strictly to in cases where one spouse is insane.<sup>144</sup> The spouse of an insane en with the joinder of the guardian of the insane person (and the of the probate court),<sup>145</sup> cannot execute a valid deed,<sup>146</sup> mort- r even an oil and gas lease<sup>148</sup> to the homestead property. But a involving an erroneous decision to the effect that there was joint such a case is not open to collateral attack.<sup>148a</sup>

1927, ch. 228, § 1, amending R. S. 39-221, was intended to change the situation ect, by the omission of the phrase "except the homestead." The provision as to roperty was declared unconstitutional in *In re Barnell Estate*, 141 Kan. 842.

*cke v. Richmond*, 59 Kan. 773, 52 Pac. 97 (aff'g. 6 K. A. 76); *Iles v. Benedict*, 00, 203 Pac. 925.

*Dams v. Gilbert*, 67 Kan. 273, 72 Pac. 769, 100 A. S. R. 456; *Withers v. Love*, 0, 83 Pac. 204; *Trust Co. v. Spitler*, 54 Kan. 560, 38 Pac. 799; *Iles v. Benedict*,

*cke v. Richmond*, supra; *Trust Co. v. Spitler*, supra.

*erson v. Skidmore*, 108 Kan. 339, 195 Pac. 600.

*levenger v. Figley*, 63 Kan. 699, 75 Pac. 1001.

r, there is not the necessary joint consent to mortgage the homestead ercise of a general power of attorney "to sign deeds, mortgages," etc., the husband by the wife, combined with the exercise of his own

*allace v. Ins. Co.*, 54 Kan. 442, 38 Pac. 489, 45 Am. S. R. 288, 26 L. R. A. 806.

er to have joint consent it is not necessary that the consenting spouse nsideration,<sup>150</sup> but the giving of such consent is sufficient considera- ne consenting spouse to keep the proceeds of a mortgage free from the the other.<sup>151</sup>

*mison v. Bancroft*, 20 Kan. 619.

*tizens' Bank of Garnett v. Bowen*, 25 Kan. 117.

ional consent to a mortgage, if the conditions are not complied with, nt consent.<sup>152</sup>

*orton Nat'l Bank v. Duncan*, 87 Kan. 610, 125 Pac. 76.

### C. WHEN JOINT CONSENT NECESSARY

quirement of joint consent applies *generally* to all cases of sale or <sup>153</sup> to contracts for the sale of the homestead,<sup>154</sup> to the ent of a contract of purchase of a homestead after occupancy has to an agreement to adopt a fraudulent contract to sell a home- and, as was generally stated in *Coughlin v. Coughlin*,<sup>157</sup> to any or transfer of possession which affects the enjoyment of the home- his includes oil and gas leases,<sup>158</sup> and to extensions thereof,<sup>159</sup> and e grant of a railroad right of way.<sup>160</sup> It also applies to agreements g boundaries.<sup>161</sup> The requirement applies even though the home- erest is impressed on an equitable estate,<sup>162</sup> or on a leasehold,<sup>163</sup> and as requisite that the husband join with the wife as *vice versa*.<sup>164</sup>

Joint consent is necessary even though the spouses are separated,<sup>165</sup> action for alimony is pending between them.<sup>166</sup>

153. *Morris v. Ward*, 5 Kan. 239; *Dollman v. Harris*, 5 Kan. 597; *Helm* Kan. 19; *Ayres v. Probasco*, 14 Kan. 175; *Moore v. Reaves*, 15 Kan. 150; *Jamcroft*, 20 Kan. 169; *Chambers v. Cox*, 23 Kan. 393; *Hogan v. Manners*, 23 Kan. 199; *Ott v. Sprague*, 27 Kan. 620; *Hafer v. Hafer*, 33 Kan. 449, 1858, ch. 32, §§ 1, 2; *Bird v. Logan*, 35 Kan. 228; *Howell v. McCrie*, 36 Kan. 257; *Jenkins v. Simmons*, 37 Kan. 496, 15 Pac. 522; *Dudley v. Shaw*, 44 Kan. 1114; *Hoffman v. Hill*, 47 Kan. 611, 28 Pac. 623; *Wallace v. Ins. Co.*, 54 Kan. 489; *New England Trust Co. v. Spiller*, 54 Kan. 560, 38 Pac. 799; *Matney v. Linn*, 55 Kan. 773, 52 Pac. 97; *Durand v. Higgins*, 67 Kan. 110, 72 Pac. 567; *Johnson v. Scott*, 68 Kan. 263, 76 Pac. 867; *Sullivan v. City of Wichita*, 64 Kan. 539, 68 Pac. 555; *Gilbert*, 67 Kan. 273, 72 Pac. 769, 100 A. S. R. 456; *Norton Nat'l Bank v. Kan.* 610, 125 Pac. 76; *Withers v. Love*, 72 Kan. 140, 83 Pac. 204; *Cropper* 89 Kan. 589, 132 Pac. 163; *Walz v. Keller*, 102 Kan. 124, 169 Pac. 196; *Thompson v. Millikin*, 102 Kan. 717, 172 Pac. 534; *Tucker v. Finch*, 106 Kan. 419, 188 Pac. 235; *Benedict*, 110 Kan. 200, 203 Pac. 925; *Hughes v. Cressler*, 130 Kan. 533, 283 Pac. 18; *Lumber Co. v. Wagner*, 133 Kan. 405, 300 Pac. 1067; *Larrick v. Jacobson*, 133 Kan. 32 P. 2d 204; *New England Trust Co. v. Nash*, 5 K. A. 739, 46 Pac. 987; *Eakin* 118 Kan. 167, 234 Pac. 63.
154. *Thimes v. Stumpf*, 33 Kan. 53, 5 Pac. 431; *Hodges v. Farnham*, 49 Kan. 606; *Martin v. Hush*, 91 Kan. 833, 139 Pac. 401; *Smith v. Kibbe*, 104 Kan. 427, 5 A. L. R. 483 (joint deed in pursuance of contract by only one cures defect in nonjoint contract). Cf. *Perrine v. Mayberry*, 37 Kan. 258: Where both parties to a contract, specific performance will be enforced to make wife join in the execution of the contract.
155. *Southern v. Linville*, 139 Kan. 850, 33 P. 2d 123.
156. *Wicks v. Smith*, 21 Kan. 412, 30 Am. R. 433.
157. 26 Kan. 116.
- 157a. *Holland v. Holland*, 89 Kan. 730, 132 Pac. 989.
158. *Franklin Land Co. v. Wea Gas, etc., Co.*, 43 Kan. 518, 22 Pac. 630; *Parish v. Parish*, 61 Kan. 311, 59 Pac. 640; *Laverty v. Larned Oil Co.*, 107 Kan. 104, 190 Pac. 596; *Peterson v. Skidmore*, 108 Kan. 339, 195 Pac. 600.
159. *Laverty v. Larned Oil Co.*, 107 Kan. 104, 190 Pac. 596. But where the agreement does not affect the homestead rights of the wife, the original lease is not thereby affected. *Wilson v. Gas Co.*, 75 Kan. 499, 89 Pac. 897; *Ray v. Brush*, 112 Kan. 660.
160. *Pilcher v. A. T. & S. F. Rld. Co.*, 38 Kan. 516, 16 Pac. 945, 5 A. S. R. 161.
161. *Kastner v. Baker*, 92 Kan. 26, 139 Pac. 1189.
162. *Moore v. Reaves*, 15 Kan. 150; *Holland v. Holland*, 89 Kan. 730, 132 Pac. 989.
163. *Hogan v. Manners*, 23 Kan. 551, 33 Am. R. 199.
164. *Dollman v. Harris*, 5 Kan. 597; *Matney v. Linn*, 59 Kan. 613, 54 Pac. 1114; *Duncan*, 87 Kan. 610, 125 Pac. 76; *Cropper v. Goodrich*, 89 Kan. 589, 132 Pac. 163; *Thompson v. Millikin*, 102 Kan. 717, 172 Pac. 534.
165. *Helm v. Helm*, 11 Kan. 19; *Chambers v. Cox*, 23 Kan. 393; *Ott v. Hafer*, 33 Kan. 449, 1858, ch. 32, §§ 1, 2; *Bird v. Logan*, 35 Kan. 228; *Howell v. McCrie*, 36 Kan. 257; *Jenkins v. Simmons*, 37 Kan. 496, 15 Pac. 522; *Dudley v. Shaw*, 44 Kan. 1114; *Hoffman v. Hill*, 47 Kan. 611, 28 Pac. 623; *Wallace v. Ins. Co.*, 54 Kan. 489; *New England Trust Co. v. Spiller*, 54 Kan. 560, 38 Pac. 799; *Matney v. Linn*, 55 Kan. 773, 52 Pac. 97; *Durand v. Higgins*, 67 Kan. 110, 72 Pac. 567; *Johnson v. Scott*, 68 Kan. 263, 76 Pac. 867; *Sullivan v. City of Wichita*, 64 Kan. 539, 68 Pac. 555; *Gilbert*, 67 Kan. 273, 72 Pac. 769, 100 A. S. R. 456; *Norton Nat'l Bank v. Kan.* 610, 125 Pac. 76; *Withers v. Love*, 72 Kan. 140, 83 Pac. 204; *Cropper* 89 Kan. 589, 132 Pac. 163; *Walz v. Keller*, 102 Kan. 124, 169 Pac. 196; *Thompson v. Millikin*, 102 Kan. 717, 172 Pac. 534; *Tucker v. Finch*, 106 Kan. 419, 188 Pac. 235; *Benedict*, 110 Kan. 200, 203 Pac. 925; *Hughes v. Cressler*, 130 Kan. 533, 283 Pac. 18; *Lumber Co. v. Wagner*, 133 Kan. 405, 300 Pac. 1067; *Larrick v. Jacobson*, 133 Kan. 32 P. 2d 204; *New England Trust Co. v. Nash*, 5 K. A. 739, 46 Pac. 987; *Eakin* 118 Kan. 167, 234 Pac. 63.
166. *Ott v. Sprague*, 27 Kan. 620.

Since the requirement of joint consent is so general, we can perascertain its extent by considering some cases in which it was necessary.

It was early laid down in *Chambers v. Cox*<sup>167</sup> that joint consent of two spouses is necessary, and the husband's deed to the homestead of the family without the consent of the wife is void, even though the husband had never been a resident of the state, as the *proviso* in (now) R. S. 22-23 does not have any effect upon the constitutional requirement of the joint consent of the husband and wife in the alienation of a homestead. But in *Henry*,<sup>168</sup> where the husband, with the children, had established a homestead in Kansas, and later, when he alone was residing on the premises, conveyed the homestead to his wife without being joined with by his wife, and thereafter moved to another state, the wife later came to Kansas and brought suit to set aside the deed, the conveyance was held valid. The court said: "At the time he signed the deed there is evidence tending to show that he alone dwelt upon the land, and he alone might therefore abandon it." This would indicate that the law required joint consent at the time of the conveyance, but that the subsequent



the husband estopped the nonresident wife from thereafter setting of joint consent.<sup>169</sup>

3 Kan. 393.

2 Kan. 606, 35 Pac. 216.

may be noted, however, that at this stage in the history of Kansas homesteads deemed that *one* occupant of land could not make it a homestead, which would in the Jenkins case there was not a homestead when the husband signed the deed. (at that time) have afforded a sufficient distinction between the two cases, but appear that this is the basis of the decision.

*s. v. Simmons*<sup>170</sup> was a close case involving the necessity of joint

The husband, whose homestead was encumbered with a mortgage to an agreement with the mortgagee to execute another mortgage to the third party, pay the proceeds to the original mortgagee, who was to discharge the mortgage (which he did) so that the new mortgage would become a first mortgage. The difference between the old mortgage and the proceeds of the new mortgage was to be secured by the execution of another mortgage to the original mortgagee. The wife did not know of the agreement, but did execute the new mortgage to the third party, and then refused to execute the old mortgage to the original mortgagee. In an action brought by the latter to cancel the discharge by him and to declare the original mortgage a first mortgage on the land, it was held that a court of equity had no such power, and the husband's agreement did not bind the wife.

7 Kan. 496, 15 Pac. 522.

The decision is somewhat disconcerting. It is to be noted that had the husband alone performed by the wife, the only effect would have been to change the priority of the mortgages, not to increase them. It has never been held, in *Jenness v. Cutler*,<sup>171</sup> that a valid mortgage is not destroyed by a subsequent agreement between the husband and creditor for the discharge thereof.<sup>172</sup> It is true that in a later case, *Portsmouth Sav. Bank v. Man*,<sup>173</sup> it was decided that the husband alone could not extend the term of a mortgage lien on the homestead, but this case was soon expressly overruled in *Securities Co. v. Manwarren*,<sup>174</sup> wherein it was held that where a mortgage is secured by a valid mortgage on the homestead was no longer actionable against the husband *alone* makes an agreement making the note actionable as long as the mortgage might be foreclosed.

2 Kan. 500.

It had also been stated, probably as dictum, in *Ayres v. Probasco*, 14 Kan. 175, that whenever a person advances money with the consent of the owner of a homestead to some liens thereupon with the understanding between the parties that the person advancing the money will acquire a lien, such person "will in equity acquire such lien to the extent of the money so advanced and so used to extinguish the first-mentioned lien, notwithstanding the instrument intended by the parties to create the lien in favor of the party advancing the money, or to the evidence of such lien, may be void." (p. 198.) This principle is roughly applicable to *Jenkins v. Simmons*.

2 Kan. 242, 61 Pac. 1131, 84 A. S. R. 381.

4 Kan. 636, 68 Pac. 68.

It is well established that notes, or mortgages given on the homestead, as to secure the purchase price, or to secure money with the agreement that it is to be used to purchase a homestead, and the money is so used, constitute a lien thereon even though not executed by joint consent,<sup>175</sup> and this in the absence of the assumption of a prior mortgage as a part of the purchase price.<sup>176</sup> The same rule applies to mortgages given to secure money for improvement.<sup>177</sup> Of course joint consent is not necessary to sell or encumber the homestead after it has been abandoned as a homestead.<sup>178</sup>

175. *Andrews v. Alcorn*, 13 Kan. 351; *Sheldon v. Pruessner*, 52 Kan. 579, 38 L. R. A. 709; *Dreese v. Myers*, 52 Kan. 126, 34 Pac. 349; *Nichols v. Overacker*, 54; *Hoffman v. Hill*, 47 Kan. 611, 28 Pac. 623; *Pratt v. Topeka Bank*, 12 Kan. 517.  
 176. *Sheldon v. Pruessner*, supra.  
 177. *Hoffman v. Hill*, supra, (implicity); *U. S. Invest. Co. v. Phelps*, 54 Kan. 982.  
 178. *Anderson v. Kent*, 14 Kan. 207; *Brandford v. Loan Co.*, 47 Kan. 587, 28 Pac. 630; *Jenkins v. Henry*, 52 Kan. 606, 35 Pac. 216, and note 169, ante.

There is no necessity for joint consent in order to devise a homestead beyond that required in order to devise any other property.<sup>179</sup>

179. See *infra*, VII, B, as to devise of homesteads.

#### D. EFFECT OF LACK OF JOINT CONSENT—ESTOPPEL TO ASSERT INVA

It may be stated as a general proposition that the failure to obtain the consent of both spouses in the alienation or encumbrancing or lease of homestead property renders such attempted act void.<sup>180</sup> It would seem, therefore, that this would preclude subsequent ratification by the nonconsenting spouse for that which is void cannot be ratified. The writer has discovered no case to the contrary. *Howell v. McCrie*<sup>181</sup> held such ratification in a case where the original acts were fraudulent. *Ott v. Sprague*<sup>182</sup> held that a deed by the wife alone, eight years after the original void deed was executed by her husband, did not make a valid conveyance. Cases which might be interpreted as holding to the contrary are really not so, but only hold that subsequent ratification may show joint consent at the time,<sup>183</sup> but do not ratify what was void from inception. *Smith v. Kibbe*<sup>184</sup> might possibly be thought to be contrary to that case only holds that when a contract to convey land is signed by one spouse, but is followed by a deed joined in by both, the two instruments may be treated as one valid conveyance.<sup>185</sup> *Ferguson v. Nuttleman*<sup>186</sup> held that a mortgage on a homestead is valid even though signed by the husband alone, if the wife at different times, if one signs at the request of the other and the mortgage purports to be the act of both. This decides only that there is no joint consent under the circumstances, making the mortgage valid as a matter of course, rather than deciding that ratification makes a void mortgage valid.

180. *Morris v. Ward*, 5 Kan. 239; *Dollman v. Harris*, 5 Kan. 597; *Ayers v. Logan*, 14 Kan. 175; *Ott v. Sprague*, 27 Kan. 620; *Bird v. Logan*, 35 Kan. 228; *Howell v. Sprague*, 36 Kan. 636, 15 Pac. 527, 59 Am. R. 584; *Jenkins v. Simmons*, 37 Kan. 496, 15 Pac. 527; *Warden v. Reser*, 38 Kan. 96; *Pulcher v. A. T. & S. F. Rld. Co.*, 38 Kan. 516; *Scott v. Mahaffie*, 34 Kan. 108, 8 Pac. 199; *Thimes v. Stumpff*, 33 Kan. 53 (and void contract may not recover payments he has made); *Wea Gas Co. v. Franklin Land Co.*, 53 Kan. 533, 45 A. S. R. 297; *Hoefer v. Frankier*, 96 Kan. 400, 151 Pac. 1112; *Bank*, 12 Kan. 570 (except for purchase money); *Peterson v. Skidmore*, 108 Kan. 570, 12 Pac. 600 (even if lessee has paid rent); *Thompson v. Millikin*, 102 Kan. 717, 172 Pac. 600.  
 181. 36 Kan. 636, 14 Pac. 257, 59 A. R. 584.  
 182. 27 Kan. 620.  
 183. *Dudley v. Shaw*, 44 Kan. 683, 24 Pac. 1114; *Sullivan v. Wichita*, 64 Kan. 55; *Johnson v. Samuelson*, 69 Kan. 263, 76 Pac. 867.  
 184. 104 Kan. 159, 128 Pac. 427, 5 A. L. R. 483.  
 185. But where the joinder in the subsequent deed is involuntary, this will not ratify a prior contract signed by only one. *Tucker v. Finch*, 106 Kan. 419, 188 Pac. 235.  
 186. 110 Kan. 718, 205 Pac. 365.

It has also been held that such void instrument will not become valid against the homestead property if it is sold while a homestead exists and is "abandoned."<sup>187</sup> But the effect of abandonment before a valid conveyance upon a prior void alienation or encumbrance is another matter. It does not seem possible that such an act could constitute ratification, although it may amount to an estoppel.<sup>188</sup> The two should be kept distinct.

187. *Morris v. Ward*, 5 Kan. 239; *Franklin Land Co. v. Wea Gas Co.*, 43 Kan. 533, 12 Pac. 630; *Northrup v. Horville*, 62 Kan. 767, 64 Pac. 622 (to the extent of the interest of the one occupying it as a homestead); *Hill v. Alexander*, 2 K. A. 251, 41 Pac. 1066.

Cf. *Jenkins v. Henry*, 52 Kan. 606, 35 Pac. 216, *supra*, V, C. Was this estoppel subsequent abandonment, or was joint consent unnecessary, because already abandoned? *v. Bevis*, 72 Kan. 208, 83 Pac. 202, the acts constituting the estoppel relied upon at the decision were those occurring subsequent to the abandonment.

are several cases holding that one or both spouses may be estopped asserting the invalidity of a deed, mortgage, or lease, by virtue of his, or her conduct. Thus, in *McAlpine v. Powell*,<sup>189</sup> the owner of one homestead attempted to exchange it for another. The wife did not join in the exchange, but she knew of its terms, acted upon it, expressed satisfaction with it, occupied the new homestead and enjoyed the benefits of the exchange. The court held that she was equitably estopped from claiming the former homestead.

<sup>189</sup> Kan. 411, 24 Pac. 353.

Joint consent to alienation need not be in writing, these facts might have constituted evidence for a finding that she did in fact consent to the deed at the time, thus obviating the need for invoking the doctrine of estoppel.

Essentially the same facts were involved in the two cases, *Sellers v. Crossan*, 52 Kan. 205, and *Sellers v. Gay*, 53 Kan. 354, 36 Pac. 744. The spouses executed a deed to convey a fee, and subsequently endeavored to show that the deed was in fact a mortgage given to secure the payment of money they owed. They retained possession, and ownership in the land, and acted as if they had no interest therein. It was held that they were estopped, as between them and an innocent mortgagee of their ostensible interest, to assert homestead rights in the property. Although no question of joint consent is presented in these cases clearly show that the doctrine of equitable estoppel applies even against the claimants.

In *Winters v. Gilbert*<sup>192</sup> the deed to the homestead was void because the wife was insane at the time, wherefore the instrument conveyed nothing as to her share. The property remained a homestead. While the insane wife was yet living, her husband and children abandoned the premises, which, before the wife's death, were acquired by an innocent purchaser for value, who made improvements thereon. The action was begun by the husband after the wife's death to recover the premises. The court said:

"From the time the marriage relation continued and the property was occupied as a homestead, no act of the husband could be efficient to ratify or confirm such a deed. The husband might by his actions, words, or silence, when he should have spoken, confirm a deed to the homestead executed by himself alone, or refrain from denying its validity, so as to make it convey title, after the wife's death and character had ceased, or after the death of the wife."<sup>193</sup>

"The husband surrendered possession to one holding under a deed which he had executed. . . . Having executed the deed which, *had he continued to occupy the premises as a homestead* (italics ours), would have conveyed title, he did more, he abandoned the homestead, surrendered the premises, and gave possession to the mortgagee. The mortgagee, by taking possession, gave effect to a deed which while the premises were a homestead had no effect, but when they ceased to be a homestead the deed did operate."<sup>194</sup>

<sup>192</sup> Kan. 273, 72 Pac. 769.

<sup>193</sup> *Id.* g. 275. The implication here is that a homestead may be abandoned during the life of the wife. This appears to be the interpretation given the case by Johnston, C. J., in *Winters v. Gilbert*, 72 Kan. 208, 213, 83 Pac. 202. But Cf. the majority opinion in *Withers v. Love*, 72 Kan. 140, 155, 83 Pac. 204.

<sup>194</sup> *Id.* g. 246. It is also implied that the acts occurring during the life of the wife, acts constituting "abandonment," constitute estoppel to assert the invalidity of the deed after the death of the wife. The real question is: Did the homestead right terminate upon removal from the homestead or not until the death of the wife? That is, did removal of the premises only constitute an act of estoppel, or did it also preclude the assertion of the homestead right of the deed between that time and the wife's death? Cf. *Withers v. Love*,

under in this connection the case of *Withers v. Love*.<sup>195</sup> The wife was confined to a state institution. The husband was sentenced to the penitentiary, and the children were cared for by relatives. The land was sold by an authorized attorney of the husband. Eleven years after the sale,

and seven years after the husband's return from the penitentiary (of which time the husband knew of the transfers of and improvement of the land) but *before* the insane wife died, the husband brought ejectment for the recovery of the land. It was held that no act of the husband during the life of his insane wife could be held to constitute abandonment, and that it was not estopped to assert the invalidity of his deed. In considering *v. Gilbert*<sup>196</sup> the court held that statements in the opinion suggesting that there was complete abandonment before the wife's death "were not controlling" on the basis that in the Adams case there were sufficient acts of estoppel after the death of the wife. The main basis of distinction between the two cases appears to be that in the Withers case the action was begun before the death of the insane wife.

195. 72 Kan. 140, 83 Pac. 204 (dissenting opinion given by Johnston, C. J.).

196. 67 Kan. 273, 72 Pac. 769, 100 A. S. R. 456.

197. Pg. 155, quoting from pg. 277 of the opinion in the Adams case.

198. In *Shay v. Bevis*, 72 Kan. 208, 83 Pac. 202, there had been a lease to the lessee the right to mine salt from land occupied as a homestead. The lease was made by the husband alone, but was acquiesced in before and after a subsequent abandonment of the farm as a homestead, and also after a return to the farm, which was later sold whole as a homestead. The grantee knew of the lease. The salt company had made improvements, etc. *Held*, the grantors and their grantee were estopped to assert the invalidity of the lease. The principal acts of estoppel relied upon were those *after* abandonment.

Another case in point is *Thompson v. Millikin*.<sup>199</sup> Property owned by the wife was occupied by her and her children as a homestead. The husband had gone to Oregon, where, representing himself as single, he took out a deed for the land, the law giving that right to one member of a family. After ten years' absence of her husband, the wife, informing her grantee of her husband's absence, quitclaimed a part of the land, but continued to occupy it as a homestead. Her grantee leased it for oil and gas. The husband's lessee was sued for an owner's share of the proceeds from the oil, on the basis of the deed to the lessor of said lessee was void for want of joint consent. It was held that the wife's acquiescence in the deed and her grantee's occupancy did not estop her from asserting the invalidity of the deed. In distinguishing *Shay v. Bevis*<sup>200</sup> it was emphasized that in the instant case the property was abandoned as a homestead.

199. 102 Kan. 717, 172 Pac. 534.

200. *Supra*, note 198.

*Miners' Sav. Bank v. Sandy*<sup>201</sup> presents a clear case of estoppel. The husband had induced his wife, who was of unsound mind, to execute a mortgage on homestead property which he owned. The mortgagee was innocent. It was held that the husband was estopped from setting up lack of joint consent in a mortgage foreclosure suit brought after the wife's death, the court saying: "When Mary H. Sandy, the wife, no longer needs the protection of the law in order to secure to her her homestead, shall Edwin Sandy be allowed to reap the benefit of his own wrong?"

201. 71 Fed. 840 (1896).

#### E. RIGHTS OF PURCHASERS AND MORTGAGEES

In preceding sections of this paper we have observed that the mortgagee or lessee of a homestead property, when the agreement is made in good faith by the husband and wife, takes nothing (even though he acts in bad faith and is without knowledge of duress or fraud),<sup>202</sup> unless there are

on the part of the grantors, for such agreements are void.<sup>203</sup> It follows, therefore, that the purchaser, mortgagee, or lessee by a subsequent valid conveyance, takes free from such prior "void transfers or encumbrances,"<sup>204</sup> although he knows of them.<sup>205</sup>

*Anderson v. Anderson*, 9 Kan. 112.

See note 180, *supra*.

*Morris v. Ward*, 5 Kan. 239; *Franklin Land Co. v. Wea Gas, etc., Co.*, 43 Kan. 630; *Hill v. Alexander*, 2 K. A. 251, 41 Pac. 1066.

*Franklin Land Co. v. Wea Gas, etc., Co.*, *supra*.

ly, the grantee of property, while it is a homestead, takes it free from judgments and debts against the owner,<sup>206</sup> and may assert the homestead character of the property, when conveyed or mortgaged to him, to prove the validity of such claims.<sup>207</sup> But any valid liens on the homestead at the time of the conveyance or mortgage remain encumbrances thereon as to the subsequent mortgagee.<sup>208</sup> Of course, if the premises have been abandoned or sold, the judgment would be a lien thereon as to a subsequent pur-

*Morris v. Ward*, 5 Kan. 239; *Moore v. Reaves*, 15 Kan. 150; *Monroe v. May*, 11 Kan. 111; *Dayton v. Donart*, 22 Kan. 256; *Ins. Co. v. Nichols*, 41 Kan. 136, 21 Pac. 111; *Hitchcock*, 41 Kan. 130, 21 Pac. 109; *Wilson v. Taylor*, 49 Kan. 774, 31 Pac. 697; *Schoonmaker*, 47 Kan. 667, 28 Pac. 711; *Roser v. Bank*, 56 Kan. 129, 45 Pac. 622; *Ritchie*, 57 Kan. 264; *Northrup v. Horville*, 62 Kan. 767, 64 Pac. 622 (to the extent that the premises are conveyed while so occupied); *Cropper v. Goodrich*, 89 Kan. 589, 132 Pac. 163; *Ins. Co. v. Nichols, etc., Co.*, 99 Kan. 113, 160 Pac. 997; *Sage v. James*, 118 Kan. 11, 113 Kan. 113; *Bank v. Hill*, 125 Kan. 308, 263 Pac. 1045; *Roberts v. Bank*, 126 Kan. 503, 126 Kan. 503; *Bank v. Tyler*, 130 Kan. 308, 286 Pac. 400; *Randolph v. Sprague*, 10 K. A. 446.

*Dwight v. Hitchcock*, 41 Kan. 130, 21 Pac. 109; *Ins. Co. v. Nichols*, 41 Kan. 136, 21 Pac. 111; *Bank v. Tyler*, 130 Kan. 308, 286 Pac. 400.

*Ward v. Hixon*, 27 Kan. 722; *Tyler v. Johnson*, 47 Kan. 470, 28 Pac. 198.

*Harbe v. Hyatt*, 50 Kan. 86, 31 Pac. 694; *Northrup v. Horville*, 62 Kan. 767, 62 Kan. 767; *Morris v. Brown and Baker*, 5 K. A. 102, 48 Pac. 750.

acts by one spouse for the sale of the homestead are unenforceable.<sup>210</sup> If the contract calls for the conveyance of more than the homestead property, the vendee in the contract is entitled to damages against the contracting party for the failure to convey that which is not the homestead.<sup>211</sup> An early case held that a purchaser who occupies under a parol agreement by the seller to sell, and makes improvements on the land, is entitled to the value of the improvements when the wife refuses to convey; but *Thimes v. Stumpff*<sup>212</sup> later held that a purchaser who makes a payment under a contract to purchase a homestead with the understanding that the wife has not consented to the sale, does so voluntarily, and cannot recover the amount so paid. One cannot recover damages for the non-performance of a contract to sell the homestead if it is not executed with the consent of both spouses,<sup>214</sup> nor can specific performance be enforced.

*Martin v. Hush*, 91 Kan. 833, 139 Pac. 401; *Tucker v. Finch*, 106 Kan. 419, 188 Kan. 419; *Les v. Benedict*, 110 Kan. 200, 203 Pac. 925.

*Hughes v. Cressler*, 130 Kan. 533, 287 Pac. 271.

*Wester v. Batson*, 6 Kan. 420.

*Bank v. Tyler*, 130 Kan. 308, 286 Pac. 400.

*Woods v. Farnham*, 49 Kan. 777, 31 Pac. 606. See R. S. 60-3503.

## VI. Termination of Homestead Rights

### A. ABANDONMENT

1. *What constitutes.* The most common way in which homestead rights terminate is by abandonment. This may be defined as the ceasing of the use of the premises as a family residence,<sup>215</sup> which indicates how related the question of abandonment is to that of the acquisition of homestead rights. One is practically the opposite of the other.

215. *Anderson v. Kent*, 14 Kan. 207; *Bank v. Diamond*, 119 Kan. 294, 239 Pac. 102; *Morris v. Brown*, 9 K. A. 102, 48 Pac. 750; *Thomas v. Smith*, 8 K. A. 855, 54 Pac. 102.

Just as there can be acquisition of homestead rights before actual occupancy, analogously, such rights do not necessarily cease upon temporary abandonment if there is then and continues to be an intent to return,<sup>216</sup> and this is true though the premises are leased,<sup>217</sup> or if there never is an actual return to the premises before sale.<sup>218</sup> This allows for absence for business purposes, for account of health,<sup>220</sup> or to educate oneself or one's children,<sup>221</sup> or for one to reside elsewhere with a guardian.<sup>221a</sup>

216. (a) *McDowell v. Diefendorf*, 1 Kan. 648; *Garlinghouse v. Mulvane*, 40 Kan. 884, 65 Pac. 658; *Hixon v. George*, 18 Kan. 253; *Osborne v. Schoonmaker*, 47 Kan. 667, 28 Pac. 71; *v. Beard*, 48 Kan. 16, 28 Pac. 981; *Upton v. Cozen*, 60 Kan. 1, 55 Pac. 284; *Sloss v. Sullard*, 63 Kan. 884, 65 Pac. 658; *Oil Co. v. Parish*, 61 Kan. 311, 59 Pac. 640; *Shattuck v. Weaver*, 82, 101 Pac. 649; *Kiehler v. Gray*, 102 Kan. 878, 172 Pac. 25, L. R. A. 191; *Fredenhagen v. Nichols*, 99 Kan. 113, 160 Pac. 997; *Rose v. Bank*, 95 Kan. 33, 745; *Carlson v. Ritchie*, 115 Kan. 722, 224 Pac. 895; *Volger v. Volger*, 110 Kan. 704; *Schlandt v. Hartman*, 105 Kan. 112, 181 Pac. 547; *Bank v. Weeks*, 138 Kan. 26 P. 2d 262; *Strackeljohn v. Campbell*, 136 Kan. 145, 12 P. 2d 812; *McGill v. Co. v. Judd*, 6 K. A. 487, 50 Pac. 943; *Drury v. Smith*, 8 K. A. 52, 53 Pac. 74; within a reasonable time under the circumstances there must be reoccupancy. *Ro*

95 Kan. 331, 148 Pac. 745.

217. *Hixon v. George*, 18 Kan. 253; *Upton v. Cozen*, 60 Kan. 1, 55 Pac. 284; *v. Weaver*, 80 Kan. 82, 101 Pac. 649.

218. *Fredenhagen v. Nichols*, 99 Kan. 113, 160 Pac. 997.

219. *McDowell v. Diefendorf*, 1 Kan. 648; *Palmer Gas Co. v. Parish*, 61 Kan. 59 Pac. 640.

220. *Sloss v. Sullard*, 63 Kan. 884, 65 Pac. 658; *McGill v. Sutton*, 67 Kan. 203 Pac. 704; *Schlandt v. Hartman*, 105 Kan. 112, 181 Pac. 547; *Vogler v. Vogler*, 110 Kan. 208 Pac. 704; *Carlson v. Ritchie*, supra; *Williams v. Roberts*, 139 Kan. 460, 32 Pac. 221.

221. *Fredenhagen v. Nichols*, 99 Kan. 113, 160 Pac. 997; *Koehler v. Gray*, 102 Kan. 172 Pac. 25, L. R. A. 1918 D, 1088; *Strackeljohn v. Campbell*, 136 Kan. 145, 12 P. 2d 812.

221a. See Notes 270, 271, *infra*.

Parts of a building,<sup>222</sup> or parts of the premises,<sup>223</sup> may be used

than members of the family without destroying the homestead character of the premises, if such use is not inconsistent with occupancy as a homestead.

The exemption continues even though the premises are used for other than residential purposes.<sup>224</sup>

222. *Layson v. Grange*, 48 Kan. 440, 29 Pac. 585; *Milford Sav. Bank v. Ayer*, 602, 29 Pac. 1149.

223. *Pitney v. Eldridge*, 58 Kan. 215, 48 Pac. 854; *Barten v. Martin*, 133 Kan. 299 Pac. 614.

224. See notes 72, 73, *supra*.

The absence of one spouse will not destroy the homestead rights of the other members of the family;<sup>225</sup> but when the family establishes a new homestead, the homestead rights in the old one cease.<sup>226</sup> The absence of the wife from the institution for the insane, coupled with the confinement of the husband in the penitentiary and the removal of the children to homes of relatives, does not constitute abandonment.<sup>227</sup> In fact, this case emphatically held that the act of the husband of an insane wife during her lifetime can be

ent. However, the husband, evidently, can abandon the homestead without the consent of his wife who has never been a resident of this state.<sup>228</sup>

*Eng. Trust Co. v. Nash*, 5 K. A. 739, 46 Pac. 987; *Thompson v. Millikin*, 7, 172 Pac. 534.

*Sleser v. Haas*, 19 Kan. 216; *Atchison Sav. Bank v. Wheeler's Adm'r*, 20 Kan. 484, 112 Pac. 95; *Bank v. Diamond*, 119 Kan. 294, 239 Pac. 1089; *Morris v. Brown*, 5 K. A. 102, 48 Pac. 750; *Mosteller v. Readhead*, 6 K. A. 512, 54 Pac. 695. But Cf. *Thompson v. Millikin*,

*others v. Love*, 72 Kan. 140, 83 Pac. 204, 3 L. R. A., n. s., 514.

*Jenkins v. Henry*, 52 Kan. 606, 35 Pac. 216.

f. Whether the homestead has been abandoned or not is a question of fact or a mixed question of law and fact,<sup>230</sup> having to do largely with the intention of the parties, and is to be determined from all the circumstances.

The fact that the head of the family has voted elsewhere is to be taken into account,<sup>232</sup> but does not prove abandonment.<sup>233</sup> Declarations of intent are admissible,<sup>234</sup> but evidence of attempted sale of the property is not.<sup>235</sup> However, evidence of a contract of sale, and receipt of money thereon, while the claimant is not occupying the premises, is sufficient.<sup>236</sup> It has been held that one seeking to attach property claimed as homestead must prove it has been abandoned.<sup>237</sup>

*Atchison v. Merger*, 119 Kan. 760, 241 Pac. 259; *Bank v. Bird*, 121 Kan. 617, 249 Pac. 1089; *Bank v. Weeks*, 138 Kan. 376, 26 P. 2d 262.

*Morris v. Sanford*, 2 K. A. 243, 41 Pac. 1064.

*Atchison v. Merger*, 119 Kan. 760, 241 Pac. 259; see, also, *Smith v. McClintock*, 108 Kan. 1089; *Kline v. Graff*, 8 K. A. 855, 54 Pac. 328, findings of fact in favor of defendant not disturbed. Cf. *In re Carlson's Estate*, 115 Kan. 722, 224 Pac. 895, finding of fact in favor of plaintiff; evidence held insufficient; reversed.

*Atchison Sav. Bank v. Wheeler's Adm'r*, 20 Kan. 625; *Mosteller v. Readhead*, 6 K. A. 512, 54 Pac. 695.

*Gill v. Sutton*, 67 Kan. 234, 72 Pac. 853; *Osage Merc. Co. v. Blanc*, 79 Kan. 601; *Bank v. Weeks*, 138 Kan. 376, 25 P. 2d 262.

*Bank v. Hill*, 125 Kan. 308, 263 Pac. 1045.

*Open v. Stephenson*, 18 Kan. 140.

*Scott v. Parlin*, 71 Kan. 665, 81 Pac. 500.

t. The effect of abandonment of a homestead before sale is to make the homestead liable for the debts of the owner, or, if it is abandoned by the heirs or assigns before sale, it is also liable for the debts of the decedent.<sup>238</sup> But the homestead is not liable for the debts of the owner or his assigns if the homestead is abandoned or abandonment of homestead rights by minors cannot be imputed to them.<sup>239</sup>

*Arbe v. Hyatt*, 50 Kan. 86, 31 Pac. 694; *Northrup v. Horville*, 62 Kan. 767, 64 Pac. 1089; *Morris v. Brown*, 5 K. A. 102, 48 Pac. 750; *Müller v. Baker*, 9 K. A. 583, 58 Pac. 1089.

*Arbe v. Ijames*, 118 Kan. 11, 233 Pac. 1013. See also, *Shirack v. Shirack*, 44 Kan. 1107.

## B. ESTOPPEL

As has been indicated above (section V, D), parties having homestead rights may "lose" them, in the sense of being precluded from asserting the homestead right of a deed or mortgage because of lack of joint consent, as a result of their acts.<sup>240</sup>

*Catlin v. Wm. Deering Co.*, 102 Kan. 256, 170 Pac. 396, it was held that where a deed of land under an order of sale based on a mortgage foreclosure, and also under a deed of land, has been confirmed, and after the expiration of the period of redemption a deed has been executed, the title of the grantee is not open to attack on the ground that the land was occupied as a homestead and was therefore exempt from sale on a general execution. But "the question whether the land was exempt from sale on execution . . . affects the proceeds of the sale over and above the amount of the mortgage debt, which cannot be inquired into in this proceeding." (pg. 258.)

## C. WAIVER—VOLUNTARY RELINQUISHMENT

(1) *Antenuptial contracts.* A consideration of the effect of agreements upon homestead rights impresses one of the imperative of distinguishing between the ownership of homestead property, *i. e.* impressed with homestead rights, and the homestead exemption-rights, which may or may not be coupled with ownership of the property. It is firmly established that while an antenuptial contract will be enforceable to limiting inheritance of the property of the decedent spouse, such contract will have no effect upon the homestead rights of the surviving spouse.

This distinction is clearly indicated in an early case, *Hafer v. Hafer*, 100 Kan. 693, 189 Pac. 949; *Hoard v. Jones*, 119 Kan. 188, 237 Pac. 895; *Boulton v. Boulton*, 137 Kan. 880, 22 P. 2d 896. In *Hafer v. Hafer*, an antenuptial contract the wife-to-be agreed that if she survived her husband, when he died, she would receive only a child's share of his property. When the husband died the widow and a minor child were living on the homestead. It was held that in compliance with the agreement the widow should inherit only a child's share, but that until she remarried, or until the child became of age, the homestead was not subject to partition, and until such time she was not entitled to the possession and use of the homestead.<sup>242</sup>

241. 33 Kan. 449, 6 Pac. 537; *Id.*, 36 Kan. 524, 13 Pac. 821.

242. Accord.: An antenuptial agreement does not abrogate homestead rights of a surviving spouse. *Matney v. Linn*, 59 Kan. 613, 54 Pac. 688 (dictum); *Watson v. Watson*, 106 Kan. 693, 189 Pac. 949; *Hoard v. Jones*, 119 Kan. 188, 237 Pac. 895; *Boulton v. Boulton*, 137 Kan. 880, 22 P. 2d 896.

2. *Postnuptial agreement.* On the basis that an antenuptial agreement is one looking forward to the establishment and maintenance of a family, while a postnuptial separation agreement is made with the view of the dissolution of the marriage, it was held in *Hewett v. Gott*<sup>243</sup> that by a contract of that type the husband could and did divest himself of any homestead rights in property which his wife resided upon at the time of her death. As a wife consents to writing to her husband's devise of all his property to his persons, she has no homestead rights therein by surviving him.<sup>244</sup> As to take under a will precludes the consenting spouse from inhering in more than such will provides, as such election constitutes a consent to dispose of the remaining property to others.<sup>245</sup>

243. 132 Kan. 168, 294 Pac. 897. See, also, *Dutton v. Dutton*, 113 Kan. 143, 226 Pac. 326.

244. *Burns v. Spiker*, 109 Kan. 22, 202 Pac. 370.

245. 59 Kan. 455, 53 Pac. 520.

3. *Ordinary contract of waiver.* Homestead rights may be waived by agreement with creditors. Thus, in *Potter v. Northrup Baking Co.*,<sup>246</sup> a mortgagee had an interest in the insurance proceeds on a homestead property. The owner and his wife directed the mortgagee to pay the proceeds to the mortgagee whose claim was unsecured. The mortgagee paid to the creditor the amount of the mortgage remaining after the satisfaction of his mortgage lien. It was held that the homestead exemption rights in the proceeds of the insurance had been waived by the owner as to the creditor.<sup>247</sup>

246. 59 Kan. 455, 53 Pac. 520.

247. (a) Accord., *Schloss v. Unsell*, 114 Kan. 69, 216 Pac. 1091. A widow, with dependent children, engaged with another in business, may waive her homestead rights in favor of a wholesale house in a written application to that house for the purchase of goods on credit. (b) But where a lease provided that the tenant, "to secure the benefit of said rental, hereby waives the benefit of the exemption laws of the state," such provision is construed as not to waive the homestead exemption in other property acquired, so as to make it liable for rent under the lease. (*West v. Grove*, 361, 31 P. 2d 10.)



of conveyance or mortgage. A valid conveyance of the part of the land on which the improvements are situated has been called an "assignment" as to the remaining part,<sup>248</sup> which is in accord with the rule of residence, actual or constructive, to maintain a homestead. A mortgage has been termed a "waiver" of homestead rights as to such part,<sup>248a</sup> which is a manner of expressing what is explicitly provided in constitutional and statutory provisions relating to homesteads.

*Atney v. Linn*, 59 Kan. 613, 54 Pac. 668.

*Prudential Ins. Co. v. Clark*, 122 Kan. 109, 251 Pac. 199.

## Homestead Rights of Survivors: Heirs and Devisees

The most complex phase of homestead exemption law is that relating to the rights of those succeeding to the ownership of the homestead property of a decedent, as well as the homestead rights of those of the decedent's family succeeding to ownership.

### A. DESCENT OF HOMESTEAD PROPERTY

Homestead property descends in the same shares as any other real estate,<sup>248b</sup> and the shares of some heirs may be subject to homestead exemption—except in rights in others.<sup>249</sup> This is also true of the transmission of the homestead property under the terms of an antenuptial agreement.<sup>250</sup> It may be in some instances subject to the debts of the decedent, and under other circumstances free from such liabilities, depending primarily upon whether or not the heir resides upon the premises and thus prolongs their homestead character.<sup>251</sup> As stated in *Hollinger v. Bank*,<sup>252</sup> "The homestead is out of a condition and is not an estate."

*Vandiver v. Vandiver*, 20 Kan. 501; *Ott v. Sprague*, 27 Kan. 620; *Northrup v. Bank*, 767, 64 Pac. 622; *Mitchell v. Mitchell*, 69 Kan. 441, 77 Pac. 98; *Hollinger v. Bank*, 519, 77 Pac. 263; *Newby v. Anderson*, 106 Kan. 477, 188 Pac. 438; *Bank v. Birch*, 121 Kan. 334, 336, 246 Pac. 1007; the rule of advancements and inheritance of homestead property (*White v. White*, 41 Kan. 556, 21 Pac. 604); *Wagon v. Donart*, 22 Kan. 256; *Barbe v. Hyatt*, 50 Kan. 86, 31 Pac. 694; *Hafer v. Bank*, 449, 6 Pac. 537, 36 Kan. 524, 13 Pac. 821; *Mitchell v. Mitchell*, supra; *Horville*, supra; *Smith v. Landis*, 93 Kan. 453, 144 Pac. 998.

Notes 241, 242, supra.  
*Atton v. McCandliss*, 32 Kan. 512, 4 Pac. 1018; *Postlethwaite v. Edson*, 102 Kan. 769, L. R. A. 1918 D 983.  
Kan. 519, 521, 77 Pac. 263.

### B. DEVISE OF HOMESTEAD PROPERTY

It has been construed as not amounting to an "alienation" of homestead property,<sup>253</sup> with two important consequences. (a) No joint consent of husband and wife is required to devise homestead property beyond that required by S. 22-108, 238, 239) for the devise of other property.<sup>254</sup> (b) A will *pro tanto* passes the property to the devisee free from the debts of the testator as does an alienation during the lifetime of the homestead owner. "When the ownership vests in a member of the family in virtue of a will, the homestead exemption survives to the same extent as if the title had passed to the same person by inheritance."<sup>257</sup> Thus, taking a will neither adds to nor subtracts from the exemption rights of a family of a family of the decedent.<sup>258</sup>

Notes, 254, 255; also, section V, C. 2, supra.

*Strindale v. Smith*, 31 Kan. 270, 1 Pac. 569; *Vining v. Willis*, 40 Kan. 609, 20 Pac. 66.

*Postlethwaite v. Edson*, 102 Kan. 104, 171 Pac. 769, L. R. A. 1918 D, 983.

Note 206, supra.

*Hicks v. Sage*, 104 Kan. 723, 727, 180 Pac. 780.

*Benson v. Benson*, 68 Kan. 495, 75 Pac. 558, 64 L. R. A. 560; *Hicks v. Sage*, supra; *Edson v. Edson*, supra.

One who is entitled to homestead exemptions does not waive such taking under a will wherein the testator directs the payment of his of the property devised, if the direction is general.<sup>259</sup> "To have the language employed must be unequivocal and imperative."<sup>260</sup>

259. *Cross v. Benson*, supra; *Hicks v. Sage*, supra; *Homeward v. Eggers*, 138 295 Pac. 681.

260. *Hicks v. Sage*, supra, pg. 727.

#### C. WHO ARE ENTITLED TO HOMESTEAD RIGHTS

1. *Generally.* The right of *surviving members of the family* of a homestead owner to inherit the property impressed with homestead exemption is not explicitly stated in the constitution, but, as has been expressed in *Benson*,<sup>261</sup> it would indeed be inconsistent with the purpose of the homestead exemption laws "to engraft upon the words of the constitution, exempted from forced sale under any process of law, 'the alien phrase, the lifetime of the owner whose family occupies it.' The constitution forbears to express any such limitation. Such an interpretation cannot be made in a document which enumerates its own exceptions and its own limitations."<sup>262</sup> Such exemption rights continue, therefore, if the homestead is abandoned or conveyed, or "the family itself is dissolved, there is no one left to invoke the constitutional protection."<sup>263</sup> Thus in 22-102 (G. S. 1868, ch. 33, § 2; Oct. 31) declared constitutional.

261. 68 Kan. 495, 75 Pac. 558, 64 L. R. A. 560.

262. *Id.*, p. 503.

263. *Id.*

2. The questions presented, then, are: Who are members of the family? How much of a family is necessary "to invoke constitutional protection"? What protection is given such persons? The first two questions have been discussed somewhat in a preceding section.<sup>264</sup>

264. See, *supra*, section II, A.

(a) *Exemption from decedents' debts.* A widow, though the sole surviving member (or even the sole surviving member of the family) is entitled to occupy the homestead free from the debts of the deceased owner.<sup>265</sup> An unmarried daughter, sole occupant of the homestead property, holds it free from her father's debts.<sup>266</sup> It will thus be seen that the homestead exemption from decedent's debts continues in favor of adults as well as minors; the exemption survives to occupying or nonoccupying members of the family as long as it is occupied as a homestead by the widow or widower,<sup>267</sup> or by one of the children,<sup>268</sup> but upon ceasing to be occupied as a homestead by any members of the family, the share of one not occupying it, if it has been conveyed while yet a homestead, becomes liable for the debts of the decedent.<sup>269</sup>

265. *Cross v. Benson*, 68 Kan. 495, 75 Pac. 558, 64 L. R. A. 560; *Aultman v. Benson*, 68 Kan. 440, 75 Pac. 1019; *Weaver v. Bank*, 76 Kan. 540, 94 Pac. 273, 123 A. 16 L. R. A., n. s., 110; *Sawin v. Osborn*, 87 Kan. 878, 126 Pac. 1074, Ann. Cas. 18 Breen v. Breen, 102 Kan. 766, 173 Pac. 2, L. R. A. 1918 F. 394; *Watson v. Watson*, 69 Kan. 693, 189 Pac. 949; *Boulls v. Boulls*, 137 Kan. 880, 22 P. 2d 465.

266. *Koehler v. Gray*, 102 Kan. 878, 172 Pac. 25, L. R. A. 1918 D, 1088 *Battey v. Barker*, 62 Kan. 517, 64 Pac. 79, 56 L. R. A. 33).

267. *Barbe v. Hyatt*, 50 Kan. 80, 31 Pac. 694; *Northrup v. Horville*, 62 Kan. 622 (p. 769, ¶ 2, impliedly); *Postlethwaite v. Edson*, 102 Kan. 104, 171 L. R. A. 1918 D, 983 (impliedly); *Haclerode v. Green*, 8 K. A. 477, 54 Pac. 505.

268. *Hicks v. Sage*, 104 Kan. 723, 180 Pac. 780; *Deering v. Beard*, 48 Kan. 781.

269. *Barbe v. Hyatt*, supra; *Northrup v. Horville*, supra; *Stratton v. McC* Kan. 512, 4 Pac. 1018; *Postlethwaite v. Edson*, supra; *Müller v. Baker*, 9 K. A. Pac. 1002.

child, or minor children, may own the property exempt as a homestead, though not actually occupied by them, as when they are living on the land, as guardian,<sup>270</sup> or where a minor son farms the land, but lives in town elsewhere.<sup>271</sup> Stepchildren, evidently, do not have any homestead right in the decedent's property.<sup>272</sup>

*Shirack v. Shirack*, 44 Kan. 653, 24 Pac. 1107; *Smith v. Landis*, 93 Kan. 453, 150 Pac. 780; *Hicks v. Sage*, 104 Kan. 723, 180 Pac. 780; *Beard v. Beard*, 48 Kan. 16, 28 Pac. 981; *Osborn v. Osborn*, 87 Kan. 828, 126 Pac. 1074.

**Exemption from survivor's own debts.** Owning property exempt from one's debts, and owning it exempt from one's own debts, are two different matters. This accounts for the holding in *Cross v. Benson*<sup>273</sup> that a widow, sole occupant of the homestead, could maintain it free from her own debts, without having to overrule *Ellinger v. Thomas*,<sup>274</sup> which had held that a widower, without any dependents, could not occupy the homestead which had been the family homestead, free from his own debts. The distinction, as applied to *surviving spouses*, was obliterated in *Bank*,<sup>275</sup> which held that the surviving spouse, sole occupant, could maintain it free from the debts of the decedent spouse and free from his own debts, whether the latter were contracted prior to the death of the spouse, and regardless of who owned the legal title to the property at the time of the marriage.<sup>276</sup>

*Bank*, 495, 75 Pac. 558, 64 L. R. A. 560.

*Bank*, 180, 67 Pac. 529.

*Bank*, 540, 94 Pac. 273, 123 A. S. R. 155, 16 L. R. A., n. s., 110.

Accord., *Sawin v. Osborn*, 87 Kan. 828, 126 Pac. 1074 (but here the widow had been married by a former marriage). See, also, *Schloss v. Unsell*, 114 Kan. 69, 216 Pac. 1007. D. E. Unsell had any homestead interest . . . He was a widower without dependents. The question whether he had a homestead interest or not was not at issue if he had, it was waived. (b) In *Roberts v. Bank*, 126 Kan. 503, 268 Pac. 799, the widow and minor children could convey a homestead (in part inherited) by judgment against the widow.

Under the distinction between liability of a homestead for decedent's debts and for the survivor's own debts is very important with respect to the share of an adult son. We have observed that the share of a "nonoccupying" son is exempt from the decedent's debts as long as the property is occupied by a member of the family having homestead rights.<sup>277</sup> But as to his share, if the share of an adult son not occupying the premises is liable, and if the share in fraud of creditors will be set aside.<sup>278</sup> It has been held<sup>279</sup> that the share of an adult married son who occupies the homestead is liable for the debts. In the decision, distinguishing the situation here from that in *Bank*, the court said:

"Exemption has been applied to the debts of the spouse of a deceased person as well as to his debts . . . There is a reason, however, for the exemption of benefits because of the oneness of husband and wife, and that the share in the control and management of the children of the deceased. But the exemption has never been extended to the property of adult son on sale for the payment of their own debts."<sup>280</sup>

*supra*, VII, B, 2, (a), and notes 267, 268, *supra*.

*Ellinger v. Bank*, 69 Kan. 519, 77 Pac. 263. See, also, *Bank v. Carter*, 81 Kan. 234, but here the sale of the adult son's share was not contested by him.

*Bank v. Birch*, 121 Kan. 336, 246 Pac. 1007.

pp. 337-338. Here the farm descended to the widow and three children (all of whom were adults, and one of whom had married and lived elsewhere). *Lester*, one of the children, had always lived on the farm. He was married (before judgment was rendered) and continued to occupy a part of the residence. After the judgment he continued to live there. (We do not consider the matter of the liability of the share of Dallas,

as he had been absent.) We have observed (note 96, *supra*) that tenants in common have homestead rights in their respective shares. Lester and his wife were owners of the farm when judgment was procured. Why did he not have a homestead right in the property, in his own right (as a tenant in common) as the *head of a family* member of the decedent's family? This would make his conveyance to his mother void of the judgment. (See V, E, and note 206, *supra*.)

#### C. LIENS AGAINST HOMESTEAD RESIDED ON BY SURVIVORS

The survivors have practically the same exemption rights as the owner had,<sup>281</sup> so what was a valid lien against the decedent's homestead is such against the homestead of the survivors. A judgment of foreclosure mortgage executed by the decedent and his wife "should be against the homestead and children in proportion to their interests therein."<sup>282</sup> It is liable for improvements, even while occupied,<sup>283</sup> and for ordinary debts of the decedent and of the surviving owners when abandoned before sale.

281. *Fudge v. Fudge*, 23 Kan. 416; *Dayton v. Donart*, 22 Kan. 256; *Brady v. Banta*, 46 Kan. 131, 26 Pac. 441; *Hicks v. Sage*, 104 Kan. 723, 180 Pac. 780.

282. *Brady v. Banta*, *supra*.

283. *Hicks v. Sage*, *supra*.

#### D. PARTITION OF HOMESTEAD AMONG SURVIVING HEIRS AND DEPENDENTS

As provided in R. S. 22-105 (G. S. 1868, ch. 33, § 5), "If the intestate leaves a widow and children, and the widow again marry, or when all of said children arrive at the age of majority, said homestead shall be divided, of equal value to the widow, and the other one half to the children."

That the homestead may not be partitioned as long as the widow is unmarried and there is a minor child is of course obvious.<sup>284</sup> If there are no minor children, and no widow or widower, there may not be partition until the minors all become of age.<sup>285</sup> If there are children and a widow, the children are adults, the children may have partition. It was held in *Vandiver v. Vandiver*,<sup>286</sup> and there was a statement to this effect in *Hafer*,<sup>287</sup> *Towle v. Towle*<sup>288</sup> so held, and also held that such a sale was a "forced sale" prohibited by the constitution. It was held in *Newby v. Newby*<sup>289</sup> that where a homestead owner leaves a widow and a minor daughter surviving him, and the daughter died leaving surviving her husband and grandchildren, the heirs of the daughter can maintain partition of the homestead. *Jehu v. Jehu*<sup>290</sup> further in holding that where the surviving heirs of the decedent were a widow and a son by a former marriage, the son may have partition of the homestead and his stepmother.

284. *Dayton v. Donart*, 22 Kan. 256; *Gatton v. Tolley*, 22 Kan. 678; *Hafer v. Hafer*, 33 Kan. 449, 36 Kan. 324; *Rowe v. Rowe*, 61 Kan. 862, 60 Pac. 1049.

285. *Trumbly v. Martell*, 61 Kan. 703, 60 Pac. 741 (overr. *Martell v. Trumbly*, 364).

286. 20 Kan. 501.

287. 36 Kan. 524, 13 Pac. 821.

288. 81 Kan. 675, 107 Pac. 228.

289. 106 Kan. 477, 88 Pac. 438.

290. 110 Kan. 210, 203 Pac. 712. See, also, *Volger v. Volger*, 110 Kan. 270, 204.

*Bank v. Carter*<sup>291</sup> went so far as to hold that the purchaser of the son's share at a forced sale (against which the son did not protest) could not partition when all the children become of age. (*Hollinger v. Bank*) It is to be decided whether or not one in such a position could maintain partition.

291. 81 Kan. 694, 107 Pac. 234.

292. 69 Kan. 519, 77 Pac. 263 (see note 278, *supra*).

tute does not provide for partition of the homestead when there is but *no* children. But in *Vining v. Willis*,<sup>293</sup> where the decedent de-  
 vised the property to a stranger, and left her husband but *no* children surviving,  
 and that the devise was valid for half the property, and the devisee was  
 entitled to partition. In *Sawin v. Osborn*,<sup>294</sup> where the decedent left a widow and  
 no children, and children of his own by a former marriage, the de-  
 cedent's children were granted partition.

Kan. 609, 20 Pac. 232.  
 Kan. 828, 126 Pac. 1074.

er, in *Breen v. Breen*,<sup>295</sup> where the widow took against the will, and  
 there were no children by the marriage of the decedent and the widow,  
 the heirs (who were devisees) were denied partition as long as the widow  
 remained on the homestead and unmarried.<sup>296</sup>

Kan. 766, 173 Pac. 2, L. R. A. 1918 F, 394.  
 100 Kan. 100, 100 Pac. 100, *Campbell v. Durant*, 110 Kan. 30, 202 Pac. 841.

*v. Watson*<sup>297</sup> went even further. The widow had made an  
 oral contract giving up the right to inherit decedent's property. There  
 were no children of the marriage of the decedent and the widow, but the  
 decedent left *children* of his own by a former marriage, who were denied  
 partition against the widow.<sup>298</sup> While the rule seems clear that an antenuptial  
 agreement should not deprive the widow of her usual homestead rights,<sup>299</sup>  
 it is expected she receives added protection in being able to withstand parti-  
 tion of the homestead by the *children* of the decedent (not her children),  
 and *she* to the contrary notwithstanding.

Kan. 693, 189 Pac. 949.  
 100 Kan. 100, 100 Pac. 100, *Boulls v. Boulls*, 137 Kan. 880, 22 P. 2d 465, where children of decedent  
 claimed half of the homestead upon the death of the decedent.  
 notes 241, 242, *supra*.

case, when the surviving spouse remarries there may be partition at  
 the instance of the grandchildren of the decedent (children of her daughter by  
 her second marriage);<sup>300</sup> of children of the marriage of decedent and survivor,  
 although there be minor children,<sup>301</sup> or of children of the decedent.<sup>302</sup>

*Wright v. Sample*, 72 Kan. 582, 84 Pac. 138.

*Wright v. Banta*, 46 Kan. 131, 26 Pac. 441.

*Wright v. Hafer*, 36 Kan. 524, 13 Pac. 821 (dictum).

*Effect of partition.* Partition of a homestead does not destroy its char-  
 acter as a residence from the decedent's debts if the premises continue to be  
 used as a residence by the remarried spouse and the children of the  
 decedent or by the surviving spouse (who was a surviving member of the decedent's family) and her minor children  
 after her marriage.<sup>304</sup> In the latter instance the homestead was held  
 against the surviving spouse's debts, which, following *Weaver v. Bank*,<sup>305</sup>  
 is true even though she had no children. The fact that partition does  
 not destroy homestead rights of exemption from debts was a factor in the  
 case of *Towle v. Towle*,<sup>306</sup> allowing partition against the widow by her

*Wright v. Banta*, *supra*.

*Sawin v. Osborn*, 87 Kan. 828, 126 Pac. 1074, Ann. Cas. 1914 A, 647.

Kan. 540, 94 Pac. 273, 123 A. S. R. 155, 16 L. R. A., n. s., 110.

Kan. 675, 107 Pac. 228.

## E. SALE OR ENCUMBRANCE BY HEIRS AND DEVISEES

1. *Rights and limitations thereon.* There is no prohibition on a mortgage of the homestead by the survivors.<sup>307</sup> If the ownership is in several persons, the sale or encumbrance by a part of them will be subject to the homestead rights of those not joining therein.<sup>308</sup> Thus an oil and gas lease by the widow, who owns one half of the homestead, is subject to the homestead rights of the other owners,<sup>309</sup> and *Hannon v. Sommer*<sup>310</sup> holds that a mortgage by a widower is good to the extent of his interest, but that the rights of the minor children to occupy the *entire* premises as a homestead are not affected.

307. *Dayton v. Donart*, 22 Kan. 256; *Gatton v. Tolley*, 22 Kan. 678; *Bank v. Roberts*, 81 Kan. 694, 107 Pac. 284; *Roberts v. Bank*, 126 Kan. 503, 268 Pac. 799; *Sommer* (Kan., 1881), 10 Fed. 601.

308. *Gatton v. Tolley*, *supra* (dictum); *Compton v. Gas Co.*, *supra*; *Hannon v. Sommer*, *supra*.

309. *Compton v. Gas Co.*, *supra*.

310. *Supra*, note 307.

However, where *all* the property has been *devised* to the widow, she cannot execute a mortgage thereon to secure a personal debt, and such a mortgage will be prior to homestead rights of minor children, according to *Holtzman*.<sup>311</sup> Thus *Hannon v. Sommer* and *Allen v. Holtzman* are practically inconsistent. In regard to the former it may be said that the rights of the children who own a share of the property are entitled to greater protection by the law than in such a case as *Allen v. Holtzman*. In the latter case the decedent parent, by devising all the property to his wife, depended rather than the law, to guard the interests of his children.

311. 63 Kan. 40, 64 Pac. 966.

The right of one who shares in the ownership of the homestead, but who does not reside thereon, does not extend to give such person the right to make a voluntary conveyance in his own creditors.<sup>312</sup>

312. *Hollinger v. Bank*, 69 Kan. 519, 77 Pac. 263.

2. *Rights of purchasers and mortgagees.* A valid *bona fide* conveyance of an interest in the homestead while occupied as such by the survivor of the grantee title to that share free from the debts of the decedent, but subject to the debts of the survivor<sup>314</sup>; but any share of a homestead abandoned by the survivor is subject to both classes of debts,<sup>315</sup> as in *Northrup v. Horvill*. In *Northrup v. Horvill* the surviving husband, owning one half the homestead, conveyed (although he tried to convey all) free from the debts of his decedent and abandoned the homestead before the other heirs made a conveyance of their one half, thus making the latter shares liable for the debts of the decedent owner.

313. See *ante*, notes 267, 268, 269.

314. *Roberts v. Bank*, 126 Kan. 503, 268 Pac. 799.

315. See notes 269, 278, *supra*.

316. 62 Kan. 767, 64 Pac. 622.

3. *Guardian's deeds, leases, mortgages.* As we have earlier said, the guardian of an insane married person cannot give the necessary *consent* required by the constitution to sell, encumber or lease the homestead. This incapacity, however, ceases upon the termination of the marriage, so does not apply to an insane widow's guardian.<sup>318</sup> The guardian can convey a good title to such child's share in the homestead estate.

leases, or encumbrances upon a minor's property (homestead or must be approved by the probate court.<sup>320</sup>

section V, A, and notes 144, 145, 146, 147, 148, *supra*.

R. S. 39-211, 221, as amended (1933 Supp.); see, also, note 144, *supra*. In *adis*, 93 Kan. 453, 144 Pac. 998, the validity of a lease to homestead by the insane widow and her children was not questioned.

R. S. 38-211 does not make any distinction between homestead and other prop-

(b) *Guy v. Hanson*, 86 Kan. 933, 122 Pac. 879, guardian can give marketable performance enforced. In *Roberts v. Bank*, 136 Kan. 503, 268 Pac. 799, the was not questioned on this point.

S. 38-211; *Charles v. Witt*, 88 Kan. 484, 129 Pac. 173; *Ladd v. Foster Invest-* Fed. 2d 700.

#### ARE ENTITLED TO OCCUPY AND RECEIVE PROFITS BEFORE PARTITION

an adult child is entitled to reside on the homestead before it is partition is an interesting question. The decision in *Smith v.* would probably not *per se* preclude such right, for in that case the agreed to pay the guardian of the insane widow and her minor stipulated amount of rent. Although it was held that such rent re exclusively to the minors and the widow, that could be reconciled ing that the adult son had a right to reside thereon upon the theory eed to pay the stipulated amount for the use of the shares of the wards. Whether he would be additionally indebted to the other who had abandoned the homestead was not an issue in the case. n in *Boulls v. Boulls*<sup>322</sup> is probably decisive on this point, however. t the widow of a decedent homestead owner was entitled, notwith- antenuptial contract, to the exclusive possession of the homestead, the children of the decedent, even though there were no children riage between the decedent owner and the widow.<sup>323</sup>

Kan. 453, 144 Pac. 998.

Kan. 880, 22 P. 2d 465.

*Hartman v. Armstrong*, 59 Kan. 696, 54 Pac. 1046, testatrix devised the home- absolutely, which son lived elsewhere and claimed no homestead rights in the daughter and granddaughter of the testatrix, who had lived on the homestead e denied a homestead right of occupancy even though there was a clause in the nding the son to keep the home so that it would afford a refuge to any of her might become homeless. (There were no minor children of testatrix surviving

#### G. PROCEEDS FROM SALE, MORTGAGE OR LEASE BY SURVIVORS

an original homesteader abandons the property as a residence, it ble for his debts; the proceeds of a sale by him of the homestead, are intended to be and are used in acquiring a new homestead, are for his debts. When the survivors abandon a homestead before rmer homestead becomes liable for the debts of the decedent as survivors; but the cases do not show that the rule as to proceeds he sale by the survivors while occupied as a homestead. No case ound deciding this point. Logically, if actual abandonment of the by the survivors (before sale) makes it liable for the decedent's e same as abandonment by the decedent would have done, why the survivors have to reinvest the proceeds in a new homestead in empt them from the decedent's debts?<sup>325</sup> To make this the rule ed be a hardship on minors and a widow, but there would seem to al or logical reason forbidding such a rule being applied to the ults.

note 269, *supra*.

ever, an examination of the cases show that it is practically impossible for widow with minor children, to abandon a homestead except by sale. The same own toward a widow in distress. See, e. g., in *re Carlson's Estate*, 115 Kan. 722,

Proceeds from the sale of an inherited homestead are probably the survivor's own debts, unless reinvested in a new homestead, *Roberts v. Bank*<sup>326</sup> tends to the contrary.

326. 126 Kan. 503, 268 Pac. 799. See note 102, *supra*.

## VIII. Enforcement of Claims Against Homestead Property and Enforcement of Homestead Rights

In this section we shall briefly note some of the matters of procedure in enforcing claims against a homestead and in asserting homestead rights.

### A. MORTGAGE FORECLOSURE AND SALE

1. *Parties.* Both husband and wife are necessary parties in an action to foreclose a mortgage on property including their homestead,<sup>326a</sup> and a wife is not made a party to the proceeding the judgment of foreclosure is nullity as to the homestead.<sup>327</sup>

326a. Or to become subrogated to rights of mortgagee of homestead. (*Hofman v. Bank*, 53 Kan. 792, 37 Pac. 976.)

327. *Willis v. Whitead*, 59 Kan. 221, 52 Pac. 445.

2. *Exhaustion of other property before resort to homestead.* Where a mortgage covers the homestead and other property, and the mortgagor becomes bankrupt, it has been held that the mortgagee cannot enforce his claim against the other property and enforce it against the homestead. However, the court in a decree of mortgage foreclosure may order that property other than the homestead be first sold,<sup>329</sup> or the mortgagee may agree by agreement compelling him to do so.<sup>330</sup> Even without such an agreement the mortgagor may enforce such right as against all but holders of liens on the mortgage.<sup>331</sup> However, when two tracts, one of which is the homestead, are sold on a single bid the presumption is that the sale proceeded regularly.<sup>332</sup> Where the tracts are sold separately, and the homestead property brings a price much less than its true value, the mortgagor may redeem this, convert it into its actual money value, and the surplus to redeem the homestead.<sup>333</sup>

328. *Chapman v. Lester*, 12 Kan. 592.

329. *LaRue v. Gilbert*, 18 Kan. 220.

330. *Sproul v. Bank*, 22 Kan. 336.

331. *Frick v. Ketels*, 42 Kan. 527, 22 Pac. 280, 16 A. S. R. 507, distinguishing *v. Lester*, *supra*.

332. *Cronkhite v. Buchanan*, 59 Kan. 541, 53 Pac. 863, 68 A. S. R. 379.

333. *Fraser v. Seeley*, 71 Kan. 169, 79 Pac. 1081.

### B. OTHER LIENS

Other liens than mortgages may be satisfied by selling the homestead property, but the burden is upon the creditor to prove his claim comes within the exemptions to the homestead exemptions.<sup>335</sup>

334. See section IV, B.

335. *King v. Wilson*, 95 Kan. 390, 148 Pac. 752; *Carter v. Silo Co.*, 106 Kan. 656.

### C. ASSERTING HOMESTEAD EXEMPTION

The most common way of asserting homestead exemption rights is by bringing an action to enjoin the sale of the homestead for satisfaction of debts.<sup>336</sup> A motion to set aside judgment for sale is also proper procedure but must be made within a reasonable time under the circumstances.



exemption rights must be made at the time execution is levied,<sup>339</sup> annation of a void sale does not make it valid, nor estop the claimant asserting his right to the exemption.<sup>340</sup> In bringing an action to enjoin the homestead, the homestead claimants need not allege or prove judgment does not come within the exceptions to the exemptions.<sup>341</sup>

*Card v. Callahan*, 49 Kan. 149, 30 Pac. 176; *Owen v. Wagers*, 118 Kan. 517, 9 Pac. 277; *Zimmerman v. Clark*, 9 K. A. 889, 68 Pac. 277; *Carter v. Silo Co.*, supra.

*White-Crow v. White-Wing*, 3 Kan. 276; *Iliff v. Arnott*, 31 Kan. 672, 3 Pac. 525.

*Arnott v. Arnott*, supra.

*Platt v. Platt*, 61 Kan. 775, 60 Pac. 1048.

*Bank v. Tyler*, 130 Kan. 308, 286 Pac. 400. *Catlin v. Deering*, 102 Kan. 256, 170 Pac. 240, not contra, as this point was not before the court. See note 240 *supra*.

*Wilson v. Wilson*, 95 Kan. 390, 148 Pac. 752.

## IX. Federal Homestead Laws

Acts of one who seeks to acquire title to part of the public domain under homestead or other federal laws, are governed primarily by the acts of Congress, which prescribe the extent it shall be liable for debts, and to whom the homestead is subject.<sup>342</sup>

*Waters v. Clemmans*, 26 Kan. 522; *Crimmins v. Morrissey*, 36 Kan. 447; *Watkins v. Watkins*, 1 Kan. 1, 61 Pac. 385; *Nelson v. Oberg*, 88 Kan. 14, 127 Pac. 767; *Leslie v. Bank*, 154 Pac. 219.

Homestead laws are an American institution, unknown in other lands. They may be regarded as a pioneer in this field of constitutional homestead law,<sup>343</sup> although Texas was the first state to write such a provision in its constitution.<sup>344</sup> Its main purpose is to stabilize the home, as the debates of the constitutional convention disclose.<sup>345</sup> Under it the members of the family have a home, free from creditors, unless they choose to bind it to a mortgage free from the folly or connivance of the husband or wife alone. The logical application of the comparatively simple wording of the homestead clause of our constitution has given rise to many important questions, which have been decided by the cases reviewed in this article. We hope the review of these cases will be of interest, perhaps of importance, to the bar throughout the country.

Great care has been taken in the preparation of this treatise, inaccuracies will be found. Its usefulness will be informative, rather than controlling.

Source: Sources of Constitution, p. 699, Wyandotte Constitutional Convention.

Texas Const., 1845, Art. VII, Sec. 22.

For these see index "Homestead Clause" in Wyandotte Constitutional Convention.





# KANSAS JUDICIAL COUNCIL BULLETIN

1935

PART 3—NINTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
FOREWORD .....	87
SUMMARY OF THE WORK OF THE SUPREME COURT.....	88
Eight-year summary .....	90
ADMINISTRATION OF ABSENTEE'S ESTATE.....	91
By SAMUEL E. BARTLETT.	
WINDING UP OF PARTNERSHIP ESTATE ON DEATH OF A PARTNER....	98
By CHESTER STEVENS.	



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1935  
16-1230

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita
CHESTER STEVENS.....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the state,

For the improvement of our Judicial System and efficient functioning.

## FOREWORD

present in this BULLETIN a summary of the work of the supreme court for the year ending June 30, 1935, and cases pending on that date; also, in the form of an eight-year summary of the work of the supreme court. As this record disclosed that cases are disposed of in the supreme court with reasonable promptness after they are submitted for a decision. Also, the court is keeping its work up in good condition. There were fewer cases pending in the supreme court on July 1, 1935, than on the same date in any of the previous years. These summaries have been compiled. The record disclosed occasional delay by reason of the fact that notices of appeal are not sent to the supreme court promptly by clerks of the district court. In this respect the present report makes a better showing than our previous ones. We trust that the reasonable delay in this respect soon may be entirely eliminated.

Samuel E. Bartlett, of Ellsworth, has furnished us an article on the administration of absentee's estates. While not purporting to be a complete summary on the subject, it sets forth very well the need for legislation pertaining to the handling of such estates and what has been done by the legislatures in some of the other states. In view of our study of the law of estates and probate procedure we regard it as an appropriate time to present this article and would be glad to have suggestions as to what should be emphasized in our statute concerning it. It is somewhat allied to the question discussed in an article by Mr. Chester Stevens in our April, 1934, BULLETIN on the administration of estates of living persons—presumption of death. Perhaps some of the questions relating to both of these subjects should be incorporated in our law. In our study of the law of estates and probate procedure we find a number of questions arising over the administration of partnership estates upon the death of one of the partners. Some of these questions have come to the attention of Mr. Chester Stevens, who has prepared an article on this subject and included it in this BULLETIN. Perhaps other questions growing out of that subject have presented themselves to other attorneys. We will be glad to discuss them.

The December BULLETIN will contain the schedule of "Motion Days" for the district court in each county throughout the state. It will also contain summaries and tables compiled from reports made to us by clerks of the district court throughout the state of the work in such courts for the year ending June 30, 1935, and of cases pending on that date. These reports have come to us more promptly than any previous year we have collected them and most of them have reached us in better condition than such reports.

With the aid of the State Bar Association and its special committee on that subject we are continuing our study of a proposed redraft of Article III of our constitution relating to the judiciary, with the view of having the next session of the legislature submit it to a vote of the people. We are also continuing our study of the law of estates and probate procedure. It is possible that we may have this worked out in a concrete form to present in our April, 1936, BULLETIN. We find it to be a subject of major importance, indeed of much more importance than many of our people realize. We find it difficult to find the time to give it the attention it deserves, but are pushing forward as fast as the best we can.

## JUDICIAL COUNCIL BULLETIN

---

### Summary of the Work of the Supreme Court

The following is a summary of the work of the supreme court for the year ending June 30, 1935, and of cases pending on that date:

There were 506 appealed civil cases disposed of within the year ending June 30, 1935. Of this number 167 were dismissed without having been presented on the merits and 339 were submitted on the merits and written opinions filed therein; of these 205 were affirmed, 116 reversed, and in 12 the trial court was modified, and in 6 cases the appeals were resulting in affirming the trial court.

The court also disposed of 58 appealed criminal cases. Of this number 19 were dismissed without having been presented on the merits and 39 were submitted on the merits and written opinions filed. Of this number 25 were affirmed and 6 reversed.

The court also disposed of 25 original cases, of which 11 were submitted before having been presented on the merits, 13 were submitted on the merits and written opinions filed resulting in judgment for plaintiff in 4 cases and for defendant in 8 cases, and 1 case was dismissed; and in one case the judgment was issued on defendant's confession.

This makes a grand total of 589 cases disposed of by the supreme court for the year ending June 30, 1935, of which 197 were dismissed without having been presented on the merits and 392 were submitted on the merits and written opinions filed.

The cases pending on July 1, 1935, were as follows: 238 appealed civil cases, 40 appealed criminal cases, and 13 original cases, making a total of 291 cases.

Of the 384 cases submitted to the supreme court on their merits and written opinions filed, in 12 cases the opinions were filed on the first regular opinion day, in 355 cases on the first regular opinion day, in 17 cases on the second opinion day. The regular opinion day ordinarily occurs a month after the case is submitted; more accurately, it is the Saturday of the week hearings are had the next month after the case is submitted.

In the appealed civil cases disposed of within the year ending June 30, 1935, and pending on that date, the time between the date of judgment appealed from and the date notice of appeal was filed in the trial court is as follows: Within 10 days, 168 cases; 10 to 30 days, 150 cases; in 1 to 2 months, 111 cases; in 2 to 3 months, 78 cases; in 3 to 4 months, 38 cases; in 4 to 5 months, 38 cases; in 5 to 6 months, 79 cases; over 6 months, time not stated, 11 cases.

In the appealed civil cases disposed of within the year ending June 30, 1935, and pending on that date, the time between the date notice of appeal was filed in the trial court and the date notice of appeal was filed in the supreme court is as follows: Within 5 days, 251 cases; in 5 to 10 days, 141 cases; in 10 to 20 days, 141 cases; in 20 to 30 days, 82 cases; in 1 to 2 months, 61 cases; in 2 to 3 months, 14 cases; in 3 to 4 months, 12 cases; in 4 to 5 months, 1 case; over 5 months, 25 cases; time not given, 13 cases.

In the appealed civil cases disposed of within the year ending June 30, 1935, and pending on that date, the time between the date notice of appeal was filed in the trial court and the date notice of appeal was filed in the supreme court is as follows: Within 5 days, 251 cases; in 5 to 10 days, 141 cases; in 10 to 20 days, 141 cases; in 20 to 30 days, 82 cases; in 1 to 2 months, 61 cases; in 2 to 3 months, 14 cases; in 3 to 4 months, 12 cases; in 4 to 5 months, 1 case; over 5 months, 25 cases; time not given, 13 cases.

and pending on that date, the time between the date the notice of appeal was filed in the supreme court and the date deposit for costs was made is as follows: Within 5 days, 216 cases; in 5 to 15 days, 117 cases; in 15 to 30 days, 175 cases; in 1 to 2 months, 61 cases; in 2 to 3 months, 12 cases; over 3 months, 10 cases; time not stated, 144 cases.

Of the appealed civil cases in which opinions were filed within the year ending June 30, 1935, the time between the date the notice of appeal was filed in this court and the date the case was submitted on its merits is as follows:

Within 3 months, 12 cases; in 3 to 4 months, 18 cases; in 4 to 5 months, 37 cases; in 5 to 6 months, 39 cases; in 6 to 9 months, 157 cases; in 9 to 12 months, 58 cases; in 12 to 15 months, 17 cases; later than 15 months, 1 case.

Of the appealed criminal cases disposed of within the year ending June 30, 1935, and pending on that date, the time between the date of judgment appealed from and the date the notice of appeal was filed in the trial court is as follows: On the same day, 22 cases; not the same day but within 5 days, 1 case; from 5 to 10 days, 15 cases; from 10 to 20 days, 12 cases; from 20 to 30 days, 6 cases; from 1 to 2 months, 10 cases; from 2 to 3 months, 4 cases; from 3 to 4 months, 5 cases; from 5 to 6 months, 1 case; from 6 to 9 months, 3 cases; from 1 to 2 years, 4 cases; time not given, 5 cases.

Of the appealed criminal cases disposed of by the supreme court within the year ending June 30, 1935, and pending on that date, the time between the date the notice of appeal was filed in the trial court and the date it was filed in the supreme court is as follows: Within 5 days, 29 cases; in 5 to 10 days, 11 cases; in 10 to 20 days, 22 cases; in 20 to 30 days, 14 cases; in 1 to 2 months, 7 cases; in 2 to 3 months, 3 cases; in 3 to 4 months, 13 cases; in 4 to 5 months, 2 cases; after 6 months, 3 cases; and in 4 cases the time was not given.

Of the appealed criminal cases disposed of within the year ending June 30, 1935, and pending on that date, the time between the date notice of appeal was filed in the supreme court and the date the deposit for costs was made is as follows: Within 5 days, 5 cases; in 5 to 15 days, 9 cases; in 15 to 30 days, 1 case; in 1 to 2 months, 19 cases; in 2 to 3 months, 3 cases; over 3 months, 1 case; time not stated, 28 cases.

Of the appealed criminal cases in which opinions were filed within the year ending June 30, 1935, the time between the date the notice of appeal was filed in the supreme court and the date the case was submitted on its merits is as follows: Within 3 months, 1 case; in 3 to 4 months, 3 cases; in 4 to 5 months, 4 cases; in 5 to 6 months, 3 cases; in 6 to 9 months, 14 cases; in 9 to 12 months, 3 cases; in 12 to 15 months, 1 case; in 15 to 18 months, 2 cases; and in 4 cases the time was not given.

Of the appealed civil cases disposed of within the year ending June 30, 1935, the costs in 503 cases reported on is as follows: Minimum amount, \$0.00; maximum, \$40; aggregate, \$6,009.49; average, \$12.06.

Of the appealed criminal cases disposed of within the year ending June 30, 1935, the costs in 56 cases reported on is as follows: Minimum amount, \$0.00; maximum, \$41.35; aggregate, \$840.50; average, \$15.

Of the original cases disposed of within the year ending June 30, 1935, the costs in 20 cases reported on is as follows: Minimum, \$3.70; maximum, \$10.00; aggregate, \$319; average, \$10.95.

In the year ending June 30, 1935, the court disposed of 803 more cases, of which 21 were withdrawn before presented, 569 were allowed, 185 denied, and 28 were pending on July 1, 1935.

There were pending in the supreme court July 1, 1935, a total of 204 cases, compared with 366 on the same date in 1934; 333 in 1933; 357 in 1932; 333 in 1931; 397 in 1930; 376 in 1929; and 341 in 1928.

### Supreme Court: Eight-year Summary

In the eight years the clerk of the supreme court has furnished us with information of the work of that court, it has disposed of 4,766 cases, of which 1,523 were dismissed before final submission, and 3,242 were submitted on merits and written opinions filed.

EIGHT-YEAR SUMMARY, KANSAS SUPREME COURT

YEAR ENDING JUNE 30.	Cases.	Disposed of.	Dismissed.	Submitted on merits.
1928.....	Appealed, civil.....	529	143	
	Appealed, criminal.....	101	44	
	Original.....	43	13	
	Totals.....	673	200	
1929.....	Appealed, civil.....	475	128	
	Appealed, criminal.....	72	29	
	Original.....	36	18	
	Totals.....	583	175	
1930.....	Appealed, civil.....	504	143	
	Appealed, criminal.....	77	37	
	Original.....	52	16	
	Totals.....	633	196	
1931.....	Appealed, civil.....	490	131	
	Appealed, criminal.....	63	29	
	Original.....	38	13	
	Totals.....	591	173	
1932.....	Appealed, civil.....	522	159	
	Appealed, criminal.....	74	45	
	Original.....	32	6	
	Totals.....	628	210	
1933.....	Appealed, civil.....	459	135	
	Appealed, criminal.....	66	35	
	Original.....	23	5	
	Totals.....	548	175	
1934.....	Appealed, civil.....	427	149	
	Appealed, criminal.....	52	30	
	Original.....	42	11	
	Totals.....	521	190	
1935.....	Appealed, civil.....	506	167	
	Appealed, criminal.....	58	26	
	Original.....	25	11	
	Totals.....	589	204	
	Grand totals.....	4,766	1,523	



the 3,242 cases submitted, there were 5 cases decided without written opinions. Written opinions were filed in 64 cases before the first regular day; 2,953 on the first regular opinion day; 197 on the second; 21 on the third; 8 on the fourth; 3 on the fifth and 1 on the sixth regular opinion day after they were submitted. In 10 cases there were rehearings, making 10 opinions in each of those cases. The regular opinion day ordinarily is a day after the case is submitted; more accurately it is the Saturday of the next week. Hearings are had the next month after the case is submitted.

## DISPOSITION OF APPEALED CASES BY WRITTEN OPINIONS

ENDING 30.	Cases.	Affirmed.	Per- cent.	Re- versed.	Per- cent.	Modi- fied.	Per- cent.	Total.
.....	Appealed, civil.....	261	68	104	27	21	5	386
.....	Appealed, criminal...	52	91	5	9	0	0	57
.....	Appealed, civil.....	238	69	94	27	15	4	347
.....	Appealed, criminal...	39	91	4	9	0	0	43
.....	Appealed, civil.....	258	72	92	25	11	3	361
.....	Appealed, criminal...	31	78	9	22	0	0	40
.....	Appealed, civil.....	258	72	73	20	28	5	359
.....	Appealed, criminal...	28	82	6	18	0	0	34
.....	Appealed, civil.....	267	74	80	22	16	4	363
.....	Appealed, criminal...	24	83	5	17	0	0	29
.....	Appealed, civil.....	215	66	87	27	22	7	324
.....	Appealed, criminal...	26	84	5	16	0	0	31
.....	Appealed, civil.....	169	61	91	33	18	6	278
.....	Appealed, criminal...	19	86	3	14	0	0	22
.....	Appealed, civil.....	211	62	116	34	12	6	339
.....	Appealed, criminal...	26	81	6	19	0	0	32
.....	Appealed, civil.....	1,877	68	737	27	143	5	2,737
.....	Appealed, criminal...	245	85	42	15	0	0	287
.....	Grand totals.....	2,122	.....	779	.....	143	.....	3,024

## Administration of Absentee's Estate

By SAMUEL E. BARTLETT

a rule of the common law that a presumption of death arises from the absence of a person's continuous and unexplained absence from his last known abode for a period of seven years, unheard of by the persons who naturally have received information concerning the absentee, after inquiry extending to the places where information is likely to be obtained. (Wigmore on Evidence, 2d ed., vol. 5, sec. 2531; *Woodmen v. Woodmen*, 72 Kan. 391, 77 Kan. 401; *Renard v. Bennett*, 76 Kan. 848; *Thompson v. Millikin*, 93 Kan. 72.)

Wigmore in his History of English Law has given us an instructive account of the beginning and development of this rule. It evolved, in part, from a statute pertaining to estates. The author says:

The statute of 1603 had exempted from the punishment of bigamy those who had again, whose spouses had been seven years beyond the sea, or had not been heard of for seven years. Another statute of 1667 enacted that, if a person depended on the life of a person who remained beyond the seas, or

elsewhere absented himself within the kingdom for seven years, in a case begun by a lessor or reversioner to recover the estate, such person was accounted dead, unless proved to be alive. Thus, for this particular purpose, after absence for seven years without having been heard of a person was presumed to be dead. This statute was probably extensively construed, though there is no suggestion of a general presumption of death from such absence till the case of *George v. Jesson* in 1805. The existence of such a presumption was suggested in that case by Lord Ellenborough, C. J., on the analogy of these two statutes; and he gave effect to this presumption in 1809. The statutes and cases were the foundation of the rule, first stated in *Phillips*, in his book on Evidence, that if the issue is the life or death of a person, the presumption of a continuance of his life 'ceases at the expiration of seven years from the time when he was last known to be living.' This presumption was accepted by succeeding writers on the law of evidence, and was stated by Stephen in his Digest in 1876: 'A person shown not to have been heard of for seven years by those (if any) who if he had been alive would naturally have heard of him, is presumed to be dead, unless the circumstances of the case are such as to account for his not being heard of without a possibility of his death.' (Vol. 9, pp. 141, 142.)

While it is true that the presumption is not conclusive, nevertheless it has been held that the very fact of the presumption occasioned by such absence, irrespective of the force of the presumption, is a manifestation of governmental power to give effect to the status arising from such absence. The courts have regulated the estates of absentees, based on this common-law principle, and have therefore been recognized by the courts as being within the scope of judicial authority. (*Cunnius v. Reading School District*, 198 U. S. 448.) The main object of legislation relating to the status thus arising has been to take possession of and preserve the property for the absent owner, and to deprive him of it upon the assumption that he is dead. (*Scott v. Burn*, 154 U. S. 34, 42; *Burns v. Van Loan*, 29 La. Ann. 560.)

It should also be noted that, from an early English period, judgments declaratory of status had a more extensive effect than other judgments, in that they were binding as against all the world, and that this effect formed the basis of the modern distinction between judgments in personam and judgments in rem, which latter inhere in probate proceedings. (Holdsworth's History of English Law, vol. 9, pp. 151, 152.)

The foregoing would seem to be a sufficient foundation for the administration of an estate of an absentee; but a more substantial one appears in Roman law. In the case of *Cunnius v. Reading School District*, 198 U. S. 448, Chief Justice White pointed out that "Whilst it may be that under Roman law there was no complete system provided for the administration of the estate of an absentee, it is nevertheless certain that absence, without being heard from for a given length of time, authorized the appointment of a curator to protect and administer an estate." (p. 470.) The chief justice, in expounding the fundamental conceptions from which the power of government on the subject is derived, quoted from Demolombe's commentaries on the Code Napoleon as follows:

"Three characters of interest invoke a necessity for legislation on this subject: the difficult and important subject. First, the interest of the person who had disappeared. If it is true that, generally speaking, every person is held, at his own peril, to watch over his own property, nevertheless the government owes a duty to protect those who, from incapacity, are unable to direct their affairs. It is upon this principle of public order that the appointment of a curator is based."

to minors or curators to the insane rests. It is indeed natural to think that a person who has disappeared, if he continues to exist, is prevented from returning by some obstacle stronger than his own will, and which, therefore, places him in the category of an incapable person, whose interest it is the duty of the law to protect. And it is for this reason that the provisions as to absence in the Code are placed in the chapter treating of the persons, because the absentee, in the legal sense, is a person occupying a peculiar legal status. Second, the duty of the lawmaker to consider the interests of third parties against the absentee, especially those who have rights which may depend upon the death of the absentee. Third, finally, the interest of society which may require that property does not remain unclaimed without some one representing it, and without an owner."

Provisions similar to those in the Code Napoleon were incorporated in the Code of 1808. The legislature of Pennsylvania, in 1885, adopted a statute relating to the grant of letters of administration upon the estates of persons presumed to be dead by reason of long absence from their domicile." Massachusetts, by act of 1904, also made provision for the administration of the estate of an absentee. The validity of the Pennsylvania act was upheld by the supreme court of the United States in 1905; and that of Massachusetts was likewise sustained in 1911. Following the decision in the Pennsylvania case, Maryland enacted a statute like that of Pennsylvania. (*Savings Bank v. Maryland*, 110 Md. 86, 72 Atl. 475, 22 L. R. A., n.s., 221.) Since these decisions, Maryland has passed largely as a result of them, state legislation on the subject has been more or less general. (See "Absentees" in 1 Corpus Juris, sec. 4, and comments.)

Similar decisions of the supreme court of the United States have consequently established the following propositions as governing in such cases:

1. Under the general authority conferred by statute upon the probate courts of the various states to grant administration upon and to settle estates of deceased persons, those courts are not authorized to decide conclusively upon the status of a living person that he is dead.

2. All proceedings in such courts in the granting of administration upon the estate of a person whose general power depend upon the fact of death, and are null and void if the person be in fact alive, whether such administration be granted upon a misapprehension of the fact of death, or upon the presumption of death arising from absence.

3. It is within the power of the state to confer jurisdiction upon the probate court to administer upon estates of absentees, even though they be not by special and appropriate proceedings applicable to that condition, but distinct from the general power to administer upon the estates of deceased persons; but such power must be executed in harmony with the requirement of due process of law, guaranteed by the fourteenth amendment to the federal constitution. (*Scott v. McNeal*, 154 U. S. 34, 38 Law. Ed. 896; *Reading School District v. Reading*, 198 U. S. 458, 49 Law. Ed. 1125; *Blinn v. Blinn*, 222 U. S. 1, 56 Law. Ed. 65.)

4. In the decisions dealing with the subject, a distinction is pointed out between those statutes which authorize the settlement of the estate of a deceased person under which the proceedings are void and the whole jurisdiction of the court is null and void if the person is in fact alive, and statutes in which a state undertakes to settle the property within its jurisdiction when the owner has abandoned it, for some other reason, cannot be found. (*Nelson v. Blinn*, 197 Mass. 279,

83 N. E. 889, 15 L. R. A., n. s., 651, 14 Ann. Cas. 147, 125 Am. St. R. *Blinn v. Nelson*, 222 U. S. 1, 56 Law. Ed. 65, Ann. Cas. 1913B 555; *Cummins v. Reading School District*, 206 Pa. St. 469, 56 Atl. 16, 98 Am. St. R. 1125; *Cummins v. Reading School District*, 198 U. S. 459, 49 Law. Ed. 1125, Ann. Cas. 1121; *Stevenson v. Montgomery*, 263 Ill., 93, 104 N. E. 1075, A. 1915C 112; *Savings Bank v. Weeks*, 110 Md. 86, 72 Atl. 475, 22 L. R. 221; *Chamberlain v. Anderson* (Iowa), 190 N. W. 501, 26 A. L. R. 957; *v. Kimmerley*, 165 Ind. 609, 76 N. E. 250, 112 Am. St. Rep. 252; *State v. Superior Court* (Wash.), 275 Pac. 694; *Walz v. Dawson* (Mich.), 201 U. S. 177.) In the case of *Nelson v. Blinn*, supra, the Massachusetts supreme court said:

"In regard to such a kind of jurisdiction as is exercised under this statute, and the effect of long delay and uncertainty as to the ownership of property in the hands of a receiver (appointed under the statute), we cannot say that the legislature might not properly enact that one's rights of property should be lost if he is absent for fourteen years without attempting to exercise them."

The general scheme of the Massachusetts law is that, in case a person having property in Massachusetts has disappeared or absconded from the place where he was last known to be, and has no agent in the state, and it is not known where he is, or if such person has so disappeared without providing for his wife or minor children dependent upon him for support, and it is not known where he is, or if it is known that he is without the state, and no one who would be entitled to administer upon his estate if he were deceased, and if there are none such, any suitable person may file a petition in the probate court of the county where such property is, stating the facts of disappearance and a schedule of the property, real and personal, and asking for a receiver. If a warrant is issued directing the sheriff or his deputy to take possession of the property named in the schedule. After due notice and the issuance of a warrant a receiver may be appointed of the property and schedule of the sheriff's return; and the court is to find and record the date of the disappearance. If the absentee does not appear and claim the property within fourteen years after the recorded date, his title is barred. If, after fourteen years, the property has not been accounted for or paid over, it is to be distributed to those who would have taken it on the day fourteen years after the disappearance. If the receiver is not appointed within thirteen years after said date, the court, for distribution and for barring actions relative to the property shall begin to run a year after the date of the appointment, instead of the fourteen years provided.

The case of *Blinn v. Nelson*, 222 U. S. 1, arose under the Massachusetts law. The plaintiff in error was appointed receiver of the property of the defendant on July 20, 1905, and the date of the disappearance of the latter was ascertained and recorded as "within or prior to the year 1892." The petition was filed on March 18, 1907. The probate court made a decree of distribution, which was affirmed by the supreme judicial court of Massachusetts. The case was then brought to the supreme court of the United States. Mr. Justice Holmes, in delivering the opinion of the court, said:

"So the question, put in the way most favorable for the plaintiff, is whether a statute of limitations that possibly may allow little more than a year is too short when the property is held in the quasi adverse hands of a receiver."

for that time. We cannot doubt as to the answer. If the legislature that a year is long enough to allow a party to recover his property from a third hand, and establishes that time in cases where he has not been dead for fourteen years, and presumably is dead, it acts within its constitutional direction. Now and then an extraordinary case may turn up, but the law, like other mortal contrivances, has to take some chances, and in the great majority of instances, no doubt, justice will be done."

The validity of the Pennsylvania statute was upheld in the case of *Cunnius v. Spring School District*, 198 U. S. 458, above cited. The difference between the two statutes should be noted. It is well pointed out in the case of *v. Blinn*, 197 Mass. 279, above cited. The court said:

"The statute in Pennsylvania provides that a distribution of the estate of an absentee may be made in proceedings commenced after he has been absent and his whereabouts have been unknown for seven years, and it seems that the estate might be settled and the distribution ordered at a comparatively short time after the expiration of the seven years. In such distribution, the distributees must give security, to be approved by the court, that they will refund the amounts received, with interest, should the absentee in fact be alive; but if they are not able to give such security, the money is to be put at interest, and the interest paid only to the distributees if security has been given, or until 'the court, on application shall order the money paid to the person or persons entitled to it.' Under this statute there is nothing to prevent the court from ordering the whole estate paid over to the distributees, without security, long before the expiration of fourteen years from the time of the absentee's disappearance. The principal difference between the two statutes is that, under this in Pennsylvania, the whole property might be distributed without security, if the court should order it, within a time that might not be more than nine or ten years from the disappearance of the absentee, while, under our statute, no distribution can be made until the expiration of fourteen years from his disappearance, at which time the rights to the property are barred by the statute. This last is, of course, the effect of limitations."

Iowa law was enacted in 1913. In the case of *Chamberlain v. Anderson*, 190 N. W. 501, 26 A. L. R. 957, the Iowa supreme court, after observing that "there is much contrariety in the statutes of the various states,"

"proceedings for the administration of the estate of an absentee having been commenced in this state are based neither upon the fact nor the presumption of death of such absentee. . . . Although the absentee may in fact be dead, adjudication in probate, if authorized by the statute and the proceedings regular, is binding and conclusive upon him."

The majority, if not all, of the later enactments proceed upon the assumption that the owner of the property is alive. (*State, ex rel., v. Superior Court*, 275 Pac. 694; *Walz v. Dawson* (Mich.), 209 N. W. 177.)

The Michigan case of *Beckwith v. Bates*, 228 Mich. 400, 200 N. W. 151, 190 L. R. 819, was an action by a returned absentee against the administrator of the estate to recover the money received and distributed by the administrator.

The case presented this question: "Has the probate court jurisdiction to administer the estate of one presumed by long-time absence to be dead, but in fact alive?" The court, after an extended discussion for the authorities, decided: "The proceedings in the probate court must be held to be wholly invalid and to afford defendant no protection against plaintiff's demand." This was decided October 6, 1924. The following year the Michigan legis-

lature gave that state a statute on the subject, which is a model of completeness and excellence. Undoubtedly, much research was done in its preparation and its draftsmen were skilled in the art. It is "An act to provide for the disposition of the property in the state of Michigan of persons who have been absent from their last known place of abode for the continuous period of seven years with their whereabouts also unknown to those persons most likely to know thereof, and who have not been heard from by such persons during said period; and to repeal all acts and parts and acts contravening the provisions of this act." (Public Acts of Michigan, 1925, No. 205.)

If Kansas adopts a code of probate procedure, the procedural provisions may be included in such code of procedure. As above stated, the code is complete in itself as to both procedural and substantive law. To indicate the general plan, some of the more important substantive provisions are:

"SECTION 1. The property, both real and personal, in the state of Michigan of any person who has left for any reason whatsoever his or her last known place of abode, as known by those persons most likely to know the same, shall be subject to the provisions of this act: *Provided*, The absence has the following characteristics: (a) The absence shall be for the continuous period of seven years. (b) The whereabouts of the person shall have been for the same period unknown by those persons most likely to know the same. (c) Those persons shall for the like period have not been heard from by means of any manner oral or written, or by means of any token, received by those persons most likely to hear from the person. (d) Those persons most likely to know the last place of abode and the whereabouts of the absent person, and most likely to hear from the absent person, shall be the spouse left in the last place of abode and the parents of the absent person; and if there be neither spouse nor parent, such persons as the court shall determine upon proof in each particular case.

"SEC. 2. Whenever any person leaving property in the state of Michigan shall have been absent from his or her last known place of abode for the continuous period of seven years with his or her whereabouts also for the same period unknown to those persons most likely to know thereof, and if such person has for the like period not been heard from by those persons most likely to hear from such person, the property of such person in the state of Michigan may be administered as though such person were dead, subject to the conditions, restrictions and limitations hereinafter described."

"SEC. 9. Except for the purposes of paying taxes, special assessment, insurance premiums, allowed claims for debts contracted by the absent person before his or her disappearance, or to prevent great depreciation on account of neglect, or to specifically fulfill contracts made by the absent person before his or her disappearance, no sale, mortgage, or other disposition of the property of the absent person shall be had until the lapse of one year after the appointment and qualification of the representative of his or her estate."

"SEC. 10. No distribution nor assignment to beneficiaries of the property of the proceeds thereof of the absent person shall be made in any event until after the lapse of one year after the appointment and qualification of the representative of his or her estate; nor shall such distribution or assignment be made until after the lapse of three years after the appointment and qualification of the representative of his or her estate, unless the distributee or assignee execute and deliver to the representative a surety bond in a penal sum not less than the value of the property distributed or assigned, and for such additional amount as the court may prescribe, to be approved by the probate judge conditioned to return the property or the value thereof to the representative in case the absent person be adjudicated in the interim hereinafter set forth to have been still living since the commencement of the period of seven years, and also conditioned to save the representative harmless

the damages and expenses of all suits or proceedings brought by the person or anyone succeeding to his or her rights by reason of such action or assignment having been made during said period of three

15. In case no person makes claim during said period of three years of appointment and qualification of the representative either to be the person, or to have succeeded to the rights of the absent person since commencement of said period of seven years by reason of the death of the person, then a conclusive presumption shall arise that the absent person died prior to the filing of the petition for administration or the probate of his or her will; and the estate shall be distributed accordingly, so far as the same has not already been accomplished; and by order of court the estate shall be closed and the liability of the representative to claimants and the liability of distributees ended, and all bonds given to them shall be discharged: *Provided*, That, if in any case such period of absence as set forth in one of this act shall have exceeded fifteen years at the time of the filing of the petition for the appointment of an administrator, then said estate shall be distributed and closed at the end of one year, without a bond being required, with like effect as hereinbefore provided for at the end of three years."

This act has been before the supreme court of Michigan for consideration. In the case of *Walz v. Dawson*, 209 N. W. 177, that court recited that in the case of *Beckwith v. Bates*, supra, the court held: First, "that the probate court has no power, under its general authority, to administer the property of a person who is alive, for to do so would violate the fourteenth amendment to the federal constitution." Second, "that the state had the power by legislation to provide for the administration of the estates of persons who are absent for an unreasonable time." After reviewing the act, the court said: "We think the law, as a whole, contains reasonable and ample provisions for the protection (of the rights of the absentee) should he be alive. It is therefore void as violating the fourteenth amendment to the federal constitution."

In another matter should be considered. What about the property during the seven-year period of absence? Should it be permitted to remain idle, or should it be sold for taxes? The "three characters of interest" stressed by Justice White may become manifest long before the seven-year period has expired. The state of North Dakota provided for the appointment of a guardian in such cases to take charge of the property and preserve it until the person's survival is established, very much as we now appoint an administrator for a decedent's estate. No provision was made for notice of hearing. This was declared unconstitutional, as it was clearly an attempt to deprive the owner of his property without due process of law. (*Clapp v. Houg*, 12 N. D. 90, 98 N. W. 710, 65 L. R. A. 757, 102 Am. St. Rep. 589.) "The absence of notice," the court said, "renders the proceedings void, and the statute is invalid as against the property of a living person, because it does not provide for notice to him. In no case, under state procedure, is the mere appointment of possession of property equivalent to notice of action to be taken in relation to such property."

Michigan law, which was more carefully drawn, provides in substance: "If any person is absent from his usual place of residence and his whereabouts are unknown for three months or more and shall leave property which is liable to waste or is in danger of being destroyed or lost for the want of a proper custodian, the probate court of the county in which he was last

known to reside may, on petition of the absentee's wife, next of kin, or creditors, and at a hearing, notice of which must be published once each week for three consecutive weeks in some newspaper in said county, appoint a temporary administrator for the purpose of preserving the absentee's estate, a temporary administrator must, before entering upon his trust, give a bond as prescribed by law for administrators. (Compiled Laws of Michigan, 1915, sec. 1822. This statute has been construed by the supreme court of Michigan. (*Command*, 198 N. W. 432.) Several other states have similar law. (*Code Civ. Proc.*, sec. 1822 *et seq.*; Oregon, Laws of 1917, ch. 249; Revised Statutes of 1913, par. 3850; Washington, Rem. Comp. Stat. sec. 1715-10.)

While it is true that probate courts in this state have no constitutional authority to administer estates of absentees, it is equally certain that the power to do so may be conferred upon them by the legislature as has been done in other states. (Const., art. 3, sec. 8; *In re Johnson*, 12 Kan. 102; *Ledrick*, 14 Kan. 92; *State, ex rel., v. Anderson*, 114 Kan. 297.) The necessity, if not the necessity, of such legislation is apparent. It would remove many difficulties that now confront Kansas lawyers and their clients, especially as those difficulties arise in connection with titles to real estate, and in its particular field it would materially aid in the administration of justice.

## Winding Up of Partnership Estate on Death of a Partner

By CHESTER STEVENS

Article 4 of chapter 22, R. S. 1923, prescribes the method of handling the winding up of the affairs of an ordinary partnership when the same is required by the death of one of the partners. Some interesting questions arise from an interpretation of the provisions of this article. Possibly the concept of partnership among some that upon the death of a partner, administration of partnership affairs should be had in the probate court of the proper jurisdiction, by proceeding with an administration of the same in like manner as to the estates of decedents. A study of the article discloses that such is not the case.

Probate courts are created by section 8 of article 3 of the constitution of the state of Kansas, and provides:

"That there shall be a probate court in each county, which shall be of record, and have such probate jurisdiction and care of the estate of deceased persons, minors, and person of unsound minds, as may be prescribed by law, and shall have jurisdiction in cases of habeas corpus. . . ."

It is clear that the jurisdiction of the probate courts is by the constitution limited to the estates of "deceased persons, minors, and persons of unsound minds." This is the extent of the jurisdiction of these courts. The jurisdiction may be enlarged or diminished by the legislature except in cases of habeas corpus, as no limitation is prescribed for this clause. It follows that the jurisdiction of the probate court cannot extend to any other persons or to the rights of persons arising outside of the subjects



in the constitution. Neither can this jurisdiction be extended by  
on.

a well-known rule that the powers of a court of limited jurisdiction  
e found only in the statute which confers them; that such a court  
thing by intendment or construction."

*r v. Catlin*, 13 Kan. 394.

e jurisdiction of the probate court is expressly limited by the con-  
to deceased persons, minors and persons of unsound minds, such  
on could not attach to living persons or to their property. The death  
tner simply dissolves the partnership and the partnership is ended.  
bate court cannot take jurisdiction of the property of the partnership  
the surviving partners' interest in the partnership property remains  
nd as they are living persons, the probate court must be held to be  
jurisdiction.

the partners cannot agree upon the procedure for winding up the  
hip affairs, or when one of the partners dies, and relief in the courts  
in either case, the jurisdiction rests upon equitable grounds.

been expressly held that a probate court in Kansas has no equitable  
on. (*Ross v. Woolard*, 75 Kan. 383). Therefore, resort must be to a  
equity.

alysis of article 4 relating to partnership estates upon the death of a  
seems inevitably to lead to the following conclusions:

22-401 directs the executor or administrator of the estate of the  
partner to make a separate inventory and have a separate appraise-  
the whole of the partnership property. This does not conflict with  
the rights of the surviving partners. It is unquestionably proper that  
the death of a member of the partnership, his heirs or beneficiaries  
e informed of what the partnership property consists and an estimate  
alue thereof made. This is as far as this section goes.

anguage of section 22-402 is unhappily phrased. It is susceptible of  
pertation that the executor or administrator of the deceased partner  
ssession of all of the partnership property. It also appears to be in  
native. It is ambiguous for the reason that the section does not  
when, how or upon what conditions the property shall be left with  
utor or administrator or turned over to the surviving partner. In  
ords, the claims of each are equal, with no guide to determine which  
l have the preference.

e case of *Shattuck v. Chandler*, 40 Kan. 516, the supreme court ruled  
law, which was article 2 of chapter 37 of the Comp. Laws of 1885,  
for the winding up and settlement of partnership estates, and

the property shall remain in the possession of the surviving partner,  
e sees fit to continue its management, and the disposing of the part-  
assets, and the payment of the partnership debts, he may do so upon  
a that he give a bond for the faithful performance of the duties  
"

r the general principles of law, the surviving partner retains the  
on, custody and control of all of the partnership property for the sole  
of winding up the partnership affairs. This principle was recognized  
*Shattuck v. Chandler*, supra, when the Kansas supreme court followed the

decision of the United States supreme court in *Emerson v. Senter*, 11 wherein it was held that the surviving partner could make a general assignment of the partnership property. Thus, it appears that the surviving partner never loses possession, custody or control of the partnership property by reason of the death of the other partner.

Under section 22-402 and the interpretation in *Shattuck v. Chas* the surviving partner retains sole possession and control, and the control thereof only depends upon his giving a bond to the state of Kansas in full sum and with such securities as is required of administrators of the estate of deceased persons.

In section 22-403 the conditions of the bond are set forth, and upon the giving of the bond, the surviving partner is then obliged to use due diligence and fidelity in closing up the affairs of the partnership, apply the proceeds to the payment of the partnership debts, render an account upon oath to the probate court when required, and pay over to the administrator or executor of the deceased partner's estate such proportion of the net assets as the deceased partner would have been entitled to had he been living and died intestate.

Section 22-404 gives the probate court authority to cite the surviving partner to account and to adjudicate upon such accounting, but the extent of the court's jurisdiction is not prescribed by the statute.

Section 22-405 requires that the surviving partner must be cited for the purpose of giving a bond unless he voluntarily appears and gives a bond. Without such a citation, and the neglect or refusal of a surviving partner to give a bond, the administrator or executor of the deceased partner's estate has no right out any right or authority to take possession of the partnership property. This construction was expressly sustained in the case of *Teney v. Laing*, 297, where it was said:

"The administratrix of the estate of a deceased member of a copartnership consisting of two persons has no legal right to take the possession of the partnership property from the surviving partner until such surviving partner has been cited for that purpose and neglects or refuses to give the bond required by section 2817, General Statutes of 1889, and until the administrator of the undivided estate of the deceased partner has given the further bond required by section 2820, General Statutes of 1889."

It was further held in the above case that an action by the administrator against the surviving partner for possession and control of the partnership property, without first citing the surviving partner, and without executing the further bond required of such administratrix, should be dismissed. This construction of the statute is in harmony with the language of the statute.

If the surviving partner shall not voluntarily appear and give the bond, the administrator or executor of the deceased partner's estate has the right to move for a citation, and after the issuance and service of such citation, if the surviving partner refuses or neglects to give the bond required, the administrator or executor is entitled to administer the partnership property without the bond required by section 22-406 of article 4.

Upon the giving of such bond by the surviving partner, either voluntarily or upon citation, his only duties are: First, exercise due diligence in closing the affairs of the partnership; second, apply the proceeds to the payment of the partnership debts; third, render an account to the probate court when required.

probate court when required of all of the partnership affairs, including inventory of the property owned by the partnership and the debts due together with what may have been paid by the survivor upon the partnership debts and what still may be due and owing therefor; and fourth, for within two years unless a longer time be allowed by the probate court to the executor or administrator, the excess, if any, which, of course, is construed to relate only to that part to which the deceased partner may have been entitled had he not died, after a distribution had been had. unquestionably, the requirements of the statute as to the duties of the surviving partner are within the powers of the legislature as the winding up of the affairs of a partnership upon the death of one of the partners is to prevent the closing of the estate of the deceased partner. It is likewise necessary, for the information of the probate court and the heirs or beneficiaries of the deceased partner to know of what the partnership estate consists, the amount of its debts and the general status of its affairs, that a true and correct statement, under oath, be rendered by the surviving partner from time to

time. The bond required of the surviving partner is to insure the faithful handling of the partnership property and the winding up of its affairs, the application of the proceeds thereof to the payment of the debts and the payment to the estate of the deceased partner of his part or portion of the assets. The bond also functions as the foundation of the right of the survivor to manage the partnership property and to liquidate its affairs. Under the statute, the survivor has no right to continue in the management of the partnership business for the purpose of winding up or to retain the possession and control of the same unless he gives the bond, although this right can only be terminated by

However, he is precluded from maintaining an action in regard to partnership affairs, and it was held in the case of *Burris v. Burris*, 137 Cal. 1, that a surviving partner has no right to commence, maintain or defend an action with reference to any of the partnership property without giving the bond required by the statute.

In brief, article 4 prescribes a simple, direct and expeditious method of winding up the affairs of such a partnership and compels and secures an honest liquidation of its affairs and distribution of its assets. It gives to the creditors of the partnership preference to payment out of the partnership property. It is in conformity with the general rule of the law that the surviving partner has the exclusive right and is under the duty to liquidate the affairs of the partnership; that this duty must be performed as expeditiously as possible, with diligence and an honest accounting made. It does not destroy or impair the right of the surviving partner to use his best judgment to deal with the partnership property for the purpose of winding it up so as to yield the largest return. He may maintain actions against the debtors of the firm and recover the property belonging to the firm. In the exercise of good and honest judgment, he may continue the business, may enter into new contracts or obligations, but, however, binding the private or personal estate of the deceased partner, if by such action he helps the affairs of the partnership and increases its assets. Under what seems to be the weight of authority, he may pledge the partnership property to engage the firm's personality. However, he must use good judgment and exercise the most good faith.

He retains the power to dispose of the real estate of the firm when necessary for the payment of its debts, and according to respectable authority, he may also dispose of such real estate for the settlement or liquidation generally of the affairs of the partnership. He may execute a valid deed to the real estate title of the firm and either he or the purchaser may compel the heir or deceased partner to join in a conveyance of the legal title.

In Kansas, the surviving partner is rightly entitled to reasonable attorney's fees, to necessary expenses, and to just compensation for his services in winding up the affairs of the partnership. (*Trout v. Thrall*, 107 Kan. 509)

Before closing this discussion, it may be well to refer to section 22-409, Supplement to R. S. This section was passed in 1927. It must be construed in connection with article 4, chapter 22, R. S. 1923. It was evidently the intention of the legislature in section 22-409 to give specific authority for the surviving partner to take charge of the partnership property when the surviving partner has refused or neglected, after citation, to give the bond required and the administrator or executor of the deceased partner's estate has taken charge of the partnership property under article 4. Unquestionably the legislature possessed the power under the constitutional provision creating the probate court, to direct the administrator of the partnership estate when it came wholly under the control of the probate court through the failure or neglect of the surviving partner to give the bond required. Surely it was not meant to apply to the partnership property which remained in the hands of the surviving partner.







# KANSAS JUDICIAL COUNCIL BULLETIN

ER, 1935

PART 4—NINTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
REWORD .....	107
OTION DAYS" IN DISTRICT COURTS FOR 1936.....	108
MMARIES OF THE WORK OF THE DISTRICT COURTS:	
By Judicial Districts .....	115
For the State as a Whole .....	165
BLES OF THE WORK OF DISTRICT COURTS:	
By Counties .....	168



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1935  
16-1723

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER .....	Kansas C.
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS .....	St. John.
Judge Twentieth Judicial District.	
E. H. REES .....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY .....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT .....	Concordi
ROBERT C. FOULSTON .....	Wichita.
CHESTER STEVENS .....	Independ

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally through  
 state,

For the improvement of our Judicial System and its  
 efficient functioning.



## FOREWORD

Number of the BULLETIN contains the "Motion Days" for 1936 for the district courts throughout the state. This has been compiled from made by the district judges and filed with the clerk of the supreme in preparing it we have made this innovation: When a motion day d by the district judge in any county falls upon the first day of a term of court in that county, as provided by statute, the date is n italics. We think this will be a convenience. Also, for the con- of the courts and judges, we call attention to the fact that the rules o district courts which have been promulgated by the supreme court ed, with our late number, in volume 140, Kansas Reports, at page xxix. e also printed, with their former numbers, in the 1933 Supplement to sed Statutes of 1923 under section No. 60-3827.

Bulletin also contains the summaries, by judicial districts, of the the district courts for the year ending June 30, 1935, and of cases in those courts on July 1, 1935; also a similar summary for the state le; and tables, by counties, showing the business transacted and pend- of this has been compiled from reports sent us by the clerks of the courts throughout the state. We believe they are the most complete rate of any we have made. In compiling these summaries and tables been greatly aided by the fact that the reports from the clerks of the ched us more promptly and apparently in better condition than on ous occasion we have collected such reports, and for this we express eciation to the clerks of the court.

all not attempt an extended comparison of the showing made by the es and tables printed herein with those prepared from the reports of ears further than to say that they indicate a decided improvement in tch of business in our courts. There has been a gradual cleaning up ases, especially those which had been pending for several years, until e are very few of them. There is also more expedition in the trial osition of cases, in disposing of motions and demurrers, and in the ess with which journal entries are filed, although in a few counties still room for substantial improvement in these matters.

ope to be able to present, in our April, 1936, BULLETIN, a more definite f our proposed Probate Code, also a suggested rewriting of the sub-law of estates.

MOTION DAYS IN DISTRICT COURTS

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1936.											
					Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.		
Allen.....	Iola.....	Frank Forrest.....	Nell Hogan Stirnaman,	37	7 14	18 25	3	7 14	5 12	2 30	1 8	13 20 27	3 24 15	1		
Anderson.....	Garnett.....	Hugh Means.....	Erna Miller.....	4	3	7	4	3	1	8	11	12	6	11		
Atchison.....	Atchison.....	Lawrence Day.....	Hal Waisner.....	2	4 11 18 25	1 8 15 22 29	7 14 21 28	4 11 18 25	2 9 16 23 30	6 13 20 27	12 19 26	3 10 17 24 31	7 14 21 28	5 12 19 26		
Barber.....	Medicine Lodge...	George L. Hay.....	Edith Myers.....	24	9	10	7	27	15	12	12	26	6	11		
Barton.....	Great Bend.....	Ray H. Beals.....	Jack Morrison, Jr.....	20	2	1	3	4	2	2	5	3	7	5		
Bourbon.....	Fort Scott.....	W. F. Jackson.....	Geo. T. Farmer.....	6	4 11 18 25	1 8 15 22 29	7 14 21 28	4 11 18 25	2 9 16 23 30	6 13 20 27	5 12 19 26	3 10 17 24 31	7 14 21 28	5 12 19 26		
Brown.....	Hiawatha.....	C. W. Ryan.....	H. N. Zimmerman.....	22	28	25	24	28	26	16	28	27	24	22		
Butler.....	El Dorado.....	A. T. Ayres..... Geo. J. Benson.	Charles G. Smith.....	13	4	1	2	3	2	8	5	3	9	1		
Chase.....	Cottonwood Falls,	Lon C. McCarty....	Clinton W. Scott.....	5	24	28	27	24	29	26	25	23	27	23		
Chautauqua.....	Sedan.....	A. T. Ayres..... Geo. J. Benson.	R. S. Floyd.....	13	18	4	16	6	9	2	7	13	3	7		
Cherokee.....	Columbus.....	V. J. Bowersock....	Ernest Milton.....	11	7 9	4 6	3 5	7 9	5 7	2 4	8 10	6 8	3 5	8 10		
Columbus div..	Galena div.....															

County.	County seat.	Judge.	Clerk.	Dist.	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.
Clay.....	Clay Center.....	Edgar C. Bennett.....	Howard Crawford.....	21	9	7	2	9	8	1	10	9	2	2
Cloud.....	Concordia.....	Tom Kennett.....	Lawrence Johnston.....	12	6	4	3	6	5	2	28	27	17	21
Coffey.....	Burlington.....	Lon C. McCarty.....	Bernice Thompson.....	5	27	24	23	27	25	22	28	26	23	28
Comanche.....	Coldwater.....	Karl Miller.....	Jessie Channess.....	31	15a	12a	11a	15a	13a	10a	9a	7a	4a	16a
Cowley.....	Winfield.....	O. P. Fuller.....	Mrs. Marie Snyder.....	19	6 20	3 17	2 16	6 20	4 18	1 15	7 21	5 19	2 16	7 21
Crawford.....	Girard.....	L. M. Resler.....	Jean Bell.....	38	13 20	3 17	2 16	6 20	4 11	1 15	7 21	5 19	2 16	7 21
Crawford div. Pittsburg div.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Decatur.....	Oberlin.....	E. E. Kite.....	Dorothy McGee.....	17	23	13 24	13	17	11	3	17	6 12	7	15
Dickinson.....	Abilene.....	C. M. Clark.....	Seth Barter, Jr.....	8	6a	14a	2c	18c	18a	1c	14a	16a	9c	19a
Doniphan.....	Troy.....	C. W. Ryan.....	L. D. Swiggett.....	22	31	27	26	30	28	18	30	29	25	23
Douglas.....	Lawrence.....	Hugh Means.....	John Callahan.....	4	4	3	7	4	4	6	12	3	2	5
Edwards.....	Kinsley.....	Lorin T. Peters.....	C. E. Burke.....	33	7	3	4	7	27	3	9	19	3	10
Elk.....	Howard.....	A. T. Ayres..... Geo. J. Benson.	Mary E. Johnson.....	13	6	3	21	4	4	1	21	5	3	1
Ellis.....	Hays.....	Herman Long.....	C. W. Werth.....	23	16	3	24	16	18	12	17	19	24	15
Ellsworth.....	Ellsworth.....	Dallas Grover.....	James M. Wilson.....	30	27	15	4	27	8	3	5	12	4	31
Finney.....	Garden City.....	Fred J. Evans.....	Mrs. Walter Harvey...	32	13	18	19	21	11	22	7 28	15	20	10
Ford.....	Dodge City.....	Karl Miller.....	Susan A. Evans.....	31	18a	15a	14a	18a	16a	13a	12a	10a	7a	19a
Franklin.....	Ottawa.....	Hugh Means.....	Ann M. Shiras.....	4	6	1	6	6	2	13	14	2	7	12

MOTION DAYS IN DISTRICT COURTS—CONTINUED

Country.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1936.											
					Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.		
Geary.....	Junction City.....	C. M. Clark.....	Geo. J. Webster.....	8	6c	14c	2a	18a	18c	1a	14c	16c	9a	19c		
Gove.....	Gove City.....	Herman Long.....	J. B. Chenoweth.....	23	17	17	16	17	15	15	18	16	16	16		
Graham.....	Hill City.....	W. K. Skinner.....	Elsie Parks.....	34	11	3	6	16	18	12	21	13	13	8		
Grant.....	Ulysses.....	F. O. Rindom.....	Jewell Rowland.....	39	6d	3d	2b	6	4d	8d	5d	5d	2d	7b		
Gray.....	Cimarron.....	Karl Miller.....	Molly Parks.....	31	13e	10e	9e	13e	11e	8e	7e	5e	2e	14e		
Greeley.....	Tribune.....	Fred J. Evans.....	T. P. Tucker.....	32	10	10	17b	22b	27a	25b	16	19	18	9a		
Greenwood.....	Eureka.....	A. T. Ayres..... Geo. J. Benson.	Warren Willis.....	13	20	5	20	3	18	8	1	12	4	2		
Hamilton.....	Syracuse.....	Fred J. Evans.....	Amelia J. Minor.....	32	9	24	18	23	26	24	9	26	16	8		
Harper.....	Anthony.....	George L. Hay.....	Ed C. Wolff.....	24	13	6	6	13	14	15	11	12	5	10		
Harvey.....	Newton.....	J. G. Somers.....	Lloyd L. McMullen.....	9	8	10	10	8	11	2	16	28	9	8		
Haskell.....	Sublette.....	F. O. Rindom.....	Edith M. Yarbrough.....	39	6b	3b	9b	1b	4b	8b	21b	5b	4b	3b		
Hodgeman.....	Jetmore.....	Lorin T. Peters.....	Frank Phillips.....	33	8	17	3	9	11	4	10	7	2	11		
Jackson.....	Holton.....	Lloyd Morris.....	H. E. Hostetter.....	36	13	7	6	9	4	5	3	5	6	3		
Jefferson.....	Oskaloosa.....	Lloyd Morris.....	Marguerite N. McCoy.....	36	10	3	2	10	8	1	4	9	2	4		
Jewell.....	Mankato.....	W. R. Mitchell.....	Bernice Howard.....	15	7	17	2	13	8	1	25	17	9	4		
Johnson.....	Olathe.....	G. A. Roberds.....	Mabel K. Adams.....	10	6	17	23	13	4	25	1	19	16	14		
Kearny.....	Lakin.....	Fred J. Evans.....	Paul Wood.....	32	8	17	9	24	25	23	8	16	9	7		
Kinman.....	Kinman.....	George J. Her.....	Nell H. Walker.....	34	11	8	22	11	16	1	22	12	7	11		

COUNTY.	County seat.	Judge.	Clerk.	Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.
Lafayette Oswego div. Parsons div.	Oswego.....	L. E. Goodrich.....	H. L. Lane.....	16	24 20	28 24	27 16	24 27	29 25	26 15	25 21	23 19	27 23	18 21
Lane.....	Dighton.....	Fred J. Evans.....	Q. H. Jewett.....	32	7a	20a	23	22a	28	29	10	14a	23	9b
Leavenworth.....	Leavenworth.....	J. H. Wendorf.....	Howard Oliver.....	1	4 18	1 15	7 21	4 18	2 16	6 20	5 19	3 17	7 21	5 19
Lincoln.....	Lincoln.....	Dallas Grover.....	Ernest D. Harlow.....	30	4	17	21	3	18	2	2	6	9	30
Linn.....	Mound City.....	W. F. Jackson.....	C. B. Platt.....	6	7 21	3 17	2 16	13 27	4 18	1 15	1 21	5 19	2 16	7 21
Logan.....	Russell Springs.....	Herman Long.....	Alfred Rogge.....	23	20	13	13	6	29	22	7	30	12	7
Lyon.....	Emporia.....	Lon C. McCarty.....	J. J. McClure.....	5	29	26	25	22	27	24	23	28	25	22
Marion.....	Marion.....	C. M. Clark.....	Peter F. Flannery.....	8	18a	3a	14a	13a	4a	20a	1a	5a	2a	26a
Marshall.....	Marysville.....	Edgar C. Bennett.....	Wallace J. Koppes.....	21	10	3	6	10	4	5	11	5	5	4
McPherson.....	McPherson.....	J. G. Somers.....	Donald S. Clark.....	9	9	13	9	9	14	1	17	29	12	7
Meade.....	Meade.....	Karl Miller.....	Lottie W. Stamper.....	31	17b	14b	13b	17b	15b	12b	11b	9b	6b	18b
Miami.....	Paola.....	G. A. Roberts.....	Hugh W. Campbell.....	10	20	3	16	27	18	1, 29	3	5	9	21
Mitchell.....	Beloit.....	W. R. Mitchell.....	Herbert Shaefer.....	15	13	18	20	20	6	12	23	15	4	2
Montgomery Independ. div. Cottleville div.	Independence.....	Jas. W. Holdren.....	Clyde K. Gamble.....	14	4 18	1 15	7 21	4 18	2 16	6 20	5 19	3 17	7 21	5 19
Morris.....	Council Grove.....	C. M. Clark.....	J. A. Bruton.....	8	18c	15	13	6a	16a	15a	1c	17a	2c	7a
Morton.....	Richfield.....	F. O. Rindom.....	Kathleen Crawford.....	39	7d	10b	3b	2b	5d	9d	7b	6d	5d	4b

MOTION DAYS IN DISTRICT COURTS—CONTINUED

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1936.											
					Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.		
Nemaha.....	Seneca.....	C. W. Ryan.....	Clifford Hannun.....	22	27	24	23	27	25	15	21	26	23	21		
Neosho.....	Erie.....	J. T. Cooper.....	Lloyd E. Brown.....	7	3	11	6	3	12	5	4	13	6	4		
Ness.....	Ness City.....	Lorin T. Peters.....	Laura M. Jackson.....	33	9	6	2	10	2	5	7	8	6	7		
Norton.....	Norton.....	E. E. Kite.....	Ethel Bechtoldt.....	17	6 13 22	12	11	20	7	2	7 16	8	5	17		
Osage.....	Lyndon.....	Robert T. Price.....	Paul F. Cummings.....	35	3	7	10	3	1	9	4	2	10	4		
Osborne.....	Osborne.....	W. R. Mitchell.....	B. F. Beeson.....	15	9	3	21	15	11	11	24	19	5	3		
Ottawa.....	Minneapolis.....	Dallas Grover.....	Roy W. Jones.....	30	13	6	7	13	15	1	1	9	3	12		
Pawnee.....	Larned.....	Lorin T. Peters.....	Rose Mason.....	33	20	4	5	6	1	2	8	5	4	9		
Phillips.....	Phillipsburg.....	E. E. Kite.....	L. R. Halbert.....	17	21	3	12	18	4	1	15 21	7	6	16		
Pottawatomie.....	Westmoreland.....	Lloyd Morris.....	Chas. S. Smith.....	36	8	6	5	7	7	4	1	8	5	1		
Pratt.....	Pratt.....	George L. Hay.....	Roy D. Skelton.....	24	10	7	9	10	18	13	14	9	9	12		
Rawlins.....	Atwood.....	E. E. Kite.....	Ivy Morton Yoo.....	17	24	14	10 16	16	18	4	18	9	4	18		
Reno.....	Hutchinson.....	J. G. Somers.....	Walter Mead.....	9	4 11 18 25	1 8 15 22 29	7 21 28	4 14 18 23	2 9 16 23	6 13 20 27	19 26	3 10 17 24 31	7 14 21 28	5 12 19		
Republic.....	Belleville.....	Tom Kennett.....	Wm. R. Goodwin.....	12	7	3	4	7	4	3	21	19	18	22		

County.	County seat.	Judge.	Clerk.	Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.
Rooks.....	Stockton.....	W. K. Skinner.....	Geo. F. Crane.....	34	13	15	14	20	4	11	7	3	14	7
Rush.....	La Crosse.....	Lorin T. Peters.....	Edwin Popp.....	33	6	5	16	8	1	1	21	6	5	8
Russell.....	Russell.....	Herman Long.....	Geo. W. Brandt.....	23	6	18	23	15	4	11	16	5	23	14
Saline.....	Salina.....	Dallas Grover.....	Howard Ford.....	30	3	5	9	2	13	6	4	2	2	7
Scott.....	Scott City.....	Fred J. Evans.....	Nellie Sheuerman.....	32	6	19	16	13	29	30	11	14b	19	14
Sedgwick First div. Second div.	Wichita.....	Ross McCormick. R. L. NeSmith.	A. E. Jacques. 1st and 2d divisions.....	18	4	1	7	4	2	6	5	3	7	5
Third div. Fourth div.	Grover Pierpont. I. N. Williams.	11 8 22 25	3d and 4th divisions.....	11 8 22 25	14 15 28 22	14 15 28 22	14 15 28 22	11 9 23 25	9 23	13 27	12 26	10 24	14 28	12 26
Seward.....	Liberal.....	F. O. Rindom.....	H. W. Lane.....	39	13b	15b	21b	18b	25b	20b	19b	17b	9b	19b
Shawnee. First div. Second div.	Topeka.....	Geo. A. Kline. Paul H. Heinz.	Matilda Holbrook.....	3	18	8	21	11	2	13	5	17	7	19
Third div.	Otis E. Hungate.....	4 15 25	7 28	4 25	18 9 30	18 9 30	18 9 30	18 9 30	16 16	6 27	19 10	10 31	21 12	12 12
Sheridan.....	Hoxie.....	W. K. Skinner.....	Noah Turner.....	34	10	24	23	17	16	1	5	5	12	9
Sherman.....	Goodland.....	W. K. Skinner.....	William Mangus.....	34	8	17	24	6	1	13	3	1	16	11
Smith.....	Smith Center.....	W. R. Mitchell.....	Ronald McClain.....	15	8	19	23	14	7	15	23	16	6	7
Stafford.....	St. John.....	Ray H. Beals.....	Gertrude Bartle.....	20	3	4	6	6	5	5	8	6	2	1
Stanton.....	Johnson.....	F. O. Rindom.....	J. E. Saunders.....	39	7b	24b	2d	1d	5b	9b	14b	6b	5b	3d
Stevens.....	Hugoton.....	F. O. Rindom.....	John F. Fulkerson.....	39	27b	4b	23b	2d	6b	10b	5b	26b	6b	4d

MOTION DAYS IN DISTRICT COURTS—CONCLUDED

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1936.											
					Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.		
Sumner.....	Wellington.....	Wendell Ready.....	Jessie Haverstock.....	25	7	6	5	2	5	4	1	1	5	3		
Thomas.....	Colby.....	W. K. Skinner.....	N. C. Knudson.....	34	9	18	16	18	2	15	4	2	2	10		
Trego.....	Wakeeney.....	Herman Long.....	J. W. Bingham.....	23	18	15	2	18	16	1	19	17	2	12		
Wabaunsee.....	Alma.....	Robert T. Price.....	Lizzie M. Frey.....	35	7	4	3	7	5	2	1	6	3	1		
Wallace.....	Sharon Springs.....	Herman Long.....	Ida Ward.....	23	21	14	14	20	30	23	21	31	13	21		
Washington.....	Washington.....	Tom Kennett.....	J. W. Hatter.....	12	8	5	2	8	6	1	22	21	16	19		
Wichita.....	Leoti.....	Fred J. Evans.....	Mrs. Kate Elder.....	32	7b	20b	17a	27	27b	25a	15	15a	17	21		
Wilson.....	Fredonia.....	J. T. Cooper.....	Leslie V. York.....	7	7	4	3	7	5	2	1	6	3	1		
Woodson.....	Yates Center.....	Frank R. Forrest.....	Katherine Maxwell.....	37	3 10	21	6 13	10 17 24	8	5	4	2	6	4		
Wyandotte.....	Kansas City.....	E. L. Fischer.....	Pal E. Bush.....	29	4	1	7	4	2	6	5	3	7	5		
First div.....	.....	Willard M. Benton.....	.....	.....	11	8	14	11	9	13	12	10	14	12		
Second div.....	.....	Wm. H. McCamish.....	.....	.....	18	15	21	18	16	20	19	17	21	19		
Third div.....	.....	C. A. Miller.....	.....	.....	25	22	28	25	23	27	26	24	28	26		
Fourth div.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....		

a = 9:00 a. m. b = 10:00 a. m. c = 1:30 p. m. d = 2:00 p. m. e = 1:00 p. m. mountain time.

NOTE.—Italics indicate the date is also the first day of a regular term of court.

NOTE.—The four divisions of the court in Wyandotte county work with three jury divisions and one "law division," which is rotated among the judges. The "law division" has a motion day each week. The day of the week is designated by the judge at the beginning of the term. Except as modified by the work of the "law division," the motion days are as shown in the above tabulation.



## SUMMARY OF THE WORK OF THE DISTRICT COURTS

## FIRST DISTRICT

HON. J. H. WENDORFF, of Leavenworth, Judge  
HOWARD OLIVER, Clerk

county: Leavenworth. Area, 440 square miles; population, 34,222;  
and value, \$33,084,700.

**CIVIL CASES (OTHER THAN DIVORCE) FORMS 1 AND 2.** There were 120 civil cases other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 30 were dismissed before trial on the merits and 79 were tried to the court and 11 to the jury. In 75 cases no answers were filed. In 21 cases answers were filed within 30 days after the petitions were filed, in 9 cases from 30 to 60 days, in 14 cases from 60 days to 6 months, and in 1 case later than 6 months. There were 58 cases tried on the merits within 3 months of the time the petitions were filed, 25 cases from 3 months to 6 months, and 7 cases from 6 to 12 months. In 83 cases the journal entries were filed the day of trial, in 5 cases not the same day but within 10 days, and in 32 cases journal entries had not yet been filed. Court costs, amounting to \$1,833.08, were reported in 120 cases, showing a minimum of \$3.08, a maximum of \$68.89, and an average of \$15.28. There were 80 civil actions, other than divorce, pending July 1, 1935. Of this number 27 cases had been pending less than 3 months, 13 cases from 3 to 6 months, and 40 cases from 6 months to 1 year.

**DIVORCE CASES—FORMS 3 AND 4.** There were 139 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 81 cases were dismissed before trial. In 87 cases the divorces were granted to wives and in 40 cases to husbands, 1 case was denied and 24 were contested. Custody of 60 minor children was awarded to wives and 3 to husbands. There were 7 cases tried within from 60 days to 6 months, after the petitions were filed, and 19 cases after 6 months. The grounds for divorce were: Gross cruelty, 81 cases; extreme cruelty, 12 cases; abandonment, 32 cases, and conviction of a felony, 1 case. Court costs, amounting to \$1,148.17, were reported in 139 cases, showing a minimum of \$5.50, a maximum of \$42.75, and an average of \$8.32. There were 73 divorce cases pending July 1, 1935. Of this number 23 cases had been pending less than 3 months, 23 cases from 3 to 6 months, and 27 cases from 6 months to 1 year.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 51 criminal cases disposed of within the year ending June 30, 1935. Of this number 21 cases were dismissed before trial on the merits. In 15 cases the defendants entered pleas of guilty. There were 15 cases tried to a jury, resulting in 13 verdicts of guilty and 2 of not guilty. Trial was had within 10 days after the information was filed in 2 cases, within 10 to 30 days in 9 cases, in 30 days to 3 months in 4 cases, and in 3 to 6 months in 2 cases. The date information was filed was reported in 21 cases. There were 15 paroles granted. Court costs, amounting to \$1,015.34, were reported in 38 cases, showing a minimum of \$26.72, a maximum of \$100.80, and an average of \$26.72. There were 31

criminal cases pending July 1, 1935. Of this number 8 cases had been less than 3 months, 6 cases from 3 to 6 months, and 17 cases from 6 to 1 year.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 186 motions or demurrers were reported. Of this number 104 were withdrawn or not presented, and 40 were still pending July 1, 1935. Of the number disposed of 62 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 21 after 30 days. There were 102 motions or demurrers decided the day presented and 2 after 30 days. Of the 104 ruled upon 73 were allowed and 31 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 40 motions reported. Of this number all were presented more than 30 days after they were filed. Of the 40 motions 12 were decided the day presented, 16 within 10 days, 9 within 30 days, and 3 after 30 days. Of the 40 ruled upon, 33 were allowed and 7 denied.

## SECOND DISTRICT

HON. LAWRENCE F. DAY, of Atchison, Judge  
AL. WAISNER, Clerk

One county: Atchison. Area, 412 square miles; population, 23,180; value, \$31,584,381.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 213 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 42 were dismissed before trial on the merits, and 158 were tried to the court. In 135 cases no answers were filed. In 30 cases answers were filed within 30 days after the petitions were filed, in 14 cases from 30 to 60 days, in 15 cases from 60 days to 6 months, and 6 cases later than 6 months. There were 105 cases tried on the merits within 3 months of the time the petitions were filed, 22 cases from 3 to 6 months, 21 cases from 6 to 12 months, and 10 cases later than 12 months. In 33 cases the journal entries were filed the day of trial, in 33 cases not the day but within 10 days, in 11 cases in 10 to 30 days, and in 11 cases after 30 days. In 22 cases the journal entries had not yet been filed. Court costs amounting to \$3,504.62, were reported in 199 cases, showing a minimum of \$2.85, a maximum of \$171.68, and an average of \$18.16. There were 153 actions, other than divorce, pending July 1, 1935. Of this number 15 cases had been pending less than 3 months, 26 cases from 3 to 6 months, 15 cases from 6 to 12 months, 14 cases from 1 to 2 years, 11 cases from 2 to 3 years, 3 cases from 3 to 4 years, 3 cases from 4 to 5 years, and 1 case over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 77 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 42 cases were dismissed before trial. In 42 cases the divorces were granted to wives, in 6 cases to husbands, 1 case was denied and 13 cases were continued. The custody of 27 minor children was awarded to wives and 4 to husbands, and 1 awarded part time to each parent. There was 1 case tried within 10 days after the petition was filed, 39 cases from 10 to 60 days, and 37 cases after 60 days. The grounds for divorce were: Gross neglect, 41 cases;

cruelty, 6 cases; and abandonment, 1 case. Court costs, amounting to \$2.75, were reported in 77 cases, showing a minimum of \$2.75, a maximum of \$7.61, and an average of \$7.61. There were 49 divorce cases pending July 1, 1935. Of this number 9 cases had been pending less than 3 months, 4 cases from 3 to 6 months, 13 cases from 6 months to 1 year, 11 cases from 1 to 2 years, 9 cases from 2 to 3 years, 2 cases from 3 to 4 years, and 1 case from 4 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 41 criminal cases disposed of during the year ending June 30, 1935. Of this number 15 cases were disposed of before trial on the merits. In 16 cases the defendants entered pleas of guilty.

There were 10 cases tried to a jury, resulting in 4 verdicts of guilty, 1 hung jury, and 2 mistrials. Trial was had within 10 days after information was filed in 2 cases, in 10 to 30 days in 4 cases, in 3 to 6 months, 1 case; in 6 months to 1 year, 1 case. The date information was filed was not reported in 10 cases. There were 8 paroles granted. Court costs, amounting to \$758.55, were reported in 40 cases, showing a minimum of \$79.55, a maximum of \$79.55, and an average of \$18.96. There were 9 criminal cases pending July 1, 1935. Of this number 3 cases had been pending less than 3 months, 1 case from 3 to 6 months, and 2 cases from 6 months to 1 year, and 3 cases from 1 to 2 years. There were 6 cases in which a transcript but no information was filed.

MOTIONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 244 motions or demurrers were reported. Of this number 31 were withdrawn or not presented, and 12 were still pending July 1, 1935. Of the number disposed of 133 were presented within 10 days after they were filed, 42 from 10 to 30 days, and 26 after 30 days. There were 159 motions or demurrers decided the day presented, 24 within 10 days, 11 from 10 to 30 days and 7 after 30 days. Of the 201 ruled upon, 134 were allowed, 40 denied, and 27 partially allowed and denied.

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases tried on the merits prior to July 1, 1934, there were 29 motions reported. Of the number disposed of 12 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 6 after 30 days. There were 23 motions decided the day presented, 2 within 10 days, 2 from 10 to 30 days, and 2 after 30 days. Of the 29 ruled upon, 17 were allowed, 7 denied, and 5 partially allowed and denied.

### THIRD DISTRICT

HON. GEO. A. KLINE, of Topeka, Judge, First Division  
HON. PAUL H. HEINZ, of Topeka, Judge, Second Division  
HON. OTIS E. HUNGATE, of Topeka, Judge, Third Division  
MATILDA BINGER HOLBROOK, Clerk

county: Shawnee. Area, 544 square miles; population 87,864; assessed \$113,811,842.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 802 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 235 were dismissed before trial on the merits, 531 were tried to the court and 36 to the jury. In 476 cases no answers were filed. In 138 cases answers were filed within 30 days after the petitions

were filed, in 95 cases from 30 to 60 days, in 78 cases from 60 days to 6 months, and in 15 cases later than 6 months. There were 358 cases tried on the merits within 3 months of the time the petitions were filed, 104 cases from 3 to 6 months, 61 cases from 6 to 12 months, and 44 cases later than 12 months. In 774 cases the journal entries were filed the day of trial, in 6 cases not the day but within 10 days, in 4 cases in 10 to 30 days, and in 12 cases later than 30 days. In 6 cases journal entries had not yet been filed. Court costs, amounting to \$12,950.78, were reported in 802 cases, showing a minimum of \$2.50, a maximum of \$219.55, and an average of \$16.15. There were 272 civil cases other than divorce, pending July 1, 1935. Of this number 115 cases had been pending less than 3 months, 66 cases from 3 to 6 months, 40 cases from 6 months to 1 year, 30 cases from 1 to 2 years, 10 cases from 2 to 3 years, 9 cases from 3 to 4 years, 1 case from 4 to 5 years, and 1 case over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 641 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 330 cases were dismissed before trial. In 330 cases the divorces were granted to wives, in 84 cases to husbands, 3 cases were denied, and 102 cases were not tested. The custody of 221 minor children was awarded to wives and 109 to husbands. There were 27 cases tried within 60 days after the petition was filed, 337 cases from 60 days to 6 months, and 53 cases after 6 months. The grounds for divorce were: Gross neglect, 227 cases; extreme cruelty, 10 cases; abandonment, 63 cases; adultery, 1 case; nonsupport, 2 cases; drunkenness, 5 cases; conviction of a felony, 9 cases; and miscellaneous, 1 case. Court costs, amounting to \$5,726.40, were reported in 641 cases, showing a minimum of \$2.50, a maximum of \$106.70, and an average of \$8.93. There were 166 divorce cases pending July 1, 1935. Of this number 112 cases had been pending less than 3 months, 37 from 3 to 6 months, 15 from 6 months to 1 year, and 2 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 341 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 141 cases were dismissed before trial on the merits. In 171 cases the defendants entered pleas of guilty. There were 29 cases tried to a jury, resulting in 22 verdicts of guilty, and 7 of not guilty. Trial was had within 10 days after the information was filed in 5 cases, in 10 to 30 days in 10 cases, in 30 days to 3 months in 10 cases, in 3 to 6 months in 3 cases, and in 6 months to 1 year, 1 case. In 95 cases date information was filed was not reported in 95 cases. There were 63 cases granted. Court costs, amounting to \$9,774.10, were reported in 341 cases, showing a minimum of \$3.40, a maximum of \$791.55, and an average of \$28.37. There were 191 criminal cases pending July 1, 1935. Of this number 112 cases had been pending less than 3 months, 42 cases from 3 to 6 months, 27 cases from 6 months to 1 year, 27 cases from 1 to 2 years, 22 cases from 2 to 3 years, 14 cases from 3 to 4 years, 5 cases from 4 to 5 years, and 1 case over 5 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 1,132 motions or demurrers were reported. Of this number 104 were withdrawn or not presented, and 86 were still pending July 1, 1935. A total number disposed of 414 were presented within 10 days after they were

10 to 30 days, and 226 after 30 days. There were 730 motions or orders decided the day presented, 71 within 10 days, 61 from 10 to 30 days, and 258 after 30 days. Of the 904 ruled upon, 639 were allowed, 264 denied, and 1 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 123 motions reported. Of this number, 23 were withdrawn or not presented. Of the number disposed of 52 were presented within 10 days after they were filed, 23 in 10 to 30 days, and 25 after 30 days. There were 57 motions decided the day presented, 10 within 10 days, 11 from 10 to 30 days, 22 after 30 days. Of the 100 ruled upon, 56 were allowed, and 44 denied.

#### FOURTH DISTRICT

HON. HUGH MEANS, of Lawrence, Judge  
 ERMA MILLER, Clerk, Anderson County  
 JOHN CALLAHAN, Clerk, Douglas County  
 ANN M. SHIRAS, Clerk, Franklin County

**COUNTIES:** Anderson, Douglas and Franklin. Area, 1,540 square miles. Population, 59,782; assessed value, \$89,425,376.

**CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 393 cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 99 were dismissed before trial on the merits, 265 were tried to the court and 29 to the jury. In 281 cases no answers were filed. In 65 cases answers were filed within 30 days after the petitions were filed, in 23 cases from 30 to 60 days, and in 18 cases from 60 to 90 days, and in 6 cases later than 6 months. There were 188 cases tried on the merits within 3 months of the time the petitions were filed, 67 from 3 to 6 months, 29 cases from 6 to 12 months, and 10 cases later than 12 months. In 270 cases the journal entries were filed the day of trial, 184 cases not the same day but within 10 days, in 18 cases in 10 to 30 days and 4 cases after 30 days. In 35 cases journal entries had not yet been filed. Court costs, amounting to \$10,898.97, were reported in 393 cases, showing a minimum of \$2.30, a maximum of \$323.77, and an average of \$27.40. There were 168 civil actions, other than divorce, pending July 1, 1935. Of this number 163 cases had been pending less than 3 months, 27 cases from 3 to 6 months, 41 cases from 6 to 12 months, 14 cases from 1 to 2 years, 8 cases from 2 to 3 years, 10 cases from 3 to 4 years, 4 cases from 4 to 5 years, and 1 case pending more than 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 121 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 75 cases were dismissed before trial. In 75 cases the divorces were granted on the merits, in 24 cases to husbands, and 1 case was denied; 11 cases were continued. The custody of 58 minor children was awarded to wives, 4 to husbands and 2 to grandparents. There were 5 cases tried within 60 days after the petition was filed; 82 cases within 60 days to 6 months, and 13 cases later than 6 months. The grounds for divorce were: Gross neglect, 64 cases; Cruelty, 15 cases; abandonment, 16 cases, habitual drunkenness, 1 case and miscellaneous, 3 cases. Court costs, amounting to \$944.19, were reported in 112 cases, showing a minimum of \$2.60, a maximum of \$51.15,

and an average of \$8.43. There were 68 divorce cases pending July 1, 1935. Of this number 34 cases had been pending less than 3 months, 19 from 3 to 6 months, 9 cases from 6 months to 1 year, 5 cases from 1 year to 2 years and 1 case from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 146 criminal cases disposed of within the year ending June 30, 1935. Of this number 70 cases were dismissed before trial on the merits. In 51 cases the defendants entered guilty pleas. There were 25 cases tried to a jury, resulting in 17 verdicts of guilty and 8 of not guilty. Trial was had within 10 to 30 days after the indictment was filed in 11 cases, in 30 days to 3 months, 8 cases, in 3 to 6 months, 10 cases; in 6 to 12 months in 3 cases and after 1 year in 1 case. The information was filed was not reported in 50 cases. There were 100 cases granted. Court costs, amounting to \$4,111.47, were reported in 100 cases, showing a minimum of \$1.50, a maximum of \$325.90, and an average of \$31.12. There were 36 criminal cases pending July 1, 1935. Of this number 10 cases had been pending less than 3 months, 6 cases from 3 to 6 months, 10 cases from 6 months to 1 year, 8 cases from 1 to 2 years, and 1 case from 2 to 3 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 211 motions or demurrers were reported. Of this number 3 were drawn or not presented, and 21 were still pending July 1, 1935. Of the remainder disposed of 107 were presented within 10 days after they were filed, 104 from 10 to 30 days, and 34 after 30 days. There were 162 motions or demurrers decided the day presented, 14 within 10 days and 9 from 10 to 30 days and 2 after 30 days. Of the 187 ruled upon, 128 were allowed, 54 denied and 5 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In all cases on the merits prior to July 1, 1934, there were 13 motions reported. Of these 2 were withdrawn and 2 were pending July 1, 1935. Of the number disposed of 6 were presented within 10 days after they were filed, 2 from 10 to 30 days and 1 after 30 days. There were 9 motions decided the day presented, 9 ruled upon, 8 were allowed and 1 denied.

#### FIFTH DISTRICT

HON. LON C. McCARTY, of Emporia, Judge  
CLINTON W. SCOTT, Clerk, Chase County  
BERNICE THOMPSON, Clerk, Coffey County  
J. J. McCLURE, Clerk, Lyon County

Three counties: Chase, Coffey and Lyon. Area, 2,240 square miles. Population, 48,172; assessed value, \$80,956,638.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 273 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 64 were dismissed before trial on the merits, 273 were tried to the court and 17 to the jury. In 267 cases no answer was filed. In 29 cases answers were filed within 30 days after the complaint was filed, in 33 cases from 30 to 60 days, in 21 cases from 60 days to 3 months and 4 cases later than 6 months. There were 189 cases tried on the merits within 3 months of the time the petitions were filed, 64 cases from

and 30 cases from 6 to 12 months and 7 cases later than 12 months. In 94 cases the journal entries were filed the day of trial, in 10 cases not the day but within 10 days, in 12 cases in 10 to 30 days, and in 22 cases after 30 days. In 94 cases journal entries had not yet been filed. Court costs, amounting to \$8,330.80, were reported in 344 cases, showing a minimum of \$246.95, and an average of \$24.22. There were 162 civil cases other than divorce, pending July 1, 1935. Of this number 61 cases were pending less than 3 months, 27 cases from 3 to 6 months, 27 cases from 6 to 12 months, 29 cases from 1 to 2 years, 11 cases from 2 to 3 years, and 1 case from 3 to 4 years, 3 cases from 4 to 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 118 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 18 cases were dismissed before trial. In 72 cases the divorces were granted to the wives, in 24 cases to husbands, 3 cases were denied and 15 cases were continued and 1 case was annulled. The custody of 57 minor children was awarded to wives, 19 to husbands and 2 to orphan's homes. There were 2 cases tried within 60 days after the petitions were filed, 88 cases from 60 days to 6 months, and 10 cases after 6 months. The grounds for divorce were: Gross neglect, 6 cases; extreme cruelty, 46 cases; abandonment, 33 cases; adultery, 1 case; insanity, 1 case; habitual drunkenness, 3 cases; conviction of a felony, 1 case; and nonsupport, 1 case. Court costs, amounting to \$785.67, were reported in 118 cases, showing a minimum of \$1.40, a maximum of \$33.25, and an average of \$6.65. There were 100 divorce cases pending July 1, 1935. Of this number 25 cases had been pending less than 3 months, 3 from 3 to 6 months, 3 from 6 months to 1 year, and 27 from 1 to 2 years, 19 cases from 2 to 3 years, and 1 case from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 26 criminal cases disposed of during the year ending June 30, 1935. Of this number 5 cases were dismissed on the merits. In 16 cases the defendants entered pleas of guilty. In 5 cases there were 5 cases tried to a jury, resulting in 5 verdicts of guilty. Trial was completed within 10 to 30 days after the information was filed in 1 case, 30 days to 6 months in 1 case, in 3 to 6 months in 3 cases. The date information was filed was not reported in 5 cases. There were 5 paroles granted. Court costs, amounting to \$397.04, were reported in 26 cases, showing a minimum of \$2.20, a maximum of \$132.80, and an average of \$11.95. There were 20 criminal cases pending July 1, 1935. One case had been pending less than 3 months, 13 cases from 3 to 6 months, 4 cases from 6 months to 1 year and 2 cases from 1 to 2 years. There were 5 cases in which transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 308 motions or demurrers were reported. Of this number, 3 were withdrawn or not presented and 41 were still pending July 1, 1935. Of the 265 disposed of 237 were presented within 10 days after they were filed, 10 to 30 days, and 15 after 30 days. There were 260 motions or demurrers decided the day presented, 2 within 10 days, and 2 after 30 days. 265 ruled upon, 249 were allowed, 15 denied, and 1 partially allowed and 1 denied.

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases on the merits prior to July 1, 1934, there were 85 motions reported. Of this number 1 was withdrawn or not presented, and 5 were still pending. Of the number disposed of 21 were presented within 10 days after they were filed, 27 from 10 to 30 days, and 31 after 30 days. There were 74 motions on the day presented, 4 not the same day but within 10 days, and 1 within 30 days. Of the 79 ruled upon 76 were allowed and 3 were denied.

#### SIXTH DISTRICT

HON. W. F. JACKSON, of Fort Scott, Judge  
 GEORGE T. FARMER, Clerk, Bourbon County  
 C. B. PLATT, Clerk, Linn County

Two counties: Bourbon and Linn. Area 1,269 square miles; population 35,523; assessed value, \$40,259,069.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 141 cases on the merits, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 57 were dismissed before trial on the merits, 151 were tried to the court and 3 to the jury. In 141 cases no answers were filed. In 33 cases answers were filed within 30 days after the petitions were filed, in 18 cases from 30 to 60 days, in 16 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 59 cases tried on the merits within 3 months of the time the petitions were filed, 55 cases from 3 to 6 months, 31 cases from 6 to 12 months, and 9 cases after 12 months. In 20 cases the journal entries were filed the day of trial, in 20 cases not the day but within 10 days, in 4 cases in 10 to 30 days, in 14 cases after 30 days, and in 34 cases journal entries had not yet been filed. Court costs, amounting to \$4,329.93, were reported in 211 cases, showing a minimum of \$3, a maximum of \$285.25, and an average of \$20.52. There were 122 civil cases other than divorce, pending July 1, 1935. Of this number 29 cases were pending less than 3 months, 19 cases from 3 to 6 months, 23 cases from 6 to 12 months, 15 cases from 1 to 2 years, 18 cases from 2 to 3 years, 10 cases from 3 to 4 years, 10 cases from 4 to 5 years, and 2 cases over 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 68 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 10 cases were dismissed before trial. In 44 cases the divorces were granted to wives, in 10 cases to husbands, and in 1 case divorce was denied. The custody of 29 minor children was awarded to 15 mothers and 5 to husbands. There were 3 cases tried within 60 days after the petitions were filed, 50 cases from 60 days to 6 months, and 5 cases after 6 months. The grounds for divorce were: Gross neglect, 34 cases; extreme cruelty, 19 cases; abandonment, 19 cases; and insanity, 2 cases. Court costs, amounting to \$577.30, were reported in 68 cases, showing a minimum of \$3, a maximum of \$111.07, and an average of \$12.36. There were 59 divorce cases pending July 1, 1935. Of this number 19 cases had been pending less than 3 months, 7 cases from 3 to 6 months, 7 cases from 6 months to 1 year, 12 cases from 1 to 2 years, 1 case from 2 to 3 years, 2 cases from 3 to 4 years, 1 case from 4 to 5 years, and 1 case later than 5 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 68 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 15 cases



before trial on the merits. In 42 cases the defendants entered pleas. There were 11 cases tried to a jury, resulting in 8 verdicts of guilty and 3 of not guilty. Trial was had within 10 to 30 days after the motion was filed in 1 case, in 30 days to 3 months in 3 cases, in 3 to 6 months in 2 cases, in 6 months to 1 year in 4 cases, and after 1 year in 1 case. The information was filed was not reported in 2 cases. There were 25 granted. Court costs, amounting to \$1,628.40, were reported in 68 showing a minimum of \$3.30, a maximum of \$139.40, and an average of \$20.74. There were 43 criminal cases pending July 1, 1935. Of this number 17 had been pending less than 3 months, 5 cases from 3 to 6 months, 12 from 6 months to 1 year, 11 cases from 1 to 2 years, and 3 cases from 2 years. There were 4 cases in which a transcript but no information was

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were reported during the year ending June 30, 1935, or which were pending July 1, 1935, 252 motions or demurrers were reported. Of this number 18 were argued or not presented, and 21 were still pending July 1, 1935. Of the 213 disposed of 156 were presented within 10 days after they were filed, 35 from 10 to 30 days, and 35 after 30 days. There were 170 motions or demurrers decided the day presented, 11 within 10 days, 11 from 10 to 30 days, and 48 after 30 days. Of the 213 ruled upon, 170 were allowed, 31 denied, and 12 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 12 motions reported, of which 10 were disposed of July 1, 1935. Of the number disposed of, 1 was presented within 10 days after it was filed, 1 from 10 to 30 days, and 9 after 30 days. There were 10 motions decided within 10 days after it was presented, 1 within 10 to 30 days, and 9 after 30 days. Of the 11 ruled upon, 9 were allowed, and 2 denied.

#### SEVENTH DISTRICT

HON. J. T. COOPER, of Fredonia, Judge  
LLOYD E. BROWN, Clerk, Neosho County  
LESLIE V. YORK, Clerk, Wilson County

**COUNTIES:** Neosho and Wilson. Area, 1,161 square miles; population, 10,000; assessed value, \$51,663.690.

**CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 174 civil cases other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 29 were dismissed before trial on the merits and 144 were tried to the court and 1 to the jury. In 126 cases no answer was filed. In 21 cases answers were filed within 30 days after the complaint was filed, in 17 cases from 30 to 60 days, in 10 cases from 60 days to 3 months. There were 106 cases tried on the merits within 3 months of the time the petitions were filed, 35 cases from 3 to 6 months, 3 cases from 6 months to 1 year, and 1 case later than 12 months. In 137 cases the journal entries were filed the day of trial, in 6 cases not the same day but within 10 days, 5 cases in 10 to 30 days, and in 8 cases later than 30 days. In 18 cases journal entries had not yet been filed. Court costs, amounting to \$2,000.00, were reported in 173 cases, showing a minimum of \$3.25, a maximum of \$100.00, and an average of \$25.54. There were 130 civil actions, other than

divorce, pending July 1, 1935. Of this number 41 cases had been pending less than 3 months, 29 cases from 3 to 6 months, 15 cases from 6 months to 1 year, 12 cases from 1 to 2 years, 11 cases from 2 to 3 years, 8 cases from 3 to 4 years, 2 cases from 4 to 5 years, and 12 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 83 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 34 cases were dismissed before trial. In 55 cases the divorces were granted to wives, in 22 cases to husbands, and 8 cases were contested. The custody of 34 minor children was awarded to wives, and 3 to husbands. The divorces were tried within 60 days after the petitions were filed, 65 cases from less than 6 months, and 9 cases after 6 months. The grounds for divorce were: Gross neglect, 17 cases; extreme cruelty, 28 cases; abandonment, 1 case; habitual drunkenness, 3 cases, adultery, 2 cases; insanity, 1 case. Costs, amounting to \$708.52, were reported in 77 cases showing a minimum of \$10.00, a maximum of \$42.60, and an average of \$9.20. There were 109 divorces pending July 1, 1935. Of this number 25 cases had been pending less than 3 months, 15 cases from 3 to 6 months, 15 cases from 6 months to 1 year, 12 cases from 1 to 2 years, 17 cases from 2 to 3 years, 17 cases from 3 to 4 years, and 5 cases from 4 to 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 53 criminal cases tried on the merits within the year ending June 30, 1935. Of this number 5 cases were dismissed before trial on the merits. In 41 cases the defendants entered pleas of guilty. There were 7 cases tried to a jury, resulting in 7 verdicts of guilty. The cases were tried within 10 to 30 days after the information was filed in 3 cases, 31 to 60 days in 2 cases, 3 to 6 months in 1 case and in 6 months or more in 1 case. The date information was filed was not reported in 8 cases. There were 9 paroles granted. Court costs, amounting to \$860.14, were reported in 56 cases, showing a minimum of \$3.10, a maximum of \$104.69, and an average of \$15.36. There were 23 criminal cases pending July 1, 1935. Of this number 5 cases had been pending less than 3 months, 5 from 3 to 6 months, 5 from 6 months to 1 year, 5 from 1 to 2 years, and 4 from 2 to 3 years. There were 13 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 125 motions or demurrers were reported. Of this number 18 were withdrawn or not presented, and 18 were still pending July 1, 1935. The number disposed of 51 were presented within 10 days after they were filed, 10 in 10 to 30 days, and 8 more than 30 days. There were 67 motions or demurrers decided the day presented, 1 within 10 days and 1 later than 10 days. Of the 69 ruled upon, 54 were allowed, 14 denied, and 1 partially allowed and 1 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In all of the cases tried on the merits prior to July 1, 1934, there were 34 motions reported. Of this number 1 was withdrawn or not presented, and 4 were still pending July 1, 1935. Of the number disposed of 9 were presented within 10 days after they were filed, 7 from 10 to 30 days, and 13 more than 30 days. There were 29 motions decided the day presented. Of the 29 ruled upon, 23 were allowed, and 6 denied.

## EIGHTH DISTRICT

HON. C. M. CLARK, of Peabody, Judge  
SETH BARTER, JR., Clerk, Dickinson County  
GEO. J. WEBSTER, Clerk, Geary County  
PETER B. FLAMING, Clerk, Marion County  
J. A. BRUTON, Clerk, Morris County

counties: Dickinson, Geary, Marion and Morris. Area, 2,895 square  
population, 69,367; assessed value, \$115,277,026.

CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 371 civil  
other than divorce, tried on the merits or dismissed within the year  
June 30, 1935. Of this number 80 were dismissed before trial on the  
277 were tried to the court and 14 to the jury. In 264 cases no  
were filed. In 62 cases answers were filed within 30 days after the  
s were filed, in 26 cases from 30 to 60 days, in 15 cases from 60 days  
nths, and in 4 cases later than 6 months. There were 195 cases tried  
merits within 3 months of the time the petitions were filed, 63 cases  
o 6 months, 26 cases from 6 to 12 months, and 7 cases later than 12

In 232 cases the journal entries were filed the day of trial, in 36  
t the same day but within 10 days, in 15 cases in 10 to 30 days, and  
ses after 30 days. In 78 cases journal entries had not yet been filed.  
osts, amounting to \$13,624.72, were reported in 371 cases, showing a  
n of \$2.30, a maximum of \$1,197.93, and an average of \$36.56. There  
5 civil actions, other than divorce, pending July 1, 1935. Of this  
80 cases had been pending less than 3 months, 33 cases from 3 to 6  
18 cases from 6 to 12 months, 10 cases from 1 to 2 years, 3 cases from  
ears, and 2 cases from 3 to 4 years.

DIVORCE CASES—FORMS 3 AND 4. There were 112 divorce cases tried on the  
r dismissed within the year ending June 30, 1935. Of this number 35  
re dismissed before trial. In 56 cases the divorces were granted to  
a 19 cases to husbands and in 2 cases divorces were denied; 3 cases  
tested. The custody of 32 minor children was awarded to wives, and  
husbands. There was 1 case tried within 60 days after the petition  
l, 66 cases in 60 days to 6 months, and 5 cases after 6 months. The  
for divorce were: Gross neglect, 6 cases; extreme cruelty, 37 cases;  
ment, 25 cases; adultery, 4 cases; habitual drunkenness, 1 case, and  
ort, 2 cases. Court costs, amounting to \$881.54, were reported in  
s, showing a minimum of \$2.85, a maximum of \$200.90, and an average

There were 39 divorce cases pending July 1, 1935. Of this number  
had been pending less than 3 months, 3 cases from 3 to 6 months, 4  
m 6 months to 1 year, and 2 cases from 1 to 2 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 59 criminal cases disposed of  
the year ending June 30, 1935. Of this number 11 cases were dis-  
before trial on the merits. In 34 cases the defendants entered pleas  
r. There were 14 cases tried to a jury, resulting in 7 verdicts of  
ad 7 of not guilty. Trial was had within 10 days after the informa-  
filed in 3 cases, in 10 to 30 days in 6 cases, in 30 days to 3 months  
es, in 3 to 6 months in 1 case, and in 6 months to 1 year in 1 case.  
e information was filed was not reported in 6 cases. There were 5  
granted. Court costs, amounting to \$2,241.39, were reported in 57  
owing a minimum of \$1.45, a maximum of \$336.20, and an average of

\$39.25. There were 9 criminal cases pending July 1, 1935. Of these 3 had been pending less than 3 months, 8 from 3 to 6 months, 2 from 6 months to 1 year, and 2 from 2 to 4 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 129 motions or demurrers were reported. Of this number 1 was withdrawn or not presented, and 27 were still pending July 1, 1935. A number disposed of 47 were presented within 10 days after they were filed, 28 from 10 to 30 days, and 17 after 30 days. There were 87 motions or demurrers decided the day presented, 2 not the same day but within 10 days, 2 from 10 to 30 days and 1 after 30 days. Of the 92 ruled upon 59 were allowed, and 39 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 72 motions reported. Of these number 1 was withdrawn and 5 were still pending July 1, 1935. Of the 66 disposed of 35 were presented within 10 days after they were filed, 13 from 10 to 30 days, and 13 after 30 days. There were 64 motions or demurrers decided the day presented, 1 in 10 to 30 days and 1 after 30 days. Of the 66 ruled upon, 59 were allowed and 7 denied.

#### NINTH DISTRICT

HON. J. G. SOMERS, of Newton, Judge  
 LLOYD L. McMULLEN, Clerk, Harvey County  
 DONALD S. CLARK, Clerk, McPherson County  
 WALTER MEAD, Clerk, Reno County

Three counties: Harvey, McPherson and Reno. Area, 2,682 square miles; population, 102,697; assessed value, \$180,370,038.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 620 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 68 were dismissed before trial on the merits, 620 were tried to the court and 18 to the jury. In 480 cases answers were filed. In 103 cases answers were filed within 30 days after they were filed, in 62 cases from 30 to 60 days, in 41 cases from 60 to 90 days, and in 20 cases later than 6 months. There were 340 cases tried on the merits within 3 months of the time the petitions were filed, 135 from 3 to 6 months, 85 cases from 6 to 12 months, and 78 cases later than 12 months. In 432 cases the journal entries were filed the day of trial, in 37 cases not the same day but within 10 days, in 37 cases in 10 to 30 days, and in 34 cases after 30 days. In 137 cases journal entries had not yet been filed. Court costs, amounting to \$18,997.21, were reported in 701 cases, with a minimum of \$2.60, a maximum of \$1,560.05, and an average of \$27.10. There were 380 civil actions, other than divorce, pending July 1, 1935. Of this number 119 cases had been pending less than 3 months, 63 cases from 3 to 6 months, 74 cases from 6 to 12 months, 69 cases from 1 to 2 years, 10 cases from 2 to 3 years, 10 cases from 3 to 4 years, 8 cases from 4 to 5 years, and 5 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 311 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of these

s were dismissed before trial. In 186 cases the divorces were granted to in 47 to husbands, 2 cases were denied, and 4 cases were contested. The y of 131 minor children was awarded to wives and 16 to husbands. were 37 cases tried within 60 days after the petitions were filed, 170 from 60 days to 6 months, and 26 cases after 6 months. The grounds orce were: Gross neglect, 87 cases; extreme cruelty, 73 cases; abandon- 57 cases; adultery, 2 cases; habitual drunkenness, 8 cases; conviction of y, 3 cases; miscellaneous, 3 cases. Court costs, amounting to \$2,580.37, eported in 309 cases, showing a minimum of \$2.90, a maximum of , and an average of \$8.35. There were 149 divorce cases pending July . Of this number 20 cases had been pending less than 3 months, 61 from 3 to 6 months, 40 cases from 6 months to 1 year, 27 cases from years, and 1 case from 2 to 3 years.

MINAL CASES—FORMS 5 AND 6. There were 233 criminal cases disposed of the year ending June 30, 1935. Of this number 121 cases were dismissed trial on the merits. In 90 cases the defendants entered pleas of guilty. were 22 cases tried to a jury, resulting in 15 verdicts of guilty, 6 not y, and 1 hung jury. Trial was had within 10 days after the information ed in 4 cases, in 10 to 30 days in 7 cases, in 30 days to 3 months in , in 3 to 6 months in 5 cases, and in 6 months to 1 year in 2 cases. The information was filed was not reported in 26 cases. There were 20 paroles d. Court costs, amounting to \$7,419.17, were reported in 228 cases, g a minimum of \$3.25, a maximum of \$365.25, and an average of There were 50 criminal cases pending July 1, 1935. Of this number s had been pending less than 3 months, 8 from 3 to 6 months, 11 from hts to 1 year, 6 from 1 to 2 years, and 3 from 2 to 3 years. There were in which a transcript but no information was filed.

IONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were ed of during the year ending June 30, 1935, or which were pending July , 300 motions or demurrers were reported. Of this number 21 were wn or not presented, and 53 were still pending July 1, 1935. Of the r disposed of 101 were presented within 10 days after they were filed, n 10 to 30 days, and 69 after 30 days. There were 220 motions or ers decided the day presented, 2 within 10 days, and 4 after 30 days. 226 ruled upon, 112 were allowed, 95 denied, and 19 partially allowed enied.

IONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases tried merits prior to July 1, 1934, there were 79 motions reported. Of this r 2 were withdrawn or not presented, and 1 was still pending July 1, Of the number disposed of 49 were presented within 10 days after they led, 12 from 10 to 30 days, and 15 after 30 days. There were 74 motions d the day presented, 1 within 10 to 30 days, and 1 after 30 days. Of motions ruled upon, 64 were allowed and 12 denied.

## TENTH DISTRICT

HON. G. A. ROBERTS, of Olathe, Judge  
MABEL K. ADAMS, Clerk, Johnson County  
HUGH W. CAMPBELL, Clerk, Miami County

Two counties: Johnson and Miami. Area, 1,088 square miles; population, 46,383; assessed value, \$67,237,803.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 300 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 119 were dismissed before trial on the merits, 252 were tried to the court, 12 to the jury, and 2 removed to the court of appeals. In 241 cases no answers were filed. In 68 cases answers were filed within 30 days after the petitions were filed, in 36 cases from 30 to 60 days, in 28 cases from 60 days to 6 months, and in 12 cases later than 6 months. There were 140 cases tried on the merits within 3 months of the time the petitions were filed, 67 cases from 3 to 6 months, 36 cases from 6 to 12 months, and 22 cases after 12 months. In 222 cases the journal entries were filed the day of trial, in 38 cases not the same day but within 10 days, in 11 cases from 10 to 30 days, in 6 cases after 30 days. In 109 cases journal entries had not been filed. Court costs, amounting to \$10,443.60, were reported in 38 cases, showing a minimum of \$2.65, a maximum of \$209.35, and an average of \$26.94. There were 179 civil actions, other than divorce, pending July 1, 1935. Of this number, 63 cases had been pending less than 3 months, 21 cases from 3 to 6 months, 33 cases from 6 to 12 months, 34 cases from 1 to 2 years, 1 case from 2 to 3 years, 10 cases from 3 to 4 years, and 2 cases from 4 to 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 133 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 68 cases were dismissed before trial. In 68 cases the divorces were granted to wives, in 12 cases to husbands, 1 case was annulled and 3 cases were commuted. The custody of 53 minor children was awarded to wives and 1 to a husband. There were 3 cases tried within 60 days after the petitions were filed, 6 cases from 60 days to 6 months, and 10 cases after 6 months. The grounds for divorce were: Gross neglect, 33 cases; extreme cruelty, 7 cases; abandonment, 16 cases; insanity, 1 case; habitual drunkenness, 2 cases; and conviction of a felony, 3 cases. Court costs, amounting to \$1,156.13, were reported in 38 cases, showing a minimum of \$2.45, a maximum of \$124.70, and an average of \$30.42. There were 56 divorce cases pending July 1, 1935. Of this number 3 cases had been pending less than 3 months, 3 cases from 3 to 6 months, 10 cases from 6 months to 1 year, 10 cases from 1 to 2 years, and 1 case from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 101 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 43 cases were dismissed before trial on the merits. In 52 cases the defendants entered pleas of guilty. There were 6 cases tried to a jury, resulting in 5 verdicts of guilty and 1 of not guilty. Trial was had within 10 days after the information was filed in 1 case, in 30 days to 3 months in 4 cases, and within 3 to 6 months in 1 case. The date information was filed was not reported in 8 cases. Court costs, amounting to \$2,940.55, were reported in 81 cases, showing a minimum of \$5.60, a maximum of \$844.10, and an average of \$36.30. There were 10 criminal cases pending July 1, 1935. Of this number 6 cases had been pending less than 3 months, 1 case from 3 to 6 months, and 3 cases from 6 months to 1 year.

n 3 months, 2 from 3 to 6 months, 1 from 6 months to 1 year and 1 to 3 years. There were 5 cases in which a transcript but no information filed.

IONS AND DEMURRERS—FORMS 1 to 6. In all of the cases which were dismissed during the year ending June 30, 1935, or which were pending July 1, 1935, 11 motions or demurrers were reported. Of this number 9 were withdrawn or not presented, and 17 were still pending July 1, 1935. Of the number disposed of 123 were presented within 10 days after they were filed, 56 from 10 to 30 days, and 36 after 30 days. There were 205 motions or demurrers decided the day presented, 6 within 10 days, 2 in 10 to 30 days, and 2 after 30 days. Of the 215 ruled upon, 158 were allowed, 55 denied, and 2 were allowed and denied.

IONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases tried on the merits prior to July 1, 1934, there were 19 motions reported. Of this number 8 were presented within 10 days after they were filed, 5 from 10 to 30 days, and 6 after 30 days. There were 18 motions decided the day presented, 10 within 10 to 30 days. Of the 19 ruled upon all were allowed.

#### ELEVENTH DISTRICT

HON. V. J. BOWERSOCK, of Baxter Springs, Judge  
ERNEST MILTON, Clerk

county: Cherokee. Area, 602 square miles; population, 31,382; assessed value, \$23,925,106.

CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 97 civil cases other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 23 were dismissed before trial on the merits and 74 were tried to the court. In 97 cases no answers were filed. There were 54 cases tried on the merits within 3 months of the time the complaints were filed, 13 cases from 3 to 6 months, and 7 cases from 6 to 12 months. In 60 cases the journal entries were filed the day of trial, in 2 cases the same day but within 10 days, in 1 case in 10 to 30 days, and in 7 cases after 30 days. In 27 cases journal entries had not yet been filed. Court costs, amounting to \$5,384.13, were reported in 95 cases, showing a minimum of \$4, a maximum of \$750, and an average of \$56.68. There were 10 civil actions, other than divorce, pending July 1, 1935. Of this number 5 had been pending less than 3 months, 16 cases from 3 to 6 months, 13 cases from 6 to 12 months, 13 cases from 1 to 2 years, 11 cases from 2 to 3 years, 6 cases from 3 to 4 years, 17 cases from 4 to 5 years, and 39 cases over 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 110 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 69 cases were dismissed before trial. In 69 cases the divorces were granted to 37 husbands, 2 cases were denied, 2 cases were annulled and 2 cases were contested. The custody of 22 minor children was awarded to wives in 10 cases, to a husband in 1 case. There were 6 cases tried within 60 days after the petitions were filed, 63 cases from 60 days to 6 months, and 11 cases after 6 months. Grounds for divorce were: Gross neglect, 25 cases; extreme cruelty, 32 cases; abandonment, 12 cases; habitual drunkenness, 6 cases; and conviction for felony, 1 case. Court costs, amounting to \$647.62, were reported in 109 cases.

cases, showing a minimum of \$4.05, a maximum of \$42.90, and an average of \$5.94. There were 80 divorce cases pending July 1, 1935. Of this number 19 cases had been pending less than 3 months, 15 cases from 3 to 6 months, 17 cases from 6 months to 1 year, 11 cases from 1 to 2 years, 10 cases from 2 to 3 years, 1 case from 3 to 4 years, 3 cases from 4 to 5 years, and 4 cases over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 67 criminal cases disposed of within the year ending June 30, 1935. Of this number 28 cases were dismissed before trial on the merits. In 29 cases the defendants entered pleas of guilty. There were 11 cases tried to a jury, resulting in 5 verdicts of guilty, 1 of not guilty and 5 hung juries. Trial was had within 10 to 30 days after the information was filed in 4 cases, in 30 days to 3 months in 4 cases, in 3 to 6 months in 2 cases; in 6 months to 1 year, 1 case. The date information was filed was not reported in 14 cases. There were 4 paroles granted. Court costs, amounting to \$2,934.43, were reported in 67 cases, showing a minimum of \$5.10, a maximum of \$245.15, and an average of \$43.80. There were 23 criminal cases pending July 1, 1935. Of this number 9 cases had been pending less than 3 months, 2 cases from 3 to 6 months, 6 cases from 6 months to 1 year, and 6 cases from 1 to 2 years. There were 11 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 132 motions or demurrers were reported. Of this number 22 were withdrawn or not presented, and 10 were still pending July 1, 1935. Of the number disposed of 74 were presented within 10 days after they were filed, 12 from 10 to 30 days, and 14 after 30 days. There were 97 motions or demurrers decided the day presented, and 3 within 10 days. Of the 100 cases upon, 71 were allowed, 26 denied, and 3 partially allowed and denied. There were no motions in cases tried on the merits prior to July 1, 1934.

#### TWELFTH DISTRICT

HON. TOM KENNETT, of Concordia, Judge  
LAWRENCE JOHNSON, Clerk, Cloud County  
WM. R. GOODWIN, Clerk, Republic County  
J. W. HATTER, Clerk, Washington County

Three counties: Cloud, Republic and Washington. Area, 2,308 square miles; Population, 49,883; Assessed value, \$89,494,982.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 196 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 38 were dismissed before trial on the merits, 190 were tried to the court and 9 to the jury. In 166 cases answers were filed. In 26 cases answers were filed within 30 days after the petitions were filed, in 23 cases from 30 to 60 days, in 16 cases from 60 to 6 months, and in 6 cases later than 6 months. There were 140 cases tried on the merits within 3 months of the time the petitions were filed, 36 from 3 to 6 months, 17 cases from 6 to 12 months, and 6 cases later than 12 months. In 132 cases the journal entries were filed the day of trial, in 16 cases not the same day but within 10 days, in 16 cases in 10 to 30 days, and in 26 cases after 30 days. In 35 cases journal entries had not yet been filed. Court costs, amounting to \$6,396.23, were reported in 233 cases, showing



um of \$2.05, a maximum of \$239.13, and an average of \$27.45. There 106 civil actions, other than divorce, pending July 1, 1935. Of this er 47 cases had been pending less than 3 months, 15 cases from 3 to 6 s, 11 cases from 6 to 12 months, 23 cases from 1 to 2 years, 8 cases 2 to 3 years, 1 from 3 to 4 years, and 1 over 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 65 divorce cases tried on the or dismissed within the year ending June 30, 1935. Of this number 13 were dismissed before trial. In 45 cases the divorces were granted to in 7 cases to husbands, and 4 cases were contested. The custody of 36 children was awarded to wives, and 1 to a husband. There were 43 tried within 60 days to 6 months after the petitions were filed and 9 after 6 months. The grounds for divorce were: Gross neglect, 5 cases; he cruelty, 27 cases; abandonment, 17 cases; adultery, 1 case; insanity, and conviction of a felony, 1 case. Court costs, amounting to \$502.95 reported in 65 cases, showing a minimum of \$2.75, a maximum of \$30.55, n average of \$7.73. There were 18 divorce cases pending July 1, 1935. s number 12 cases had been pending less than 3 months, 3 cases from 3 onths, 1 case from 6 months to 1 year, and 2 cases from 1 to 2 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 59 criminal cases disposed thin the year ending June 30, 1935. Of this number 15 cases were dis- before trial on the merits. In 35 cases the defendants entered pleas of

There were 9 cases tried to a jury, resulting in 3 verdicts of guilty, ot guilty and 1 hung jury. Trial was had within 10 days after the in- icion was filed in 2 cases, in 10 to 30 days in 1 case, in 30 days to 3 s in 4 cases, and in 3 to 6 months in 2 cases. The date information was vas not reported in 8 cases. There were 15 paroles granted. Court am amounting to \$2,116.74, were reported in 58 cases, showing a minimum 60, a maximum of \$225.95, and an average of \$36.49. There were 7 al cases pending July 1, 1935. Of this number 4 had been pending less months, 2 from 3 to 6 months, and 1 from 6 months to 1 year.

CTIONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were ed of during the year ending June 30, 1935, or which were pending , 1935, 335 motions or demurrers were reported. Of this number 7 were awn or not presented and 40 were still pending July 1, 1935. Of the er disposed of 198 were presented within 10 days after they were filed, m 10 to 30 days, and 32 after 30 days. There were 288 motions or rers decided the day presented. Of the 97 ruled upon, 81 were allowed, id, and 3 partially allowed and denied.

CTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases tried merits prior to July 1, 1934, there were 63 motions reported. Of this r 1 was still pending, 22 were presented within 10 days after they were 9 from 10 to 30 days, and 11 after 30 days. There were 61 motions d the day presented, and 1 more than 30 days. Of the 62 ruled upon, 54 llowed, and 8 denied.

## THIRTEENTH DISTRICT

HON. A. T. AYRES, of Howard, Judge, First Division  
HON. GEORGE J. BENSON, of El Dorado, Judge, Second Division  
CHARLES G. SMITH, Clerk, Butler County  
R. S. FLOYD, Clerk, Chautauqua County  
MARY E. JOHNSON, Clerk, Elk County  
WARREN WILLIS, Clerk, Greenwood County

Four counties: Butler, Chautauqua, Elk and Greenwood. Area, 3,800 miles; Population, 67,908; Assessed value, \$113,805,009.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 135 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 130 were dismissed before trial on the merits, 307 were tried to the court and 16 to the jury. In 406 cases no answers were filed. In 32 cases answers were filed within 30 days after the petitions were filed, 6 cases from 30 to 60 days, 4 cases from 60 days to 6 months, and 5 cases later than 6 months. There were 179 cases tried on the merits within 3 months of the time the petitions were filed, 96 cases from 3 to 6 months, 37 cases from 6 to 12 months, and 11 cases later than 12 months. In 135 cases the journal entries were filed the day of trial, in 42 cases the same day but within 10 days, in 9 cases in 10 to 30 days, and in 11 cases in more than 30 days. In 256 cases journal entries had not yet been filed. Court costs, amounting to \$23,362.47, were reported in 442 cases, showing a minimum of \$1.15, a maximum of \$2,645.49, and an average of \$52.86. There were 92 actions, other than divorce, pending July 1, 1935. Of this number 92 cases had been pending less than 3 months, 35 cases from 3 to 6 months, 47 cases from 6 to 12 months, 17 cases from 1 to 2 years, 11 cases from 2 to 3 years, 9 cases from 3 to 4 years, 9 cases from 4 to 5 years, and 17 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 187 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 135 cases were dismissed before trial. In 95 cases the divorces were granted to wives, in 27 cases to husbands, and 9 cases were contested. The custody of 63 minor children was awarded to wives and 11 to husbands. There were 100 cases tried within 60 days after the petitions were filed, 100 cases from 3 to 6 months, and 12 cases after 6 months. The grounds for divorce were: Gross neglect, 32 cases; extreme cruelty, 61 cases; abandonment, 1 case; nonsupport, 4 cases; conviction of a felony, 2 cases; adultery, 1 case; and miscellaneous, 3 cases. Court costs, amounting to \$1,551.41, were reported in 100 cases, showing a minimum of \$2.65, a maximum of \$43.50, and an average of \$6.15. There were 96 divorce cases pending July 1, 1935. Of this number 96 cases had been pending less than 3 months, 14 cases from 3 to 6 months, 11 cases from 6 months to 1 year, 11 cases from 1 to 2 years, 8 cases from 2 to 3 years, 8 cases from 3 to 4 years, 1 case from 4 to 5 years and 3 cases over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 129 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 38 cases were dismissed before trial on the merits. In 67 cases the defendants entered pleas of guilty. There were 24 cases tried to a jury, resulting in 12 verdicts of guilty and 9 verdicts of not guilty, and 3 hung juries. Trial was had within 30 days after the information was filed in 4 cases, from 10 to 30 days in 6 cases, from 30 days to 3 months in 5 cases, in 3 to 6 months, 5 cases. The date

as filed was not reported in 31 cases. There were 32 paroles granted. Court costs, amounting to \$4,273.81, were reported in 127 cases, showing a minimum of \$0.95, a maximum of \$369.83, and an average of \$33.70. There were 1 criminal cases pending July 1, 1935. Of this number 16 cases had been pending less than 3 months, 15 from 3 to 6 months, 9 cases from 6 months to 1 year, and 1 case from 1 to 2 years.

MOTIONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were tried or disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 224 motions or demurrers were reported. Of this number 44 were disposed of during the year ending July 1, 1935, and 19 were withdrawn or not presented. Of the remainder 124 were presented within 10 days after they were filed, 17 from 10 to 30 days, and 17 after 30 days. There were 155 motions or demurrers decided the day presented, and 3 in 10 days and 3 in 10 to 30 days. Of the 17 ruled upon, 12 were allowed, and 5 denied.

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases tried on the merits prior to July 1, 1934, there were 55 motions reported. Of the remainder reported 4 were still pending. Of this number 23 were presented within 10 days after they were filed, 21 from 10 to 30 days and 7 after 30 days.

#### FOURTEENTH DISTRICT

HON. JOSEPH W. HOLDREN, of Independence, Judge  
CLYDE K. GAMBLE, Clerk

County: Montgomery. Area, 644 square miles; population, 51,389; assessed value, \$51,736,664.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 217 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 35 were dismissed before trial on the merits, 166 were tried to the court and 15 to the jury. In 132 cases no answers were filed. In 24 cases answers were filed within 30 days after the petitions were filed, in 22 cases from 30 to 60 days, in 27 cases from 60 days to 6 months, in 12 cases later than 6 months. There were 101 cases tried on the merits within 3 months of the time the petitions were filed, 34 cases from 3 to 6 months, 31 cases from 6 months to 1 year, and 16 cases later than 12 months. In 10 cases the journal entries were filed the day of trial, in 26 cases not the day but within 10 days, in 10 to 30 days in 25 cases, after 30 days in 11 cases. In 39 cases journal entries had not yet been filed. Court costs, amounting to \$6,730.60, were reported in 212 cases, showing a minimum of \$0.95, a maximum of \$204.88, and an average of \$31.32. There were 105 civil cases, other than divorce, pending July 1, 1935. Of this number 28 cases had been pending less than 3 months, 20 cases from 3 to 6 months, 16 cases from 6 to 12 months, 20 cases from 1 to 2 years, 8 cases from 2 to 3 years, 9 cases from 3 to 4 years, and 4 cases over 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 200 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 42 were dismissed before trial. In 118 cases the divorces were granted to the wives, in 35 cases to husbands, 5 cases were denied, and 25 cases were continued. The custody of 94 minor children was awarded to wives and 11 to husbands. There were 22 cases tried within 60 days after the petitions were filed, 116 cases from 60 days to 6 months, and 15 cases after 6 months. The

grounds for divorce were: Gross neglect, 38 cases; extreme cruelty, abandonment, 43 cases; adultery, 2 cases; nonsupport, 11 cases; drunkenness, 2 cases; conviction of a felony, 1 case; miscellaneous Court costs, amounting to \$1,986.55, were reported in 178 cases, with a minimum of \$4.50, a maximum of \$93.60, and an average of \$11.11. There were 82 divorce cases pending July 1, 1935. Of this number 38 cases had been pending less than 3 months, 17 cases from 3 to 6 months, 12 cases from 6 months to 1 year, 11 cases from 1 to 2 years, 2 cases from 2 to 3 years, 1 case from 4 to 5 years, and 1 case over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 90 criminal cases reported during the year ending June 30, 1935. Of this number 18 cases were dismissed before trial on the merits. In 59 cases the defendants entered pleas of guilty. There were 13 cases tried to a jury, resulting in 10 verdicts and 3 hung juries. Trial was had within 10 days after the information was filed in 2 cases, in 10 to 30 days in 2 cases, in 30 days to 3 months in 3 cases, in 3 to 6 months in 5 cases, in 6 months to 1 year in 1 case, and after 1 year in 1 case. The date information was filed was not reported in 54 cases. There were 9 paroles granted. Court costs, amounting to \$4,209.77, were reported in 91 cases, showing a minimum of \$3.95, a maximum of \$277.95, and an average of \$46.26. There were 35 criminal cases pending July 1, 1935. Of this number 10 cases had been pending less than 3 months, 8 cases from 3 to 6 months, 8 cases from 6 months to 1 year, 6 cases from 1 to 2 years, 1 case from 2 to 3 years, and 2 cases over 5 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 237 motions or demurrers were reported. Of this number 22 were withdrawn or not presented, and 22 were still pending July 1, 1935. Of the number disposed of 145 were presented within 10 days after they were filed, 35 from 10 to 30 days, and 23 after 30 days. There were 195 motions or demurrers decided the day presented, 5 within 10 days, and 3 after 10 days. Of the 203 ruled upon, 152 were allowed, 48 denied, and 3 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 38 motions reported. Of this number 2 were still pending July 1, 1935. Of the number disposed of 13 were presented within 10 days after they were filed, 13 from 10 to 30 days, and 13 after 30 days. There were 34 motions decided the day presented, 1 within 10 days, and 1 after 30 days. Of the 36 ruled upon all were allowed.

#### FIFTEENTH DISTRICT

HON. W. R. MITCHELL, of Mankato, Judge  
 BERNICE HOWARD, Clerk, Jewell County  
 HERBERT SHAFFER, Clerk, Mitchell County  
 B. F. BEESON, Clerk, Osborne County  
 RONALD McCLEIN, Clerk, Smith County

Four counties: Jewell, Mitchell, Osborne and Smith. Area, 3,390 square miles; Population, 50,258; Assessed value, \$88,867,591.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 67 civil actions, other than divorce, tried on the merits or dismissed without trial during the year ending June 30, 1935. Of this number 67 cases were dismissed without trial on the merits, 277 cases were tried to the court and 7 to the jury.

s no answers were filed. In 45 cases answers were filed within 30 days the petitions were filed, in 23 cases from 30 to 60 days, in 19 cases from 60 to 6 months, and in 6 cases later than 6 months. There were 159 cases tried on the merits within 3 months of the time the petitions were filed, 15 from 3 to 6 months, and 23 cases from 6 to 12 months and 5 after 12 months. In 205 cases the journal entries were filed the day of trial, in 15 cases not the same day but within 10 days and in 10 cases from 10 to 30 days and in 32 cases after 30 days. In 75 cases journal entries had not yet been filed. Court costs, amounting to \$10,551.39, were reported in 318 cases, showing a minimum of \$2.55, a maximum of \$327.55, and an average of \$33.18. There were 164 civil actions, other than divorce, pending July 1, 1935. Of this number 81 had been pending less than 3 months, 35 from 3 to 6 months, 14 from 6 months to 12 months, 14 from 1 to 2 years, 3 from 2 to 3 years and 2 longer than 3 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 81 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 14 cases were dismissed before trial. In 50 cases the divorces were granted to wives and in 16 cases to husbands, and in 1 case divorce was denied; 3 cases were denied. The custody of 3 minor children was awarded to wives and 1 to a husband. Of divorces granted, 5 cases were tried within 60 days after the petitions were filed, 56 from 60 days to 6 months, and 5 cases after 6 months. Grounds for divorce were: Gross neglect, 21 cases; extreme cruelty, 24 cases; abandonment, 13 cases; nonsupport, 5 cases; adultery 1 case; habitual drunkenness 1 case; conviction of a felony, 1 case. Court costs, amounting to \$1,000, were reported in 81 cases, showing a minimum of \$3, a maximum of \$100 and an average of \$8.93. There were 32 divorce cases pending July 1, 1935. Of this number 20 had been pending less than 3 months, 1 from 3 to 6 months, 4 from 6 months to 1 year, and 7 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 61 criminal cases disposed of within the year ending June 30, 1935. Of this number 13 cases were dismissed before trial on the merits. In 42 cases the defendants entered pleas of guilty. There were 6 cases tried to the jury, resulting in a verdict of guilty in 1 case, not guilty in 3 cases and a hung jury in 2 cases. Trial was completed within 10 days after the information was filed in 1 case, in 10 to 30 days in 2 cases, in 3 to 6 months in 1 case, in 6 months to 1 year in 1 case, and over 1 year in 1 case. The date information was filed was not reported in 1 case. There were 30 paroles granted. Court costs, amounting to \$1,000, were reported in 61 cases, showing a minimum of \$1.85, a maximum of \$100 and an average of \$19.60. There were 25 criminal cases pending July 1, 1935. Of this number 10 had been pending less than 3 months, 1 from 3 to 6 months, 4 from 6 months to 1 year, 3 from 1 to 2 years, 1 from 2 to 3 years, 2 from 3 to 4 years, 3 from 4 to 5 years and 1 longer than 5 years. There were 4 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were tried or disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 296 motions or demurrers were reported. Of this number 8 were withdrawn and 30 were still pending July 1, 1935. Of the number disposed of there were 15 presented within 10 days after they were filed, 51 from 10 to 30 days and 34 later than 30 days. There were 258 motions or demurrers de-

cided the day presented. Of the 258 ruled upon, 208 were allowed, 48 were denied, and 9 allowed in part and denied in part.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 87 motions reported. Of this number 1 was withdrawn and 1 was pending July 1, 1935. Of the 85 motions disposed of 46 were presented within 10 days after they were filed, 18 from 10 to 30 days, and 18 after 30 days. There were 79 motions decided. Of these 79 motions presented, 5 from 10 to 30 days, and 1 after 30 days. Of the 85 motions 78 were allowed, and 7 were denied.

#### SIXTEENTH DISTRICT

HON. L. E. GOODRICH, of Parsons, Judge  
H. L. LANE, Clerk

One county: Labette. Area, 643 square miles; population, 31,839; value, \$36,432,347.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 109 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 30 were dismissed before trial on the merits, 79 were tried to the court and 3 to the jury. In 94 cases motions were filed. In 11 cases answers were filed within 30 days after the motions were filed, in 3 cases from 30 to 60 days, in 1 case from 60 days to 3 months, and in 3 cases after 6 months. There were 46 cases tried on the merits. 3 months of the time the petitions were filed, 23 cases from 3 to 6 months, 3 cases from 6 to 12 months, and 5 cases later than 12 months. In 62 cases journal entries were filed the day of trial, in 23 cases not the same day, within 10 days, in 10 cases in 10 to 30 days, and in 9 cases after 30 days. In 8 cases journal entries had not yet been filed. Court costs, amounting to \$2,662.82, were reported in 109 cases, showing a minimum of \$4.90, a maximum of \$81.18, and an average of \$24.42. There were 56 civil actions, other than divorce, pending July 1, 1935. Of this number 17 cases had been pending more than 3 months, 10 cases from 3 to 6 months, 14 cases from 6 months to 1 year, 8 cases from 1 to 2 years, 4 cases from 2 to 3 years, 1 case from 3 to 4 years, and 2 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 106 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 30 cases were dismissed before trial. In 64 cases the divorces were granted to wives, in 19 cases to husbands, 2 cases were denied and 6 cases were pending. The custody of 40 minor children was awarded to wives, 7 to husbands, and 2 to other parties. There was 1 case tried within 60 days after the motions were filed, 75 cases from 60 days to 6 months, and 9 cases after 6 months. Grounds for divorce were: Extreme cruelty, 41 cases; abandonment, 15 cases; adultery, 3 cases; nonsupport, 15 cases; habitual drunkenness, 1 case; conviction of a felony, 1 case; and miscellaneous, 2 cases. Court costs, amounting to \$1,316.30, were reported in 94 cases, showing a minimum of \$4.90, a maximum of \$101.25, and an average of \$14. There were 29 divorces pending July 1, 1935. Of this number 22 cases had been pending more than 3 months, 6 cases from 3 to 6 months, and 1 case from 6 months to 1 year.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 23 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 5 cases were

trial on the merits. In 15 cases the defendants entered pleas of guilty. There were 3 cases tried to a jury, resulting in 2 verdicts of guilty and 1 of not guilty. Trial was had within 10 to 30 days after the information was filed in 1 case, in 30 days to 3 months in 1 case, and in 3 to 6 months in 1 case. There was 1 parole granted. Court costs, amounting to \$650.35, were reported in 15 cases, showing a minimum of \$6.90, a maximum of \$154.70, and an average of \$29.56. There were 5 criminal cases pending July 1, 1935. All had been pending from 3 to 6 months.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were pending at the end of the year ending June 30, 1935, or which were pending July 1, 1935, 19 motions or demurrers were reported. Of this number 17 were withdrawn or not presented, and 19 were still pending July 1, 1935. Of the 17 motions or demurrers disposed of 124 were presented within 10 days after they were filed, 10 in 10 to 30 days, and 24 after 30 days. There were 171 motions or demurrers decided the day presented, 6 within 10 days, 2 in 10 to 30 days, and 163 after 30 days. Of the 183 ruled upon, 118 were allowed, 52 denied, and 13 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 27 motions reported. Of this number 17 were presented within 10 days after they were filed, 7 from 10 to 30 days, and 3 after 30 days. There were 27 motions decided the day presented. Of the 27 ruled upon, 26 were allowed, and 1 denied.

#### SEVENTEENTH DISTRICT

HON. E. E. KITE, of St. Francis, Judge  
MINNIE A. LAWLESS, Clerk, Cheyenne County  
DOROTHY MCGEE, Clerk, Decatur County  
ETHEL BECHTOLDT, Clerk, Norton County  
L. R. HALBERT, Clerk, Phillips County  
IVY MORTON YOOS, Clerk, Rawlins County

**COUNTIES:** Cheyenne, Decatur, Norton, Phillips and Rawlins. Area, 1,000 square miles; population, 46,703; assessed value, \$58,713,874.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 265 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 51 were dismissed before trial on the merits, 162 were tried to the court and 2 to the jury. In 211 cases no answers were filed. In 15 cases answers were filed within 30 days after the petitions were filed, in 20 cases from 30 to 60 days, in 16 cases from 60 days to 6 months, in 3 cases later than 6 months. There were 131 cases tried on the merits within 3 months of the time the petitions were filed, 51 cases from 3 to 6 months, 28 cases from 6 to 12 months, and 4 cases later than 12 months. In 15 cases the journal entries were filed the day of trial, in 27 cases not the day but within 10 days, in 20 cases in 10 to 30 days, and in 45 cases after 30 days. In 47 cases journal entries had not yet been filed. Court costs, amounting to \$7,629.61, were reported in 253 cases, showing a minimum of \$2, a maximum of \$1,615, and an average of \$30.16. There were 127 civil actions, other than divorce, pending July 1, 1935. Of this number 53 cases had been pending less than 3 months, 16 from 3 to 6 months, 39 from 6 to 12 months, 1 from 1 to 2 years, and 2 from 2 to 3 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 81 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number

14 cases were dismissed before trial. In 52 cases the divorces were granted to wives, in 15 cases to husbands, and 4 cases were contested. The custody of minor children was awarded to wives and 6 to husbands. There were 52 cases tried within 60 days, after the petitions were filed, 52 from 60 days to 6 months, and in 8 cases after 6 months. The grounds for divorce were: neglect, 3 cases; extreme cruelty, 27 cases; abandonment, 31 cases; non-support, 6 cases. Court costs, amounting to \$699.41, were reported in 80 cases, a minimum of \$3, a maximum of \$40.05, and an average of \$8.74. There were 24 divorce cases pending July 1, 1935. Of this number 17 cases had been pending less than 3 months, 5 cases from 3 to 6 months, 1 from 6 months to 1 year, and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 48 criminal cases disposed of within the year ending June 30, 1935. Of this number 16 cases were dismissed before trial on the merits. In 27 cases the defendants entered pleas of guilty. There were 5 cases tried to the jury, resulting in 4 verdicts of guilty and 1 of not guilty. There were 8 cases in which the date information was filed was not reported. There were 16 paroles granted. Court costs, amounting to \$517.40, were reported in 33 cases, showing a minimum of \$3, a maximum of \$105.20, and an average of \$15.68. There were 14 criminal cases pending July 1, 1935. Of this number 2 had been pending less than 3 months, 8 from 3 to 6 months, and 4 from 6 to 12 months.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 111 motions or demurrers were reported. Of this number 19 were withdrawn or not presented and 19 were still pending July 1, 1935. Of the number disposed of 46 were presented within 10 days after they were filed, 12 from 10 to 30 days, and 15 after 30 days. There were 72 motions or demurrers decided the day presented and 1 more than 30 days. Of the 65 ruled upon 65 were allowed and 8 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases disposed of on the merits prior to July 1, 1934, there were 43 motions reported. Of this number 2 were withdrawn or not presented and 3 were still pending July 1, 1935. Of the number disposed of 13 were presented within 10 days after they were filed, 11 from 10 to 30 days, and 9 after 30 days. There were 38 motions or demurrers decided the day presented. Of the 38 ruled upon, 33 were allowed and 4 and 1 partially allowed and denied.

#### EIGHTEENTH DISTRICT

HON. ROSS McCORMICK, of Wichita, Judge, First Division  
 HON. R. L. NESMITH, of Wichita, Judge, Second Division  
 HON. GROVER PIERPONT, of Wichita, Judge, Third Division  
 HON. I. N. WILLIAMS, of Wichita, Judge, Fourth Division

One county: Sedgwick. Area, 994 square miles; population, 128,000; assessed value, \$182,576,427.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 585 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 585 were dismissed before trial on the merits, 753 were tried to the court, 68 to the jury, and 4 were removed to the federal court. In 865 cases no answers were filed. In 123 cases answers were filed within 30 days after the petitions were filed, in 158 cases



days, in 224 cases from 60 days to 6 months, and in 36 cases later than 6 months. There were 502 cases tried on the merits within 3 months of the date the petitions were filed, 179 cases from 3 to 6 months, 90 cases from 6 to 12 months, and 50 cases later than 12 months. In 445 cases the journal entries showed the day of trial, in 263 cases not the same day but within 10 days, 105 cases in 10 to 30 days, and in 38 cases after 30 days. In 10 cases journal entries had not yet been filed. Court costs, amounting to \$35,430.89, were reported in 1,410 cases, showing a minimum of \$2.75, a maximum of \$458.85, and an average of \$25.12. There were 787 civil actions, other than divorce, pending July 1, 1935. Of this number 267 cases had been pending less than 3 months, 152 cases from 3 to 6 months, 168 cases from 6 to 12 months, 137 cases from 1 to 2 years, and 63 cases from 2 to 3 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 1,107 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 532 cases were dismissed before trial. In 532 cases the divorces were granted on the merits, in 120 cases to husbands, 1 case was denied, and 59 cases were continued. The custody of 299 minor children was awarded to wives, 52 to husbands, 2 to third party, 6 to children's homes. There were 78 cases tried 60 days after the petitions were filed, 500 cases from 60 days to 6 months, and 74 cases after 6 months. The grounds for divorce were: Gross neglect, 214 cases; extreme cruelty, 321 cases; abandonment, 105 cases; adultery, 1 case; habitual drunkenness, 3 cases; conviction of a felony, 4 cases; and miscellaneous, 4 cases. Court costs, amounting to \$11,856.04, were reported in 1,077 cases, showing a minimum of \$3.10, a maximum of \$47.65, and an average of \$10.71. There were 589 divorce cases pending July 1, 1935. Of this number 259 cases had been pending less than 3 months, 132 cases from 3 to 6 months, 141 cases from 6 months to 1 year, 53 cases from 1 to 2 years, and 4 cases from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 617 criminal cases disposed of within the year ending June 30, 1935. Of this number 300 cases were disposed of before trial on the merits. In 284 cases the defendants entered pleas of guilty. There were 20 cases tried to a jury, resulting in 11 verdicts of guilty and 9 of not guilty. Trial was had within 10 days after the information was filed in 1 case, in 10 to 30 days in 3 cases, in 30 days to 3 months in 4 cases, in 3 to 6 months in 9 cases, and in 6 months to 1 year in 3 cases. The information was filed was not reported in 431 cases. There were 187 cases granted. Court costs, amounting to \$15,137.41, were reported in 617 cases, showing a minimum of \$5.45, a maximum of \$322, and an average of \$24.35. There were 223 criminal cases pending July 1, 1935. Of this number 105 cases had been pending less than 3 months, 38 cases from 3 to 6 months, 47 cases from 6 months to 1 year, and 28 cases from 1 to 2 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 795 motions or demurrers were reported. Of this number 99 were granted or not presented, and 94 were still pending July 1, 1935. Of the 696 disposed of 339 were presented within 10 days after they were filed, 105 from 10 to 30 days, and 80 after 30 days. There were 544 motions or demurrers decided the day presented, 8 within 10 days, 24 from 10 to 30

days, and 26 after 30 days. Of the 602 ruled upon, 456 were allowed, 44 denied, and 29 partially allowed and denied.

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases on the merits prior to July 1, 1934, there were 71 motions reported. Of these, 11 were still pending July 1, 1935. Of the number disposed of, 29 were presented within 10 days after they were filed, 29 from 10 to 30 days after 30 days. There were 60 motions decided the day presented. Of these ruled upon, 46 were allowed and 14 denied.

#### NINETEENTH DISTRICT

HON. O. P. FULLER, of Winfield, Judge  
MISS MARIE SNYDER, Clerk

One county: Cowley. Area, 1,133 square miles; population, 37,411; value, \$59,132,933.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 236 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 96 were dismissed before trial on the merits, 236 were tried to the court and 25 to the jury. In 225 cases answers were filed. In 47 cases answers were filed within 30 days after the petitions were filed, in 41 cases from 30 to 60 days, in 30 cases from 60 days to 6 months, and in 14 cases later than 6 months. There were 166 cases tried on the merits within 3 months of the time the petitions were filed, 53 cases from 3 to 6 months, 28 cases from 6 to 12 months, and 14 cases later than 12 months. In 99 cases the journal entries were filed the day of trial, in 119 cases the same day but within 10 days, in 31 cases in 10 to 30 days, and in 13 cases after 30 days. In 95 cases journal entries had not yet been filed. Court costs amounting to \$8,949.49, were reported in 357 cases, showing a minimum of \$2.65, a maximum of \$301.31, and an average of \$22.21. There were 236 actions, other than divorce, pending July 1, 1935. Of this number 11 had been pending less than 3 months, 52 from 3 to 6 months, 38 from 6 months to 1 year, 49 from 1 to 2 years, 22 from 2 to 3 years, 11 from 3 to 4 years, 4 to 5 years, and 6 over 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 163 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 90 cases were dismissed before trial. In 90 cases the divorces were granted to wives, in 30 cases to husbands, 2 annulled, and 2 cases were contested. Custody of 37 minor children was awarded to wives and 8 to husbands. In 13 cases trial was within 60 days after the petitions were filed, 26 from 60 days to 6 months, and 9 cases after 6 months. The grounds for divorce were: Gross neglect, 20 cases; extreme cruelty, 56 cases; abandonment, 26 cases; adultery, 1 case; nonsupport, 14 cases; insanity, 2 cases; conviction of a felony, 2 cases; and miscellaneous, 2 cases. Court costs, amounting to \$1,375.58, were reported in 163 cases, showing a minimum of \$3.05, a maximum of \$34.60, and an average of \$8.56. There were 95 divorce cases pending July 1, 1935. Of this number 41 cases had been pending less than 3 months, 20 from 3 to 6 months, 20 cases from 6 months to 1 year, 21 cases from 1 to 2 years, 3 cases from 2 to 3 years, and 1 case from 3 to 4 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 68 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 19 cases were

trial on the merits. In 42 cases the defendants entered pleas of guilty. There were 7 cases tried to a jury, resulting in 3 verdicts of guilty, 1 verdict of not guilty, and 3 hung juries. Trial was had within 10 to 30 days after the petition was filed in 4 cases, in 30 days to 3 months, in 1 case; in 3 to 6 months, in 2 cases. The date information was filed was not reported in 4 cases. There were 12 paroles granted. Court costs, amounting to \$2,131.09, were reported in 65 cases, showing a minimum of \$5.35, a maximum of \$147.75, and an average of \$32.99. There were 13 criminal cases pending July 1, 1935. Of this number 10 cases had been pending less than 3 months, 2 cases from 3 to 6 months, and 1 case from 6 months to 1 year. There was 1 case in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were reported during the year ending June 30, 1935, or which were pending July 1, 1935, 293 motions or demurrers were reported. Of this number 10 were withdrawn or not presented, and 17 were still pending July 1, 1935. Of the remainder disposed of 143 were presented within 10 days after they were filed, 100 from 10 to 30 days, and 54 after 30 days. There were 265 motions or demurrers decided the day presented, and 1 within 10 days. Of the 266 ruled upon 217 were allowed, 34 denied, and 15 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 12 motions reported. Of this number 1 was withdrawn or not presented. Of the number disposed of 11 were presented after 30 days. There were 11 motions decided the day presented. Of the 11 ruled upon 10 were allowed, and 1 denied.

## TWENTIETH DISTRICT

HON. RAY H. BEALS, of St. John, Judge  
 JACK MORRISON, JR., Clerk, Barton County  
 L. A. HALLOWAY, Clerk, Rice County  
 GERTRUDE BARTLE, Clerk, Stafford County

Three counties: Barton, Rice and Stafford. Area, 2,395 square miles; population, 45,818; assessed value, \$99,372,900.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 379 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 58 were dismissed before trial on the merits, 319 were tried to the court and 2 to the jury. In 287 cases no answers were filed. In 35 cases answers were filed within 30 days after the petition was filed, in 26 cases from 30 to 60 days, in 20 cases from 60 days to 3 months, and in 11 cases later than 6 months. There were 181 cases tried on the merits within 3 months of the time the petitions were filed, 91 cases from 3 to 6 months, 15 cases from 6 to 12 months, 33 later than 12 months, and 1 case was removed to the federal court. In 309 cases the journal entries were filed the day of trial, in 10 cases not the same day but within 10 days, in 10 to 30 days, and 7 cases later than 30 days. In 44 cases journal entries had not yet been filed. Court costs, amounting to \$8,886.20, were reported in 372 cases, showing a minimum of \$2.05, a maximum of \$275, and an average of \$23.88. There were 138 civil actions, other than divorce, pending July 1, 1935. Of this number 61 had been pending less than 3 months, 27 from 3 to 6 months, 21 from 6 to 12 months, 18 from 1 to 2 years, 8 from 2 to 3 years, and 3 from 3 to 4 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 100 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 34 cases were dismissed before trial. In 64 cases the divorces were granted to wives and in 16 cases to husbands. There were contests in 6 cases. Custody of 48 minor children was awarded to wives and 4 to husbands. There were 2 cases tried within 60 days after the petition was filed, 72 cases within 60 days to 6 months, and 6 cases more than 6 months. The grounds for divorce were: Gross neglect, 1 case; extreme cruelty, 42 cases; abandonment, 33 cases; nonsupport, 3 cases; conviction of a felony, 1 case. Court costs amounting to \$685.43, were reported in 100 cases, showing a minimum of \$20.10, a maximum of \$20.10 and an average of \$6.85. There were 51 divorces pending July 1, 1935. Of this number 25 had been pending less than 3 months, 9 from 3 to 6 months, 11 from 6 months to 1 year, 3 from 1 to 2 years, and 2 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 76 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 26 cases were dismissed before trial on the merits. In 36 cases the defendants entered pleas of guilty. There were 14 cases tried to a jury, resulting in 7 verdicts of guilty and 7 of not guilty. Trial was had within 10 days after the information was filed in 4 cases, in 10 to 30 days in 2 cases, in 30 days to 3 months in 2 cases, and in 6 months to 1 year in 4 cases. The date information was filed was not reported in 2 cases. There were 12 paroles granted. Court costs aggregating \$3,192.86, were reported in 75 cases, showing a minimum of \$42.57, a maximum of \$416.10, and an average of \$42.57. There were 16 criminal cases pending July 1, 1935. Of this number 6 had been pending less than 3 months, 3 from 3 to 6 months, 4 from 6 months to 1 year, and 3 from 1 to 2 years. There were 7 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 189 motions or demurrers were reported. Of this number 33 were withdrawn or not presented and 33 were still pending July 1, 1935. Of the number disposed of 102 were presented within 10 days after they were filed, 21 from 10 to 30 days, and 20 after 30 days. There were 143 motions or demurrers decided the day presented, 1 within 10 days, and 1 than 30 days. Of the 143 ruled upon, 100 were allowed, 39 denied, and 4 partially allowed and denied.

**MOTIONS AND CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 29 motions reported. Of this number 2 were withdrawn or not presented. Of the number disposed of 10 were presented within 10 days after they were filed, 5 from 10 to 30 days, and 3 later than 30 days. There were 27 motions decided the day presented, 21 the 27 ruled upon, 21 were allowed and 6 denied.

## TWENTY-FIRST DISTRICT

HON. EDGAR C. BENNETT, of Marysville, Judge  
HAROLD CRAWFORD, Clerk, Clay County  
WALLACE J. KOPPEL, Clerk, Marshall County  
HALL McCORD, Clerk, Riley County

Counties: Clay, Marshall and Riley. Area, 2,147 square miles; population, 56,865; assessed value, \$93,999,029.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 279 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 67 were dismissed before trial on the merits, 207 were tried to the court and 5 to the jury. In 204 cases no answers were filed. In 44 cases answers were filed within 30 days after the petitions were filed, in 17 cases from 30 to 60 days, in 10 cases from 60 days to 6 months, and in 15 cases later than 6 months. There were 165 cases tried on the merits within 30 days of the time the petitions were filed, 27 cases from 3 to 6 months, 12 cases from 6 to 12 months, and 8 cases later than 12 months. In 176 cases the petitions were filed the day of trial, in 20 cases not the same day but within 30 days, in 15 cases in 10 to 30 days, and in 20 cases after 30 days. In 48 cases the petitions were filed but no answers had not yet been filed. Court costs, amounting to \$10,267.05, were reported in 279 cases, showing a minimum of \$2.75, a maximum of \$21, and an average of \$36.73. There were 142 civil actions, other than divorce, pending July 1, 1935. Of this number 71 cases had been pending less than 3 months, 31 cases from 3 to 6 months, 19 cases from 6 to 12 months, 11 cases from 1 to 2 years, 7 cases from 2 to 3 years, 2 from 3 to 4 years, and 1 from 4 to 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 84 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 15 were dismissed before trial. In 46 cases the divorces were granted to the wives, in 22 cases to husbands, 1 case was denied and 5 cases were contested. Custody of 30 minor children was awarded to wives, 4 to husbands, and 2 to both parties. There was 1 case tried within 60 days after the petition was filed, 12 from 60 days to 6 months and 6 cases after 6 months. The grounds for divorce were: Gross neglect, 4 cases; extreme cruelty, 33 cases; abandonment, 29 cases; adultery, 1 case; and conviction of a felony, 1 case. Court costs, amounting to \$972.17, were reported in 83 cases, showing a minimum of \$5, a maximum of \$68.75, and an average of \$11.71. There were 39 divorce cases pending July 1, 1935. Of this number 24 cases had been pending less than 3 months, 8 from 3 to 6 months, 2 from 6 months to 1 year, and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 62 criminal cases disposed of within the year ending June 30, 1935. Of this number 10 cases were dismissed before trial on the merits. In 40 cases the defendants entered pleas of guilty. In 12 cases tried to a jury, resulting in 5 verdicts of guilty, and 7 cases of guilty. Trial was had within 10 days after the information was filed in 10 cases, in 10 to 30 days in five cases, in 30 days to 3 months in 1 case, in 3 to 6 months in 4 cases, and from 6 months to 1 year in 1 case. The date of trial was not reported in 9 cases. There were 2 paroles granted. Court costs, amounting to \$2,993.88, were reported in 61 cases, showing a minimum of \$4.80; a maximum of \$634.85, and an average of \$49.16.

There were 17 criminal cases pending July 1, 1935. Of this number had been pending less than 3 months, 6 cases from 3 to 6 months, 6 months to 1 year, 1 from 1 to 2 years, and 2 from 2 to 3 years. There were 8 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 214 motions or demurrers were reported. Of this number 15 were drawn or not presented, and 16 were still pending July 1, 1935. Of the 183 disposed of 124 were presented within 10 days after they were filed, 40 from 10 to 30 days, and 20 after 30 days. There were 183 motions or demurrers decided the day presented. Of the 183 ruled upon, 165 were allowed, 17 denied, and 2 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 27 motions reported. Of this number 1 was withdrawn or not presented, and 1 was still pending July 1, 1935. Of the number disposed of 7 were presented within 10 days after they were filed, 14 from 10 to 30 days, and 4 after 30 days. There were 25 motions or demurrers decided the day presented. Of the 25 ruled upon, 13 were allowed, 11 denied, and 1 partially allowed and denied.

#### TWENTY-SECOND DISTRICT

HON. C. W. RYAN, of Wathena, Judge  
H. H. ZIMMERMAN, Clerk, Brown County  
L. D. SWIGGETT, Clerk, Doniphan County  
CLIFFORD HANNUN, Clerk, Nemaha County

Three counties: Brown, Doniphan and Nemaha. Area, 1,665 square miles; population, 53,417; assessed value, \$86,924,408.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 295 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 84 were dismissed before trial on the merits, 205 were tried to the court and 23 to the jury. In 294 cases no answers were filed. In 32 cases answers were filed within 30 days after the petitions were filed, in 22 cases from 30 to 60 days, in 35 cases from 60 days to 6 months, and in 19 cases later than 6 months. There were 149 cases tried on the merits within 3 months of the time the petitions were filed, 65 cases from 3 to 6 months, 56 cases from 6 to 12 months, and 48 cases later than 12 months. In 34 cases the journal entries were filed the day of trial, in 100 cases the same day but within 10 days, in 138 cases in 10 to 30 days, and in 123 cases after 30 days. In 54 cases journal entries had not yet been filed. Costs, amounting to \$11,935.58, were reported in 393 cases, showing a minimum of \$2, a maximum of \$211.20, and an average of \$30.37. There were 68 actions, other than divorce, pending July 1, 1935. Of this number 68 cases had been pending less than 3 months, 29 cases from 3 to 6 months, 21 cases from 6 to 12 months, 16 cases from 1 to 2 years, 3 cases from 2 to 3 years, and 2 cases over 3 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 67 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 36 cases were dismissed before trial. In 36 cases the divorces were granted to wives, in 15 cases to husbands, 10 cases were contested and 1 case was denied. The custody of 21 minor children was awarded to wives and 1 to husbands.

ds. There were 2 cases tried within 60 days after the petition was  
2 cases from 60 days to 6 months, and 7 cases after 6 months. The  
s for divorce were: Gross neglect, 27 cases; extreme cruelty, 2 cases;  
nment, 20 cases; insanity, 1 case; and conviction of a felony, 1 case.  
costs, amounting to \$920.33, were reported in 67 cases, showing a  
um of \$3.15, a maximum of \$138.20, and an average of \$13.75. There  
2 divorce cases pending July 1, 1935. Of this number 12 cases had been  
g less than 3 months, 5 cases from 3 to 6 months, 3 cases from 6 months  
ear, 1 from 1 to 2 years, and 1 case over 5 years.

MINAL CASES—FORMS 5 AND 6. There were 42 criminal cases disposed  
in the year ending June 30, 1935. Of this number 10 cases were dis-  
before trial on the merits. In 25 cases the defendants entered pleas  
ty. There were 7 cases tried to the jury, resulting in 4 verdicts of  
and 2 verdicts of not guilty. Trial was had within 10 days after the  
ation was filed in 2 cases, in 10 to 30 days in 2 cases, in 30 days to 3  
s in 2 cases and from 3 to 6 months in 1 case. There were 9 paroles  
l. Court costs, amounting to \$1,214.16, were reported in 36 cases,  
g a minimum of \$2.15, a maximum of \$131.35, and an average of \$33.73.  
were 11 criminal cases pending July 1, 1935. All had been pending  
an 3 months. There were 3 cases in which a transcript but no informa-  
as filed.

IONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were  
d of during the year ending June 30, 1935, or which were pending  
, 1935, 398 motions or demurrers were reported. Of this number 11  
ithdrawn or not presented, and 8 were still pending July 1, 1935. Of  
mber disposed of 225 were presented within 10 days after they were  
6 from 10 to 20 days, and 67 after 30 days. There were 378 motions  
urrers decided the day presented and 1 within 10 days. Of the 379  
upon, 294 were allowed and 76 denied, and 9 partially allowed and

IONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases tried  
merits prior to July 1, 1934, there were 35 motions reported. Of the  
ar disposed of 17 were presented within 10 days after they were filed,  
n 10 to 30 days, and 2 after 30 days. There were 34 motions decided  
y presented and 1 from 10 to 30 days. Of the 35 motions ruled upon,  
e allowed and 5 were denied.

## TWENTY-THIRD DISTRICT

HON. HERMAN LONG, of Wakeeney, Judge  
C. J. WERTH, Clerk, Ellis County  
J. B. CHENOWETH, Clerk, Gove County  
ALFRED ROGGE, Clerk, Logan County  
GEORGE W. BRANDT, Clerk, Russell County  
J. W. BINGHAM, Clerk, Trego County  
IDA WARD, Clerk, Wallace County

counties: Ellis, Gove, Logan, Russell, Trego and Wallace. Area, 5,778  
miles; population, 45,519; assessed value, \$72,951,953.

L CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 443 civil  
s, other than divorce, tried on the merits or dismissed within the year  
June 30, 1935. Of this number 102 were dismissed before trial on the  
331 were tried to the court and none to the jury. In 315 cases no

answers were filed. In 49 cases answers were filed within 30 days; 16 petitions were filed, in 22 cases from 30 to 60 days, in 34 cases from 60 to 6 months and in 13 cases later than 6 months. There were 172 cases on the merits within 3 months of the time the petitions were filed, 84 cases from 3 to 6 months, 46 cases from 6 to 12 months, and 29 cases after 12 months. In 288 cases the journal entries were filed the day of trial, in 22 cases the same day but within 10 days, in 19 cases in 10 to 30 days, and in 38 cases after 30 days. In 68 cases journal entries had not yet been filed. Court costs, amounting to \$9,447.24, were reported in 423 cases, showing a minimum of \$1.00, a maximum of \$291.16, and an average of \$22.33. There were 297 civil cases other than divorce, pending July 1, 1935. Of this number 103 had been tried, 58 less than 3 months, 58 from 3 to 6 months, 53 from 6 to 12 months, 17 from 1 to 2 years, 17 from 2 to 3 years, 6 from 3 to 4 years, 2 from 4 to 5 years, and 1 more than 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 63 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of these 16 were dismissed before trial on the merits. In 39 cases the divorces were granted to wives and in 7 cases to husbands. Divorce was denied in 1 case; 1 case was contested. Custody of 55 minor children was awarded to wives in 37 cases and to husbands in 18 cases. There were 4 cases tried within 60 days after the petitions were filed, 29 cases in 60 days to 6 months, and 14 cases after 6 months. Grounds for divorce were: Gross neglect, 10 cases; extreme cruelty, 10 cases; abandonment, 18 cases; nonsupport, 1 case; habitual drunkenness, 1 case. Court costs, amounting to \$601.20, were reported in 62 cases, showing a minimum of \$92.55, a maximum of \$65.38, and an average of \$9.70. There were 29 divorce cases pending July 1, 1935. Of this number 13 had been tried, 10 less than 3 months, 5 from 3 to 6 months, 4 from 6 months to 1 year, and 1 more than 1 year.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 58 criminal cases disposed of within the year ending June 30, 1935. Of this number 16 cases were disposed of before trial on the merits. In 31 cases the defendants entered pleas of guilty. There were 11 cases tried to a jury, resulting in 6 verdicts of guilty and 5 of not guilty. Trial was had within 10 days after the information was filed in 16 cases, in 10 to 30 days in 1 case, in 30 days to 3 months in 3 cases, in 3 to 6 months in 4 cases and from 6 months to 1 year in 1 case. Parole was granted in 7 cases. The date information was filed was not reported in 1 case. Court costs, amounting to \$1,723.35, were reported in 57 cases, showing a minimum of \$1, a maximum of \$121.13, and an average of \$30.23. There were 34 criminal cases pending July 1, 1935. Of this number 8 cases had been tried, 5 pending less than 3 months, 6 cases from 3 to 6 months, 10 cases from 6 months to 1 year, 4 cases from 1 to 2 years, 2 cases from 2 to 3 years, 1 case from 3 to 4 years, and 1 case from 4 to 5 years. There were 3 cases on which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending on June 30, 1935, 189 motions or demurrers were reported. Of this number 17 were drawn or not presented, and 44 were still pending July 1, 1935. Of the 127 cases disposed of 86 were presented within 10 days after they were filed, 21 from 10 to 30 days, and 21 after 30 days. There were 127 motions or demurrers reported.



s decided the day presented, and 1 after 30 days. Of the 128 ruled 1 were allowed, 46 denied, and 1 allowed in part and denied in part.

IONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6 a. In cases tried merits prior to July 1, 1934, there were 55 motions reported. Of this 4 were withdrawn or not presented, and 4 were still pending July 1, Of the number disposed of 7 were presented within 10 days after they ed, 10 from 10 to 30 days, and 30 after 30 days. There were 41 motions the day presented, 1 in 10 to 30 days, and 5 after 30 days. Of the d upon, 36 were allowed, and 11 denied.

#### TWENTY-FOURTH DISTRICT

HON. GEO. L. HAY, of Kingman, Judge  
EDITH MYERS, Clerk, Barber County  
ED C. WOLFF, Clerk, Harper County  
NELL H. WALTER, Clerk, Kingman County  
ROY D. SKELTON, Clerk, Pratt County

counties: Barber, Harper, Kingman and Pratt. Area, 3,526 square population, 46,176; assessed value, \$92,866,356.

CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 353 tions, other than divorce, tried on the merits or dismissed within the ading June 30, 1935. Of this number 81 were dismissed before trial merits, 257 were tried to the court and 14 to the jury, and 1 to a

In 232 cases no answers were filed. In 54 cases answers were filed 30 days after the petitions were filed, in 37 cases from 30 to 60 days, ases from 60 days to 6 months, and in 7 cases later than 6 months. ere 159 cases tried on the merits within 3 months of the time the s were filed, 79 cases from 3 to 6 months, 24 cases from 6 to 12 months cases after 12 months. In 167 cases the journal entries were filed the trial, in 36 cases not the same day but within 10 days, in 41 cases in 0 days, and in 22 cases after 30 days. In 87 cases journal entries had e been filed. Court costs, amounting to \$9,073.62, were reported in es, showing a minimum of \$3.85, a maximum of \$196.90, and an average \$2. In 1 case there were 2 trials. There were 146 civil actions, other orce, pending July 1, 1935. Of this number 61 had been pending less months, 30 from 3 to 6 months, 27 from 6 to 12 months, 19 from 1 to 6 from 2 to 3 years, 2 from 3 to 4 years, and 1 from 4 to 5 years.

ORCE CASES—FORMS 3 AND 4. There were 93 divorce cases tried on the or dismissed within the year ending June 30, 1935. Of this number 23 ere dismissed before trial. In 55 cases the divorces were granted to nd in 13 cases to husbands; 2 cases were denied and 4 contested. The of 41 minor children was awarded to wives and 7 to husbands. There ase tried within 60 days after the petition was filed, 65 from 60 days to hs and 4 cases after 6 months. The grounds for divorce were: Gross 2 cases extreme cruelty, 30 cases; abandonment, 30 cases; drunken- case; nonsupport, 5 cases; and conviction of a felony, 2 cases. Court mounting to \$822.89 were reported in 92 cases, showing a minimum of maximum of \$52.20, and an average of \$8.44. There were 32 divorce ending July 1, 1935. Of this number 18 had been pending less than 3 , 9 from 3 to 6 months, and 5 from 6 months to 1 year.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 52 criminal cases of within the year ending June 30, 1935. Of this number 19 cases were dismissed before trial on the merits. In 21 cases the defendants entered verdicts of guilty. There were 12 cases tried to a jury, resulting in 7 verdicts of guilty, 4 of not guilty and 1 hung jury. Trial was had within 10 days after information was filed in 1 case, in 10 to 30 days in 3 cases, in 30 days to 6 months in 1 case, in 3 to 6 months in 4 cases, and in 6 months to 1 year in 3 cases. The date information was filed was not reported in 18 cases. There were 6 paroles granted. Court costs, amounting to \$1,957.61, were reported in 51 cases, showing a minimum of \$5.55, a maximum of \$230.10, and an average of \$38.38. There were 14 criminal cases pending July 1, 1935. Of this number 8 had been pending less than 3 months, 1 from 3 to 6 months, 6 from 6 months to 1 year, and 1 from 1 to 2 years. There were 3 cases in which a transcript was filed but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 227 motions or demurrers were reported. Of this number 105 were withdrawn or not presented and 18 were still pending July 1, 1935. Of the number disposed of 105 were presented within 10 days after they were filed, 65 from 10 to 30 days, and 33 after 30 days. There were 198 motions or demurrers decided the day presented, 2 not the same day but within 10 days, 2 from 10 to 30 days and 1 later than 30 days. Of the 203 ruled upon, 127 were allowed, 57 denied, and 3 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried prior to the merits prior to July 1, 1934, there were 59 motions reported. Of this number 3 were withdrawn or not presented and 1 was still pending July 1, 1935. Of the number disposed of 17 were presented within 10 days after they were filed, 21 from 10 to 30 days, and 17 after 30 days. There were 55 motions decided the day presented. Of the 55 ruled upon, 43 were allowed and 12 were denied.

## TWENTY-FIFTH DISTRICT

HON. WENDELL READY, of Wellington, Judge  
JESSIE HAVERSTOCK, Clerk

One county: Sumner. Area, 1,179 square miles; population, 26,296; value, \$49,256,716.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 214 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 7 were dismissed before trial on the merits, 214 were tried to the court and 15 to the jury. In 167 cases no answers were filed. In 21 cases answers were filed within 30 days after the petitions were filed, in 19 cases from 30 to 60 days, in 24 cases from 60 days to 6 months, and in 5 cases later than 6 months. There were 116 cases tried on the merits within 3 months of the time the petitions were filed, 60 cases from 3 to 6 months, 34 cases from 6 months to 12 months, and 19 cases after 12 months. In 114 cases the journal entries were filed the day of trial, in 42 cases the same day but within 10 days, in 24 cases in 10 to 30 days, and in 33 cases after 30 days. In 33 cases journal entries had not yet been filed. Court costs, amounting to \$7,397.48, were reported in 234 cases, showing a mini-

a maximum of \$440.79, and an average of \$31.61. There were 140 motions, other than divorce, pending July 1, 1935. Of this number 42 had been pending less than 3 months, 13 from 3 to 6 months, 19 from 6 to 12 months, 12 from 1 to 2 years, 10 from 2 to 3 years, 9 from 3 to 4 years, 7 from 4 to 5 years, and 28 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 55 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 15 were dismissed before trial. In 34 cases the divorces were granted to the wives and in 9 to husbands. There were 2 cases contested. The custody of 66 children was awarded to wives and 2 to husbands. There were 3 cases tried within 60 days after the petitions were filed, 36 cases from 60 days to 6 months, and 4 cases after 6 months. The grounds for divorce were: Gross neglect, 27 cases; extreme cruelty, 9 cases; abandonment, 5 cases; habitual drunkenness, 2 cases. Court costs, amounting to \$655.90, were reported in 54 cases, showing a minimum of \$3.25, a maximum of \$32.60, and an average of \$12.15.

There were 45 divorce cases pending July 1, 1935. Of this number 15 had been pending less than 3 months, 1 from 3 to 6 months, 7 from 6 months to 1 year, 8 from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, and 1 from 4 to 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 42 criminal cases disposed of within the year ending June 30, 1935. Of this number 6 cases were disposed of before trial on the merits. In 30 cases the defendants entered pleas of guilty. There were 6 cases tried to a jury, resulting in 5 verdicts of guilty and 1 hung jury. Trial was had within 10 days after the information was filed in 2 cases, from 10 to 30 days in 1 case and in 3 cases from 3 to 6 months. In 11 cases the information was filed was not reported in 11 cases. There were 11 cases granted. Court costs, amounting to \$1,994.02, were reported in 42 cases, showing a minimum of \$3.49, a maximum of \$156.40, and an average of \$47.48. There were 21 criminal cases pending July 1, 1935. Of this number 6 had been pending less than 3 months, 4 from 3 to 6 months, 2 from 6 months to 1 year, 4 from 1 to 2 years, 4 from 2 to 3 years, 1 from 3 to 4 years. There were 2 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were tried or disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 326 motions or demurrers were reported. Of this number 28 were granted, 298 were denied or not presented and 30 were still pending July 1, 1935. Of the 298 disposed of 182 were presented within 10 days after they were filed, 100 from 10 to 30 days, and 43 after 30 days. There were 263 motions or demurrers decided the day presented, 3 within 10 days, 1 from 10 to 30 days, and 268 after 30 days. Of the 268 ruled upon, 216 were allowed, 51 were denied, and 1 was partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 89 motions reported. Of this number 2 were withdrawn or not presented. Of the number disposed of 32 were presented within 10 days after they were filed, 17 from 10 to 30 days, and 50 after 30 days. There were 87 motions decided the day presented. Of the 87 ruled upon, 80 were allowed, and 7 were denied.

There are no judicial districts numbered 26, 27 and 28.

## TWENTY-NINTH DISTRICT

HON. E. L. FISCHER, of Kansas City, Judge, First Division  
HON. WILLARD M. BENTON, of Kansas City, Judge, Second Division  
HON. WM. H. MCCAMISH, of Kansas City, Judge, Third Division  
HON. C. A. MILLER, of Kansas City, Judge, Fourth Division  
PAL E. BUSH, Clerk

One county: Wyandotte. Area, 143 square miles; population, assessed value, \$116,070,749.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 1,419 civil actions, other than divorce, tried on the merits or dismissed before trial the year ending June 30, 1935. Of this number 1,393 were dismissed before trial on the merits, 674 were tried to the court and 53 to the jury. In 1,419 no answers were filed. In 327 cases answers were filed within 30 days after the petitions were filed, in 188 cases from 30 to 60 days, in 118 cases from 60 days to 6 months, and in 37 cases later than 6 months. There were 327 cases tried on the merits within 3 months of the time the petitions were filed, 140 cases from 3 to 6 months, 140 cases from 6 to 12 months, and 102 cases later than 12 months. In 601 cases the journal entries were filed the day after trial, in 85 cases not the same day but within 10 days, in 11 cases in 10 to 30 days and in 4 cases after 30 days. In 1,419 cases journal entries had not yet been filed. Court costs, amounting to \$29,160.63, were reported in 2,120 cases, showing a minimum of \$2.95, a maximum of \$157.65, and an average of \$13.74. There were 1,577 civil actions, other than divorce, pending July 1, 1935. Of this number 308 cases had been pending less than 3 months, 193 cases from 3 to 6 months, 205 cases from 6 to 12 months, 356 cases from 1 to 2 years, 108 cases from 2 to 3 years, 94 cases from 3 to 4 years, 53 cases from 4 to 5 years, and 176 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 2,285 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 1,852 cases were dismissed before trial. In 322 cases the divorces were granted to wives, and in 111 cases to husbands. In 4 cases there was a contest as to custody of 153 minor children was awarded to wives and 27 to husbands. There were 10 cases tried within 60 days after the petitions were filed, 322 cases from 60 days to 6 months, and 85 cases after 6 months. The grounds for divorce were: Extreme cruelty, 428 cases; abandonment, 3 cases; non-support, 1 case; and conviction of a felony, 1 case. Court costs, amounting to \$2,120.63, were reported in 2,283 cases, showing a minimum of \$4, a maximum of \$157.65, and an average of \$11.26. There were 978 divorce cases pending July 1, 1935. Of this number 169 cases had been pending less than 3 months, 99 cases from 3 to 6 months, 170 cases from 6 months to 1 year, 322 cases from 1 to 2 years, 108 cases from 2 to 3 years, 40 cases from 3 to 4 years, 26 cases from 4 to 5 years, and 64 cases over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 298 criminal cases tried on the merits or dismissed before trial the year ending June 30, 1935. Of this number 171 cases were dismissed before trial on the merits. In 83 cases the defendants entered pleas of guilty. There were 44 cases tried to a jury, resulting in 17 verdicts of guilty and 27 of not guilty. Trial was had within 10 days after the information was filed in 15 cases, in 10 to 30 days in 4 cases, in 30 days to 3 months in 10 cases, in 3 to 6 months in 10 cases, in 6 months to 1 year in 3 cases, and later than 1 year in 1 case.

in 5 cases. The date information was filed was not reported in 43. There were 44 paroles granted. Court costs, amounting to \$5,396.45, reported in 294 cases, showing a minimum of \$4.10, a maximum of \$117.80, average of \$18.35. There were 342 criminal cases pending July 1, 1935. Of this number 51 cases had been pending less than 3 months, 28 cases from 3 months, 17 cases from 6 months to 1 year, 38 cases from 1 to 2 years, 27 from 2 to 3 years, 50 cases from 3 to 4 years, 15 cases from 4 to 5 years, and 1 later than 5 years. There were 102 cases in which a transcript but no petition was filed.

MOTIONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were reported of during the year ending June 30, 1935, or which were pending July 1, 1935, 969 motions or demurrers were reported. Of this number 107 were reported or not presented, and 144 were still pending July 1, 1935. Of the 862 reported, 464 were presented within 10 days after they were filed, 100 from 10 to 30 days, and 74 after 30 days. There were 708 motions or demurrers decided the day presented, 4 within 10 days, 3 from 10 to 30 days, and 1 after 30 days. Of the 718 ruled upon, 609 were allowed and 109 denied.

MOTIONS IN CASES FILED PRIOR TO JULY 1, 1934—FORM 6a. In cases filed prior to July 1, 1934, there were 125 motions reported. Of the number reported, 125 were presented within 10 days after they were filed. There were 125 motions decided the day presented. Of the 125 ruled upon, all were allowed.

### THIRTIETH DISTRICT

HON. DALLAS GROVER, of Salina, Judge  
J. M. WILSON, Clerk, Ellsworth County  
ERNEST D. HARLOW, Clerk, Lincoln County  
RAY W. JONES, Clerk, Ottawa County  
HOWARD FORD, Clerk, Saline County

COUNTIES: Ellsworth, Lincoln, Ottawa and Saline. Area, 2,877 square miles. Population, 57,959; assessed value, \$111,965,525.

CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 412 civil cases other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 98 were dismissed before trial on the merits, 303 were tried to the court and 11 to the jury. In 277 cases no petition was filed. In 69 cases answers were filed within 30 days after the petition was filed, in 39 cases from 30 to 60 days, in 21 cases from 60 days to 3 months, and in 6 cases later than 6 months. There were 224 cases tried on the merits within 3 months of the time the petitions were filed, 67 from 3 months to 6 months, 14 from 6 to 12 months, and 9 later than 12 months. In 308 cases the journal entries were filed the day of trial, in 52 cases not the same day, within 10 days, in 16 cases in 10 to 30 days, and in 13 cases after 30 days. In 23 cases journal entries had not yet been filed. Court costs amounting to \$117.63, were reported in 401 cases, showing a minimum of \$2.50, a maximum of \$466.96, and an average of \$23.48. There were 350 civil actions, other than divorce, pending July 1, 1935. Of this number 89 cases had been pending less than 3 months, 45 from 3 to 6 months, 38 from 6 to 12 months, 11 from 1 to 2 years, 35 from 2 to 3 years, 26 from 3 to 4 years, 16 from 4 to 5 years, and 39 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 122 divorce cases on the merits or dismissed within the year ending June 30, 1935. Of these 16 cases were dismissed before trial. In 89 cases the divorces were granted to wives, in 16 cases to husbands, 1 case was denied, and 9 cases were withdrawn. The custody of 74 minor children was awarded to wives, 8 to husbands, 1 to a grandparent, and the custody of 6 children had not yet been decided. There were 4 cases tried within 60 days after the petitions were filed, 85 cases 60 days to 6 months, and 16 cases after 6 months. The grounds for divorce were: Gross neglect, 24 cases; extreme cruelty, 54 cases; abandonment, 1 case; conviction of a felony, 1 case; habitual drunkenness, 2 cases; miscellaneous, 2 cases. Court costs, amounting to \$1,237.52, were reported in 116 cases, showing a minimum of \$3.15, a maximum of \$96.14, and an average of \$10.66. There were 119 divorce cases pending July 1, 1935. Of these 31 had been pending less than 3 months, 8 from 3 to 6 months, 2 from 6 months to 1 year, 24 from 1 to 2 years, 13 from 2 to 3 years, 12 from 3 to 4 years, and 7 from 4 to 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 78 criminal cases on the merits or dismissed within the year ending June 30, 1935. Of this number 19 cases were dismissed before trial on the merits. In 36 cases the defendants entered pleas of guilty. There were 23 cases tried to a jury, resulting in 13 verdicts of guilty, 8 verdicts of not guilty, and 2 hung juries. Trial was had within 10 days after the information was filed in 8 cases, in 10 to 30 days in 10 cases, 30 days to 3 months in 3 cases, and in 6 months to 1 year in 2 cases. Where the date information was filed was not reported in 6 cases. There were 77 cases granted. Court costs, amounting to \$3,436.47, were reported in 77 cases, showing a minimum of \$2.60, a maximum of \$173.75, and an average of \$44.63. There were 44 criminal cases pending July 1, 1935. Of this number 15 had been pending less than 3 months, 15 from 3 to 6 months, 2 from 6 months to 1 year, 11 from 1 to 2 years, and 2 from 2 to 3 years, 1 from 3 to 4 years, and 1 from 4 to 5 years. There were 12 cases in which a transcript of the proceedings had been filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 389 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 88 were still pending July 1, 1935. The number disposed of 158 were presented within 10 days after they were filed, 27 from 10 to 30 days, and 58 after 30 days. There were 241 motions or demurrers decided the day presented and 2 within 10 days. Of these 185 were allowed, 43 denied, and 14 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 61 motions reported. Of this number 11 were still pending July 1, 1935. Of the number disposed of 50 were presented within 10 days after they were filed, 15 from 10 to 30 days after 30 days. There were 49 motions decided the day presented and 1 after 30 days. Of the 50 ruled upon, 45 were allowed and 5 denied.

## THIRTY-FIRST DISTRICT

HON. KARL MILLER, of Dodge City, Judge  
AMY DUGAN, Clerk, Clark County  
JESSIE CHAMNESS, Clerk, Comanche County  
SUSAN A. EVANS, Clerk, Ford County  
MOLLY PARKS, Clerk, Gray County  
HERBERT MILLER, Clerk, Kiowa County  
LOTTIE W. STAMPER, Clerk, Meade County

counties: Clark, Comanche, Ford, Gray, Kiowa and Meade. Area, square miles; population, 45,987; assessed value \$81,505,940.

**CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 431 civil other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 77 were dismissed before trial on the merits, 347 were tried to the court, 6 to the jury and 1 to commissioners. In 347 cases no answers were filed. In 35 cases answers were filed within 30 days of the petitions were filed, in 35 cases from 30 to 60 days, and in 18 cases from 60 days to 6 months. There were 211 cases tried on the merits within 10 days of the time the petitions were filed, 86 cases from 3 to 6 months, 23 cases from 6 to 12 months, and 23 cases later than 12 months. In 215 cases journal entries were filed the day of trial, in 75 cases not the same day within 10 days, in 31 cases from 10 to 30 days, and in 41 cases after 30 days. In 69 cases journal entries had not yet been filed. Court costs, amounting to \$9,473.80, were reported in 422 cases, showing a minimum of \$1.00, a maximum of \$86.40, and an average of \$22.45. There were 257 civil other than divorce, pending July 1, 1935. Of this number 83 cases had been pending less than 3 months, 40 cases from 3 to 6 months, 50 cases from 6 months to 1 year, 34 cases from 1 to 2 years, 23 cases from 2 to 3 years, 13 cases from 3 to 4 years, 8 cases from 4 to 5 years, and 6 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 97 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 27 were dismissed before trial. In 52 cases the divorces were granted to wives, 18 cases to husbands, and 5 cases were contested. The custody of 56 children was awarded to wives and 9 to husbands. There were 3 cases pending within 60 days to 6 months, and 8 cases after 6 months. The grounds for divorce were: Gross neglect, 20 cases; extreme cruelty, 21 cases; abandonment, 29 cases; and habitual drunkenness, 1 case. Court costs, amounting to \$2,558, were reported in 97 cases, showing a minimum of \$2.55, a maximum of \$58, and an average of \$8.22. There were 35 cases pending July 1, 1935. Of this number 10 had been pending less than 3 months, 8 cases from 3 to 6 months, 10 cases from 6 months to 1 year, 4 cases from 1 to 2 years, and 3 cases from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 79 criminal cases disposed of within the year ending June 30, 1935. Of this number 28 cases were dismissed before trial on the merits. In 42 cases the defendants entered pleas of guilty. There were 9 cases tried to a jury, resulting in 4 verdicts of guilty, 2 of not guilty, and 2 hung juries. Trial was had within 10 days after the indictment was filed in 3 cases, in 10 to 30 days in 3 cases, in 6 months to 1 year in 2 cases, and after 1 year in 1 case. The date information was filed in 15 cases. There were 12 paroles granted. Court costs, amounting to \$2,279.22, were reported in 76 cases, showing a minimum of

\$2.70, a maximum of \$164.30, and an average of \$29.99. There were 2 cases pending July 1, 1935. Of this number 9 cases had been pending less than 3 months, 4 cases from 3 to 6 months, 4 cases from 6 months to 1 year, 6 cases from 1 to 2 years, 1 case from 2 to 3 years, and 1 case from 3 to 6 years. There were 18 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 179 motions or demurrers were reported. Of this number 119 were withdrawn or not presented, and 9 were still pending July 1, 1935. Of the number disposed of 119 were presented within 10 days after they were filed, 12 from 10 to 30 days, and 19 after 30 days. There were 140 motions or demurrers decided the day presented, 7 within 10 days, and 4 after 30 days. Of the 151 ruled upon, 127 were allowed, 23 denied, and 1 partially allowed and 1 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 109 motions reported. Of this number 4 were withdrawn, and 9 were still pending July 1, 1935. Of the number disposed of 34 were presented within 10 days after they were filed, 30 from 10 to 30 days, and 32 after 30 days. There were 83 motions or demurrers decided the day presented, 3 within 10 days, 4 in 10 to 30 days, and 6 after 30 days. Of the 96 ruled upon, 82 were allowed and 14 were denied.

### THIRTY-SECOND DISTRICT

HON. FRED J. EVANS, of Garden City, Judge  
 MRS. WALTER HARVEY, Clerk, Finney County  
 T. P. TUCKER, Clerk, Greeley County  
 AMELIA J. MINOR, Clerk, Hamilton County  
 PAUL WOOD, Clerk, Kearny County  
 Q. H. JEWETT, Clerk, Lane County  
 NELLIE SCHEUERMAN, Clerk, Scott County  
 MRS. KATE ELDER, Clerk, Wichita County

Seven counties: Finney, Greeley, Hamilton, Kearny, Lane, Scott, and Wichita. Area, 6,039 square miles; population, 29,793; assessed value, \$752,642.

**CIVIL CASES (OTHER THAN DIVORCE) FORMS 1 AND 2.** There were 345 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 168 were dismissed before trial, 222 were tried on the merits, and 1 to the jury. In 370 cases answers were filed. In 7 cases answers were filed within 30 days after the petitions were filed, in 4 cases from 30 to 60 days, in 2 cases from 60 to 90 days, in 1 case from 90 to 120 days, and in 8 cases later than 120 days. There were 134 cases tried on the merits within 3 months of the time the petitions were filed, 48 cases from 3 to 6 months, 13 cases from 6 to 12 months, and 28 cases later than 12 months. In 112 cases journal entries were filed the day of trial, in 19 cases not the same day but within 10 days, in 19 cases in 10 to 30 days, and in 84 cases later than 30 days. In 224 cases journal entries had not yet been filed. Court costs, amounting to \$6,733.22, were reported in 345 cases, with a minimum of \$1.15, a maximum of \$243.07, and an average of \$19.52. There were 250 civil actions, other than divorce, pending July 1, 1935. Of this number 91 cases had been pending less than 3 months, 36 cases from 3 to 6 months, 19 cases from 6 months to 1 year, 1 case from 1 to 2 years, 1 case from 2 to 3 years, and 1 case from 3 to 6 years.



50 cases from 6 to 12 months, 41 cases from 1 to 2 years, 27 cases from 2 to 3 years, 4 cases from 3 to 4 years, and 1 case over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 47 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 8 cases were dismissed before trial. In 33 cases the divorces were granted to wives and in 6 cases to husbands. The custody of 25 minor children was awarded to wives, 3 to husbands, and 1 to grandparents. There were 2 cases decided within 60 days after the petitions were filed, 28 from 60 days to 6 months, and 9 cases after 6 months. The grounds for divorce were: Gross neglect, 4 cases; extreme cruelty, 14 cases; abandonment, 19 cases; and conviction of a felony, 2 cases. Court costs, amounting to \$352.15, were reported in 47 cases, showing a minimum of \$3.15, a maximum of \$47.90, and an average of \$7.49. There were 27 divorce cases pending July 1, 1935. Of this number 15 had been pending less than 3 months, 4 cases from 3 to 6 months, 5 from 6 months to 1 year, 3 cases from 1 to 2 years, 2 cases from 2 to 3 years, and 1 case from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 59 criminal cases disposed of within the year ending June 30, 1935. Of this number 28 cases were disposed of before trial on the merits. In 17 cases the defendants entered pleas of guilty. There were 14 cases tried to a jury, resulting in 8 verdicts of guilty and 6 of not guilty. Trial was had within 10 days after the informations were filed in 3 cases, in 30 days to 3 months in 2 cases, in 3 to 6 months in 10 cases, and in 6 months to 1 year in 5 cases. The date information was furnished was not reported in 14 cases. There were 8 paroles granted. Court costs, amounting to \$3,330.39, were reported in 54 cases, showing a minimum of \$1.00, a maximum of \$1,500, and an average of \$61.68. There were 45 criminal cases pending July 1, 1935. Of this number 9 cases had been pending less than 3 months, 10 cases from 3 to 6 months, 11 cases from 6 months to 1 year, 12 cases from 1 to 2 years, 2 cases from 3 to 4 years, and 1 case over 4 years. There were 17 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were brought on for trial during the year ending June 30, 1935, or which were pending at the end of 1935, 189 motions or demurrers were reported. Of this number 17 were granted, 172 were denied, 54 were still pending July 1, 1935. Of the 172 motions or demurrers disposed of 69 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 27 after 30 days. There were 112 motions or demurrers decided the day presented, 1 not the same day but within 10 days, 10 from 10 to 30 days, and 3 more than 30 days. Of the 118 ruled upon, 82 were granted, 33 denied, and 3 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 52 motions reported. Of this number 1 was withdrawn or not presented and 3 were still pending July 1, 1935. Of the number disposed of 17 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 21 after 30 days. There were 40 motions decided the day presented, 3 within 10 days, and 5 after 30 days. Of the 58 ruled upon, 39 were allowed and 9 denied.

## TWENTY-THIRD DISTRICT

HON. LORIN T. PETERS, of Ness City, Judge  
 C. E. BURKE, Clerk, Edwards County  
 FRANK PHILLIPS, Clerk, Hodgeman County  
 LAURA M. JACKSON, Clerk, Ness County  
 ROSE MASON, Clerk, Pawnee County  
 EDWIN POPP, Clerk, Rush County

Five counties: Edwards, Hodgeman, Ness, Pawnee and Rush. Area, 1,000 square miles; population, 37,373; assessed value, \$71,051,491.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 275 actions, other than divorce, tried on the merits, or dismissed within the year ending June 30, 1935. Of this number 49 were dismissed before trial on the merits, 228 were tried to the court and none to the jury. In 236 cases answers were filed. In 16 cases answers were filed within 30 days after the petitions were filed, in 10 cases from 30 to 60 days, in 10 cases from 60 to 6 months, and in 5 cases later than 6 months. There were 154 cases tried on the merits within 3 months of the time the petitions were filed, 154 from 3 to 6 months, 15 cases from 6 to 12 months, and 7 cases later than 12 months. In 229 cases the journal entries were filed the day of trial, in 10 cases in 10 to 30 days, in 3 cases after 30 days. In 37 cases journal entries had not yet been filed. Court costs, amounting to \$6,503.62, were reported in 275 cases, showing a minimum of \$2.95, a maximum of \$89.70, and an average of \$23.43. There were 117 civil actions, other than divorce, pending July 1, 1935. Of this number 43 cases had been pending less than 3 months, 15 from 3 to 6 months, 9 cases from 6 to 12 months, 18 cases from 1 to 2 years, 10 cases from 2 to 3 years, 6 cases from 3 to 4 years, and 5 cases over 4 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 42 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 13 were dismissed before trial. In 23 cases the divorces were granted on the merits, and in 13 cases to husbands; 1 case was contested. The custody of 13 children was awarded to wives, and 5 to husbands. There were 33 cases tried within 60 days to 6 months after the petitions were filed, and in 3 cases later than 6 months. The grounds for divorce were: Gross neglect, 19 cases; abandonment, 8 cases; nonsupport, 3 cases; adultery, 1 case; habitual drunkenness, 1 case; conviction of a felony, 2 cases. Court costs, amounting to \$350.00, were reported in 41 cases, showing a minimum of \$2.95, a maximum of \$51.00, and an average of \$8.54. There were 22 divorce cases pending July 1, 1935. Of this number 12 cases had been pending less than 3 months; 1 from 3 to 6 months, 1 from 6 months to 1 year, 6 from 1 to 2 years, 1 from 2 to 3 years, and 1 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 39 criminal cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 12 cases were dismissed before trial on the merits. In 17 cases the defendants entered pleas of guilty. There were 10 cases tried to a jury, resulting in 4 verdicts of guilty, 2 verdicts of not guilty and 4 hung juries. Trial was had within 10 days after the information was filed in 2 cases, in 30 days to 3 months in 4 cases, from 3 to 6 months in 3 cases, and from 6 months to 1 year in 1 case. Trial information was filed was not reported in 6 cases. There were 5 cases granted. Court costs, amounting to \$1,484.23, were reported in 38 cases, showing a minimum of \$1.55, a maximum of \$301.85, and an average of \$39.06.

were 18 criminal cases pending July 1, 1935. Of this number 4 cases had pending less than 3 months, 5 cases from 6 months to 1 year, 5 cases to 2 years, and 4 cases from 3 to 4 years. There were 4 cases in a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were filed during the year ending June 30, 1935, or which were pending July 1, 1935, 110 motions or demurrers were reported. Of this number 8 were shown or not presented and 12 were still pending July 1, 1935. Of the 90 disposed of 56 were presented within 10 days after they were filed, 10 to 30 days and 13 after 30 days. There were 89 motions or demurrers decided the day presented and 1 after 30 days. Of the 90 ruled upon, 63 were allowed and 16 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 91 motions reported. Of this number 3 were withdrawn or not presented and 16 were still pending July 1, 1935. Of the number disposed of 30 were presented within 10 days after they were filed, 22 from 10 to 30 days, and 20 after 30 days. There were 14 motions or demurrers decided the day presented, 5 within 10 days, 1 from 10 to 30 days, and 2 after 30 days. Of the 72 ruled upon, 63 were allowed and 8 were denied, and 1 was decided in part and denied in part.

### THIRTY-FOURTH DISTRICT

HON. W. K. SKINNER, of Stockton, Judge  
 ELSIE PARKS, Clerk, Graham County  
 GEO. F. CRANE, Clerk, Rooks County  
 NOAH TURNER, Clerk, Sheridan County  
 WILLIAM MANGUS, Clerk, Sherman County  
 N. C. KNUDSON, Clerk, Thomas County

**COUNTIES:** Graham, Rooks, Sheridan, Sherman and Thomas. Area, 1,200 square miles; population, 37,659; assessed value, \$50,797,243.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 368 civil cases other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 52 were dismissed before trial on the merits, 309 were tried to the court and 5 to the jury, and 2 transferred to the court. In 317 cases no answers were filed. In 14 cases the answers were filed within 30 days after the petition was filed, in 14 cases from 30 to 60 days, in 18 cases from 60 days to 6 months and in five cases later than 6 months. There were 169 cases tried on the merits within 3 months of the filing of the petitions were filed, 72 cases from 3 to 6 months, 42 cases from 6 to 12 months, and 33 cases later than 12 months. In 245 cases the journal entries were filed the day of trial, in 9 cases not the same day but within 10 days, in 10 cases from 10 to 30 days and in 17 cases later than 30 days. In 90 cases the journal entries had not yet been filed. Court costs, amounting to \$10,390.53, were reported in 308 cases, showing a minimum of \$1.20, a maximum of \$697.28, and an average of \$33.73. There were 226 civil actions, other than divorce, pending July 1, 1935. Of this number 85 had been pending less than 3 months, 33 from 3 to 6 months, 32 from 6 to 12 months, 40 from 1 to 2 years, 19 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, and 2 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 62 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number

15 cases were dismissed before trial. In 31 cases the divorces were to wives and in 15 cases to husbands, 1 case was denied, and 5 cases were tested. The custody of 47 minor children was awarded to wives, 4 to husbands. There were 3 cases tried within 60 days after the petition was filed, 1 from 60 days to 6 months, and 6 cases after 6 months. The grounds for divorce were: Gross neglect, 1 case; extreme cruelty, 10 cases; abandonment, 34 cases; conviction of a felony, 1 case. Court costs, amounting to \$1,000.00, were reported in 54 cases, showing a minimum of \$3.25, a maximum of \$100.00, and an average of \$9.25. There were 18 divorce cases pending July 1, 1935. Of this number 9 cases had been pending less than three months, 3 from 3 to 6 months, 2 from 1 to 2 years, and 1 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 62 criminal cases disposed of within the year ending June 30, 1935. Of this number 18 were dismissed before trial on the merits. In 32 cases the defendants entered pleas of guilty, 12 cases were tried to a jury, resulting in 8 verdicts of guilty and 2 verdicts of not guilty. Trial was had within 10 days after the information was filed in 10 cases, in 10 days to 30 days in 2 cases, in 30 days to 3 months in 2 cases, in 3 to 6 months in 2 cases, and in 6 months to 1 year in 3 cases. There were 10 paroles granted. Court costs, amounting to \$508.15, were reported in 54 cases, showing a minimum of \$1.80, a maximum of \$217.50, and an average of \$9.25. There were 8 criminal cases pending July 1, 1935. Of this number 3 had been pending less than 3 months, 2 from 3 to 6 months, and 3 from 6 months to 1 year.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 205 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 20 were still pending July 1, 1935. Of the number disposed of 98 were presented within 10 days after they were filed, 34 from 10 to 30 days, and 30 after 30 days. There were 156 motions or demurrers decided the day presented, 2 within 10 days, 1 from 10 to 30 days, and 3 after 30 days. Of the 162 ruled upon, 128 were allowed and 34 were denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases which were tried on the merits prior to July 1, 1934, there were 85 motions reported. Of this number 5 were withdrawn or not presented, and 23 were still pending July 1, 1935. Of the number disposed of 7 were presented within 10 days, 11 were presented within 10 to 30 days after they were filed, and 39 after 30 days. There were 55 motions decided the day presented, 1 from 10 to 30 days, and 39 after 30 days. Of the 57 ruled upon, 44 were allowed and 13 denied.

### THIRTY-FIFTH DISTRICT

HON. ROBERT T. PRICE, of Osage City, Judge  
PAUL F. CUMMINGS, Clerk, Osage County  
LIZZIE M. FRY, Clerk, Wabaunsee County

Two counties: Osage and Wabaunsee. Area, 1,513 square miles; population, 26,985; assessed value, \$42,963,572.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 42 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 42 were dismissed before trial.

231 were tried to the court and 4 to the jury. In 222 cases no answers were filed. In 29 cases answers were filed within 30 days after the petitions were filed, in 14 cases from 30 to 60 days, in 8 cases from 60 days to 6 months, and 3 cases later than 6 months. There were 192 cases tried on the merits. Within 3 months of the time the petitions were filed, 26 cases from 3 to 6 months, 13 cases from 6 to 12 months, and 4 cases later than 12 months. In 23 cases the journal entries were filed the day of trial, 23 cases not the same day, within 10 days, in 22 cases journal entries had not yet been filed. Court costs, amounting to \$9,335.69, were reported in 277 cases, showing a minimum of \$1.60, a maximum of \$621.01, and an average of \$31.54. There were 93 civil cases other than divorce, pending July 1, 1935. Of this number 28 cases were pending less than 3 months, 22 cases from 3 to 6 months, 21 cases from 6 to 12 months, 15 cases from 1 to 2 years, 4 cases from 2 to 3 years, 1 case from 3 to 4 years, and 2 cases from 4 to 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 15 divorce cases tried on the merits, 10 were granted, 3 were dismissed within the year ending June 30, 1935. Of this number 3 cases were dismissed before trial. In 8 cases the divorces were granted to 3 cases to husbands, 1 case was denied, and 1 case was contested. Custody of 11 minor children was awarded to wives and 1 to a husband. There was 1 case tried within 60 days after the petitions were filed, 9 cases from 60 days to 6 months, and 1 case after 6 months. The grounds for divorce were: gross neglect, 4 cases; extreme cruelty, 3 cases; abandonment, 4 cases. Court costs, amounting to \$148.64, were reported in 15 cases, showing a minimum of \$4.40, a maximum of \$16.10, and an average of \$9.91. There were 10 cases pending July 1, 1935. Of this number 5 cases had been pending less than 3 months, 2 cases from 6 months to 1 year, and 3 cases from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 17 criminal cases disposed of during the year ending June 30, 1935. Of this number 4 cases were dismissed on the merits. In 11 cases the defendants entered pleas of guilty. There were 2 cases tried to a jury, resulting in 2 verdicts of guilty. Trial costs, within 10 days after the information was filed in 1 case, and in 30 days in 3 cases. The date information was filed was not reported in 1 case. There were 7 paroles granted. Court costs, amounting to \$809.15, were reported in 17 cases, showing a minimum of \$1.60, a maximum of \$226.20, and an average of \$47.59. There were 13 criminal cases pending July 1, 1935. Of this number 6 cases had been pending less than 3 months, 1 case from 3 to 6 months, 3 cases from 6 months to 1 year, 2 cases from 1 to 2 years, and 1 case from 2 to 3 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were presented during the year ending June 30, 1935, or which were pending July 1, 1935, 135 motions or demurrers were reported. Of this number 3 were granted, 13 were not presented, and 15 were still pending July 1, 1935. Of the 107 cases disposed of, 76 were presented within 10 days after they were filed, 26 from 10 to 30 days, and 15 after 30 days. There were 113 motions or demurrers presented the day presented, and 3 not the same day but within 10 days. Of 116 cases ruled upon, 88 were allowed, 26 denied, and 3 partially allowed and

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a. In cases on the merits prior to July 1, 1934, there were 55 motions reported. Of the number 2 were withdrawn or not presented. Of the number disposed of were presented within 10 days after they were filed, 17 from 10 to 30 days, 14 after 30 days. There were 47 motions decided the day presented, 10 days, 1 from 10 to 30 days, and 1 after 30 days. Of the 53 ruled on were allowed and 7 denied.

### THIRTY-SIXTH DISTRICT

HON. LLOYDE MORRIS, of Oskaloosa, Judge  
H. E. HOSTETTER, Clerk, Jackson County  
MARGUERITE N. MCCOY, Clerk, Jefferson County  
CHAS. S. SMITH, Clerk, Pottawatomie County

Three counties: Jackson, Jefferson and Pottawatomie. Area, 2,000 miles; population, 44,538; assessed value, \$68,440,972.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 273 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 83 were dismissed before trial on the merits, 273 were tried to the court and 13 to the jury. In 233 cases no answers were filed. In 80 cases answers were filed in 30 days after the petition was filed, in 28 cases from 30 to 60 days, in 19 cases from 60 days to 6 months, and in 9 cases later than 6 months. There were 205 cases tried on the merits within 3 months of the time the petitions were filed, 46 cases from 3 to 6 months, 26 cases from 6 to 12 months, and 9 cases after 12 months. In 34 cases the journal entries were filed the day of trial, in 34 cases not the day but within 10 days, in 10 cases in 10 to 30 days, and in 6 cases after 30 days. In 60 cases journal entries had not yet been filed. Court costs, amounting to \$8,308.68, were reported in 357 cases, showing a minimum of \$4.80, a maximum of \$198.01, and an average of \$23.27. There were 215 civil cases other than divorce, pending July 1, 1935. Of this number 75 cases were pending less than 3 months, 41 cases from 3 to 6 months, 37 cases from 6 months to 1 year, 35 cases from 1 to 2 years, 13 cases from 2 to 3 years, 8 cases from 3 to 4 years, and 6 cases more than 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 56 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 34 cases were dismissed before trial. In 34 cases the divorces were granted to wives, in 12 cases to husbands, and 6 cases were contested. The custody of minor children was awarded to wives and 5 to husbands. There were 35 cases tried within 60 days after the petitions were filed, 35 cases from 60 days to 6 months, and 6 cases after 6 months. The grounds for divorce were neglect, 7 cases; extreme cruelty, 26 cases; abandonment, 9 cases; desertion, 1 case; conviction of a felony, 3 cases. Court costs, amounting to \$4,800.00, were reported in 56 cases, showing a minimum of \$4.80, a maximum of \$198.01, and an average of \$16.56. There were 16 divorce cases pending July 1, 1935. Of this number 5 cases had been pending less than 3 months, 3 from 3 to 6 months, 4 from 6 months to 1 year, and 4 from 2 to 3 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 69 criminal cases tried on the merits or dismissed before trial within the year ending June 30, 1935. Of this number 22 cases were dismissed before trial on the merits. In 34 cases the defendants entered pleas of guilty. There were 13 cases tried to a jury, resulting in 9 verdicts of guilty.

not guilty, and 1 hung jury. Trial was had within 10 days after the motion was filed in 2 cases, in 10 to 30 days in 6 cases, in 30 days to 3 months in 3 cases, and in 6 months to 1 year in 2 cases. The date information was not reported in 4 cases. There were 11 paroles granted. Court costs, amounting to \$635.41, were reported in 23 cases, showing a minimum of \$0.00, a maximum of \$56.85, and an average of \$27.63. There were 30 criminal cases pending July 1, 1935. Of this number 11 cases had been pending less than 30 days, 8 cases from 30 to 60 days, 7 cases from 60 days to 1 year, and 1 case from 1 to 2 years, and 1 case from 2 to 3 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were pending during the year ending June 30, 1935, or which were pending July 1, 1935, 381 motions or demurrers were reported. Of this number 37 were withdrawn or not presented, and 51 were still pending July 1, 1935. Of the number disposed of 205 were presented within 10 days after they were filed, 52 from 10 to 30 days, and 36 after 30 days. There were 289 motions or demurrers ruled upon the day presented, 1 within 10 days, and 3 after 30 days. Of the 289 ruled upon, 251 were allowed, 34 denied, and 8 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 92 motions reported. Of this number 4 were withdrawn or not presented, and 2 were still pending July 1, 1935. Of the number disposed of 37 were presented within 10 days after they were filed, 26 from 10 to 30 days, and 23 after 30 days. There were 83 motions ruled upon the day presented, 1 in 10 days, 1 in 10 to 30 days, and 1 after 30 days. Of the 83 ruled upon, 71 were allowed, 13 denied, and 2 partially allowed and denied.

### THIRTY-SEVENTH DISTRICT

HON. FRANK R. FORREST, of Iola, Judge  
NELL HOGAN STIRNAMAN, Clerk, Allen County  
KATHRYNE P. MAXWELL, Clerk, Woodson County

counties: Allen and Woodson. Area, 1,013 square miles; population, 10,000; assessed value, \$38,357,918.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 223 civil cases pending July 1, 1935, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 58 were dismissed before trial on the merits, and 165 were tried to the court. In 194 cases no answers were filed. In 126 cases answers were filed within 30 days after the petitions were filed, 53 from 30 to 60 days, in 10 cases from 60 days to 6 months, and in 3 cases later than 6 months. There were 67 cases tried on the merits within 30 days of the time the petitions were filed, 53 cases from 30 to 6 months, 30 from 6 to 12 months, and 15 cases later than 12 months. In 126 cases journal entries were filed the day of trial, in 23 cases not the same day, in 10 cases within 10 days, in 8 cases in 10 to 30 days, and in 26 cases after 30 days. In 126 cases journal entries had not yet been filed. Court costs, amounting to \$42, were reported in 222 cases, showing a minimum of \$2.30, a maximum of \$0.80, and an average of \$23.23. There were 178 civil actions, other than divorce, pending July 1, 1935. Of this number 30 cases had been pending less than 30 days, 18 from 30 to 6 months, 32 from 6 to 12 months, 53 from 1 to 2 years, 20 from 2 to 3 years, 19 from 3 to 4 years, 5 from 4 to 5 years, and 1 case more than 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 36 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 15 cases were dismissed before trial. In 15 cases the divorces were granted to wives, in 11 cases to husbands, 4 divorces were denied, and 8 cases were dismissed without being tested. The custody of 23 minor children was awarded to wives and 13 to grandparents. There was 1 case tried within 60 days after the petition was filed, 23 cases from 60 days to 6 months, and 2 cases after 6 months. The grounds for divorce were: Extreme cruelty, 2 cases; abandonment, 1 case; adultery, 1 case; nonsupport 2 cases; habitual drunkenness, 1 case, and miscellaneous 1 case. Court costs, amounting to \$379.85, were reported in 15 cases, showing a minimum of \$3.90, a maximum of \$46.45, and an average of \$10.82. There were 28 divorce cases pending July 1, 1935. Of this number 15 cases had been pending less than 3 months, 8 cases from 3 to 6 months, 3 cases from 6 months to 1 year, 6 cases from 1 to 2 years, and 1 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 30 cases disposed of during the year ending June 30, 1935. Of this number 20 cases were dismissed on the merits or by trial on the merits. In 7 cases the defendants entered pleas of guilty. In 3 cases there were 3 cases tried to a jury, resulting in 1 verdict of guilty and 2 of not guilty. Trial was had within 30 days to 3 months after the information was filed in 1 case, and in 2 cases later than 1 year. The date information was filed was not reported in 10 cases. There were 4 paroles granted. Court costs, amounting to \$1,087.71, were reported in 31 cases, showing a minimum of \$3.90, a maximum of \$200.80, and an average of \$35.09. There were 24 criminal cases pending July 1, 1935. Of this number 5 cases had been pending less than 3 months, 6 from 3 to 6 months, 8 from 6 months to 1 year, and 5 from 1 year to 2 years. There were 14 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, motions or demurrers were reported. Of this number 6 were withdrawn, 10 were not presented, and 27 were still pending July 1, 1935. Of the number disposed of 119 were presented within 10 days after they were filed, 26 from 10 to 30 days, and 29 after 30 days. There were 171 motions or demurrers decided, 147 were decided the day presented and 3 within 10 days. Of the 174 ruled upon, 147 were allowed, 23 denied, and 4 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 29 motions reported. Of this number disposed of 11 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 13 after 30 days. There were 29 motions or demurrers decided the day presented. Of the 29 ruled upon, 24 were allowed and 5 denied.

### THIRTY-EIGHTH DISTRICT

HON. L. M. RESLER, of Pittsburg, Judge  
JEAN BELL, Clerk

One county: Crawford. Area, 605 square miles; population, 49,000. Estimated assessed value, \$36,790,606.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 137 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 73 were dismissed before trial on the merits, 137 were tried to the court and 20 to the jury. In 166 cases



were filed. In 20 cases answers were filed within 30 days after the petitions were filed, in 12 cases from 30 to 60 days, in 19 cases from 60 days to 6 months, and in 13 cases later than 6 months. There were 76 cases tried on the merits within 3 months of the time the petitions were filed, 28 cases from 3 to 6 months, 26 cases from 6 to 12 months, and 27 cases later than 12 months. In 113 cases the journal entries were filed the day of trial, in 26 cases on the same day but within 10 days, in 8 cases from 10 to 30 days, and in 13 cases after 30 days. In 73 cases journal entries had not yet been filed. Court costs, amounting to \$4,287.66, were reported in 230 cases, showing a minimum of \$4, a maximum of \$176.95, and an average of \$18.64. There were 112 civil actions, other than divorce, pending July 1, 1935. Of this number 46 had been pending less than 3 months, 31 cases from 3 to 6 months, 25 cases from 6 to 12 months, 71 cases from 1 to 2 years, 23 cases from 2 to 3 years, 14 cases from 3 to 4 years, 9 cases from 4 to 5 years, and 10 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 129 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 89 cases were dismissed before trial. In 89 cases the divorces were granted on the merits, in 16 to husbands, and 13 cases were contested. The custody of 24 children was awarded to wives and 12 to husbands. There were 133 cases tried within 60 days after the petitions were filed, 75 cases from 60 days to 6 months, and 27 cases after 6 months. The grounds for divorce were: neglect, 20 cases; extreme cruelty, 70 cases; abandonment, 13 cases; commission of a felony, 2 cases. Court costs, amounting to \$950.35, were reported in 118 cases, showing a minimum of \$3.55, a maximum of \$20.20, and an average of \$8.05. There were 112 divorce cases pending July 1, 1935. Of this number 30 cases had been pending less than 3 months, 15 cases from 3 to 6 months, 13 cases from 6 months to 1 year, 30 cases from 1 to 2 years, 16 cases from 2 to 3 years, 5 cases from 3 to 4 years, 2 cases from 4 to 5 years, and 1 case over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 76 criminal cases disposed of within the year ending June 30, 1935. Of this number 29 cases were disposed of before trial on the merits. In 37 cases the defendants entered pleas of guilty. There were 10 cases tried to a jury, resulting in 7 verdicts of guilty and 3 of not guilty. Trial was had within 10 days after the information was filed in 1 case, in 30 days to 3 months in 3 cases, in 3 to 6 months in 3 cases, from 6 months to 1 year in 2 cases, and after 1 year in 1 case. The date information was filed was not reported in 35 cases. There were 5 paroles granted. Court costs, amounting to \$2,764.72, were reported in 75 cases, showing a minimum of \$6.30, a maximum of \$179.15, and an average of \$36.86. There were 8 criminal cases pending July 1, 1935. Of this number 8 cases had been pending less than 3 months, 7 cases from 3 to 6 months, 6 cases from 6 months to 1 year, 8 cases from 1 to 2 years, 2 cases from 3 to 4 years. There were 13 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1935, or which were pending July 1, 1935, 135 motions or demurrers were reported. Of this number 4 were granted, 131 were denied or not presented, and 48 were still pending July 1, 1935. Of the 135 motions or demurrers disposed of 36 were presented within 10 days after they were filed,

19 from 10 to 30 days, and 28 after 30 days. There were 70 motions demurred, 6 within 10 days, 3 from 10 to 30 days, and 4 after 30 days. Of the 83 ruled upon, 32 were allowed, 40 denied, and 11 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases on the merits prior to July 1, 1934 there were 6 motions reported. Of these, number 1 was still pending July 1, 1935. Of the number disposed of, 3 were presented within 10 days after they were filed, and 1 after 30 days. There were 5 motions decided the day presented. Of the 5 ruled upon, 3 were allowed, 1 denied, and 1 partially allowed and denied.

### THIRTY-NINTH DISTRICT

HON. F. O. RINDOM, of Liberal, Judge  
JEWELL ROWLAND, Clerk, Grant County  
EDITH M. YARBOUGH, Clerk, Haskell County  
KATHLEEN CRAWFORD, Clerk, Morton County  
H. W. LANE, Clerk, Seward County  
J. E. SAUNDERS, Clerk, Stanton County  
JOHN F. FULKERSON, Clerk, Stevens County

Six counties: Grant, Haskell, Morton, Seward, Stanton and Stevens. 3,930 square miles; population, 22,093; assessed value, \$41,007,035.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 153 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 45 were dismissed before trial, 108 on the merits, 173 were tried to the court and 8 to the jury. In 166 cases no answers were filed. In 22 cases answers were filed within 30 days after the petitions were filed, in 18 cases from 30 to 60 days, in 13 cases from 60 days to 6 months, and in 7 cases later than 6 months. There were 112 cases tried on the merits within 3 months of the time the petitions were filed, 33 from 3 to 6 months, 12 cases from 6 to 12 months, and 9 cases later than 12 months. In 93 cases the journal entries were filed the day of trial, in 33 cases not the same day but within 10 days, in 33 cases from 10 to 30 days, and in 26 cases after 30 days. In 26 cases journal entries had not yet been filed. Court costs, amounting to \$5,932.42, were reported in 225 cases, showing a minimum of \$2.70, a maximum of \$278.20, and an average of \$26.37. There were 153 civil actions, other than divorce, pending July 1, 1935. Of this number 56 had been pending less than 3 months, 29 from 3 to 6 months, 17 from 6 months to 12 months, 17 from 1 to 2 years, 9 from 2 to 3 years, 3 to 4 years, 1 from 4 to 5 years, and 2 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 53 divorce cases tried on the merits or dismissed within the year ending June 30, 1935. Of this number 36 cases were dismissed before trial. In 36 cases the divorces were granted to wives and 8 to husbands; one case was contested. The custody of the children was awarded to wives and 1 to a husband. There were 2 cases tried within 60 days after the petition was filed, 40 cases within 60 days to 6 months, and 2 more than 6 months. The grounds for divorce were: neglect, 10 cases; extreme cruelty, 15 cases; abandonment, 12 cases; drunkenness, 1 case; nonsupport, 3 cases; insanity, 1 case; and miscellaneous, 1 case. Court costs, amounting to \$422.68, were reported in 22 cases, showing a minimum of \$3, a maximum of \$45.25, and an average of \$19.21. There were 22 divorce cases pending July 1, 1935. Of this number 11 were pending less than 3 months, 11 from 3 to 6 months, 1 from 6 months to 12 months, 1 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years.

ending less than 3 months, 4 from 3 to 6 months, and 2 from 6 months to 1 year and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 48 criminal cases disposed of in the year ending June 30, 1935. Of this number 25 were dismissed before trial on the merits. In 18 cases the defendants entered pleas of guilty. There were 5 cases tried to a jury, resulting in 4 verdicts of guilty, and 1 verdict of not guilty. Trial was had within 10 days after the information was filed in 2 cases, in 30 days to 3 months in 1 case, and later than 1 year in 1 case. There were 18 cases in which a transcript, but no information was filed. There were 12 paroles granted. Court costs, amounting to \$1,002.30, were reported in 44 cases, showing a minimum of \$1.25, a maximum of \$185, and an average of \$22.78. There were 21 criminal cases pending July 1, 1935. Of this number 6 had been pending less than 3 months, 7 from 3 to 6 months, 3 from 6 months to 1 year, 2 from 1 to 2 years and 1 from 2 to 3 years. There were 10 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were pending at the end of the year ending June 30, 1935, or which were pending July 1, 1935, 202 motions or demurrers were reported. Of this number, 1 was allowed or not presented and 43 were still pending July 1, 1935. Of the 158 disposed of 98 were presented within 10 days after they were filed, 40 from 10 to 30 days, and 25 after 30 days. There were 144 motions or demurrers decided the day presented, 4 not the same day but within 10 days, 10 from 10 to 30 days, and 5 more than 30 days. Of the 158 ruled upon, 141 were allowed and 17 were denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1934—FORM 6a.** In cases tried on the merits prior to July 1, 1934, there were 47 motions reported. Of this number 13 were still pending July 1, 1935. Of the number disposed of 19 were presented within 10 days after they were filed, 7 from 10 to 30 days, and 11 from 30 to 60 days. There were 14 motions decided the day presented. Of the 32 ruled upon, 28 were allowed and 4 were denied.

### SUMMARY FOR THE STATE

The following is a summary of the work of all the district courts of the State for the year ending June 30, 1935, and of the cases pending in those courts July 1, 1935. There are 36 judicial districts, with 45 district judges, in 36 counties in the state, with an aggregate population of 1,845,194, and an aggregate value of the assessed value of \$2,713,328,650.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 14,621 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1935. Of this number 4,413 were dismissed before trial on the merits, 9,654 were tried to the court, 552 to the jury, 1 to commissioners, and 1 to referees; 9 cases were removed to federal court. In 10,405 cases no answers were filed. In 1,760 cases answers were filed within 30 days after the petitions were filed, in 1,139 cases from 30 to 60 days, in 993 cases from 60 days to 6 months, and in 315 cases after 6 months. There were 6,050 cases tried on the merits within 3 months of the time the petitions were filed, 2,300 cases from 3 to 6 months, 1,147 cases from 6 to 12 months, and 710 cases after 12 months. In 1,484 cases the journal entries were filed the day of trial, in 1,484 cases

not the same day but within 10 days, in 737 cases from 10 to 30 days, 695 cases after 30 days. In 4,047 cases the journal entries are not reported having been filed. Court costs, amounting to \$356,442.66, were reported in 14,354 cases, showing a minimum of \$1, a maximum of \$2,645.49, and an average of \$24.69. There were 8,304 civil actions, other than divorces, reported July 1, 1935. Of this number 2,588 cases had been pending less than 3 months, 1,397 cases from 3 to 6 months, 1,409 cases from 6 to 12 months, 1,410 cases from 1 to 2 years, 682 cases from 2 to 3 years, 335 cases from 3 to 4 years, 110 from 4 to 5 years, and 373 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 7,312 divorce cases reported for the merits or dismissed within the year ending June 30, 1935. Of this number 3,256 cases were dismissed before trial. In 3,143 cases the divorces were granted to wives, in 877 cases to husbands, and in 36 cases divorces were denied; 389 cases were contested. The custody of 2,156 minor children was awarded to wives, 278 to husbands, and 44 to other parties. There were 3,272 cases tried within 60 days after the petitions were filed, 3,272 cases from 60 days to 6 months, and 513 cases after 6 months. The grounds for divorces were: Gross neglect, 1,143 cases; extreme cruelty, 1,755 cases; abandonment, 886 cases; adultery, 42 cases; nonsupport, 81 cases; habitual drunkenness, 45 cases; conviction of a felony, 45 cases; insanity, 11 cases; and miscellaneous grounds, 45 cases. Court costs, amounting to \$72,410.44, were reported in 7,200 cases, showing a minimum of \$1.40, a maximum of \$200.90, and an average of \$10.06. There were 3,518 divorce cases pending July 1, 1935. Of this number 1,192 cases had been pending less than 3 months, 596 from 3 to 6 months, 649 from 6 months to 1 year, 658 from 1 to 2 years, and 4 cases more than 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 3,456 criminal cases reported for the merits or disposed of within the year ending June 30, 1935. Of this number 1,321 cases were dismissed before trial on the merits. In 1,646 cases the defendants entered pleas of guilty. There were 449 cases tried to a jury, resulting in 1,646 verdicts of guilty, 151 of not guilty, and 31 hung juries. Trial was had within 10 days after the information was filed in 89 cases, in 10 to 30 days in 109 cases, in 30 days to 3 months in 95 cases, in 3 to 6 months in 86 cases, in 6 months to 1 year in 47 cases, and after 1 year in 18 cases. There were 1,646 paroles granted. Court costs, amounting to \$102,964.58, were reported in 3,456 cases, showing a minimum of \$0.95, a maximum of \$1,500, and an average of \$29.88. There were 1,523 criminal cases pending July 1, 1935. Of this number 490 cases had been pending less than 3 months, 284 cases from 3 to 6 months, 236 cases from 6 months to 1 year, 208 cases from 1 to 2 years, and 228 cases from 2 to 3 years, and 228 cases more than 3 years.

**MOTIONS AND DEMURRERS.** In all of the cases which were disposed of within the year ending June 30, 1935, or which were pending July 1, 1935, motions or demurrers were reported. Of this number 903 were withdrawn, 1,291 were not presented and 1,291 were pending July 1, 1935. Of the number 5,121 were presented within 10 days after they were filed, 1,761 from 10 to 30 days, and 1,338 after 30 days. There were 7,732 motions or demurrers decided the day presented, 195 not the same day but within 10 days, 195 from 10 to 30 days, and 149 after 30 days. Of the 8,220 ruled upon, 6,295 were allowed, 1,712 denied, and 213 partially allowed and denied.

IONS IN CASES TRIED PRIOR TO JULY 1, 1934. In cases tried on the merits to July 1, 1934, there were 1,976 motions reported. Of this number 61 withdrawn or not presented and 121 were pending July 1, 1935. Of the disposed of, 754 were presented within 10 days after they were filed, 10 to 30 days, and 571 after 30 days. There were 1,621 motions denied the day presented, 54 within 10 days, 48 in 10 to 30 days, and 71 after 30 days. Of the 1,794 ruled upon, 1,521 were allowed, 264 denied, and 9 allowed and denied.

## SUMMARY, DISTRICT COURTS

TABLE I.—Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1935.

(Compiled from Form 1)

COUNTIES.	No. of cases.	Dis-missed before trial.	Tried to the court.	Tried to the jury.	No answer filed.	Answer filed.				Cases tried.			
						In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Allen.....	132	43	89	0	121	5	1	3	2	36	28	16	9
Anderson.....	83	18	64	0	61	17	1	4	0	41	18	10	1
Atchison.....	200	42	158	0	135	30	14	15	6	105	22	21	16
Barber.....	92	21	66	5	60	15	8	6	3	84	23	3	3
Barton.....	123	12	111	0	84	18	10	9	2	80	21	7	3
Bourbon.....	158	46	109	3	103	24	16	13	2	33	45	28	6
Brown.....	163	49	110	4	116	14	10	13	4	50	36	21	13
Butler.....	239	100	128	11	228	5	0	2	4	70	35	23	11
Chase.....	51	5	44	2	44	7	4	1	1	19	17	8	2
Chautauqua.....	35	5	28	2	27	7	0	0	1	16	8	6	0
Cherokee.....	97	23	74	0	97	0	0	0	0	54	13	7	0
Cheyenne.....	48	4	44	0	41	2	3	2	0	24	14	14	0
Clark.....	40	5	35	0	37	0	2	1	0	28	10	2	0
Clay.....	41	7	34	0	41	0	0	0	0	28	4	2	0
Cloud.....	85	9	71	5	51	8	14	10	2	48	13	11	4
Coffey.....	93	4	87	2	81	4	2	6	0	69	15	5	0
Comanche.....	70	4	65	1	46	4	0	6	0	37	23	4	2
Cowley.....	357	96	236	25	225	47	43	30	14	166	53	28	14
Crawford.....	230	73	137	20	166	20	12	19	13	76	28	26	27
Decatur.....	47	9	38	0	37	6	2	2	0	31	5	2	0
Dickinson.....	168	49	113	6	114	33	14	6	1	74	30	12	2
Dodge.....	190	31	132	6	138	13	8	7	1	57	39	11	3

Cases tried.

Answer filed.

COUNTIES.	No. of cases.	Dismissed before trial.	Tried to the court.	Tried to the jury.	No answer filed.	Answer filed.				Cases tried.			
						In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months to petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Ellis.....	87	13	74	0	56	15	6	5	5	44	19	9	2
Killworth.....	75	5	69	1	54	7	10	4	0	44	24	1	1
Kinney.....	140	125	14	1	140	0	0	0	0	2	5	9	6
Ford.....	182	43	136	3	145	16	14	7	0	89	24	6	17
Franklin.....	117	36	84	7	91	16	5	3	2	63	15	6	7
Geary.....	73	6	65	2	61	7	3	2	0	53	10	2	2
Gove.....	24	0	24	0	24	0	0	0	0	20	2	2	0
Graham.....	102	0	100	0	92	2	3	5	0	44	22	19	17
Grant.....	19	17	2	0	17	1	0	1	0	2	0	0	0
Gray.....	37	6	30	0*	37	0	0	0	0	12	17	2	0
Greeley.....	32	6	26	0	31	1	0	0	0	17	8	1	0
Greenwood.....	107	19	86	2	91	14	2	0	0	69	19	0	0
Hamilton.....	49	7	42	0	48	0	1	0	0	33	6	1	2
Harper.....	73	24	46	3	49	12	6	5	1	33	12	2	9
Harvey.....	120	2	116	2	89	13	11	5	2	61	28	20	0
Haskell.....	19	3	16	0	14	3	1	1	0	12	4	0	0
Hodgeman.....	33	0	33	0	33	0	0	0	0	23	9	1	0
Jackson.....	155	32	118	5	86	45	12	7	5	84	22	13	4
Jefferson.....	86	23	57	6	63	7	8	5	3	42	15	6	0
Jewell.....	116	30	84	2	82	13	13	5	3	46	29	7	4
Johnson.....	254	101	146	6	157	42	30	18	7	78	38	20	17
Keary.....	39	10	29	0	26	4	1	1	7	20	7	2	0
Kingman.....	92	13	75	3	58	16	11	6	1	55	20	3	1
Kiowa.....	56	7	47	2	43	6	7	0	0	35	7	5	2
Labette.....	112	30	79	3	94	11	3	1	3	46	23	8	5
Lane.....	17	17	0	0	0	0	0	0	0	0	0	0	0
Leavenworth.....	120	30	79	11	75	21	9	14	1	58	25	7	0
Lincoln.....	82	13	67	2	64	8	5	5	0	53	13	3	3
Linn.....	53	11	42	0	38	9	2	3	1	26	10	3	4
Logan.....	54	9	43	0	47	3	2	2	0	28	6	5	0

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1935.

COUNTIES.	No. of cases.	Dis- missed before trial.	Tried to the court.	Tried to the jury.	No answer filed	Answer filed.				Cases tried.			
						In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Lyon.....	210	55	142	13	142	23	27	14	4	101	32	17	5
Marion.....	83	18	59	6	44	21	9	9	3	35	17	10	3
Marshall.....	103	28	73	2	68	19	12	6	1	59	7	4	5
McPherson.....	202	52	147	3	176	6	10	7	3	69	35	26	20
Neade.....	46	12	34	0	35	4	3	4	0	15	5	12	2
Miami.....	131	18	106	6	84	26	6	10	5	62	29	16	5
Mitchell.....	70	7	60	3	42	17	4	5	2	51	9	2	1
Montgomery.....	217	35	166	15	132	24	22	27	12	101	34	31	16
Morris.....	47	7	40	0	45	1	0	1	0	33	6	1	0
Morton.....	41	4	34	3	29	4	3	4	1	24	7	2	4
Nemaha.....	119	4	102	13	89	7	4	9	10	49	13	20	33
Neosho.....	92	17	0	95	66	11	12	3	0	54	17	3	1
Ness.....	56	14	42	0	35	8	6	6	1	28	8	5	1
Norton.....	56	10	45	1	38	4	9	3	2	31	8	5	2
Osage.....	162	29	130	3	122	19	12	7	2	103	18	9	3
Osborne.....	58	6	52	0	53	3	2	0	0	36	15	1	0
Ottawa.....	45	4	41	0	31	8	4	2	0	35	6	0	0
Pawnee.....	70	17	53	0	59	5	2	3	1	39	10	3	0
Phillips.....	33	8	25	0	30	1	2	0	0	18	6	1	0
Pottawatomie.....	128	28	98	2	84	28	8	7	1	79	9	7	5
Pratt.....	96	23	70	3	61	11	12	6	2	37	24	11	2
Rawlins.....	81	20	61	0	65	2	6	7	1	45	8	6	2
Reno.....	384	14	357	13	215	84	41	29	15	210	72	39	49
Republic.....	76	20	53	3	64	6	3	2	1	37	14	3	2
Rice.....	152	23	128	1	143	3	1	0	5	44	55	4	26
Riley.....	135	32	100	3	98	25	5	4	3	78	16	6	3
Rooks.....	65	10	55	0	63	1	1	0	0	36	15	2	0



COUNTIES.	No. of cases.	Dis-missed before trial.	Tried to the court.	Tried to the jury.	No answer filed.	Answer filed.				Cases tried.			
						In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Scott.....	67	2	65	0	61	2	1	1	1	29	11	6	19
Sedgwick.....	1,410	585	753	68	865	123	158	224	36	502	179	90	50
Seward.....	57	7	47	3	46	4	2	0	5	32	12	5	1
Shawnee.....	802	235	531	36	476	138	95	78	15	358	104	61	44
Sheridan.....	75	31	42	2	60	5	2	5	3	17	14	10	3
Sherman.....	64	11	51	2	52	4	3	5	0	37	8	4	3
Smith.....	107	24	81	2	83	10	4	9	1	26	44	13	0
Stafford.....	104	23	80	1	60	14	15	11	4	57	15	4	0
Starlin.....	20	2	18	0	18	1	0	1	0	14	4	0	0
Stevens.....	70	12	56	2	42	9	12	6	1	28	21	5	4
Sumner.....	236	7	214	15	167	21	19	24	5	116	60	34	19
Thomas.....	62	0	61	1	50	2	5	3	2	35	13	7	7
Trego.....	64	20	44	0	43	10	4	5	2	25	7	8	4
Wabunsee.....	115	13	101	1	100	10	2	1	2	89	8	4	1
Wallace.....	41	9	32	0	28	4	2	5	2	12	13	6	1
Washington.....	76	9	66	1	51	12	6	4	3	55	9	3	0
Wichita.....	47	1	46	0	47	0	0	0	0	33	11	1	0
Wilson.....	82	12	69	1	60	10	5	7	0	52	18	0	1
Woodson.....	91	15	76	0	73	7	6	7	1	31	25	14	6
Wyandotte.....	2,120	1,393	674	53	1,450	327	188	118	37	333	152	140	102
Totals.....	14,621	4,413	9,657	560	10,414	1,760	1,139	993	315	6,020	2,300	1,147	710

9 transferred to federal court.  
 \* 1 case tried to commissioners.

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1935.

COUNTIES.	Journal entry.				No journal entry filed.	Minimum costs.	Maximum costs.	Aggregate costs.	Number cases reported.	Average costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Allen.....	64	14	4	19	31	\$4. 15	\$200. 80	\$2,671. 37	132	\$20. 23
Anderson.....	55	4	2	0	22	5. 10	323. 77	4,125. 11	83	49. 58
Atchison.....	123	33	11	11	22	2. 85	171. 68	3,504. 62	199	18. 16
Barber.....	42	9	11	6	24	3. 85	196. 90	2,786. 06	91	30. 39
Barton.....	105	1	1	4	12	2. 05	97. 95	2,332. 44	117	19. 85
Bourbon.....	112	6	1	11	28	2. 50	100. 30	2,880. 81	158	18. 42
Brown.....	11	40	69	19	24	4. 50	97. 18	3,078. 65	163	18. 88
Butler.....	40	21	1	8	169	2. 00	2,645. 49	17,754. 70	240	73. 97
Chase.....	23	1	0	5	2	2. 50	85. 14	1,222. 73	41	29. 82
Chautauqua.....	14	7	5	2	7	3. 95	65. 60	1,893. 61	34	26. 28
Cherokee.....	60	2	1	7	27	4. 00	750. 00	5,384. 13	95	56. 68
Cheyenne.....	31	4	2	4	7	2. 00	78. 35	1,076. 91	48	22. 44
Clark.....	7	3	5	21	4	2. 70	86. 40	1,070. 66	40	26. 77
Clay.....	30	6	2	2	1	5. 35	80. 88	1,003. 56	41	24. 48
Cloud.....	49	11	4	12	9	2. 05	239. 13	2,838. 90	84	33. 79
Coffey.....	55	8	9	13	8	1. 25	246. 95	3,138. 22	93	33. 74
Comanche.....	23	28	8	7	4	2. 05	69. 64	2,343. 75	70	33. 48
Cowley.....	99	119	31	13	95	2. 65	301. 31	8,949. 79	357	22. 21
Crawford.....	113	26	8	10	73	4. 00	176. 95	4,287. 66	230	18. 64
Decatur.....	33	5	3	3	3	4. 15	107. 74	1,303. 67	46	28. 34
Dickinson.....	110	3	7	3	45	2. 30	497. 64	5,713. 57	168	34. 00
Doniphan.....	18	23	25	29	25	2. 00	184. 80	2,486. 82	114	21. 81
Douglas.....	131	39	15	8	0	2. 65	139. 35	4,209. 30	193	21. 80
Edwards.....	42	0	3	1	8	4. 20	54. 55	1,198. 10	54	22. 19
Elk.....	6	0	0	0	66	1. 15	60. 60	1,906. 46	70	27. 23
Ellis.....	86	0	0	1	0	2. 25	291. 16	2,134. 90	87	24. 54
Ellsworth.....	69	1	0	0	4	2. 50	466. 96	2,489. 54	75	33. 19
Finney.....	140	0	1	0	0	2. 05	172. 95	2,749. 53	140	19. 95

COUNTIES.	Journal entry.				No. journal entry filed.	Minimum costs.	Maximum costs.	Aggregate costs.	Number cases reported.	Average costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Geary.....	46	13	3	2	9	\$3.75	\$78.15	\$1,581.45	73	\$21.96
Gove.....	7	6	2	6	3	3.70	44.15	369.18	21	17.53
Graham.....	70	2	0	2	28	2.00	697.28	4,162.05	51	81.61
Grant.....	8	6	1	4	0	13.35	34.63	422.50	19	22.23
Gray.....	13	4	3	3	14	5.35	70.00	786.10	30	26.20
Greeley.....	32	0	0	0	0	3.00	49.53	810.47	32	25.33
Greenwood.....	75	14	3	1	14	3.55	121.14	2,807.70	98	28.65
Hamilton.....	15	11	4	4	15	1.15	62.30	889.58	49	18.15
Harper.....	42	3	4	3	21	4.20	84.55	1,662.19	65	25.57
Harvey.....	72	11	13	11	13	4.60	190.25	2,724.06	120	22.70
Haskell.....	11	3	2	0	3	6.50	278.20	739.65	22	37.14
Hodgeman.....	32	0	0	1	0	3.55	76.15	832.08	32	26.00
Jackson.....	104	32	8	4	7	2.15	198.01	3,192.71	145	22.01
Jefferson.....	57	0	2	2	25	5.20	117.45	2,001.33	84	24.06
Jewell.....	57	21	7	2	29	5.65	200.00	4,178.94	90	46.43
Johnson.....	148	2	0	1	103	2.65	209.35	5,282.13	254	20.40
Kearny.....	14	11	14	0	0	3.25	45.09	685.70	36	19.05
Kingman.....	59	16	5	2	10	4.05	81.60	2,379.67	89	26.74
Kiowa.....	37	5	3	3	8	1.90	62.95	1,221.58	56	21.81
Labette.....	62	23	10	9	8	4.90	81.18	2,662.82	109	24.42
Lane.....	8	3	0	1	5	3.30	36.35	247.01	17	14.53
Leavenworth.....	83	5	0	0	32	3.08	68.89	1,833.08	120	15.28
Lincoln.....	30	29	7	5	11	3.05	139.30	1,929.08	82	23.24
Linn.....	27	14	3	3	6	3.15	285.25	1,449.14	53	26.84
Logan.....	39	2	2	3	8	5.00	48.58	1,437.82	52	27.65
Lyon.....	138	1	3	4	64	2.25	96.25	3,969.85	210	18.90
Marion.....	30	20	5	5	23	3.40	1,197.93	5,136.33	83	61.88
Marshall.....	65	8	4	4	13	3.60	1,167.21	6,097.76	103	59.77
McPherson.....	109	1	1	1	90	2.60	1,153.05	4,010.80	198	20.25
Meade.....	32	3	6	3	2	2.70	64.26	942.55	46	20.49

TABLE I.—CONTINUED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1935.

COUNTIES.	Journal entry.				No journal entry filed.	Minimum costs.	Maximum costs.	Aggregate costs.	Number cases reported.	Average costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Miami.....	74	36	11	5	6	\$3.20	\$189.80	\$5,161.47	129	\$40.01
Mitchell.....	15	3	1	26	25	3.45	327.55	2,026.96	63	32.17
Montgomery.....	117	26	25	10	39	4.80	204.88	6,730.60	212	31.32
Morris.....	46	0	0	0	1	3.10	84.31	1,193.37	47	25.39
Morton.....	21	2	6	7	5	4.83	94.00	1,144.15	41	27.90
Nemaha.....	5	37	44	28	5	4.05	211.20	3,777.11	116	32.50
Neosho.....	82	1	0	2	7	3.25	159.70	2,536.80	92	27.58
Ness.....	54	0	0	0	2	3.85	89.70	1,624.19	56	29.18
Norton.....	22	3	2	20	9	2.95	123.65	1,475.99	56	26.36
Osage.....	99	18	17	2	26	3.25	621.01	7,239.14	162	44.07
Osborne.....	47	0	1	4	6	2.55	118.02	1,772.12	58	30.56
Ottawa.....	38	6	0	0	1	3.75	69.10	919.94	34	27.05
Pawnee.....	55	0	5	1	9	2.95	77.80	1,272.73	69	18.45
Phillips.....	13	0	1	11	8	6.80	1,615.00	2,370.55	28	84.66
Pottawatomie.....	98	2	0	0	28	5.45	110.60	3,114.64	128	24.33
Pratt.....	24	8	21	11	32	4.05	64.12	2,245.70	97	23.15
Rawlins.....	27	15	12	7	20	3.65	72.25	1,402.49	75	18.70
Reno.....	251	54	23	22	34	3.60	1,569.05	12,262.35	383	32.02
Republic.....	40	10	4	4	18	2.10	68.60	1,340.37	73	18.36
Rice.....	140	3	3	0	6	5.20	275.00	4,016.42	152	26.36
Riley.....	81	6	9	5	34	2.75	198.85	3,165.83	135	23.45
Rooks.....	51	0	0	3	11	2.05	105.30	1,892.60	61	31.03
Rush.....	46	0	0	0	18	3.30	51.80	1,576.72	64	24.64
Russell.....	121	5	8	2	27	2.95	87.60	3,333.08	158	21.08
Saline.....	171	16	7	8	8	3.55	405.70	4,979.07	210	23.23
Scott.....	1	1	3	2	60	1.40	243.07	735.39	24	30.64
Sedgewick.....	447	269	69	39	596	2.75	35,430.89	35,430.89	1,410	25.12
Seward.....	37	6	7	4	3	3.60	85.40	1,404.62	57	24.64

TABLE I.—CONCLUDED. Summary, district courts. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1935.

COUNTIES.	Journal entry.				No journal entry filed.	Minimum costs.	Maximum costs.	Aggregate costs.	Number cases reported.	Average costs.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.						
Sherman.....	43	0	1	7	13	\$3.80	\$188.35	\$1,637.74	62	\$26.41
Smith.....	86	5	1	0	15	3.60	141.87	2,573.37	107	24.05
Stafford.....	64	6	5	3	26	2.60	154.25	2,537.64	103	24.64
Stanton.....	12	2	3	2	1	3.25	51.17	555.01	20	27.25
Stevens.....	4	29	14	9	14	2.70	66.25	1,660.45	69	24.06
Sumner.....	114	42	24	23	33	3.55	440.79	7,397.48	234	31.61
Thomas.....	142	7	4	5	4	3.55	105.65	1,697.60	62	27.38
Trego.....	16	8	0	14	26	1.00	61.00	945.27	64	35.01
Waukegan.....	61	5	5	31	13	2.70	71.11	2,096.55	115	18.23
Wallace.....	17	1	7	12	4	4.95	87.33	1,226.99	41	29.93
Washington.....	43	7	8	10	8	3.10	236.48	2,216.96	76	29.16
Wichita.....	22	1	8	2	4	3.60	37.20	615.54	47	13.10
Wilson.....	55	6	8	0	11	3.90	92.45	1,881.37	81	23.23
Woodson.....	62	9	4	7	9	2.30	89.25	2,509.05	90	26.65
Wyandotte.....	601	85	11	4	1,429	2.95	157.65	29,160.63	2,120	13.75
Totals.....	7,658	1,484	737	695	4,047	\$1.00	\$2,645.49	\$356,442.66	14,354	\$24.69

TABLE II.—Summary, district courts. Civil cases (other than divorce) pending July 1, 1935.  
(Compiled from Form 2)

COUNTIES.	Civil actions pending 7-1-35.	Pending less than 3 months.	3 to 6 months.	6 to 12 months.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.
Allen.....	120	16	11	23	32	16	16	
Anderson.....	61	3	8	18	12	5	10	
Atchison.....	94	15	26	15	14	11	9	
Barber.....	47	8	10	13	9	5	1	
Barton.....	61	29	7	9	8	6	2	
Bourbon.....	79	17	11	19	12	11	2	
Brown.....	55	21	14	6	9	2	2	
Butler.....	136	42	12	26	14	11	5	
Chase.....	10	8	2	0	0	0	0	
Chautauqua.....	33	13	10	8	2	0	0	
Cherokee.....	143	17	16	14	13	11	16	
Cheyenne.....	25	16	6	3	0	0	0	
Clark.....	57	14	9	11	7	8	3	
Clay.....	21	11	7	3	0	0	0	
Cloud.....	37	17	3	2	12	3	0	
Coffey.....	20	12	3	5	0	0	0	
Comanche.....	19	9	2	4	2	1	0	
Cowley.....	202	23	52	38	49	22	11	
Crawford.....	229	46	31	25	71	23	14	
Decatur.....	10	6	1	0	3	0	0	
Dickinson.....	51	33	8	4	3	2	1	
Doniphan.....	43	21	6	10	4	0	2	
Douglas.....	54	27	10	15	2	0	0	
Edwards.....	31	13	6	5	4	1	2	
Elk.....	25	11	5	9	0	0	0	
Ellis.....	46	17	7	8	8	3	3	
Ellsworth.....	38	17	5	4	5	3	2	
Finney.....	63	19	10	14	14	6	0	
Ford.....	105	30	10	25	15	10	8	
Franklin.....	53	33	9	8	2	1	0	
Geary.....	33	16	11	6	0	0	0	
Gove.....	31	7	9	3	12	0	0	
Graham.....	71	11	18	6	25	11	0	
Grant.....	15	5	3	6	1	0	0	
Gray.....	22	15	4	2	1	0	0	
Greeley.....	34	12	2	3	4	10	3	
Greenwood.....	39	26	8	4	1	0	0	
Hamilton.....	53	13	8	10	16	4	1	
Harper.....	27	16	6	3	1	1	0	
Harvey.....	39	8	4	8	9	5	3	
Haskell.....	16	8	2	4	1	0	1	
Hodgeman.....	15	6	4	1	3	1	0	
Jackson.....	83	34	20	18	11	0	0	
Jefferson.....	72	19	7	11	18	7	6	
Jewell.....	57	27	11	11	6	2	0	
Johnson.....	105	40	14	26	16	7	2	
Kearny.....	19	9	6	3	1	0	0	
Kingman.....	23	16	2	4	1	0	0	
Kiowa.....	15	5	5	5	0	0	0	
Labette.....	52	17	10	14	8	4	1	
Lane.....	15	7	2	6	0	0	0	
Leavenworth.....	80	27	13	40	0	0	0	
Lincoln.....	50	20	8	12	0	6	0	
Linn.....	43	12	8	4	3	7	4	
Logan.....	44	18	6	5	6	6	1	
Lyon.....	132	41	22	22	29	11	4	
Marion.....	25	11	6	4	3	0	1	
Marshall.....	59	32	13	10	3	1	0	
McPherson.....	89	26	16	20	22	3	1	
Meade.....	39	10	10	3	9	4	2	

TABLE II.—CONCLUDED. Summary, district courts. Civil cases (other than divorce)  
pending July 1, 1935

ES.	Civil actions pending 7-1-'35.	Pending less than 3 months.	3 to 6 months.	6 to 12 months.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	Over 5 years.
	74	23	7	7	18	9	8	2	0
	41	14	8	9	7	1	0	0	2
y	105	28	20	16	20	8	9	0	4
	37	20	8	4	4	1	0	0	0
	26	8	5	8	2	2	1	0	0
	46	26	9	5	3	1	1	0	1
	99	26	21	7	12	11	8	2	12
	19	0	0	10	3	3	2	0	1
	45	9	0	22	13	1	0	0	0
	55	16	11	11	12	4	0	1	0
	35	26	7	2	0	0	0	0	0
	17	9	6	2	0	0	0	0	0
	31	12	4	2	6	2	2	0	3
ie	30	15	6	9	0	0	0	0	0
	60	22	14	8	6	6	2	0	2
	49	21	12	7	8	0	1	0	0
	17	7	3	5	1	1	0	0	0
	252	85	43	46	38	24	6	6	4
	24	11	8	1	2	1	1	0	0
	32	18	8	6	0	0	0	0	0
	62	28	11	6	8	6	2	0	1
	41	25	5	11	0	0	0	0	0
	21	12	2	1	2	3	0	0	1
	120	34	24	34	22	5	0	1	0
	245	43	26	20	57	26	24	13	36
	40	17	5	10	2	6	0	0	0
	787	267	152	168	137	63	0	0	0
	38	10	6	6	7	4	4	0	1
	272	115	66	40	30	10	9	1	1
	42	13	11	6	10	2	0	0	0
	47	18	7	7	5	4	3	1	2
	31	14	9	3	1	0	0	0	0
	45	14	12	6	10	2	1	0	0
	18	6	6	4	2	0	0	0	0
	40	19	7	4	4	3	1	1	1
	140	42	13	19	12	10	9	7	28
	25	18	3	2	0	2	0	0	0
	38	17	10	3	7	0	1	0	0
	38	12	11	10	3	0	1	1	0
	18	10	2	0	2	3	1	0	0
	45	19	4	8	9	4	0	0	1
	26	14	3	4	4	1	0	0	0
	31	15	8	8	0	0	0	0	0
	58	14	7	9	21	4	3	0	0
	1,577	308	193	205	356	192	94	53	176
	8,304	2,588	1,397	1,409	1,410	682	335	110	373

TABLE III.—Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1935  
(Compiled from Form 3)

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.			Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to husbands.	Other disposition.			
Allen.....	30	5	13	9	3	8	13	0	2 <sup>a</sup>	1	23	1
Anderson.....	25	6	14	4	1	1	20	3	0	0	15	4
Atchison.....	77	28	42	6	1	13	27	4	1	1	39	9
Barber.....	18	2	13	2	1	3	10	6	0	0	15	1
Barton.....	48	7	33	8	0	5	18	4	0	0	38	3
Bourbon.....	54	8	37	8	1	5	24	4	0	3	39	4
Brown.....	30	6	14	10	0	5	8	6	0	1	20	3
Butler.....	123	48	56	19	0	3	36	9	0	8	57	10
Chase.....	5	0	4	0	1	0	8	0	0	0	4	1
Chautauqua.....	27	6	17	4	0	3	10	0	0	2	18	1
Cherokee.....	110	30	69	7	2	4	22	1	0	6	63	11
Cheyenne.....	9	3	4	2	0	1	7	0	0	0	5	1
Clark.....	3	2	0	1	0	1	1	0	0	0	0	0
Clay.....	17	3	5	1	0	1	5	1	0	0	13	1
Cloud.....	31	10	18	3	0	3	15	0	16	0	0	5
Coffey.....	24	4	15	4	1	1	5	5	0	2	16	2
Comanche.....	10	4	3	3	1	0	5	1	0	0	5	1
Cowley.....	163	41	90	30	2*	2	37	8	0	13	100	9
Crawford.....	129	24	89	16	0	13	24	12	0	0	75	27
Decatur.....	16	2	13	1	0	0	14	0	0	2	11	1
Dickinson.....	46	10	29	6	1	0	6	0	0	0	30	5
Doniphan.....	22	6	14	2	0	0	7	0	0	0	15	1
Douglas.....	54	13	30	11	0	10	16	0	2	4	34	3
Edwards.....	13	2	6	5	0	0	8	3	0	0	10	1



COUNTIES.	Total number cases.	Cases dis-missed.	Divorces granted to wives.	Divorces granted to hus-bands.	Divorces denied.	Divorce cases con-tested.	children.			Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to hus-bands.	Other dispo-sition			
Ellis.....	13	3	8	2	0	1	11	3	0	1	7	2
Ellsworth.....	14	2	11	1	0	1	13	1	0	1	12	0
Finney.....	25	5	19	1	0	1	15	2	0	0	14	6
Ford.....	68	20	38	10	0	5	42	8	0	3	38	7
Franklin.....	47	7	31	9	0	0	22	1	0	1	33	6
Geary.....	45	17	19	9	0	2	17	4	0	1	25	2
Gove.....	1	0	1	0	0	0	4	0	0	1	1	0
Graham.....	13	5	4	3	1	3	13	0	0	1	4	3
Grant.....	5	0	3	2	0	0	0	0	0	0	5	0
Gray.....	3	0	1	2	0	0	0	0	0	1	2	0
Greeley.....	0	0	0	0	0	0	0	0	0	0	0	0
Greenwood.....	25	8	15	2	0	3	14	1	0	0	16	1
Hamilton.....	6	0	5	1	0	0	0	1	0	1	4	1
Harper.....	28	9	15	3	1	1	9	0	0	1	16	2
Harvey.....	53	15	30	8	0	0	24	7	0	8	20	10
Haskell.....	6	1	2	3	0	0	3	1	0	0	5	0
Hodgeman.....	0	0	0	0	0	0	0	0	0	0	0	0
Jackson.....	21	1	15	5	0	1	17	1	0	2	17	1
Jefferson.....	14	5	6	3	0	0	11	1	0	1	7	1
Jewell.....	26	5	15	6	0	0	11	0	0	2	17	2
Johnson.....	79	33	38	8	0	1	32	0	0	1	42	3
Kearny.....	6	0	3	3	0	0	2	0	0	1	5	0
Kingman.....	12	2	8	2	0	0	4	0	0	0	10	0
Kiowa.....	4	1	2	1	0	0	0	0	0	0	3	0
Labette.....	106	21	64	19	2	6	40	7	2	1	75	9
Lane.....	1	1	0	0	0	0	0	0	0	0	0	0
Leavenworth.....	139	11	87	40	1	24	60	3	0	0	101	19
Lincoln.....	11	5	4	2	0	0	5	1	0	1	5	0
Linn.....	14	2	10	2	0	3	5	1	0	1	11	1
Logan.....	10	1	8	1	0	0	3	0	0	2	5	2

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1935

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.			Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to husbands.	Other disposition.			
Lyons.....	89	14	53	20	2	14	44	14	2	0	68	7
Marion.....	15	6	7	1	1	1	8	0	0	0	8	1
Marshall.....	30	7	17	6	0	2	11	1	3	0	21	2
McPherson.....	40	4	38	8	1	1	26	0	0	7	28	0
Meade.....	9	0	8	1	0	0	9	0	0	0	9	0
Miami.....	54	19	30	4	1*	2	21	1	0	2	26	7
Mitchell.....	24	4	15	4	1	3	28	0	0	0	16	1
Montgomery.....	200	42	118	35	5	25	94	11	0	22	116	15
Morris.....	6	2	1	3	0	0	1	1	0	0	4	0
Morton.....	10	4	6	0	0	0	11	0	0	0	6	0
Nemaha.....	15	3	8	3	1	5	6	1	0	1	7	3
Nescho.....	51	1	36	14	0	2	25	2	0	2	39	9
Ness.....	0	0	0	0	0	0	0	0	0	0	0	0
Norton.....	29	7	17	7	0	0	11	1	0	2	20	2
Osage.....	11	2	7	3	1	1	10	1	0	1	9	0
Osborne.....	17	3	11	3	0	0	6	1	0	0	13	1
Ottawa.....	18	1	16	4	0	0	4	0	0	0	6	1
Phillips.....	17	0	11	6	0	0	6	0	0	0	16	1
Phillips.....	13	3	9	1	0	2	3	3	0	3	7	0
Pottawatomie.....	21	4	13	4	0	5	13	3	0	2	11	4
Prairie.....	35	10	19	6	0	0	18	1	0	0	24	1
Rawlins.....	14	1	9	4	0	0	9	2	0	0	9	4
Renov.....	218	58	128	31	1	3	81	9	0	22	122	16
Republic.....	20	1	18	1	1	1	1	1	0	0	19	0
Rice.....	29	5	28	4	0	0	16	0	0	1	23	0
Riley.....	37	5	24	7	1	2	14	2	0	1	28	3
Rock.....	10	1	7	2	0	0	7	0	0	1	6	2

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1935

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.			Trial in 60 days of petition.	In 60 days to 6 mos.	After 6 mos.
							Awarded to wives.	Awarded to husbands.	Other disposition.			
Scott.....	5	1	4	0	0	0	4	0	1	0	2	2
Sedgwick.....	1,107	454	532	120	1	59	299	52	8	78	566	74
Seward.....	26	2	22	2	0	1	20	0	0	2	20	2
Shawnee.....	641	224	330	84	3	102	221	16	0	27	337	53
Sheridan.....	7	3	3	1	0	1	3	0	0	0	3	1
Sherman.....	24	5	12	6	1	0	18	3	0	1	17	1
Smith.....	14	2	9	3	0	0	3	1	0	1	10	1
Stafford.....	23	8	11	4	0	1	14	0	0	1	11	3
Stanton.....	1	0	1	1	0	0	0	0	0	0	1	0
Stevens.....	5	2	3	0	0	0	2	0	0	0	3	0
Sunner.....	55	12	34	9	0	2	66	2	0	3	36	4
Thomas.....	9	0	6	2	0	1	6	1	0	0	8	0
Trego.....	7	0	6	1	0	2	5	0	0	0	2	5
Wabauaasee.....	2	1	1	0	0	0	1	0	0	0	0	1
Wallace.....	4	0	2	1	1	0	0	0	0	0	3	1
Washington.....	14	2	9	3	0	0	3	0	0	0	8	4
Wichita.....	4	1	2	1	0	0	4	0	0	0	3	0
Wilson.....	32	1	16	8	0	6	9	1	0	1	26	0
Woodson.....	6	1	2	2	1	0	10	1	0	0	3	1
Wyandotte.....	2,285	1,852	322	111	0	4	153	27	0	10	338	85
Totals.....	7,312	3,256	3,143	877	36	389	2,156	278	44	272	3,271	513

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1935

COUNTIES.	Grounds.							Cost.						
	Gross neglect of duty.	Ex-treme cruelty.	Aban-don-ment.	Adul-tery.	Non-support.	Habit-ual drunk-ness.	Con-viction of a felony.	Insanity.	Miscel-laneous grounds.	Mini-mum.	Maximum.	Number of cases report-ing costs.	Aggregate.	Average.
Allen.....	0	2	18	1	0	1	0	0	0	\$3.90	\$46.45	30	\$339.90	\$11.33
Anderson.....	8	6	2	0	0	0	0	0	2	5.65	30.40	25	307.41	12.29
Atchison.....	41	6	1	0	0	0	0	0	0	2.75	28.65	77	585.94	7.61
Barber.....	0	13	3	0	0	0	0	0	0	4.75	18.60	17	180.10	10.59
Barton.....	0	23	18	0	0	0	0	0	0	1.65	18.29	48	279.45	5.82
Bourbon.....	26	1	16	0	0	0	0	2	0	4.15	67.10	54	577.30	10.69
Brown.....	10	2	11	0	0	0	0	1	0	3.15	138.20	30	598.67	17.75
Butler.....	12	53	5	0	2	0	0	3	0	2.65	29.20	123	1,026.83	8.34
Chase.....	0	3	1	0	0	0	0	0	0	1.40	9.00	5	28.27	5.65
Chautauqua.....	11	8	4	1	1	0	2	0	0	3.35	29.00	27	218.35	8.09
Cherokee.....	25	32	12	0	0	6	1	0	0	4.05	42.90	109	647.62	5.94
Cheyenne.....	0	1	3	0	2	0	0	0	0	4.10	18.05	9	85.00	9.44
Clack.....	0	0	0	0	0	0	0	0	1	2.55	14.00	3	22.00	7.33
Clay.....	0	7	6	0	0	0	1	0	0	6.60	13.92	16	151.67	9.45
Cloud.....	5	5	11	0	0	0	0	0	0	4.05	14.50	31	221.19	7.14
Coffey.....	0	10	8	0	1	0	0	0	0	3.00	33.25	24	156.05	6.50
Comanche.....	2	1	4	0	0	0	0	0	0	6.20	14.58	10	98.56	9.85
Cowley.....	20	56	26	1	14	0	2	2	2	3.05	34.40	163	1,375.38	8.56
Crawford.....	20	70	13	0	0	0	0	0	0	3.55	20.70	118	950.35	8.05
Decatur.....	0	5	9	0	0	0	0	0	0	3.05	36.10	16	133.63	8.35
Dickinson.....	4	17	13	1	0	0	0	0	0	2.85	15.60	46	304.71	6.62
Doniphan.....	7	0	8	0	0	0	1	0	0	4.25	12.90	22	374.99	7.95
Douglas.....	29	4	1	0	0	1	0	0	0	2.60	51.15	42	329.43	7.84
Edwards.....	0	2	1	0	1	0	2	0	3	4.50	51.50	42	329.43	7.84

COUNTIES.	Gross neglect of duty.	Ex-treme cruelty.	Aban-don-ment.	Adul-tery.	Non-support.	Habitual drunkenness.	Con-viction of a felony.	Insanity.	Miscel-laneous grounds.	Mini-mum.	Maximum.	Number of cases report-ing costs.	Aggregate.	Average.
Ellis.....	1	2	7	0	0	0	0	0	0	\$2.55	\$13.45	13	\$90.18	\$6.94
Ellsworth.....	1	6	4	0	0	1	0	0	0	6.65	96.14	14	237.24	16.99
Finney.....	3	0	0	0	0	0	2	0	0	4.80	47.90	23	200.52	8.72
Ford.....	16	14	17	0	0	1	0	0	0	4.20	12.10	68	545.16	8.01
Franklin.....	27	5	6	0	0	1	0	0	1	3.30	19.25	45	307.35	6.83
Geary.....	1	13	10	3	0	1	0	0	0	4.10	200.90	45	415.42	9.23
Gove.....	1	0	0	0	0	0	0	0	0	55.50	55.50	1	55.50	55.50
Graham.....	0	4	3	0	0	0	0	0	0	3.25	15.00	7	55.40	7.91
Grant.....	0	5	3	0	0	0	0	0	0	3.25	15.00	7	55.40	7.91
Gray.....	0	2	0	0	0	0	0	0	1	5.45	11.45	3	24.85	8.28
Greeley.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Greenwood.....	8	3	5	0	1	0	0	0	0	4.30	43.50	25	240.03	9.60
Hamilton.....	1	0	5	0	0	0	0	0	0	3.15	7.20	6	27.05	4.51
Harper.....	0	3	10	0	0	0	1	0	0	2.60	52.20	28	248.96	8.89
Harvey.....	15	14	9	0	0	0	0	0	0	4.75	22.69	53	471.05	8.87
Haskell.....	0	0	4	0	0	1	0	0	0	8.85	15.00	5	62.25	12.45
Hodgeman.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Jackson.....	0	13	5	0	0	0	2	0	0	4.80	50.20	21	256.75	12.22
Jefferson.....	7	12	0	0	0	0	0	0	0	5.30	21.31	14	133.31	9.51
Jewell.....	1	14	4	1	0	0	1	0	0	5.15	28.95	26	259.90	9.99
Johnson.....	17	18	9	0	0	2	0	0	0	3.45	60.25	79	714.36	9.04
Kearny.....	0	5	1	0	0	0	0	0	0	4.60	10.75	6	44.16	7.36
Kingman.....	1	0	7	0	0	1	1	0	0	4.30	46.85	12	122.60	10.22
Kiowa.....	1	0	2	0	0	0	0	0	0	3.80	9.80	4	24.05	6.01
Labette.....	0	41	22	3	15	1	1	0	2	4.50	101.25	94	1,316.30	14.00
Lane.....	0	0	0	0	0	0	0	0	0	14.00	14.00	1	14.00	14.00
Leavenworth.....	81	12	32	0	0	0	1	0	0	5.50	42.75	138	1,148.17	8.32
Lincoln.....	2	1	3	0	0	0	0	0	0	6.15	40.00	11	132.44	12.04
Linn.....	8	1	3	0	0	0	0	0	0	2.00	111.07	14	293.32	18.81
Logan.....	2	4	3	0	0	0	0	0	0	4.80	19.25	10	82.06	8.20

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1935

COUNTIES.	Grounds.								Cost.					
	Gross neglect of duty.	Ex-treme cruelty.	Aban-don-ment.	Adul-tery.	Non-support.	Habit-ual drunk-enness.	Con-viction of a felony.	Insanity.	Miscel-laneous grounds.	Mini-mum.	Maximum.	Number of cases report-ing costs.	Aggregate.	Average.
Lyon.....	6	33	24	5	0	3	1	1	0	\$2.20	\$32.25	89	\$601.35	\$6.76
Marion.....	1	3	2	0	2	0	0	0	0	3.75	16.80	9	115.61	12.85
Marshall.....	3	9	10	1	0	0	0	0	0	5.40	31.21	30	360.20	12.01
McPherson.....	17	3	12	0	0	3	1	0	0	2.90	22.75	38	253.04	6.63
Meade.....	1	2	6	0	0	0	0	0	0	5.10	12.70	9	83.02	9.11
Miami.....	16	7	7	0	0	0	3	1	0	2.45	124.70	54	441.77	8.18
Michell.....	11	6	2	0	0	0	0	0	0	3.25	24.95	24	210.30	8.76
Montgomery.....	38	52	43	2	11	2	1	0	4	4.50	93.60	178	1,986.55	11.15
Morris.....	0	4	0	0	0	0	0	0	0	5.10	12.70	6	45.80	7.63
Morton.....	3	3	0	0	0	0	0	0	0	4.75	11.40	2	16.15	8.08
Nemaha.....	10	0	1	0	0	0	0	0	0	5.20	23.90	15	146.67	9.78
Neosho.....	15	14	18	0	0	4	0	0	0	4.30	20.85	45	398.35	8.85
Ness.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Norton.....	3	10	9	0	2	0	0	0	0	3.00	27.85	29	211.70	7.30
Osage.....	4	2	4	0	0	0	0	0	0	6.20	16.10	13	139.29	10.71
Osborne.....	0	1	7	0	5	1	0	0	0	3.50	42.20	17	154.83	9.11
Ottawa.....	5	0	0	0	0	0	0	0	0	4.85	8.25	2	13.10	6.55
Pawnee.....	12	0	3	0	2	0	0	0	0	3.25	11.50	17	123.40	7.38
Phillips.....	0	4	6	0	0	0	0	0	0	5.85	40.05	12	123.42	10.29
Pottawatomie....	0	11	4	0	0	0	1	1	0	4.85	160.90	21	537.80	25.61
Pratt.....	1	4	10	0	0	0	0	0	0	3.95	14.80	35	271.23	7.75
Rawlins.....	0	7	5	0	2	0	0	0	0	3.05	26.61	14	145.66	10.40
Reno.....	55	56	36	2	0	5	2	0	3	3.75	140.10	218	1,856.28	8.52
Republic.....	0	14	3	1	0	0	1	0	0	2.75	16.60	20	127.88	6.39
Rice.....	0	10	11	0	3	0	0	0	0	4.60	14.20	29	248.10	8.55

COUNTRIES.	Grounds.							Cost.						
	Gross neglect of duty.	Ex-treme cruelty.	Aban-don-ment.	Adul-tery.	Non-support.	Habit-ual drunk-ennes.	Con-viction of a felony.	Insanity.	Miscel-laneous grounds.	Mini-mum.	Maximum.	Number of cases report-ing costs.	Aggregate.	Average.
Scott.....	0	2	2	0	0	0	0	0	0	\$3.50	\$18.80	5	\$44.12	\$8.82
Sedgwick.....	214	321	105	1	0	3	4	0	4	3.10	47.65	1,107	11,856.04	10.71
Seward.....	7	8	4	0	3	0	0	0	1	3.30	45.25	26	246.70	9.49
Shawnee.....	227	103	63	1	2	5	9	0	4	2.50	106.70	641	5,726.40	8.93
Sheridan.....	0	2	2	0	0	0	0	0	0	4.80	13.35	7	61.56	8.78
Sherman.....	1	1	16	0	0	0	0	0	0	4.25	22.28	24	212.67	8.44
Smith.....	9	3	0	0	0	0	0	0	0	3.00	25.45	14	98.90	9.06
Stafford.....	1	9	4	0	0	0	1	0	0	2.50	20.10	23	157.88	8.86
Stanton.....	0	0	0	1	0	0	0	0	0	8.40	8.40	1	8.40	8.40
Stevens.....	0	1	2	0	0	0	0	0	0	3.00	9.30	5	29.20	5.84
Sunner.....	27	9	5	0	0	2	0	0	0	3.25	32.60	54	655.90	12.15
Thomas.....	0	1	6	0	0	0	1	0	0	3.95	12.19	7	78.50	11.21
Trego.....	4	0	3	0	0	0	0	0	0	3.65	37.95	7	85.40	12.20
Wabausee.....	0	1	0	0	0	0	0	0	0	4.40	4.95	2	9.35	4.68
Wallace.....	2	0	0	0	0	1	0	0	0	3.90	12.28	4	29.53	7.38
Washington.....	0	8	3	0	0	0	0	1	0	4.90	30.55	14	153.88	10.99
Wichita.....	1	0	2	0	0	0	0	0	0	4.55	8.20	4	26.10	5.26
Wilson.....	2	14	8	2	0	0	0	1	0	3.30	42.60	32	310.17	9.69
Woodson.....	0	0	1	0	2	0	0	0	1	4.70	11.40	5	39.95	7.99
Wyandotte.....	0	428	3	0	1	0	1	0	0	4.00	96.60	2,283	25,725.09	11.26
Totals.....	1,143	1,755	886	42	81	48	45	11	45	\$1.40	\$200.90	7,200	\$72,410.44	\$10.05

TABLE IV.—Summary, district courts. Divorce cases pending July 1, 1935

(Compiled from Form 4)

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 to 12 months.	From 1 to 2 years.
Allen.....	23	6	1	5	5
Anderson.....	16	5	3	4	3
Atchison.....	49	9	4	13	11
Barber.....	5	0	4	1	0
Barton.....	28	13	6	5	3
Bourbon.....	52	14	15	6	12
Brown.....	7	3	2	1	0
Butler.....	70	21	6	13	10
Chase.....	3	3	0	0	0
Chautauqua.....	11	0	7	3	1
Cherokee.....	80	19	15	17	11
Cheyenne.....	1	0	0	0	1
Clark.....	4	0	1	2	1
Clay.....	14	10	3	1	0
Cloud.....	9	4	2	1	2
Coffey.....	13	4	3	3	3
Comanche.....	0	0	0	0	0
Cowley.....	95	41	9	20	21
Crawford.....	112	30	15	13	30
Decatur.....	2	2	0	0	0
Dickinson.....	12	7	1	3	1
Doniphan.....	7	4	2	1	0
Douglas.....	28	17	7	3	1
Edwards.....	5	3	1	0	1
Elk.....	1	1	0	0	0
Ellis.....	4	0	1	2	1
Ellsworth.....	5	3	1	0	1
Finney.....	16	7	2	3	2
Ford.....	25	8	5	6	3
Franklin.....	24	12	9	2	1
Geary.....	11	9	2	0	0
Gove.....	0	0	0	0	0
Graham.....	1	1	0	0	0
Grant.....	2	2	0	0	0
Gray.....	4	1	1	2	0
Greeley.....	1	1	0	0	0
Greenwood.....	14	9	1	4	0
Hamilton.....	2	2	0	0	0
Harper.....	8	5	3	0	0
Harvey.....	19	0	11	7	1
Haskell.....	1	1	0	0	0
Hodgeman.....	3	1	0	1	1
Jackson.....	9	5	1	2	0
Jefferson.....	4	0	2	2	0
Jewell.....	4	3	0	0	1
Johnson.....	34	23	1	7	3
Kearny.....	1	1	0	0	0
Kingman.....	4	3	0	1	0
Kiowa.....	1	0	1	0	0
Labette.....	29	22	6	1	0
Lane.....	3	0	0	2	1
Leavenworth.....	73	20	23	30	0
Lincoln.....	1	1	0	0	0
Linn.....	7	5	1	1	0
Logan.....	2	1	1	0	0
Lyon.....	84	18	9	13	24
Marion.....	9	7	0	1	1
Marshall.....	7	7	0	0	0
McPherson.....	14	5	3	3	3
Meade.....	1	1	0	0	0



E IV.—CONCLUDED. Summary, district courts. Divorce cases pending July 1, 1935

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 to 12 months.	From 1 to 2 years.	More than 2 years.
.....	22	7	2	5	7	1
.....	15	8	0	2	5	0
Chery.....	82	38	17	12	11	4
.....	7	7	0	0	0	0
.....	2	2	0	0	0	0
.....	8	5	1	1	1	0
.....	86	14	8	11	14	39
.....	3	0	1	0	2	0
.....	11	7	3	1	0	0
.....	7	5	0	1	1	0
.....	8	0	6	1	1	0
.....	3	2	1	0	0	0
.....	7	4	0	0	1	2
.....	8	7	1	0	0	0
Comie.....	3	0	0	0	3	0
.....	15	10	2	3	0	0
.....	2	1	1	0	0	0
.....	116	15	47	30	23	1
.....	3	3	0	0	0	0
.....	13	7	2	4	0	0
.....	18	7	5	1	5	0
.....	5	4	1	0	0	0
.....	4	3	0	0	1	0
.....	17	10	1	0	6	0
.....	110	25	6	24	23	32
.....	3	0	2	0	0	1
.....	589	259	132	141	53	4
.....	10	5	3	1	1	0
.....	166	112	37	15	2	0
.....	4	1	1	0	2	0
.....	6	0	3	1	1	1
.....	45	22	1	7	8	7
.....	2	0	1	1	0	0
.....	4	2	1	1	0	0
ee.....	3	0	0	1	2	0
.....	2	0	1	1	0	0
on.....	6	5	1	0	0	0
.....	1	1	0	0	0	0
.....	23	11	7	4	1	0
.....	5	1	1	1	1	1
te.....	978	169	99	170	322	218
ls.....	3,518	1,192	595	649	658	424

TABLE V.—Summary, district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1935  
(Compiled from Form 5)

COUNTIES.	Total number cases.	Cases dismissed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried, after information filed.					
								In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 months to 6 months.	In 6 months to 1 year.	After 1 year.
Allen.....	21	15	3	3	1	2	0	0	0	1	0	0	2
Anderson.....	18	7	6	5	5	0	0	0	2	2	0	0	1
Atchison.....	41	15	16	10	4	1	1*	2	4	0	1	1	0
Barber.....	11	5	6	0	0	0	0	0	0	0	0	0	0
Barton.....	25	9	15	1	1	0	0	0	0	0	0	1	0
Bourbon.....	57	15	36	6	4	2	0	0	0	3	1	2	1
Brown.....	14	3	10	1	1	2	0	1	0	0	0	0	0
Butler.....	62	19	39	4	0	2	0	0	1	0	3	0	0
Chase.....	1	0	1	0	0	0	0	0	0	0	0	0	0
Chautauqua.....	29	11	10	8	2	4	2	3	1	4	0	0	1
Cherokee.....	67	28	29	11	5	1	5	0	4	4	2	1	0
Cheyenne.....	10	4	4	2	2	0	0	0	1	0	1	0	0
Clark.....	11	4	5	2	1	0	1	0	0	1	0	1	0
Clay.....	7	0	6	1	1	0	0	0	0	0	1	0	0
Cloud.....	33	8	19	6	3	2	1	1	1	3	1	0	0
Coffey.....	10	3	4	3	3	0	0	0	1	0	2	0	0
Comanche.....	6	1	3	2	1	1	1	0	2	0	0	0	0
Cowley.....	68	19	42	7	3	1	3	4	1	0	2	0	0
Crawford.....	76	29	37	10	7	3	0	0	0	3	3	2	1
Decatur.....	5	0	5	0	0	0	0	0	0	0	0	0	0
Dickinson.....	15	3	7	5	3	2	0	1	2	1	0	1	0
Doniphan.....	18	3	11	4	2	1	1	0	0	3	1	2	0
Douglas.....	62	24	30	8	7	1	0	0	1	0	2	0	0
Edwards.....	12	3	8	1	0	1	0	0	0	0	0	0	0
Elk.....	11	4	6	1	0	1	0	1	0	0	0	0	0

COUNTIES.	Total number cases.	Cases dismissed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 months to 6 months.	In 6 months to 1 year.	After 1 year.
Ellis.....	27	9	11	7	4	3	0	0	2	2	2	1	0
Ellsworth.....	16	5	9	2	1	1	0	0	0	0	0	0	0
Finney.....	39	22	8	9	6	3	0	0	0	2	2	5	0
Ford.....	47	15	27	5	2	3	0	1	2	0	0	1	1
Franklin.....	66	39	15	12	5	7	0	8	3	0	0	1	0
Geary.....	19	5	9	5	2	3	0	1	3	1	0	0	0
Gove.....	5	0	4	1	0	1	0	0	0	1	0	0	0
Graham.....	7	1	4	2	1	1	0	0	0	1	0	0	0
Grant.....	4	4	0	0	0	0	0	0	0	0	0	0	0
Gray.....	3	1	2	0	0	0	0	0	0	0	0	0	0
Greeley.....	5	2	1	2	0	2	0	2	0	0	0	0	0
Greenwood.....	27	4	12	11	8	2	1	1	3	1	2	1	3
Hamilton.....	7	3	3	1	1	0	0	1	0	0	0	0	0
Harper.....	17	3	9	5	3	2	0	0	1	0	2	2	0
Harvey.....	26	8	15	3	2	1	0	1	1	0	0	1	0
Haskell.....	1	0	0	1	1	0	0	1	0	0	0	0	0
Hodgeman.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Jackson.....	23	6	12	4	2	2	0	0	2	2	0	0	0
Jefferson.....	38	10	19	9	7	1	1	2	4	1	0	2	0
Jewell.....	12	6	4	2	1	1	0	0	0	0	1	1	0
Johnson.....	79	36	42	1	1	0	0	0	0	0	1	0	0
Kearny.....	2	0	2	0	0	0	0	0	0	0	0	0	0
Kingman.....	15	7	3	5	2	2	1	0	1	1	2	1	0
Kiowa.....	7	5	2	0	0	0	0	0	0	0	0	0	0
Labette.....	23	5	15	3	2	1	0	0	1	1	1	0	0
Lane.....	1	0	1	0	0	0	0	0	0	0	0	0	0
Leavenworth.....	51	21	15	15	13	2	0	2	9	2	2	0	0
Lincoln.....	4	3	0	1	0	1	0	0	0	0	0	1	0
Linn.....	11	0	6	5	4	1	0	0	1	1	1	2	0
Logan.....	12	3	8	1	0	1	0	0	1	0	0	0	0



TABLE V.—Continued. Summary, district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1960

COUNTIES.	Total number cases.	Cases dis- missed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried, after information filed.					
								In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 months to 6 months.	In 6 months to 1 year.	After 1 year.
Scott.....	1	0	0	1	0	1	0	0	0	0	1	0	0
Sedgwick.....	604	300	284	20	11	9	0	1	3	4	9	3	0
Seward.....	26	17	7	2	2	0	0	0	0	1	0	0	1
Shawnee.....	341	141	171	23	22	7	0	3	10	10	3	1	0
Sheridan.....	15	10	2	3	1	2	0	2	0	0	1	0	0
Sherman.....	17	7	6	4	4	0	0	0	1	1	2	0	0
Smith.....	26	3	22	1	0	1	0	0	0	0	0	0	1
Stafford.....	24	10	7	7	3	4	0	2	2	0	0	3	0
Stanton.....	8	1	7	0	0	0	0	0	0	0	0	0	0
Stevens.....	6	0	4	2	1	1	0	2	0	0	0	0	0
Sumner.....	42	6	30	6	5	0	1	2	1	0	3	0	0
Thomas.....	15	0	14	1	0	1	0	1	0	0	0	0	0
Trego.....	6	1	5	2	2	0	0	0	0	0	2	0	0
Wabaunsee.....	9	2	3	2	2	0	0	1	0	1	0	0	0
Wallace.....	2	2	0	0	0	0	0	0	0	0	0	0	0
Washington.....	11	2	8	1	0	1	0	1	0	0	0	0	0
Wichita.....	4	1	2	1	1	0	0	0	0	0	1	0	0
Wilson.....	18	3	13	2	2	0	0	0	0	1	1	0	0
Woodson.....	9	5	4	0	0	0	0	0	0	0	0	0	0
Wyandotte.....	298	171	83	44	17	27	0	15	4	7	10	3	5
Totals.....	3,456	1,361	1,646	449	267	151	31	89	114	95	86	47	18

\* Two mistrials.

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1935  
(Compiled from Form 5)

COUNTIES.	Trans- script but no infor- mation filed.	Paroles granted.	Costs.				Number of cases costs reported.	Average.
			Mini- mum.	Maximum.	Aggregate.			
Allen.....	8	2	\$9.15	\$200.80	\$814.01		21	\$38.76
Anderson.....	0	1	10.10	325.90	839.77		15	55.98
Atchison.....	10	8	5.50	79.55	758.55		40	18.96
Barber.....	3	3	16.55	230.10	566.66		11	51.51
Barton.....	0	3	10.35	85.00	677.93		25	27.91
Bourbon.....	2	19	6.85	139.40	1,628.40		57	28.56
Brown.....	0	3	6.40	51.25	300.51		14	21.46
Butler.....	28	16	2.45	369.83	2,091.15		62	33.73
Chase.....	0	0	2.20	2.20	2.20		1	2.20
Chautauqua.....	0	5	3.50	100.70	787.85		28	28.13
Cherokee.....	14	4	5.10	245.15	2,934.43		67	43.80
Cheyenne.....	6	1	4.00	10.45	67.75		8	8.47
Clark.....	4	4	2.70	72.28	293.53		11	26.68
Clay.....	1	2	9.40	59.75	179.25		7	25.61
Cloud.....	5	10	8.95	225.95	1,411.13		33	42.76
Coffey.....	5	5	3.70	132.80	220.20		10	22.02
Comanche.....	0	1	5.95	164.30	361.10		6	60.18
Cowley.....	4	12	5.35	147.75	2,131.09		65	32.99
Crawford.....	35	5	6.30	179.15	2,764.72		75	36.86
Decatur.....	0	1	3.50	47.75	128.00		5	25.60
Dickinson.....	2	1	3.10	336.20	645.55		15	43.04
Doniphan.....	1	3	2.15	131.35	580.25		16	36.27
Douglas.....	13	1	2.80	194.07	2,512.25		52	48.43
Edwards.....	3	3	1.55	188.81	621.41		13	47.72
Elk.....	0	1	.95	34.40	144.85		11	13.17
Ellis.....	8	0	1.00	64.00	806.65		27	29.50

COUNTIES.	Trans- script but no infor- mation filed.	Paroles granted.	Costs.			
			Mini- mum.	Maximum.	Aggregate.	Number of cases costs reported.
Geary.....	3	2	\$6.40	\$227.70	\$748.64	19
Gove.....	0	1	19.65	45.70	136.10	4
Graham.....	1	2	14.60	125.60	322.17	7
Grant.....	4	0	0	0	0	0
Gray.....	0	1	13.05	138.61	243.19	3
Greeley.....	1	0	0	0	0	0
Greenwood.....	1	10	5.05	180.29	1,250.16	26
Hamilton.....	2	1	7.85	1,500.00	1,650.00	7
Harper.....	4	2	7.15	101.05	630.95	16
Harvey.....	6	6	5.05	138.05	405.15	26
Haskell.....	0	0	9.85	9.85	9.85	1
Hodgeman.....	0	0	0	0	0	0
Jackson.....	4	1	3.30	56.85	635.41	23
Jefferson.....	7	10	5.85	342.17	1,401.23	37
Jewell.....	2	4	3.80	76.95	279.60	13
Johnson.....	4	0	5.60	152.45	913.80	79
Kearny.....	0	0	12.70	13.65	28.25	2
Kingman.....	0	0	7.95	89.15	486.95	15
Kiowa.....	9	2	7.40	26.50	99.30	7
Labette.....	4	1	6.90	134.70	650.35	22
Lane.....	0	1	10.20	10.20	10.20	1
Leavenworth.....	21	15	2.50	100.80	1,015.34	38
Lincoln.....	0	0	6.00	170.45	211.45	4
Linn.....	0	6	3.30	114.40	390.65	11
Logan.....	1	1	11.05	121.13	433.45	12
Lyon.....	0	0	2.30	38.90	174.64	15
Marion.....	0	0	13.30	161.75	644.80	15
Marshall.....	0	0	4.80	357.05	1,525.03	33
McPherson.....	0	0	3.25	84.50	1,423.50	49
Meade.....	0	0	7.00	12.10	53.35	5
						10.67

TABLE V.—CONTINUED. Summary, district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1935

COUNTIES.	Trans- script but no infor- mation filed.	Paroles granted.	Costs.				
			Mini- mum.	Maximum.	Aggregate.	Number of cases costs reported.	Average.
Miami.....	4	0	\$5.75	\$844.10	\$2,026.75	22	\$92.12
Mitchell.....	6	8	5.80	91.01	374.57	18	20.81
Montgomery.....	54	9	3.95	277.94	4,209.77	91	46.26
Morris.....	1	2	1.45	85.00	202.40	8	25.30
Morton.....	0	0	1.90	3.50	8.20	3	2.73
Nemaha.....	0	3	19.25	117.80	323.40	6	53.90
Neosho.....	4	5	3.40	91.75	560.00	35	16.00
Ness.....	2	0	8.70	301.85	392.42	5	78.48
Norton.....	0	3	3.55	12.50	24.35	3	8.12
Osage.....	1	5	3.00	61.50	247.40	8	30.96
Osborne.....	0	1	8.15	83.40	196.55	5	39.31
Ottawa.....	0	0	11.60	135.65	578.55	10	52.85
Pawnee.....	6	2	10.35	50.60	414.15	16	25.88
Phillips.....	1	8	4.40	405.20	231.00	6	38.50
Pottawatomie.....	0	0	6.00	20.00	71.35	8	8.92
Pratt.....	2	1	5.55	126.90	273.05	9	37.00
Rawlins.....	1	3	1.60	17.65	66.30	11	6.03
Reno.....	26	20	4.10	365.25	5,590.52	153	36.54
Republic.....	1	5	6.05	156.61	416.06	14	29.72
Rice.....	1	7	9.80	95.60	919.70	29	31.71
Riley.....	8	3	5.95	634.85	1,289.60	21	61.41
Roots.....	0	2	13.80	206.75	508.15	8	63.52
Rush.....	1	0	8.50	28.75	54.25	4	13.74
Russell.....	0	4	7.85	35.45	106.80	6	17.80
Saline.....	5	5	2.60	173.75	2,321.67	48	48.37
Scott.....	0	0	253.65	253.65	253.65	1	253.65
Sedgewick.....	431	187	5.45	322.00	14,529.16	604	24.05



TABLE V.—CONCLUDED. Summary, district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1935

COUNTIES.	Trans- script but no infor- mation filed.	Paroles granted.	Costs.			
			Mini- mum.	Maximum.	Aggregate.	Number of cases costs reported.
Sherman.....	6	4	\$2.45	\$217.50	\$668.60	17
Smith.....	1	17	85	57.60	345.55	96
Stafford.....	1	2	7.30	416.10	375.35	23
Stanton.....	4	5	1.25	20.00	1,573.00	8
Stevens.....	0	3	15.20	44.00	32.00	4.50
Sumner.....	11	11	3.49	156.40	196.03	33.01
Thomas.....	0	8	8.50	52.55	1,994.02	42
Trego.....	1	1	30.05	93.00	289.10	15
Wabunsee.....	1	2	1.60	226.20	213.10	6
Wallace.....	0	0	11.85	15.40	561.75	9
Washington.....	2	0	4.60	81.45	27.25	2
Wichita.....	0	2	26.50	375.00	289.55	11
Wilson.....	4	4	3.10	104.69	489.00	4
Woodson.....	2	2	5.25	74.40	300.14	21
Wyandotte.....	43	44	4.10	117.80	273.70	10
Totals.....	1,033	650	\$0.95	\$1,500.00	5,396.45	294
					\$102,964.58	3,445
						\$29.88

TABLE VI.—Summary, district courts. Criminal cases pending July 1, 193

(Compiled from Form 6)

COUNTIES.	No. of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	More than 3 years.
Allen.....	15	3	4	5	2	1	0
Anderson.....	12	2	2	3	4	1	0
Atchison.....	9	3	1	2	3	0	0
Barber.....	1	0	1	0	0	0	0
Barton.....	8	3	2	1	2	0	0
Bourbon.....	40	11	3	12	11	0	3
Brown.....	2	2	0	0	0	0	0
Butler.....	14	5	5	3	1	0	0
Chase.....	0	0	0	0	0	0	0
Chautauqua.....	10	2	5	3	0	0	0
Cherokee.....	23	9	2	6	6	0	0
Cheyenne.....	8	0	8	0	0	0	0
Clark.....	2	0	0	1	1	0	0
Clay.....	0	0	0	0	0	0	0
Cloud.....	0	0	0	0	0	0	0
Coffey.....	1	1	0	0	0	0	0
Comanche.....	2	2	0	0	0	0	0
Cowley.....	13	10	2	1	0	0	0
Crawford.....	31	8	7	6	8	2	0
Decatur.....	1	1	0	0	0	0	0
Dickinson.....	1	1	0	0	0	0	0
Doniphan.....	1	1	0	0	0	0	0
Douglas.....	12	6	2	4	0	0	0
Edwards.....	1	0	0	0	1	0	0
Elk.....	2	2	0	0	0	0	0
Ellis.....	16	2	3	9	1	0	1
Ellsworth.....	6	3	1	0	0	1	1
Finney.....	15	4	3	5	1	0	2
Ford.....	18	6	4	3	4	1	0
Franklin.....	12	11	1	0	0	0	0
Geary.....	5	1	1	1	0	0	2
Gove.....	4	2	1	1	0	0	0
Graham.....	2	0	0	2	0	0	0
Grant.....	1	0	1	0	0	0	0
Gray.....	1	1	0	0	0	0	0
Greeley.....	1	0	0	1	0	0	0
Greenwood.....	15	7	5	3	0	0	0
Hamilton.....	16	1	1	3	10	1	0
Harper.....	4	4	0	0	0	0	0
Harvey.....	5	0	3	1	1	0	0
Haskell.....	3	0	2	1	0	0	0
Hodgeman.....	3	1	0	0	2	0	0
Jackson.....	13	6	4	1	2	0	0
Jefferson.....	9	2	3	4	0	0	0
Jewell.....	14	5	0	0	2	1	6
Johnson.....	5	2	2	0	1	0	0
Kearny.....	0	0	0	0	0	0	0
Kingman.....	7	4	0	2	1	0	0
Kiowa.....	0	0	0	0	0	0	0
Labette.....	5	0	5	0	0	0	0
Lane.....	10	4	5	1	0	0	0
Leavenworth.....	31	8	6	17	0	0	0
Lincoln.....	2	1	0	0	0	0	1
Linn.....	3	1	2	0	0	0	0
Logan.....	4	0	0	0	3	0	1

VI.—CONTINUED. Summary, district courts. Criminal cases pending July 1, 1935

CATEGORIES.	No. of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	More than 3 years.	Trans- cript but no infor- mation filed.
.....	19	0	13	4	2	0	0	5
.....	1	0	1	0	0	0	0	0
.....	8	6	2	0	0	0	0	5
on.....	6	1	1	3	0	1	0	0
.....	2	0	0	0	1	0	1	0
.....	6	4	0	1	1	0	0	4
.....	3	0	0	3	0	0	0	2
ery.....	35	10	8	8	6	1	2	0
.....	2	0	1	1	0	0	0	0
.....	0	0	0	0	0	0	0	0
.....	8	8	0	0	0	0	0	0
.....	20	4	3	4	5	4	0	13
.....	6	1	5	0	0	0	0	5
.....	0	0	0	0	0	0	0	0
.....	12	6	1	3	2	0	0	0
.....	5	3	0	1	1	0	0	0
.....	2	1	0	1	0	0	0	0
.....	8	2	0	0	2	0	4	4
.....	5	1	0	4	0	0	0	0
omie.....	8	3	1	2	1	1	0	4
.....	2	0	0	2	0	0	0	1
.....	0	0	0	0	0	0	0	0
.....	39	21	4	7	5	2	0	6
.....	5	4	1	0	0	0	0	0
.....	4	1	1	2	0	0	0	0
.....	9	0	4	2	1	2	0	3
.....	2	2	0	0	0	0	0	0
.....	0	0	0	0	0	0	0	0
.....	2	2	0	0	0	0	0	0
.....	34	7	14	1	11	1	0	9
.....	0	0	0	0	0	0	0	0
.....	223	131	38	26	28	0	0	0
.....	12	5	3	2	1	1	0	12
.....	191	51	42	29	27	22	20	0
.....	4	1	2	1	0	0	0	1
.....	0	0	0	0	0	0	0	0
.....	3	2	1	0	0	0	0	2
.....	4	2	0	1	1	0	0	2
.....	1	0	1	0	0	0	0	1
.....	4	1	0	2	1	0	0	1
.....	21	6	4	2	4	4	1	12
.....	0	0	0	0	0	0	0	0
.....	4	1	0	0	0	1	2	1
ee.....	1	0	0	0	0	1	0	0
.....	4	1	2	0	0	1	0	0
ton.....	2	0	1	1	0	0	0	0
.....	3	0	1	1	1	0	0	1
.....	3	1	2	0	0	0	0	0
.....	9	2	2	3	2	0	0	5
te.....	342	51	28	17	38	27	181	102
als.....	1,523	490	284	236	208	77	228	348

TABLE VII.—Summary, district courts. Motions and demurrers, year ending June 30, 1935  
(Compiled from Forms 1, 2, 3, 4, 5 and 6)

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1935.	Presented.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	De- cided day pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Allen.....	138	3	25	74	15	21	108	2	0	0	88	18	4
Anderson.....	68	0	5	42	13	8	57	4	2	0	51	9	3
Atchison.....	244	31	12	133	42	26	159	24	11	7	134	40	27
Barber.....	22	0	1	7	6	8	21	0	0	0	10	10	1
Barton.....	69	7	15	29	12	6	47	0	0	0	32	15	0
Bourbon.....	199	18	14	129	11	27	127	11	9	20	137	20	10
Brown.....	207	11	2	115	43	36	193	1	0	0	150	44	0
Butler.....	43	0	26	16	1	0	15	0	2	0	12	5	0
Chase.....	12	0	1	9	1	1	11	0	0	0	10	1	0
Chautauqua.....	27	1	2	13	6	5	24	0	0	0	15	9	0
Cherokee.....	132	22	10	74	12	14	97	3	0	0	71	26	3
Cheyenne.....	44	12	9	23	0	0	22	0	0	1	23	0	0
Clark.....	7	1	1	3	0	2	1	0	1	3	5	0	0
Clay.....	12	0	6	0	3	3	6	0	0	0	4	2	0
Cloud.....	100	0	3	66	22	9	97	0	0	0	81	13	3
Coffey.....	76	0	6	62	4	4	70	0	0	0	67	3	0
Comanche.....	14	4	1	2	2	5	7	1	0	1	4	5	0
Cowley.....	293	10	17	143	69	54	265	1	0	0	217	34	15
Crawford.....	135	4	48	36	19	28	70	6	3	4	32	40	11
Decatur.....	23	0	1	12	4	6	22	0	0	0	18	4	0
Dickinson.....	22	4	2	7	4	5	16	0	0	0	10	19	0
Doniphan.....	115	0	0	68	27	16	11	0	0	0	83	6	9
Douglas.....	87	3	5	36	23	20	69	6	4	0	46	33	0

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1935.	Within 10 days.	In 10 to 30 days.	After 30 days.	De- cided day pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Ellis.....	53	1	1	37	9	5	50	0	0	1	38	13	0
Ellsworth.....	38	0	4	27	4	3	34	0	0	0	32	1	1
Finney.....	38	0	18	12	1	7	20	0	0	0	11	9	0
Ford.....	99	12	7	73	2	5	76	4	0	0	68	12	0
Franklin.....	56	0	11	29	10	6	36	4	3	2	31	12	2
Geary.....	45	5	13	14	8	5	24	1	2	0	16	11	0
Gove.....	9	0	9	0	0	0	0	0	0	0	0	0	0
Graham.....	48	3	5	29	3	8	40	0	0	0	34	6	0
Grant.....	14	0	7	5	1	1	6	0	0	0	5	2	0
Gray.....	1	0	0	0	0	1	1	0	1	0	1	0	0
Greeley.....	6	0	3	2	0	1	3	0	0	0	1	2	0
Greenwood.....	81	10	1	50	11	9	66	3	1	0	58	12	0
Hamilton.....	67	5	19	18	13	12	39	1	2	1	26	15	2
Harper.....	51	3	1	24	18	5	46	0	1	0	35	12	0
Harvey.....	78	6	4	43	10	15	67	0	0	1	44	19	5
Haskell.....	30	0	7	20	1	2	14	3	3	3	23	0	0
Hodgeman.....	4	0	2	0	1	1	1	0	0	1	1	0	0
Jackson.....	158	3	18	94	26	17	133	1	0	3	121	12	4
Jefferson.....	151	33	26	64	14	14	92	0	0	0	71	17	4
Jewell.....	147	4	8	75	39	21	135	0	0	0	110	19	6
Johnson.....	131	6	12	72	27	14	113	0	0	0	92	21	0
Kearny.....	26	4	0	11	7	4	22	0	0	0	19	2	1
Kingman.....	69	1	9	30	19	10	55	2	1	1	46	13	0
Kiowa.....	28	0	0	19	5	4	27	0	1	0	23	5	0
Labette.....	219	17	19	124	35	24	171	6	2	4	118	52	13
Lane.....	3	0	2	0	0	1	0	0	0	1	1	0	0
Leavenworth.....	186	42	40	62	21	21	102	0	0	2	73	31	0
Lincoln.....	66	0	2	50	11	3	63	1	0	0	62	2	0
Linn.....	53	0	7	27	11	8	43	0	2	1	33	11	2
Logan.....	9	2	0	1	2	4		0	0	0	3	4	0

TABLE VII.—CONTINUED. Summary, district courts. Motions and demurrers, year ending June 30, 1935

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1935.	Presented.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	De- cided day pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Lyon.....	220	3	34	166	7	10	179	2	0	2	171	11	1
Marion.....	59	1	10	25	16	7	47	0	0	1	27	21	0
Marshall.....	97	10	1	66	15	5	86	0	0	0	82	4	0
McPherson.....	68	1	19	8	19	21	47	0	0	1	22	26	0
Meade.....	30	2	0	22	4	2	28	0	0	0	26	1	1
Miami.....	110	3	5	51	29	22	92	6	2	2	66	34	2
Mitchell.....	52	3	16	15	6	12	33	0	0	0	13	17	3
Montgomery.....	237	12	22	145	35	23	195	5	0	3	152	48	3
Morris.....	3	0	2	1	0	0	1	0	0	0	0	1	0
Morton.....	50	1	11	27	7	4	35	1	1	1	36	2	0
Nemaha.....	76	0	2	42	17	15	74	0	0	0	61	13	0
Neosho.....	51	29	15	6	1	0	7	0	0	0	3	4	0
Ness.....	10	6	3	1	0	0	1	0	0	0	0	1	0
Norton.....	19	1	4	4	7	3	14	0	0	0	10	4	0
Osage.....	89	3	10	47	18	11	73	3	0	0	59	16	1
Osborne.....	48	1	0	46	0	1	47	0	0	0	47	0	0
Ottawa.....	57	3	14	30	7	3	40	0	0	0	24	16	0
Pawnee.....	13	1	1	5	4	2	11	0	0	0	4	7	0
Phillips.....	6	0	5	1	0	0	1	0	0	0	1	0	0
Pottawatomie.....	72	1	7	47	12	5	64	0	0	0	59	5	0
Pratt.....	85	2	7	44	22	10	76	0	0	0	52	22	2
Rawlins.....	19	6	0	6	1	6	13	0	0	0	13	0	0
Reno.....	154	14	30	50	27	33	106	2	2	2	46	50	14
Republic.....	108	3	18	61	17	9	86	1	0	0	72	11	4
Rice.....	16	3	0	9	2	2	13	0	0	0	7	16	0

TABLE VII.—CONCLUDED. Summary, district courts. Motions and demurrers, year ending June 30, 1935

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1935.	Presented.			Decided.			How decided.			
				Within 10 days.	In 10 to 30 days.	After 30 days.	De- cided day pre- sented.	Not same day within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Scott.....	47	8	10	26	1	2	28	0	0	1	24	5	0
Sedgwick.....	795	99	94	339	183	80	544	8	24	26	456	117	29
Seward.....	51	0	13	32	4	2	37	0	0	1	31	7	0
Shawnee.....	1,132	142	86	414	264	226	730	71	61	42	639	264	1
Sheridan.....	42	6	3	18	4	11	33	0	0	0	27	6	0
Sherman.....	75	6	4	41	18	6	59	2	1	3	52	13	0
Smith.....	49	0	6	37	6	0	43	0	0	0	38	5	0
Stafford.....	104	3	18	64	7	12	80	1	0	2	60	18	4
Stanton.....	7	0	1	3	0	3	6	0	0	0	4	2	0
Stevens.....	50	0	4	14	19	13	46	0	0	0	42	4	0
Sumner.....	326	28	30	182	43	43	263	3	1	1	216	51	1
Thomas.....	31	5	4	10	7	5	22	0	0	0	14	8	0
Trego.....	48	5	24	11	3	5	19	0	0	0	12	7	0
Wabunsee.....	46	0	5	29	8	4	40	1	0	0	29	10	2
Wallace.....	4	0	2	2	0	0	2	0	0	0	2	0	0
Washington.....	127	4	19	71	19	14	101	0	3	0	93	10	1
Wichita.....	2	0	2	0	0	0	0	0	0	0	0	0	0
Wilson.....	74	9	3	45	9	8	60	1	0	1	51	10	1
Woodson.....	69	3	2	45	11	8	63	1	0	0	59	5	0
Wyandotte.....	969	107	144	464	180	74	708	4	3	3	609	109	0
Totals.....	10,414	903	1,291	5,121	1,761	1,338	7,732	195	144	149	6,295	1,712	213





[illegible]

TABLE VIII.—CONTINUED. Summary, district courts. Motions in cases tried on merits prior to July 1, 1934, filed or presented in year ending June 30, 1935

COUNTIES.	Number filed or con- sidered.	With- drawn or not pre- sented.	Pend- ing July 1, 1935.	Presented, after filed.			Decided.			How decided.			
				Within 10 days.	In 10 to 30 days.	After 30 days.	Same day pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Lyon.....	40	0	4	10	12	14	35	1	0	0	34	2	0
Marion.....	32	0	0	17	12	3	32	0	0	0	27	5	0
Marshall.....	16	1	1	2	10	2	14	0	0	0	6	8	0
McPherson.....	10	0	1	6	2	1	9	0	0	0	3	6	0
Meade.....	24	0	1	12	5	6	19	3	0	1	21	2	0
Miami.....	19	0	0	8	5	6	18	0	1	0	19	0	0
Mitchell.....	19	0	1	10	5	3	18	0	0	0	17	1	0
Montgomery.....	38	0	2	10	13	13	34	1	0	1	36	0	0
Morris.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Morton.....	15	0	6	5	0	4	9	0	0	0	8	1	0
Nemaha.....	22	0	0	13	8	1	22	0	0	0	20	2	0
Neosho.....	9	1	0	2	6	6	8	0	0	0	8	0	0
Ness.....	41	1	13	17	5	5	23	2	0	2	25	2	0
Norton.....	6	0	0	2	3	1	6	0	0	0	6	0	0
Osage.....	52	2	0	21	15	14	44	4	1	1	43	7	0
Osborne.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Ottawa.....	21	0	0	3	6	12	21	0	0	0	19	2	0
Paynee.....	10	1	2	2	3	2	7	0	0	0	6	1	0
Phillips.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Pottawatomie.....	11	0	0	5	4	2	11	0	0	0	9	2	0
Pratt.....	32	3	0	7	12	10	29	0	0	0	23	6	0
Rawlins.....	23	0	3	4	8	5	20	0	0	0	18	2	0
Reno.....	42	2	0	28	7	8	38	0	1	1	34	6	0
Republic.....	18	0	1	3	13	1	17	0	0	0	17	0	0
Rice.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Riley.....	8	0	0	5	1	2	8	0	0	0	4	4	0
Rooks.....	27	0	12	0	1	13	15	0	0	0	10	1	0

COUNTIES.	Number filed or con- sidered.	With- drawn or not pre- sented.	Pend- ing July 1, 1935.	Presented, after filed.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	Same day pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Scott.....	7	0	0	1	0	6	7	0	0	0	7	0	0
Sedgwick.....	71	0	11	13	29	18	60	0	0	0	46	14	0
Seward.....	5	0	0	2	3	0	5	0	0	0	3	2	0
Shawnee.....	123	23	0	52	23	25	57	10	11	22	56	44	0
Sheridan.....	15	0	4	0	2	9	11	0	0	0	7	4	0
Sherman.....	31	0	7	6	6	12	22	0	1	1	20	4	0
Smith.....	42	0	0	29	8	5	36	0	5	1	37	5	0
Stafford.....	24	2	0	13	5	4	22	0	0	0	17	5	0
Stanton.....	10	0	6	1	0	3	4	0	0	0	4	0	0
Stevens.....	14	0	0	8	4	2	14	0	0	0	11	3	0
Sumner.....	89	2	0	32	17	38	87	0	0	0	80	7	0
Thomas.....	11	5	0	1	1	4	6	0	0	0	6	0	0
Trego.....	1	0	0	1	0	1	1	0	0	0	0	1	0
Wabunsee.....	3	0	0	1	2	0	3	0	0	0	3	0	0
Wallace.....	8	0	2	0	5	1	6	0	0	0	6	0	0
Washington.....	27	0	0	9	11	7	26	0	0	1	22	5	0
Wichita.....	14	0	0	5	3	6	14	0	0	0	14	0	0
Wilson.....	25	0	4	7	7	7	21	0	0	0	15	6	0
Woodson.....	21	0	1	2	3	15	13	1	0	6	17	3	0
Wyandotte.....	125	0	0	125	0	0	125	0	0	0	125	0	0
Totals.....	1,976	61	121	754	469	571	1,621	54	48	71	1,521	264	9



16-1723





Sec. 56

U. S.

**I**

Topic

Perm

---

# KANSAS JUDICIAL COUNCIL BULLETIN

1936

PART 1.—TENTH ANNUAL REPORT



ALBERT FAULCONER, President Kansas State Bar Association

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita
CHESTER STEVENS .....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the state,

For the improvement of our Judicial System and efficient functioning.



# KANSAS JUDICIAL COUNCIL BULLETIN

1936

PART 1—TENTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
D .....	4
NG THE ADMINISTRATION OF JUSTICE THROUGH THE RULE-MAKING OF THE COURTS.....	6
y ALBERT FAULCONER.	
STATUTES, PROBATE AND COUNTY COURTS.....	8
y SAMUEL E. BARTLETT.	
T ON THE EVIDENCE BY TRIAL JUDGES IN CRIMINAL CASES.....	16
y JUDGE BEALS.	
TION OF FOREIGN ATTORNEYS.....	21
S RESPECTING CRIMINAL LAW AND PROCEDURE:	
peals in Criminal Actions.....	22
int Trials of Defendants Jointly Charged.....	24
positions in Criminal Cases.....	24
Crime Bureau Needed.....	26
THE INTERSTATE CONFERENCE ON CRIME PROPOSALS OF INTERSTATE ACTS, FOR:	
tendance of Witnesses from Other States.....	29
terstate Extradition .....	31
öperation as to Person Paroled.....	37
öperation Respecting Close Pursuit.....	39

## FOREWORD

---

Our Judicial Council was created because of the recommendation of the Bar Association of the state. It has coöperated with us in the study of the measures considered for the improvement of our judicial system and the procedure therein. We are therefore gratified to present in this issue by its president, Albert Faulconer, of Arkansas City, on "Improving the Administration of Justice Through the Rule-making Power of the Courts," and more the State Bar Association, not alone at its annual meeting but through its committees, is giving intelligent study to the practice and activities of those engaged therein, the structure of our judicial system, the procedure in our various courts, and the reframing of statutes and constitutional provisions so as to make them more suitable to the needs of our people. Specifically it seeks to make the profession of the law thoroughly honorable, serviceable, and trustworthy one. Every active lawyer in the state should be a member of the association, and should participate in its various activities. Its magazine, the *Journal of the Bar Association*, should be on the desk of every lawyer, and he should be familiar with it to aid him in his practice and ultimately will enable him to make, out of more money than his dues to the association would amount to in

At the meeting of the Probate Judges' Association, last November, E. Bartlett, of Ellsworth, read a paper on "Proposed Statutes, Probate County Courts" which was later published in the February, 1936, issue of *The Kansas Official*, Mr. O. K. Swayze, editor. By permission of the publisher and of the prior publisher we are including it in this BULLETIN. We have previously printed articles by Mr. Bartlett on various phases of the law, such as the rights of decedents and of minors and other incompetents, and of procedure in probate courts. Perhaps no branch of our law needs improvement more than the procedure in probate courts. Mr. Bartlett has given much study to these questions. His articles are interesting and helpful. May it be hoped that some time in the near future we will do something worth while in the way of improving our judicial system with respect to courts inferior to the district court.

From time to time someone suggests that judges of trial courts in the trial of criminal cases, should be granted more authority than they now have, and should exercise more freely such authority as they have, to comment on the evidence in addressing or instructing the jury. Judge Beals, a member of the Council, has made some study of the question, and has written an article on the subject which we print herein. It points out some of the difficulties of such a practice, also some new problems it might create. We would like to hear from attorneys giving their views on the subject. Especially we like to hear from trial judges as to what extent they "present the facts of the case" in their instructions, as appears to be authorized by R. S. 62-1-1.

We review some suggestions concerning the practice of law by attorneys in the courts of this state.

Others matters in this issue of the BULLETIN pertain to measures for the improvement of the enforcement of criminal law. In this we coöperate

ee of the State Bar Association, of which the attorney general, e V. Beck, is chairman. Two years ago a similar committee of the ociation, of which the late S. M. Brewster was chairman, coöperated in submitting to the legislature several bills on those matters which ght would be helpful. Some of these were enacted into law. Three ere not enacted. Their legislative history is set forth in our April, ULLETIN. We again recommend their enactment. They are set out rein. The greatest handicap prosecuting officials have in this state ases is to procure the evidence as to who committed the crime, and mply the arrest of the criminal. Our criminal procedure, imperfect in some respects, is, after all, the least of the prosecutor's troubles. at need for effective law enforcement in this state is a bureau for e investigation respecting crimes committed, in order to determine mitted them. A proposed measure on that subject is incorporated After determining who committed the crime, which in some instances be done without the aid of a scientific investigator, the next problem ehend and arrest the criminal. In these days of easy transportation uires coöperation between the states. The Interstate Conference on of which our attorney general is a member, has recommended four s thought to be helpful. We print them herein for the study of lawyers ers. They contemplate action between the states by interstate com- Whether that is the best form for their adoption may be open to but there can be no debate about the necessity of legislation of this r. We hope the members of the bar will give all these matters the n they deserve, so that the next session of our legislature can have the of our mature judgment respecting them.

## IMPROVING THE ADMINISTRATION OF JUSTICE THROUGH THE RULE-MAKING POWER OF THE COURTS

By ALBERT FAULCONER.

Our legal system is for the protection of the rights and proper interests of the people. It is administered by men and is affected by the frailties of human nature, as other institutions are. There is therefore a constant responsibility for protecting and improving it. This responsibility rests primarily upon the courts and lawyers.

From the time of Justice Taney the courts of the land have held that the admission of attorneys and the practice of law is a judicial matter.

The right of the court to make rules governing the practice of law and to impose disciplinary measures is no longer an unsettled question in Kansas.

In states where the bar has been incorporated under legislative authority there has been a decided improvement in the general attitude toward the administration of justice, both criminal and civil.

In other states the lawyers have brought the matter to the attention of the supreme court, and the bar has been united under rules of court. One of the latter method are the rules promulgated by the supreme court of the state of Michigan, printed in full in Northwestern Reporter Advance Sheet of January 22, 1936. Every lawyer in Kansas should read these rules.

The Michigan rules, insofar as applicable, have been suggested to the supreme court of Kansas.

The subject of integrating the Kansas bar under rules of the supreme court will be presented for discussion at the meeting of the State Bar Association at Wichita, May 22 and 23, and we confidently hope that that body will give the subject their consideration, that we may be able to intelligently request the supreme court to cover the whole subject of the admission and practice of the law in Kansas and set up an administrative system for the bar under one uniform set of rules.

I feel sure that every practicing lawyer of the state will welcome to the supreme court the exercise of its rule-making power for the complete regulation and improvement of the admission to and practice of law. The responsibility of the bar for the good name and effective influence of the bar is inescapable. It is the duty of courts and lawyers not only to protect but to improve our legal system.

Some years ago, through the efforts of lawyers, the Judicial Council was created by legislative authority. From its inception the Council has done effective and valuable work toward the improvement of our legal system. There has been the best of coöperation between bar associations, the Judicial Council, and the supreme court in the efforts that have been made to improve procedure and the work of the courts, as a result of which improvements have been made in the criminal law and procedure.

The Judicial Council has done a great deal of work toward rewording the judicial articles of the state constitution, and together with a committee of the State Bar Association is working out improvements in the law of probate and probate procedure.

Bar associations do not exist merely for their own glorification, but to help maintain and improve our legal system. It seems to be conceded

lawyers that to make our activities effective and at the same time create a favorable public interest in what we are doing, the lawyers of the state should be united under some uniform plan that will more effectively carry out the definite aims of our legal system with the supreme court of the state leading the way.

Not only is there a duty resting upon bar associations to improve legal education, but there is an obligation to the public, to the court, and to the members of the bar, resting upon each individual lawyer, to improve the quality of practice. This obligation of the individual attorney is not discharged by sitting idly by and permitting others to do the work.

When their admission to practice special privileges have been conferred upon them, which privileges are denied laymen. The granting of the privileges without its price in corresponding obligations. The individual attorney who accepts the privileges without discharging the reciprocal obligations thereby forfeits the privileges of the profession.

It has been found that the most effective method for the fulfillment of these duties is by complete representative unity of the bar. This can be accomplished only through a central organization. In some states this organization has been effected through legislative direction, while in others it has been brought about through order of the supreme court of the state. Inasmuch as the lawyer is an officer of the court and is directly responsible to the court for his conduct, it would seem that the judiciary branch of the government is the proper one under whose direction such unity can and should be attained. It is another advantage to such procedure, viz., it is much more flexible. The court can quickly and readily, by change of rule, meet any new conditions or emergencies. Such flexibility is not obtainable where legislative enactment is the basis of such coördination. Where organization has been had under the direction of the court the bar has nevertheless maintained its self-governing features and there has been no loss of independence to the bar association, and voluntary associations have become more and more the important means of accomplishing association work of greater benefit to individual lawyers.

Legal machinery needs revision from time to time, just as mechanical contrivances require it in the industrial world. Organization under rule of court is to be the most logical and satisfactory method of coördination of the profession. It gives to the attorneys a full and complete opportunity to discharge their obligations to the public, to the court, and to other fellow members without loss of independence or surrender of any rights or privileges.

## PROPOSED STATUTES, PROBATE AND COURTS

An address by SAMUEL E. BARTLETT, delivered at the annual meeting of  
Kansas Probate Judges' Association

Numerous changes have recently been proposed in the statutes relating to probate courts and probate jurisdiction, and it seems to be the common opinion that some revision should be made in these statutes. You are familiar with the activities and recommendations of the Kansas Judicial Council as disclosed by its published bulletins. You are also aware that at the annual meeting of the Kansas Bar Association a resolution was adopted that a new procedure for probate courts be prepared and submitted to the next legislative session. Similar resolutions have been adopted by local bar associations in various parts of the state within the past few years, and there has been considerable discussion of what ought to be contained in as well as what ought to be omitted from the proposed revision.

A brief consideration of some of the major proposals is all that can be attempted at this time. I hold no official position, and the views I now present are those that have come to me from my experience and observation as an attorney engaged in the general practice in a rural community.

I therefore invite your attention, first of all, to the probate and probate court bill as a proper subject for discussion and consideration by this association. Our judicial system, from the district court up, is generally considered as satisfactory. In civil and criminal cases below the district court the courts now have can hardly be classified as a system at all. The constitutional provision, that "two justices of the peace shall be elected in each township of the state, has been outgrown. That such is the case is clearly indicated by the number of legislative acts and the larger number of legislative amendments dealing with the subject in the past two decades. With the passing of the townships have largely disappeared as municipal units and have for political purposes almost ceased to function.

The Judicial Council reports that not more than twenty percent of the constitutional number of justices of the peace are ever elected. This fact alone is sufficient proof of the inadequacy of the system. Twenty percent is not only poor fielding; it is not even good batting. Of the justices of the peace who are elected, many do not qualify; and many of those who do qualify do not try cases or transact any judicial business. Those who do perform an active function only in the county-seat towns or larger cities; and the justice of the peace court in Kansas, so far as it exists, has become a mere shadow of abridged county court. In my home county of twenty townships, the justices of the peace handle ninety percent of the civil cases in justice of the peace court and one of them sits in judgment in ninety percent of the criminal cases in justice court. It is likely that he would have heard the other ten percent of the cases he had not become imbued with the idea of an independent judiciary. I have discharged a defendant over the protest of the county attorney.

A justice of the peace receives no salary, is dependent on fees, and he soon learns that it is the plaintiff and not the defendant who brings business to his court. There are of course notable exceptions; but the

vails, is not conducive to a fair and efficient administration of justice. It is the system I am indicting, not the personnel of justice courts; the system is outworn and should be supplanted by something better. The solution is to be a combined probate and county court.

It can also be safely said from an actual examination of the files of my county that any reasonable increase in the salary of the judge of the probate court occasioned by higher qualifications for the judges and his increased responsibilities and duties may be met by the collection and payment of a county of fees for the work done similar to those now collected by the judge of the peace. I do not know how it is elsewhere but it is probable that the present county is typical in this respect of the counties in the western part of the state.

The proposed probate and county court bill was introduced in the last session as house bill No. 338, and was approved by the house judiciary committee. Many are of the opinion that it would have been enacted into law if the legislature had had more time. It provides for a probate and county court at each county except counties in which the county seat is a city of the first class with a city court; and it gives such court the present jurisdiction of the probate courts, and present jurisdiction of justices of the peace, and further jurisdiction in civil cases not exceeding one thousand dollars. The bill provides that "the probate judge shall be the judge of the probate and county court."

While the justice of the peace courts have outlived their usefulness, it is not true to state to you that probate courts have grown in importance. According to a survey made by the Judicial Council, the total value of the estates of decedents, minors, insane and other incompetent persons, being administered by your courts on July 1, 1935, amounted in round numbers to one hundred million dollars. The Judicial Council is authority for the statement that in practically every county of the state the value of property being administered in the probate courts exceeds the value of that being litigated in the district courts. The legal questions that arise are frequently as important and as difficult as those that arise in the district court.

The existing law provides "that no person shall be qualified to hold the office of judge of the district court . . . unless such person is at least thirty years of age and shall have been regularly admitted to practice law in the state and shall have been engaged in the active and continuous practice of law or shall have served as a judge in a court of record, or been engaged in both such practice and such service as judge, for a period of at least four years. . . ." (R. S. 20-105.) The effect of this statute has been wholesome and no one would think of recommending its repeal.

It would seem wise, therefore, that the judges who are to preside over probate and county courts should have some knowledge of the law they are administering. In fact, one of the objections urged against giving the probate courts further jurisdiction has been the personnel of those courts as it has been in the past. There are those who insist that the judge of the probate court should be a member of the bar; others say it should be an open field to all favorites. If one is required to have a license to be a barber, or a beautician, or a beauty specialist, it would seem that those who sit in judgment on the administration of estates amounting to millions of dollars annually

ought to have some training or experience that fits them for the have undertaken.

In the midst of the extreme rightists on the one hand and the leftists on the other I venture to quote a Latin proverb as pertinent *tutissimus ibis*. (You will go safest in the middle.) The bill therefore judgment wisely provides that "no one shall be qualified to act as judge of probate and county court who is not regularly admitted to practice in this state, or who has not served as a probate judge in this state for at least as two years prior to the beginning of his term as judge of the probate or county court." I recommend the bill as a whole to your favorable consideration. The new court, however, will be only as efficient as its personnel, unless we have some assurance of a higher standard of qualification for the judge of the new court than has obtained generally in justice courts. Our enthusiasm for the proposed measure is likely to disappear.

You have had much experience in dealing with the complications that sometimes arise in connection with the limitations placed upon the powers of an administrator when it comes to the real property of a decedent. In Kansas an administrator of an intestate decedent has no authority over the real property unless it is necessary for the payment of debts of the decedent. The provisions of our present statutes on the subject have been indicated from time to time by the Judicial Council and others, and I shall not attempt to elaborate them. One simple illustration is sufficient. A man in Ellsworth county, Kansas, dies intestate owning farm lands and personal property. He was unmarried and had no heirs in Kansas. His remote relatives, some of whom were minors, live in other states. His property and they lived in a half dozen distant states. One of them comes to Kansas and procured the appointment of a local man as administrator. It was necessary to look after the farms, and the administrator as a matter of necessity did the whole business—but without sanction of law. I can readily see the innumerable difficulties that might arise in a more complicated situation. If the administrator had been unfaithful in his management of the farms no liability would have been incurred by his bondsmen. I can see how have arisen in the past with resulting loss. The situation ought to be corrected.

Two bills were prepared by Mr. E. C. Flood, of Hays, to correct these obvious defects, and these bills appear, with some revision, in the January, 1934, Judicial Council Bulletin. They were introduced in the last session of the legislature as senate bill No. 228 and senate bill No. 278. Both passed the senate. Senate bill No. 228 was favorably recommended by the house judiciary committee. The measures provide in substance that the administrator shall take charge of the real property and administer nonexempt real property substantially in the same manner as an administrator administers nonexempt personal property. If enacted into law, they will give administrators legal authority to exercise those powers they have in fact exercised without legal authority and ought to be permitted right to exercise; and they will do much to clarify the present unsatisfactory situation.

As complementary to the proposed measures, I suggest an additional measure. It often happens that a man dies and leaves a business—a going concern. In many estates a business is the greatest asset and may be wholly destroyed if the executor or administrator has no authority except to close it up. The recommendation I am making provides a means whereby in such cases the business can be continued temporarily under strict supervision and control of the court. The section proposed may be stated substantially as follows:



as otherwise directed by the decedent in his last will and testament, an executor or administrator shall have authority without personal liability for losses incurred, to continue decedent's business during the three months next following the date of the appointment of such executor or administrator, unless the court directs otherwise; and for such further time as the court may authorize, after hearing. During the time the business is so continued, the executor or administrator shall file monthly reports in the probate court, setting forth the receipts and expenses of the business for the preceding month, and such other pertinent information as the court may require. The executor or administrator shall not have authority to bind the decedent without court approval beyond the period during which the business is so continued.

It can be done to clarify, simplify, and at the same time reduce the bulk of the existing statutes. We have one group contained in chapter 38 of the Revised Statutes dealing with the estates of minors, another contained in chapter 39 dealing with the estates of insane and other incompetent persons, and another contained in chapter 62 (article 20) dealing with the estates of deceased convicts. All this in addition to the statutes dealing with the estates of decedents found in chapter 22. Much of the substantive law contained in this three-fold statement dealing with these three kinds of estates of persons may be combined into one consistent statement; and fully half of the sections, thus combined and dealing with the estates of living persons, may be combined with like sections relating to decedents' estates in such a way as to present a concise and consistent whole.

Sections relating to the oath, letters of appointment, bonds and qualifications of executors, the requirements for new or additional bonds, successor bonds, and sureties, depositories of trust funds, inventory and appraisement of personal property, sale of real property, investment of funds, commercial contracts, insolvent estates, accounting and the like, readily admit of a uniform statement that will do much to clarify, simplify, and reduce the bulk of any restatement of the substantive probate law that may be undertaken. In the final analysis we have very little substantive probate law dealing with the existing statutes.

Years ago Mr. Charles L. Hunt, of Concordia, with his characteristic thoroughness, made an examination of the existing statutes relating to decedents' estates with a view of ascertaining which sections are a pronouncement of substantive probate law and which relate to procedure. He found that the 331 sections contained in chapter 22 of the Revised Statutes, 221 of which were entirely or partly procedural. The ratios in chapters 38, 39 and 62 of chapter 62 are about the same. Mr. Hunt further found: "There are many two situations arising in the administration of estates of decedents in which notice or citation is required and . . . no two of this number are alike as to the four essentials of notice: the kind of notice, the length of the notice, the manner of service, and the persons who must be served." His conclusion is that "we are overloaded with technical conflicting procedural provisions sadly lacking in that uniformity needed for a certain and reasonable administration of justice in the probate court."

In agreement with Mr. Hunt's conclusion. The confusing, haphazard, and often conflicting procedural provisions should be eliminated; the substantive probate

visions, so far as necessary, should be restated, clarified, simplified and completed; and a uniform and effective code of probate procedure should be prepared and adopted. I confess to you, frankly, that I do not find a dividing line between substantive and procedural law, but find only a line for my ignorance in the statement of Prof. Charles E. Clark of the Harvard Law School that "no exact division between procedural and substantive law is conceivable or desirable." However, for the purpose at hand, the following statement will be sufficient. "Matters of procedure include access to courts, the conditions of maintaining or barring action, the form of proceedings, the method of proving a claim, the method of dealing with foreign judgments and proceedings after judgment." (Restatement of conflict of laws, comment c, section 585.) While a twilight zone exists between the two like the twilight hour between daylight and darkness, for practical purposes the general distinction between them should be kept in view and the work undertaken should be carried forward and completed.

A restatement, such as has been indicated, of the substantive probate law is not only desirable but necessary if a separate code of procedure is to be adopted; and a uniform code of procedure for the administration of estates is equally desirable and attainable. Mr. Justice Harvey, who has much of his time and talent to the subject, has stated, "It has certainly been demonstrated that probate procedure may be provided by rules." It is material to this discussion whether the legislature adopts these rules or whether it leaves the supreme court to promulgate them; but the duty to establish a uniform procedure seems imperative under any fair interpretation of pronouncements on the subject by the highest court of the land.

The United States supreme court has given us an excellent statement of the objects to be accomplished by the administration of an estate in the following forceful language:

"When the owners of property die, that property, under the conditions and restrictions of the law applicable, is transmitted to their successors either by their wills or by the laws regulating inheritance in cases of intestacy. At a suitable time it is essential that the property should remain under the control of the state, until all just charges against it can be discovered and satisfied, and those entitled to it as new owners can be ascertained. It is in the public interest that the property should come under the control of the state, not only after such delays only as will afford opportunity for investigation and for the state to guard against mistake, injustice, or fraud. It is the duty of the state to provide a tribunal, under whose direction the just demands against the estate may be determined and paid, the succession decreed, and the property devolved to those who are found to be entitled to it." (*Tilt v. Kober*, 207 U. S. 43.)

Notwithstanding it is the duty of the state to provide a tribunal to determine the succession and determine those who are entitled to the estate, the present law a probate court does not have jurisdiction to determine the title to real property. (*McVeigh v. First Trust Co.*, 140 Kan. 79; *First Baptist Church v. Caldwell*, 138 Kan. 581, 139 Kan. 45.) Under the law of this state, where real property passes by the laws of intestate succession or under a will to a person or persons not named in such will, there is no probate procedure for a judicial determination of the persons entitled to the property. The usual final settlement, which "adjudges" that the heirs are B and C, is not binding on D, who is in fact an heir of A and as

est in land. In such a situation one purchasing land from B and C at his own risk, and D, who is in fact an heir and owned an interest in the land, still owns such interest. The purchaser's title is defective notwithstanding the alleged adjudication under our present probate law. With notice as required by due process of law under the fourteenth amendment to the federal constitution, a correct decree would undoubtedly have been entered in the probate court. From any point of view it is certainly desirable that adequate provision be made for a determination of those entitled to the property of a decedent.

The code of civil procedure is familiar to all of you, has been judicially constructed and works well, many of its provisions are easily adaptable to probate matters and a proper application of its principles in probate matters will provide a proper remedy. The probate code draft appearing in the December, 1934, JUDICIAL COUNCIL BULLETIN is patterned almost entirely after the civil code which is largely the work of the late Judge Roscoe H. Wilson, of Jetmore, Oklahoma, a pioneer in the movement and who has our gratitude for his industry and accomplishments. The draft contains the fundamental requirements for a proper determination of rights and interests. It was certainly a fine beginning. The principal criticisms of the draft have been that it is too intricate, too slow up the proceedings, and may incur too much expense. However, it contains many valuable features and suggestions that would find a place in the final draft.

The authorities agree that the fundamental requisites of due process are, first, adequate notice; second, a hearing; third, the application of equal laws; and fourth, jurisdiction, when proceedings before a regularly constituted court are required." (Taylor on Due Process of Law, section 132.)

It makes little difference whether a probate proceeding is considered an action *in personam* or an action *in rem*, the principle is the same. The question of notice is always of primary importance, for notice inheres in due process of law. Without adequate provision for reasonable notice there can be no effective adjudication of anything. "A state cannot exercise through its courts judicial jurisdiction over a person, although he is subject to the jurisdiction of the state, unless a method of notification is employed which is reasonably calculated to give him knowledge of the attempted exercise of jurisdiction and an opportunity to be heard." (Restatement of Conflict of Laws, section 75.) "A state cannot exercise through its courts judicial jurisdiction over a thing, although it is within the territory of the state, unless a method of notification is employed which is reasonably calculated to give notice of the attempted exercise of jurisdiction and an opportunity to be heard to the persons whose interests in the things are affected thereby." (Restatement of Conflict of Laws, section 100.)

Notice of matter of notice is important; yet a half dozen sections in the new code will meet the fundamental requirements and give us uniformity "as to the essentials of notice: the kind of notice, the length of time, the method of service, and the persons who must be served."

The basic principles must be utilized in the preparation of a procedural code for the probate courts if our threefold aim in the administration of estates is to be realized: First, to make the administration of an estate as simple, inexpensive, and practicable as possible. Second, to secure uniformity for all

estates and conform to the provisions of the civil code as far as is possible without disadvantage. Third, to effect a valid adjudication of probate and a judicial determination of the persons entitled to the property of the decedent.

With these principles and these aims as a guide, a probate code of sections or less ought to do the work admirably and get rid of many present conflicting procedural statutes of which Mr. Hunt justly complains. And what probate judge would not welcome in their place half a dozen concise and consistent rules as a guide to the procedure to be followed in court?

The new probate code may well have a name, adopt the rule of construction, give the probate courts jurisdiction to do the work that has been created to do, determine the nature of and what may or shall be done in a probate action, and fix the venue in probate actions for the appointment of administrators, for the probate of wills, for the appointment of guardians of estates of persons under disability, and for the appointment of trustees in cases over which probate courts have jurisdiction. For convenience, administrators, guardians, and trustees may collectively be designated as fiduciaries.

It seems wise to provide:

1. Issues of fact on the trial of a probate action, or the determination of a controverted matter therein, shall be in accordance with the rules of procedure provided for civil cases by the code of civil procedure.

2. Trials and hearings in probate actions shall be by the court. The decision of the court therein or in any matter pertinent thereto, shall have the same force and effect as a judgment at law or a decree in equity, as the law of the particular case may require, and shall be final as to all persons having notice of the hearing, except: (1) upon appeal according to law; (2) in case of fraud or collusion; (3) as against rights which are saved by statute to persons under disability; and (4) nothing in this act shall be construed to abridge the provisions of chapter 160 of the Laws of 1925 relating to the probate of wills in the district court.

Uniform provisions for appeal should be added. The suggested provisions together with an adequate provision for notice which has already been discussed, seem to cover the basic requirements; nor does it seem that it is difficult to state them in concrete form. The remainder of the code should be largely a matter of detail, which may be contracted or expanded as may appear best to accomplish its purposes. A few suggestions of some details as to parties and pleadings may be considered.

1. The title of a probate action shall be: "In the matter of the estate of (name of decedent or person under disability with a specific designation of the property involved)." (it is)."

2. A probate action may be commenced in the probate court by filing a petition in the proper court and causing said petition to be set for hearing.

3. Every action must be prosecuted in the name of and by some person having a substantial interest in obtaining the relief sought in the petition.

4. The action of a person under disability must be brought by his guardian or next friend. When an action is brought by his next friend, the next friend has power to substitute the guardian, or any person, as the next friend.

5. The party instituting a probate action shall be known as the petitioner. Any number of persons having an interest in obtaining the relief sought may join as petitioners. All other parties shall be known as respondents.

6. The pleadings in probate actions shall be in writing and shall

ified by affidavit of the pleader or his attorney. No defect of form shall substantial rights; and no defect in the statement of jurisdictional facts existing shall render void any proceedings.

The pleadings shall consist of a petition, an answer thereto, and such subsequent to the appointment of a fiduciary as occasion may require. The petition shall state: (1) the name of the court and county in which the action is filed; (2) the title of the action; (3) the name of the petitioner; (4) the names of the respondents so far as known to the petitioner; (5) the facts constituting the jurisdiction of the court and the grounds of the petition," followed by (6) a statement in ordinary and concise language of the facts constituting the jurisdiction of the court and the grounds of the petition; (7) and shall pray for such relief as is desired. A petition for the appointment of a will shall be accompanied by the will if it can be produced.

The answer shall be filed on or before the return day specified in the petition, and shall in ordinary and concise language set forth the facts constituting the defense. A respondent may contest the application for the appointment of a fiduciary on the ground of incompetency of the person proposed or may assert his own right to letters of appointment.

A motion is an application for an order addressed to the court or judge by a party to the proceeding or anyone interested therein or affected thereby. All orders in probate actions subsequent to the appointment of a fiduciary shall be made upon motion.

Before the hearing of any petition, or any subsequent motion requiring the appointment of a fiduciary, except as otherwise provided, the probate court shall give or cause to be given notice of such hearing. In such cases all parties to be given notice shall be notified in writing (or by publication) of the nature of the hearing, the time and place of hearing, and the nature of the order or other matter sought in such proceeding.

Upon the filing of a sufficient answer the cause shall be at issue, new evidence being deemed denied; and the cause shall be heard at the date set for trial, unless the court for good cause should continue it to a later date. The court shall proceed upon the petition and answer together, in case an answer is filed.

Any person may be interested in the matter of claims against a decedent's estate. The court shall prepare three brief procedural sections which fit in nicely with the general provisions and seem to be sufficient:

Creditors shall present their claims to the executor or administrator of the decedent's estate within the time provided by law. All claims shall be in writing, verified by the oath of the claimant, who shall state that to the best of his knowledge and belief he has given credit to the estate for all payments made to or for the benefit of the estate to which it is entitled and that the balance claimed is justly due. The executor or administrator shall from time to time as occasion requires, and must on application of any creditor, make and return upon oath to the court a schedule of all claims so presented to him and all claims known to him but not presented to the executor or administrator but not presented. Such schedule shall state the name and address of each claimant, the amount claimed, whether secured by mortgage or otherwise, and the date of maturity if not yet due.

Upon the filing of any schedule of debts by the executor or administrator, the court shall forthwith set a day, within the time and in the manner herein provided, for the hearing of motions, for the hearing of said schedule of debts and for the determination thereof.

In connection with the final settlement these provisions seem pertinent:

Whenever property passes by the laws of intestate succession, or under a will, to a beneficiary or beneficiaries not named in such will, the proceedings in the probate court shall include a determination of the person or persons entitled to such property. Before final settlement in such cases, an application shall be made to the probate court to determine the persons entitled to such property, which application may be made by the executor or administrator or

any interested party, and may be included in the application for a final settlement of the estate.

2. The application shall set forth an accurate description of the realty in this state of which the deceased person died seized, the names and places of residence of the devisees, legatees, and heirs of such deceased person so far as known to the applicant or ascertainable to him on diligent search and inquiry, the nature and character of their respective interests and so far as known, and shall designate those who are believed by him to be minors or otherwise under disability and whether those so designated are legal guardianship in this state. If the applicant believes that there are persons who have claims against or interests in such estate as legatees, or heirs whose names are not known to him the application may include the names of such persons.

3. Upon the filing of such application the probate court shall set a time and place for hearing at the same time as the hearing of the final settlement. Notice of such hearing shall be given to all parties interested whose residence is known as provided herein for the giving of notice of final settlement. If the application shall set forth that there are or may be persons whose names are not known who have claims against or interests in said estate, notice of hearing shall be published, directed to all persons claiming any benefit or interest in the estate of such decedent. Such publication of notice must include all persons whose names are known and set forth in said application but who cannot be personally served within the state. Such notice as made by publication may be included with and published at the same time and in the same manner as notice of final settlement is published.

I have thus ventured to indicate some of the features I have thought should be in a probate code. Time will not permit recital of further details. I have detained you too long now. What I have said has nothing of conclusiveness or finality about it, and is offered to you only as an expression of the views of a country lawyer engaged in the general practice of law. The taking as a whole is a task which challenges your individual and united efforts. I rejoice in the interest you have manifested for the improvement of the administration of justice in this particular field, and I thank you for the interest you have shown me.

## COMMENT ON THE EVIDENCE BY TRIAL JUDGES IN CRIMINAL CASES

By RAY H. BEALS, Judge Twentieth Judicial District.

Under a proper system of jury trial the judge should instruct the jury in a binding way upon the law, and the jury should determine for themselves the facts. In most jurisdictions in the United States the state trial judge does not comment on the facts or the credibility of the witnesses, and is limited in his instructions to an abstract statement of the applicable law. In some jurisdictions he is permitted only to give such instructions as are requested and presented to him by counsel for the respective parties. In some jurisdictions he is required to reduce his instructions to writing and submit them to counsel for their criticism and exceptions. In some jurisdictions it is permitted, on the one hand, as at common law, not only to instruct the jury orally in a general charge upon the law, but also to apply the law to the facts of the case, and to discuss with the jury the credibility of the evidence and of the witnesses, provided he cautions the jury of their duty to disregard his expressed opinion as to the facts if the jurors see fit to do so.

ss of a trial means the attaining of a single result—a verdict in  
ce with the evidence and the law. If the instructions of the court  
ely statements of abstract law, whose relevancy to the facts of the  
left for the jury to deduct unaided, the jury may not be able to  
e proper application of the law to the facts.

whether or not the trial judge should be permitted to express an  
upon the credibility of witnesses or circumstances and to state that  
inion certain witnesses did or did not tell the truth, with the accom-  
qualification that the jury may disregard his expression of opinion,  
stion which has been discussed by judges and trial lawyers for some

statute (R. S. 62-1447) reads as follows:

judge must charge the jury in writing, and the charge shall be filed  
the papers of the cause. In charging the jury he must state to them all  
of law which are necessary for their information in giving their  
*If he presents the facts of the case, he must inform the jury that  
the exclusive judges of all questions of facts."*

statute was enacted in the territorial laws of Kansas for the year  
d was taken from the Indiana statutes, and will be found in section  
me 2, of the statutes of Indiana for 1852.

e case of *Barker v. The State of Indiana*, 48 Ind. Rep. (1874) 163, the  
court commented upon the language, "If he presents the facts of the  
must inform the jury that they are the exclusive judges of all  
s of fact."

supreme court of Indiana said: "The court is not authorized to tell  
that certain facts have been proved." (*Driskell v. The State of*  
7 Ind. 338.)

ugh the jury are the exclusive judges of what is proved by the evi-  
ill it may be summed up by the court. The court in charging a jury  
ight to assume the existence of a fact which the jury are required to  
n the evidence." (*Smathers v. The State of Indiana*, 46 Ind. 447, with  
ies cited.)

e case of *Horne v. The State*, 1 Kan. 42, the fifth subdivision of the  
reads as follows:

e the court has a right to present the facts in the instructions to the  
t in such case it must inform the jury that they are the exclusive  
f all questions of fact."

e above case the court said:

court has a right to present the facts in his charge, but must in that  
orm the jury that they are the exclusive judges of all questions of

first duty of the jury was to decide whether a murder had been com-  
This duty was forestalled by the court by intimating that this was  
er. If it be considered as presenting the facts, or suggesting a con-  
from facts, it is equally error. If the first, it is error because the jury  
t informed that they were the exclusive judges of the facts. If the  
it is error because it was intimating a conclusion from facts, which  
pecial and exclusive province of the jury.

persons familiar with the trial of criminal causes have had occasion to  
with what anxiety a jury listens to catch from the court the slightest  
on of its views. This is particularly the case when matters of great

doubt and difficulty are before them for decision. How then can it be that the expression used in this charge had not some influence in determining the final result? The more able and upright the court, the more likely intimations to have weight; and it is impossible to say that the jury have received some bias from the language used."

In the case of *Craft v. The State*, 3 Kan. 447 (p. 450), the tenth sentence of the syllabus reads as follows:

"Where there is testimony on a question of fact material to the issue, the jury are the exclusive judges of that question, and must determine what the testimony proves; but the law requires the court, after the jury have made their findings, to determine whether there is any evidence of the existence of the material facts."

In the case of *The State v. Truskett*, 85 Kan. 804, it was held error for the trial court to instruct to the effect that there was no evidence for the jury to consider tending to justify the killing, the court saying, at page 816, "The statutes of this state 'carefully limit the functioning of the court, and reserve to the jury the exclusive right to decide the facts.'" The court says:

"While in this case the jury were properly informed that they were the exclusive judges of the facts, still the decision that there was no evidence for the jury to consider was a conclusion from outward appearances, which was the exclusive province of the jury."

For over a century federal judges have been exercising the power of comment upon the evidence in criminal cases. It is, of course, impossible to ascertain how far its exercise has been helpful to juries in arriving at the truth. For the merits of particular cases cannot in any way be determined independently of the evidence, but, granting the correctness of decisions of the appellate courts, we can readily ascertain if the exercise of the power to comment upon the evidence has been abused, if it has led to unfair trials and the reversal of convictions.

An examination of the decisions of the circuit court of appeal for the eighth circuit, slightly less than three years (vols. 1 to 20, Fed. Reporter, second series, covering cases for November, 1924, to September, 1927) shows that in a majority of cases where it was contended that the trial judge had exercised in an unfair and prejudicial manner the power to comment upon the evidence, that contention was sustained and the conviction reversed for that reason. More than this, despite the reluctance of appellate courts to speak of the rulings of a trial judge, they have, in many instances, been highly condemnatory of the manner in which the power under discussion has been exercised.

In *Weare v. U. S.*, 1 F. 2d 617, which is a leading case, citing many decisions, the court, after setting out part of the charge, said:

"The whole tenor of the instructions was apparently to influence the jury to return a verdict of guilty. It was a palpable attempt to usurp the function of the jury as to fact questions and to impose the will and desire of the court upon it, and to interfere with the independent judgment of the jury."

"Under the constitution, one accused of crime is entitled to a determination by a jury of the fact questions involved. The jury can easily be misled by the court. Its members are sensitive to the opinion of the court, and it is not a fair jury trial when the court turns from legitimate instructions as to the facts to argue the facts in favor of the prosecution. The government provides an officer to argue the case to the jury. This is not a part of the court's function. He is not precluded, of course, from expressing his opinion on the facts."



precluded from giving a one-sided charge in the nature of an argument. I do not think the error in this case is cured by the mere statement to the jury that they were not bound by his opinion, and that they should follow their own judgment."

See, also, *Parker v. U. S.*, 2 F. 2d 710; *Wallace v. U. S.*, (C. C. A.) 291 F. 2d 852; *Kolp v. U. S.*, 2 F. 2d 953; *Graham v. U. S.*, 12 F. 2d 717; *Spring Drug Co. v. U. S.*, 12 F. 2d 852; *Cook v. U. S.*, 14 F. 2d 833; *LaRosa v. U. S.*, 15 F. 2d 686; *Letts v. U. S.*, 15 F. 2d 686; *O'Shaughnessey v. U. S.*, 17 F. 2d 225; *Smith v. U. S.*, 18 F. 2d 896; *Cline v. U. S.*, 20 F. 2d 495. In each of these cases the decision of the trial court was reversed because, as the appellate court said, the trial court invaded the province of the jury to such an extent as to constitute a reversible error. In some of the cases the trial judge told the jury that he believed that the witnesses for the prosecution told the truth.

In reversing a conviction in another case, the court said that "every juror in the case must have known that the court fully expected them to return a verdict of guilty, as much as if they had been expressly directed to do so." In *Sunderland v. U. S.*, 19 F. 2d 202, in reversing a conviction, the court said:

"The right of the defendant to a fair trial means that while the judge may direct and control the proceedings, and may exercise his right to limit the evidence upon which the jury may base its verdict, he may not extend his activities so far as to assume in effect either assisting prosecutor or a thirteenth juror."

In Canada the judge must direct the attention of the jury to the evidence relevant to the main issue raised in the case. Any discrepancies in the evidence as to matters of fact which are important, and any possible innocent explanation which might be placed upon the evidence, should be pointed out to the jury.

The Outline of a Code of Criminal Procedure, prepared by the Committee on Criminal Procedure and Judicial Administration of the National Crime Commission, contained this provision:

"In the conduct of the trial, including the examination of the witnesses, the judge shall have the same powers as at common law. He shall instruct the jury as to the law applicable to the case, and in said instructions may make such comment on the evidence and on the testimony and character of the witnesses as, in his opinion, the interests of justice may require. . . ."

It is no doubt that the public is anxious to restore the power of the common-law

judge. The import of that part of the section should be carefully studied and the qualifications of the average judge carefully considered before incorporating it in legislation.

It has been suggested that the power of judges be extended. The primary function of courts is of a twofold nature: the determination of facts which may be controverted, and the application of the law to determined or controverted facts with reasonable accuracy and without delay and without unreasonable expense. It is claimed by some that the investment of judges with common-law power is a remedy for erroneous verdicts. This proposal is based upon the assumption that one judge is better qualified to determine questions of fact than twelve ordinary American citizens.

I said before, the federal judges have the power to comment upon the evidence. But some of the judges exercise this power sparingly. It is

said that some of the judges realize their own limitations and know that their expressed opinion may unduly influence the jury, and that the jury has an important function to perform, and that its verdict should bespeak the mind and not that of the judge. Some of the judges know that they must not become imbued with the idea that the only correct opinion on a controverted matter is one which coincides with their own.

The jury, as a trier of facts, is a vital means of administering justice. The trouble is not with the jury, but with the method employed in submitting issues to it. While the jury is well fitted to determine facts, it is unfitted to apply principles of law to sets of fact. It requires training and skill to apply rules of law with such accuracy that the result will be correct. Instructions must, of necessity, be couched in terms and phrased in a way which the jurors are more or less unfamiliar. Lawyers and judges sometimes disagree upon the exact meaning of instructions, no matter how carefully drawn. Hence, it is not to be wondered at that verdicts are now and then warranted by the facts. This is particularly true in civil cases. In criminal cases verdicts in civil cases sometimes result from requiring juries to apply the law instead of submitting to the jury issues of fact and requiring the jury to answer questions and letting the judge apply the law to the facts found by the jury, so that each will be doing that for which he is best qualified. It is a practical matter to formulate an interrogatory pertaining to any matter in issue, which, when answered, will constitute a specific finding of fact on that matter. It is much simpler than preparing instructions covering all possible questions of fact and law applicable thereto. All that is necessary is to make the change is to provide a rule of procedure requiring the court to submit to the jury pertinent interrogatories under the issues of fact, just as it now submits instructions on the questions involved. The court would then apply the law to the facts so found.

It is said that erroneous verdicts result in criminal cases from appeals to the emotions in argument, instead of making an argument based on the facts. Such appeals to the sympathies of the jurors are nothing more than invitations to the jury to disregard the law. Where the judge prescribes punishment, appeals to sympathies should not be tolerated, and the remedy is an enforced rule prohibiting them. Some law writers now claim that where the jury fixes the punishment, it should be required first to find the facts of fact, and, if the facts found constitute the crime charged, then determine the punishment upon argument pertaining to the character of punishment. The evil resulting from appeals to sympathy is that the part of counsel does not call for commenting on evidence or on the testimony of witnesses by judges. Legal justice consists of correct determination of facts in controversy, and a correct application of the law to the facts found. The jury is the better fitted to find the facts, and only the judge is qualified to apply the law to the facts. Some law writers now claim that the remedy for erroneous verdicts is to limit the jury's functions to fact-finding and to prevent from the influence of improper argument and not to make it a matter for the judge's opinions on matters of fact.

It is said, in *Smith v. U. S.*, 18 F. 2d 896, in referring to the power of federal judges to comment on the evidence:

, as in all other instances, those who are invested with power are prone, unconsciously, to extend it; and so, believing it was being unjustly extended, Congress recently seriously proposed that it be restricted or with-

argued that the power to comment upon the evidence is too dangerous placed in the hands of even an upright and able man, who can resist temptation to do wrong, but who is certain of his opinions or conclusions naturally desires that others should think the same way. It is argued, that until we get ready to discard the wisdom of others and substitute our own judgment for the jury system we must not extend the power to judges to impress their views of the facts on jurymen.

## RECOGNITION OF FOREIGN ATTORNEYS

requently our trial courts have difficulty in setting and disposing of cases where the only attorney representing the party to the action is a nonresident of the state. Our attorneys representing adverse parties in the action have no difficulty. In some states there are statutes requiring a foreign attorney having business in the courts of the state to have a local attorney associated with him upon whom copies of pleadings may be served and to whom notice may be given of setting the case for trial and of other necessary proceedings in court. In some other states and in some of the federal circuits the courts make similar requirements. We discussed this matter in our Bulletin, 1934, BULLETIN, page 41, and set out the form of such a rule which we suggested might be promulgated by the supreme court and made applicable to the courts of this state. At that time we asked for comments from lawyers and judges throughout the state as to the advisability of such a rule. In the months following that publication we received many letters commending the rule and urging its promulgation. Also, we received a few letters expressing the view that it was not advisable. Pending the further consideration of the matter by the Judicial Council the legislature of 1935 met, and almost immediately there was introduced in the House a bill which, as amended, was passed into law, and is chapter 69, Laws 1935. This statute is of but little force at best, and of states adjoining us it applies only to lawyers of the state of Michigan. Since its enactment many have voluntarily written us urging that we recommend to the court the promulgation of the rule substantially as it was proposed in order that it may apply to all foreign attorneys and be uniform throughout the state. We therefore again propose the rule with a slight change in its wording and again ask the lawyers and judges of the state to write us their views as to the advisability of having it promulgated by the supreme court. The proposed rule reads as follows:

"An attorney residing outside of this state, in good standing as an attorney in the place of his residence, may be recognized as an attorney by the courts of this state, for any action or proceeding in court, but only if he has associated with him as attorney of record in such action an attorney of this state residing within this state, upon whom service may be had in all matters connected with such action or proceeding proper to be served upon an attorney of this state."

Perhaps in this connection it would be well for a rule to require attorneys appearing in court not only to sign or endorse them but to state thereon

their post-office address. To illustrate the need for this: A year or so ago a foreign attorney went into several counties and filed in the aggregate a number of actions involving rights claimed under oil leases or royalties. No one knew him, his address was not on the papers filed. Defendants' attorneys and the courts were handicapped in dealing with the cases. It proved to be of the class known as "nuisance cases." Later, someone went around hunting up the defendant and suggesting settlements. In some part of the state we are informed foreign attorneys come in and file suits and have attachments or garnishments issued, without leaving their home or having local counsel with them. Defendants have difficulty in procuring to set aside such orders. Our citizens should not be harassed by such proceedings; our courts should not be open to such unjust practices. Really foreign attorneys do not do those things; but there appear to be attorneys who will do them, through oversight or design. We are glad to make our courts available to attorneys of other states; but our rules with respect to appearance in our courts should be so framed that the fact a foreign attorney represents a litigant will not handicap our courts in the disposition of cases or be an additional hazard to litigants in this state and their attorney.

---

## PROPOSALS RESPECTING CRIMINAL LAW AND PROCEDURE

---

### Appeals in Criminal Actions

One of the measures we rerecommend for enactment pertains to appeals in criminal cases. It is a rewriting of our statute on that subject. It changes the present sections of our statute permitting a defendant to appeal in any case, and also the section of the statute which permits the state to appeal in certain classes of cases. It places the burden upon the appellant, whether that be the defendant or the state, to see that his appeal is lodged promptly in the supreme court. A case came to the supreme court recently in which the notice of appeal had lain in the office of the clerk of the district court for approximately two years. It should have been sent to the supreme court within a few days. Other cases show the time is from several months to more than a year. There are many other ways in which the progress of a case from the time of the trial in the district court to its submission on appeal to the supreme court may be delayed. That some of these delays are unreasonable is a notorious fact. This proposed measure, if enacted, would eliminate all, or practically all, of such unreasonable delays. It is as follows:

AN ACT relating to appeals in criminal actions, and repealing sections 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713, 62-1714, of the Statutes of Kansas of 1923.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In any criminal action in which defendant pleads guilty or is found guilty by a jury, or by the court if the trial is to the court, if defendant is not then in custody of the sheriff, he shall be taken into custody

less he announces that he desires to file a motion for a new trial, he is sentenced either on that date or at a fixed time within ten days.

2. If at the time the plea, verdict, or finding of guilty is made defendant announces that he desires to file a motion for a new trial, the court shall fix a time, not exceeding five days, in which to file the motion for a new trial, and such motion shall be heard and determined as expeditiously as possible and in no event later than thirty days after it is filed. Pending the hearing of the motion for a new trial, if defendant desires to be at liberty on bond, and the offense is bailable after conviction, the court shall fix the amount of the bond, which bond shall be approved by the court, or the court so directs, by the clerk of the court. If the motion for a new trial is overruled, sentence shall be imposed at once. If defendant desires to be at liberty promptly, and has given bond pending the hearing of his motion for a new trial, the court may order the bond to be in force pending the application to the supreme court for bond.

3. *Proceeding on appeal:* (a) If defendant does not seek to have execution of his sentence stayed, or release from custody on bond pending his appeal, he may appeal at any time within six months from the date of the sentence, by serving notice of appeal on the county attorney of the county in which he was tried and filing the same with the clerk of the district court; and such notice shall be served within ten days after such notice is filed with him, shall send a certified copy of such notice with proof of service and a certified copy of the journal entry of defendant's conviction to the clerk of the supreme court. Defendant shall then prepare and present his appeal in accordance with the statutes and rules of court applicable thereto. (b) If defendant seeks stay of execution of the sentence, or release from custody, or both, pending his appeal, he shall serve notice of his intention to appeal on the county attorney and file the same with the clerk of the court, order a transcript of so much of the journal entry as is needed to present his case on appeal, see that the journal entry of the sentence and sentence is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry to be filed with the clerk of the supreme court within ten days after sentence. On the application of defendant to the supreme court, or any justice thereof, shall order execution of the sentence stayed, and if the offense is bailable after conviction shall fix the amount of the bond and direct that it be approved by the supreme court, or any justice thereof, or its clerk, or by the trial court, or its clerk. Defendant shall thereafter prepare and present his appeal in accordance with the statutes and rules of court applicable thereto: *Provided*, If the offense of which defendant was convicted was a misdemeanor, and the bonds mentioned in section 62-1705 of the Revised Statutes of Kansas of 1923 have been given, and a fact duly certified as required by section 62-1706 of the Revised Statutes of Kansas of 1923, no further bond shall be required.

4. If the state desires to appeal in any case mentioned in section 62-1705 of the Revised Statutes of 1923, the county attorney, within ten days after the ruling complained of, shall serve notice of appeal upon the defendant, the attorney of record, and file the same with the clerk of the court, order a transcript of so much of the testimony as is needed to present the case on appeal, see that the journal entry of the ruling complained of is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry, to be filed with the clerk of the supreme court. The stay by the state in no case stays or affects the operation of the ruling or judgment unless appealed from until the ruling or judgment is reversed. The state shall thereafter prepare and present its appeal in accordance with statutes and rules of the court applicable thereto.

5. The supreme court shall have authority to make such additional rules not repugnant to statute, as it may deem necessary or proper in order to carry out the prompt and orderly preparation and presentation of the appeal and carry into effect the final order of the court in such appealed actions.

6. Sections 62-1702, 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713 and 62-1714 of the Revised Statutes of Kansas of 1923 are hereby repealed:

*Provided*, That appeals in criminal actions in which the verdict of guilty is returned before the effective date of this act may be appealed and the judgment disposed of under the statutes in force at the time the verdict was returned.

SEC. 7. This act shall take effect and be in force from and after January 1, 1937, and its publication in the statute book.

### Joint Trials of Defendants

Another proposed measure rerecommended pertains to joint trials of two or more persons jointly charged with the same offense. Under our present statute, if the offense charged is a felony, each can demand a separate trial as a matter of right, while if the offense charged is a misdemeanor the defendants are tried jointly or separately in the discretion of the court. We think it should be the rule for felonies as well as for misdemeanors. Robberies frequently are committed by gangs of several persons. If they are all indicted and charged jointly with the offense, under the present statute the court must try them separately if they demand it. This means as many trials as there are defendants. Each must be tried to a separate jury. This has necessitated dragging the trials out for as long as two years in some cases. This has resulted in great expense, a lot of unnecessary witnesses, sometimes, in the later trials, with the loss of witnesses for the prosecution by reason of death or otherwise. In the federal court and in many state courts the trial of all defendants charged with the same offense takes place at one time. There is no sound reason why that could not be done in this state. The proposed measure reads:

AN ACT relating to criminal procedure, amending section 62-1429 of the Revised Statutes of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1429 of the Revised Statutes of 1923 be amended so as to read: Section 62-1429. When two or more defendants are jointly charged with the same offense in the same complaint, indictment, or information, they shall be tried jointly: *Provided*, The court, upon the hearing of an application for separate trials, timely made, may order separate trials in the interests of justice.

SEC. 2. That section 62-1429 of the Revised Statutes of 1923 is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

### Depositions in Criminal Cases

Another measure relates to the taking and use of depositions in criminal cases. Under our present law a defendant may take the deposition of a witness to be used in his behalf. The state cannot do so, for the reason that we have no statute which makes it possible to take such deposition in the absence of the defendant in conformity with section 10 of our bill of rights. This measure is designed to remove that difficulty. Recently, in one of our counties, property was stolen and taken into another state. Our officers located it and learned who had taken it, but all of the witnesses necessary to the prosecution were nonresidents. They would not agree to come to

fy. The result was no prosecution. Instances arise quite frequently some nonresident witness is essential to the prosecution. Frequently witnesses will come into the state and testify if paid their expenses and which they name for their time. Unless some arrangement of that can be made with them their evidence is not available. That situation not exist. Successful prosecutions have been defeated because a resident of this state was too ill to appear as a witness. This proposed measure that situation also. Statutes of this kind, when properly drawn, as we think this one is, are not repugnant to constitutional provisions such as section of our bill of rights. We think the measure should be enacted into law. as follows:

relating to criminal procedure and providing for the taking and use of depositions, and repealing sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of 1923.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. In any criminal action or proceeding pending in a court of this state before a judge thereof, depositions may be taken when allowed by an order of the court or judge. Such order may be made only when the court or judge is satisfied that due diligence has been used in making application therefor by the person whose deposition is wanted is a material witness, and that the witness resides without this state; or, residing in this state, is pregnant, infirm, or is about to or likely to leave the state, and that his attendance at the trial or examination cannot be procured by the use of ordinary diligence. Such application by the defendant shall be accompanied by proof to the county attorney of the time and place it is to be presented, and an application on the part of the state shall be accompanied by proof of notice to the defendant or to his attorney of record. The order for the taking of the depositions shall direct whether they shall be taken on oral or written interrogatories.

SECTION 2. When the state procures such an order its notice, in addition to the notice required by the preceding section, shall inform the defendant that he is required personally to attend the taking of such deposition and that his failure to do so shall constitute a waiver of his right to face the witness whose deposition is to be taken; and the failure of defendant to attend the taking of such depositions shall constitute such waiver unless the court or judge is satisfied that the deposition is offered in evidence that defendant was physically unable to attend. If the defendant be not then in custody he shall be paid by the county in which the action or proceeding is pending a sum equal to witness fees for travel and attendance upon the taking of such deposition; but if defendant be in custody the court shall adjudge, direct and order the sheriff to take defendant to and from the place the deposition is to be taken and to take defendant in attendance at the taking of such deposition, the expense of which shall be paid by the county. If the order for the taking of the deposition has been made upon application of the state, and defendant shows to the court that he desires his attorney present and that he is unable financially to pay the fees of his attorney to attend the taking of such deposition, the court shall order a sum equal to witness fees for travel and attendance to be paid defendant for the use of his attorney in attending, on behalf of defendant, the taking of such deposition. Any sum the court orders to be paid by the county, under the provisions of this act, to enable defendant or his attorney to be present at the taking of such deposition, shall be paid by the county promptly and before the taking of the deposition.

SECTION 3. Depositions taken under the provisions of this act may be read in evidence upon the hearing of the action or proceeding subject to rulings appropriate to the reception in evidence in a civil action of depositions taken under this act.

SEC. 5. This act shall take effect and be in force from and after its publication in the official state paper.

When a major crime is committed to which there is no eyewitness, the first difficulty confronting prosecuting officers is to find out who committed it. Often this requires scientific research. At present we have no means for such research. Naturally the officers do the best they can, but frequently such major crimes are unsolved for the simple reason that there is no adequate way of examining scientifically the mute evidences. Peace officers and prosecuting officers have been asking the legislature for help in this matter for several sessions. Their appeals have been turned down because a crime bureau, fairly well equipped and manned to be able to handle such cases, would cost possibly \$40,000 to \$50,000 a year to maintain. It can go on, with perhaps a dozen or more such cases unsolved each year, when the solution of any one of them would justify an expenditure of \$40,000 to maintain the crime bureau for a full year. At the last session the legislature a measure was introduced in the senate for the creation of a crime bureau. Its consideration was delayed for the consideration of a bill much wider in scope which was earnestly pressed. That measure would have required perhaps several hundred thousand dollars a year to maintain it, which fact was one of the reasons for its defeat. We earnestly recommend the enactment of a statute creating a state crime bureau such as that proposed in the senate bill. It may not be a perfect measure, possibly should be amended in some of its provisions, but it will serve as a working basis for a future statute. It reads as follows:

*Be it enacted by the Legislature of the State of Kansas:*

(b) The board of directors of the state crime bureau shall select one member of the state crime bureau who shall ex officio be its secretary and its chief officer acting under the direction of the board of directors; the board of directors shall appoint an agent in charge of identification and detection who shall be the assistant secretary to the directors—and not to exceed ten other officers.



thereto, the board of directors may select and employ a chief clerk who shall be head stenographer and an additional stenographer or filing clerk if the work may require.

The directors, other than the attorney general, shall be allowed the sum of ten dollars (\$10) per diem not exceeding ten days in any calendar month and their traveling expenses while away from their respective residences, in the discharge of their official duties as directors. The chief of the state crime bureau and agent in charge of identification and detection and the other directors shall receive such monthly salaries as may be fixed by the board of directors, not less than fifteen hundred dollars (\$1,500) per annum nor more than three thousand dollars (\$3,000) per annum and that such directors may, within such limitations a scale of wages increasing with the years of service.

The chief clerk shall receive a salary not to exceed eighteen hundred dollars (\$1,800) per annum and the filing clerk a salary not to exceed twelve hundred dollars (\$1,200) per annum, which salaries shall be fixed by the board of directors. No agent, servant nor employee of the state crime bureau shall directly or indirectly receive any reward for any service performed by

The board of directors shall have a right to employ and discharge any personnel as they may deem for the best interests of the service. In the employment of any of the employees or personnel be employed for exceeding one year and the contract of employment shall provide that the board of directors may discharge them for incompetency, neglect of duty or violation of the rules and standards of ethics and conduct called for herein or as may be provided by such board of directors.

The chief of the state crime bureau, the agent in charge of identification and all other operatives, when appointed, shall be not less than twenty-five years of age nor more than forty-five years of age, they shall have at least a four-year education, shall be of good moral character and shall be subject to such examination as to qualifications as the board of directors may by rule prescribe.

2. *Oath of employees.* The chief of the crime bureau, agent in charge of identification and detection and all other operatives including the chief clerk and filing clerk shall, before entering upon their duties, take and subscribe to an oath in substance as follows:

I do solemnly swear that I will support the constitution of the United States and the constitution of the state of Kansas and faithfully discharge the duties of \_\_\_\_\_ of the state crime bureau of the state of Kansas; that in my conduct I will be governed by the rules and standards of ethics and conduct prescribed by law; that I will not unlawfully reveal any of the information in the possession of such bureau or that I may have gained by virtue of employment in such bureau, either while employed or after my discharge from such bureau and that I will not accept employment, after discharge from such bureau, on any cases pending or under investigation by such bureau while I was connected therewith. So help me God.

3. *Rules of ethics and conduct.* No agent, operative or employee of the state crime bureau shall at any time while in the employment of such bureau engage in speaking in any political campaign, or take any active interest in politics or hold any political office or be an active officer in any political party organization of any kind. They shall not use any automobile or be operated by them for the hauling and distribution of any political material. They shall not give to the press or otherwise publish information concerning any person or party being investigated by such bureau at any time especially prior to the arrest or apprehension of such party. The information furnished by such bureau shall be considered as privileged information and the directors and employees of such bureau need not disclose any such information which they deem improper except as called upon to do in some court proceeding or court investigation. That generally the information in the possession

sion of such bureau which in its nature should be kept secret shall be disclosed by any operative or employee either before or after his discharge from the service. Nothing in this section shall be applicable or apply to any member of the board of directors.

**Sec. 4. Duties; office arrangements.** (a) The duties of the agents, operatives and employees shall be such as prescribed by the board of directors as their names of office may indicate. The official office of the state crime bureau shall be at the capitol building in the city of Topeka. The board of directors may establish substations in other cities in Kansas not exceeding eight in number and may place in charge of such substations one or more operatives. And the board of county commissioners and governing bodies of any municipality be and they are authorized to make available for such operatives suitable quarters and furniture including lights, heat and telephone accommodations. The permanent files shall be kept in Topeka.

(b) The operatives shall be allowed, in addition to their salaries and compensation, all necessary and proper traveling expenses while away from their official residences or stations and shall be allowed such compensation for the use of their automobiles, if any, as the board of directors may prescribe, but in no event not to exceed the rate of mileage found by such directors to be reasonable and proper and as generally allowed to other employees of the state by furnishing their own motor vehicles: *Provided*, The mileage expenses shall not exceed five cents (5¢) per mile and the subsistence and other traveling expenses shall not exceed four dollars (\$4) per diem, the same shall be allowed for use of telephones and telegrams.

(c) The board of directors may authorize any agent, employee or operative, not exceeding five in number in any one year, at state expense to take a course in training or schooling in crime detection and kindred subjects, which may be available by the department of justice or any other agencies in the United States government.

(d) The bureau shall establish files with reference to finger-printing, identifications, ballistics and suitable laboratories as they may deem advisable and appropriate. The operatives of the state crime bureau shall under the direction and regulations of the board of directors be made available to assist and supplement the sheriffs and police officers in this state, more especially in the detection and apprehension of those committing felonies and other crimes.

(e) All agents, operatives and employees of the state crime bureau shall be officers of the court and their files and records shall be subject to the proper orders of the courts and may be made available to the attorney general, county attorneys, city attorneys and federal law enforcement officers, and to such rules and regulations as the board of directors may prescribe.

**Sec. 5. Police powers.** The chief of the state crime bureau, the director in charge of identification and detection and all operatives shall have and are hereby authorized to carry arms and to make arrests to the same extent as sheriffs in the same manner as sheriffs of this state are authorized to arrest and carry arms. The rights herein conferred shall be coextensive with the entire territory of Kansas. Process and warrants for arrest including search and seizure warrants may, when directed to the operatives of the state crime bureau, be executed and served by any one of them in the same manner as such might be served by any sheriff.

**Sec. 6. Penalty.** Any agent, operative or employee of the state crime bureau who shall, while in the employment of such bureau engage in or take part in any political campaign, or accept or hold any political office under the laws of this state, other than members of a school board, or who shall use any automobile owned and operated by him for the hauling and distributing of political literature used in promoting the candidacy of any person or party, or who shall take or receive any reward for any service performed by him, or who shall purposely and intentionally give or reveal to a party charged with crime or being investigated for crime any information within the knowledge

bureau or its members and employees shall be guilty of a misdemeanor conviction thereof shall be fined in any sum not exceeding one thousand dollars (\$1,000) or imprisoned in the county jail not exceeding one year,

That in addition to such penalty such party or parties so convicted hereupon forfeit their office and employment and shall be prohibited holding any office of trust or confidence under the laws of this state for thereafter.

. This act shall take effect and be in force from and after its publication in the statute book.

## CONFERENCE OF THE INTERSTATE CONFERENCE ON CRIME

The Interstate Conference on Crime first met at Newark, N. J., in October, 1934, pursuant to a call sent out by Governor Hoffman of that state. At the meeting were representatives from the federal department of justice, also representatives, usually attorneys general or other leading law-enforcement officials from twenty-eight states. At a later meeting a permanent organization was organized, composed of one delegate from each of the states, but three, while coöperating with the movement, had not as yet named delegates. In speaking, the purpose of the meeting was to face frankly the many problems involved in the detection of those who commit crimes, particularly violent crimes, and those committed by "gangs"; of apprehending and arresting criminals and of obtaining the necessary evidence against them for successful prosecutions. It was thought that this could be brought about by compacts between the states. Congress, in June, 1935, had already given its consent in principle to such compacts. How such compacts were to be authorized and carried out was to be worked out. At a later meeting, and with the aid of several professors from law schools called in to assist, four measures have been agreed upon by the Conference and are recommended for adoption in the states. The theory is for each state to adopt the same measure, and thereafter the compacts authorized by the statutes be entered into. The purpose of the Conference is readily recognized as being commendable in every degree. In order that the measures so far proposed may receive the attention which they deserve from lawyers and others interested therein we set them out without further comment.

## Attendance of Witnesses from Other States

AN ACT to secure the attendance of witnesses from without the state in criminal proceedings.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. "Witness," as used in this act, shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

Every state shall include any territory of the United States and District of Columbia.

. *Summoning witness in this state to testify in another state.* If a court of record in any state which by its laws has made provision for compelling persons within that state to attend and testify in this state under the seal of such court that there is a criminal prosecution pend-

ing in such court, or that a grand jury investigation has commenced about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that his presence is required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is found, the judge shall fix a time and place for a hearing, and shall make an order compelling the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in this state, or other state, and that the laws of the state in which the prosecution is pending or grand jury investigation has commenced or is about to commence, do not afford him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, compelling the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence, at a time and place specified in the summons. In any such hearing, the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for the hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing such summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as above provided, after being tendered by some properly authorized person the sum of ten cents a mile and five dollars for each day, that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

**SEC. 3. *Witness from another state summoned to testify in this state.*** If a person in any state, which by its laws has made provision for compelling persons within its borders to attend and testify in criminal prosecutions or grand jury investigations commenced or about to commence, in this state, as a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court, stating these facts and specifying the number of days the witness is required to attend and testify. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If said certificate recommends that the witness be taken into custody and delivered to an officer of this state to assure his attendance in this state, such judge may direct that such witness be forthwith brought before him; and the judge being satisfied of the desirability of such custody and delivery, for which determination said certificate shall be prima facie evidence, may order that said witness be forthwith taken into custody and delivered to an officer of this state, which order shall be sufficient authority to such officer to take such witness into custody and hold him unless and until he is released by bail, recognizance, or order of the judge issuing the certificate.

If the witness is summoned to attend and testify in this state he shall be tendered the sum of ten cents a mile for each mile and five dollars a day that he is required to travel and attend as a witness. A witness who appears in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than that mentioned in the certificate, unless otherwise ordered by the court. If the witness fails without good cause to attend and testify as directed in

he shall be punished in the manner provided for the punishment of any who disobeys a summons issued from a court of record in this state.

4. *Exemption from arrest and service of process.* If a person comes to this state in obedience to a summons directing him to attend and testify in this state he shall not while in this state pursuant to such summons or be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the laws of this state.

5. *Uniformity of interpretation.* This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

6. *Short title.* This act may be cited as "Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal Cases."

7. *Inconsistent laws repealed.* All acts or parts of acts inconsistent with this act are hereby repealed.

8. *Constitutionality.* If any part of this act is for any reason declared invalid by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this act.

9. *Time of taking effect.* This act shall take effect.....

#### Note.

This act has been drafted by the Interstate Commission on Crime, composed of representatives concerned with the administration of criminal law from all states in the Union, as well as the federal government. In general, it is based upon the act proposed by the National Conference of Commissioners on Uniform State Laws, which act is now in effect in seven states. Only a few very minor variations from such act have been made. This act is being introduced concurrently herewith in the legislatures of every state now in session. Briefly, the act provides for reciprocal action between this state and all other states to remove from other states to this state witnesses needed here in criminal proceedings; this state at the same time to remove from this state witnesses, witnesses similarly needed there. These witnesses are fully to comply with the requirement of the payment of substantial witness fees, by the state on that they are exempt from arrest or service of process when so removed, and finally that they shall not be removed in any event if same will cause them "undue hardship."

### Interstate Extradition

AN ACT to make uniform the procedure on interstate extradition.

Enacted by the Legislature of the State of Kansas:

SECTION 1. *Definitions.* Where appearing in this act, the term "governor" means any person performing the functions of governor by authority of the laws of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any state or territory, organized or unorganized, of the United States of America.

SEC. 2. *Fugitives from justice; duty of governor.* Subject to the provisions of this act, the provisions of the constitution of the United States and any and all acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged with treason, felony, or other crime, who has fled from justice and is found in this state.

SEC. 3. *Demand; form.* No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless it is in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, except in cases arising under section 6, and accompanied by a copy of an indictment found or by information supported by affidavit in the demanding state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon; or by a copy of a judgment of conviction or of a sentence in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially show that the person demanded with having committed a crime under the laws of the demanding state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority of the demanding state.

SEC. 4. *Investigation by governor.* When a demand shall be made for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate the demand, and to report to him the situation and the circumstances of the person so demanded, and whether he ought to be surrendered.

SEC. 5. *Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.* When it is shown to the satisfaction of the governor of this state that a person charged with a crime in this state has returned to this state a person charged in this state with a crime in another state, such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 23 of this act with having violated the laws of the state of the demanding state, if the governor is making the demand, even though such person left the demanding state involuntarily.

SEC. 6. *Extradition of persons not present in demanding state at the time of commission of crime.* The governor of this state may also surrender on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with having committed an act in this state, or in a third state, intentionally resulting in the commission of a crime in the state whose executive authority is making the demand, if the provisions of this act, not otherwise inconsistent, shall apply to such person, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

SEC. 7. *Issuance of warrant of arrest by governor; recitals therein.* If the governor decides that the demand should be complied with, he shall issue a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessitating the validity of its issuance.

8. *Execution of warrant; manner and place thereof.* Such warrant authorize the peace officer or other person to whom directed to arrest accused at any time and place where he may be found within the state command the aid of all peace officers or other persons in the execution warrant, and to deliver the accused, subject to the provisions of this the duly authorized agent of the demanding state.

9. *Authority of arresting officer.* Every such peace officer or other empowered to make the arrest, shall have the same authority, in the execution of any criminal process directed to them, with like against those who refuse their assistance.

10. *Rights of accused person; application for writ of habeas corpus.* Person arrested under such warrant shall be delivered over to the agent the executive authority demanding him shall have appointed to receive less he shall first be taken forthwith before a judge of a court of record state, who shall inform him of the demand made for his surrender and crime with which he is charged, and that he has the right to demand secure legal counsel; and if the prisoner or his counsel shall state that they desire to test the legality of his arrest, the judge of such court of shall fix a reasonable time to be allowed him within which to apply for of habeas corpus. When such writ is applied for, notice thereof, and time and place of hearing thereon, shall be given to the prosecuting of the county in which the arrest is made and in which the accused is body, and to the said agent of the demanding state.

11. *Penalty for noncompliance with preceding section.* Any officer who deliver to the agent for extradition of the demanding state a person in custody under the governor's warrant, in wilful disobedience to the last shall be guilty of a misdemeanor and, on conviction, shall be fined more than \$1,000 or be imprisoned not more than six months, or both.

12. *Confinement of accused in jail when necessary.* The officer or executing the governor's warrant of arrest, or the agent of the demanding to whom the prisoner may have been delivered may, when necessary, deliver the prisoner in the jail of any county or city through which he may and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on such officer or person, however, being chargeable with the expense of

13. *Officer or agent of a demanding state to whom a prisoner may have delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on such officer or agent, however, being chargeable with the expense of such confinement. Provided, however, That such officer or agent shall produce and deliver to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition has been made by the executive authority of such demanding state. Such prisoner shall be entitled to demand a new requisition while in this state.*

13. *Arrest of accused before making of requisition.* Whenever any person within this state shall be charged on the oath of any credible person with the commission of any crime in this state and, except in cases arising under section 6, with having fled from justice, or, with having been convicted of a crime in that state and having been released from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or justice in this state setting forth on the affidavit of any credible person

in another state that a crime has been committed in such other state the accused has been charged in such state with the commission of the crime and, except in cases arising under section 6, has fled from justice, or having been convicted of a crime in that state and having escaped from prison, probation or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, to bring him before the same or any other judge, magistrate or court which may be available in or convenient of access to the place where arrest may be made, to answer the charge or complaint and affidavit; and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

SEC. 14. *Arrest of accused without warrant therefor.* The arrest of a person may be lawfully made also by any peace officer or a private person upon a warrant upon reasonable information that the accused stands charged with a crime in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be brought before a judge or magistrate with all practicable speed and complaint made against him under oath setting forth the ground for the arrest under the preceding section; and thereafter his answer shall be heard as in the case of a person arrested on a warrant.

SEC. 15. *Commitment to await requisition; bail.* If from the facts appearing before the judge or magistrate it appears that the person charged with a crime has fled from justice, or having committed the crime alleged, and, except in cases arising under section 6, that he has fled from justice, the judge or magistrate may, by a warrant reciting the accusation, commit him to the custody of the sheriff for such a time not exceeding thirty days and specified in the warrant to enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, until he shall be legally discharged.

SEC. 16. *Bail; in what cases; conditions of bond.* Unless the offense for which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail on bond or undertaking, with sufficient sureties, and in such sum as he may deem proper, conditioned for his appearance before him at a time specified in the bond or undertaking, and for his surrender, to be arrested upon the warrant of the governor of this state.

SEC. 17. *Extension of time of commitment, adjournment.* If the person charged is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, a judge or magistrate may charge him or may recommit him for a further period of sixty days to the next supreme court justice or county judge may again take bail for his appearance and surrender, as provided in section 16, but within a period not to exceed sixty days after the date of such new bond or undertaking.

SEC. 18. *Bail; when forfeited.* If the prisoner is admitted to bail, he shall appear and surrender himself according to the conditions of his bond before the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. No new bond may be had on such bond in the name of the state as in the case of bonds or undertakings given by the accused in criminal proceedings within this state.

SEC. 19. *Persons under criminal prosecution in this state at the expiration of time of requisition.* If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of the state or hold him until he has been tried and discharged or convicted and punished in this state.



20. *Guilt or innocence of accused, when inquired into.* The guilt or innocence of the accused as to the crime of which he is charged may not be determined into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall be presented to the governor, except as it may be involved in identifying a person held as the person charged with the crime.

21. *Alias warrant or arrest.* The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

22. *Fugitives from this state; duty of governors.* Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state from the chief executive of any other state, or from the chief justice or associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to arrest the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

23. *Application for issuance of requisition; by whom made; contents.* When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which he shall state the name of the person charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, the location of the accused therein at the time the application is made, and certifying that, in the opinion of the said prosecuting attorney the return of justice require the arrest and return of the accused to this state for the purpose of that the proceeding is not instituted to enforce a private claim.

When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the state in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall forward to the governor a written application for a requisition for the return of the person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein and the time application is made.

The application shall be verified by affidavit, shall be executed in the state and shall be accompanied by two certified copies of the indictment, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and documents in duplicate as he shall deem proper to be submitted with the application. One copy of the application, with the action of the governor thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state for the purpose of record in that office. The other copies of all papers shall be retained with the governor's requisition.

24. *Costs and expenses.* (Note: The provisions in this regard will so vary with the different states that same must be drafted separately in each state.)

25. *Immunity from service of process in certain civil actions.* A person extradited into this state on, or after waiver of, extradition based on a criminal proceeding shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he was extradited or has been returned, until he has been convicted in the criminal

proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

**SEC. 25a. *Written waiver of extradition proceedings.*** Any person in this state charged with having committed any crime in another state, alleged to have escaped from confinement, or broken the terms of probation or parole may waive the issuance and service of the warrant for in sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of record within this state a writing which states that he consents to the extradition to the demanding state; provided, however, that before such waiver is executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant for extradition and to obtain a writ of habeas corpus as provided for in section 25b.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed there. The judge shall direct the officer having such person in custody to deliver him with such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily to the demanding state, without formality to the demanding state, nor shall this waiver proceeding be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

**SEC. 25b. *Nonwaiver by this state.*** Nothing in this act contained herein shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or to try such demanded person for crime committed within this state, or right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

**SEC. 26. *No immunity from other criminal prosecutions while in this state.*** After a person has been brought back to this state by extradition proceedings he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for extradition.

**SEC. 27. *Interpretation.*** The provisions of this act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

**SEC. 28. *Constitutionality.*** If any part of this act is for any reason held to be void, such invalidity shall not affect the validity of the remaining provisions thereof.

**SEC. 29. *Repeal.*** All acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein are hereby repealed.

**SEC. 30. *Short title.*** This act may be cited as the Uniform Criminal Extradition Act.

**SEC. 31. *Time of taking effect.*** This act shall take effect on the day of \_\_\_\_\_ 19\_\_\_\_.

#### Note.

The basis of present interstate extradition of fugitive criminals is found in Article IV, section 2, subdivision 2 of the constitution of the United States. Congress set up a general framework for the extradition process, but left many matters incident to extradition to be dealt with by the states. As a result of these matters there is undesirable variation in the provisions of law in several states and in their interpretation.

diversity hinders state coöperation and the administration of justice. Cooperative that each state adopt and enforce regulations which will satisfy views as to the safeguards to be afforded accused persons, and as to the most efficient aid possible to other states; and that such regulations form throughout the United States and therefore reciprocal in their operation.

26 The Conference of Commissioners on Uniform State Laws adopted a Uniform Criminal Extradition Act. This act has been the basis of legislation in the following ten states: Alabama, Idaho, Maine, New Mexico, North Carolina, Pennsylvania, South Dakota, Utah, Vermont and Wisconsin. The Commission has incorporated certain slight modifications and additions in the act herewith, which are intended simply to supplement and round out the Uniform act.

The act as approved by the Interstate Commission on Crime brings uniformity to such matters as the form of requisition and the documents to accompany it, the arrest pending requisition as well as after requisition, bail, corpus proceedings, confinement in transit, and the right to withhold extradition while a criminal prosecution is pending in the asylum state against a person claimed or while he is serving a sentence there. It also recognizes and regulates waiver of extradition. It gives to the governor of an asylum state the very important power to extradite, in his discretion, one who was demanded by the demanding state when the crime is alleged to have been committed—a power not covered by the federal provisions as to extradition, but which may be exercised by each state under its constitutional residuum of authority in its coöperative warfare on crime. It gives to the governor the right to extradite a person who has come into the state involuntarily. It provides for requisition of a person, already under prosecution or undergoing sentence in another state, so that he may be prosecuted in the demanding state while the evidence is still fresh, but with the understanding that at the termination of the prosecution he will be returned to the state which extradited him. The Interstate Commission on Crime has studied the uniform act with care and strongly urges its immediate general adoption.

### Coöperation as to Person Paroled

It is providing that the state of \_\_\_\_\_ may enter into a compact with any of the United States for mutual helpfulness in relation to persons convicted of crime or offenses who may be on probation or parole.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. The governor of this state is hereby authorized and directed to enter into a compact on behalf of the state of \_\_\_\_\_ with any of the United States legally joining therein in the form substantially as follows:

COMPACT. Entered into by and among the contracting states, signatories thereto, with the consent of the Congress of the United States of America, that each of the said states, by an act entitled "An act granting the consent of Congress to any other state or states to enter into agreements or compacts for coöperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

1. That it shall be competent for the duly constituted judicial administrative authorities of a state party to this compact (herein called "sending state") to permit any person convicted of an offense within such state to be placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, if—

(a) Such person is in fact a resident of or has his family residing in the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for not less than one year prior to his coming to the sending state and has not resided in the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

2. That each receiving state will assume the duties of visitation and supervision over probationers or parolees of any sending state and the exercise of those duties will be governed by the same standards that are applied for its own probationers and parolees.

3. That duly accredited officers of a sending state may at all times enter the receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than the production of the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice shall be hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state. *Provided, however,* That if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state a criminal charge, or he should be suspected of having committed within the sending state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

4. That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states party to this compact, without interference.

5. That the governor of each state may designate an officer who shall jointly with like officers of other contracting states, if and when authorized, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

6. That this compact shall become operative immediately upon ratification by any state as between it and any other state or states so ratifying. When ratified it shall have the full force and effect of law within the sending state in the form of ratification to be in accordance with the laws of the ratifying state.

7. That this compact shall continue in force and remain binding upon any state ratifying state until renounced by it. The duties and obligations of a renouncing state shall continue as to parolees or probationers therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same state which ratified it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

Sec. 2. If any section, sentence, subdivision or clause of this act is held by a court of competent jurisdiction to be unconstitutional, such decision shall not invalidate the remaining portions of this act.

8. Whereas an emergency exists for the immediate taking effect of the same shall become effective immediately upon its passage.

9. This act may be cited as the Uniform Act for Out-of-state Parolee.

#### Note.

act has been drafted by the Interstate Commission on Crime, composed of representatives concerned with the administration of criminal law in every state in the Union, as well as the federal government. This act was presented concurrently herewith in the legislatures of every state now in session.

Under the act, the act authorizes the governor of this state to enter into a compact with other states of the Union whereby such other states will agree to supervise on probation or parole their residents convicted of crime here in return for the reciprocal action of this state in similarly supervising here its residents convicted of crime there. The reciprocal terms of such compact are set forth in detail with provisions for the necessary administrative action. The compact will effectuate the prime purpose of probation and parole, to wit, rehabilitation to good citizenship of the person convicted. From the standpoint of the convicted person, obviously this can be better accomplished under proper supervision among home surroundings rather than among strangers. From the standpoint of the authorities, the state where the person resides has a greater responsibility for his conduct, and consequently his supervision, than the state to which he goes to commit a crime. This compact accords substantially with the Indiana statute, Laws 1935, chapter 1441, and the compact in that regard just signed by that state and Illinois, and a similar one now being negotiated by the states of Maryland and Missouri.

### Coöperation Respecting Close Pursuit

to make uniform the law on close pursuit and authorizing this state to coöperate with other states therein.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in close pursuit and continues within this state in such close pursuit, of a person in such close pursuit, shall have the same authority to arrest and hold in custody such person as members of a duly organized state, county or municipal peace unit of this state have, to arrest and hold in custody a person on the ground that he has committed a felony in this state.

2. If an arrest is made in this state by an officer of another state in violation of the provisions of section 1 of this act he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made, who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a period of time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

3. Section 1 of this act shall not be construed so as to make unlawful any act in this state which would otherwise be lawful.

SEC. 4. For the purpose of this act the word state shall include the District of Columbia.

SEC. 5. For the purpose of this act the term "felony" includes "felony and misdemeanor."

SEC. 6. Upon the passage and approval by the governor of this act it shall be the duty of the secretary of state (or other officer) to certify a copy of this act to the executive department of each of the states of the United States.

SEC. 7. If any part of this act is for any reason declared void, it is hereby declared to be the intent of this act that such invalidity shall not affect the validity of the remaining portions of this act.

SEC. 8. This act may be cited as the Uniform Act on Close Pursuit.

SEC. 9. This act shall take effect immediately.

### Statement

This act has been drafted by the Interstate Commission on Criminal Justice, composed of official representatives concerned with the administration of criminal law from every state in the Union, as well as the federal government, and is being presented concurrently herewith in the legislatures of every state at this session.

The purpose of the act is to prevent the state boundaries from preventing a criminal to escape. The act accomplishes this in simple fashion by applying the common law doctrine of close pursuit, which permits an officer to cross a boundary and make an arrest of a criminal while in such close pursuit, and act further providing for the return of such criminal thereafter.

PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1936



16-8048









Sec. 561

U. S.

**P**

Topel

Perm

---

# KANSAS JUDICIAL COUNCIL BULLETIN

1936

PART 2—TENTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
WORD .....	47
TIONAL RULES OF COURT .....	50
ERAL VERDICT VS. SPECIAL VERDICT .....	51
y C. L. HUNT	
PROPOSED INTEGRATION OF THE KANSAS BAR .....	60
y ROBERT C. FOULSTON	



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1936  
16-4396

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, Chairman.....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas C
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John.
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordi
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS.....	Independ

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATION,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally thro  
 state.

For the improvement of our Judicial System and  
 efficient functioning.

## FOREWORD

---

Judicial Council is collecting reports from the probate courts throughout the state showing the business transacted in each of such courts for the period ending June 30, 1936, and the business pending therein on July 1, 1936. These reports and tables from these reports will be published in a later BULLETIN. This will be set out in a more forceful way than could otherwise be done because of the wide and importance of the business transacted in our probate courts. Probate courts are important units of our judicial system, and should be better equipped to perform their duties. Many of the probate judges of our state are underpaid for the work they are required to do. Some of them have inadequate quarters, many of them have no clerical help, or such as is furnished is inadequate, and in many of the counties the records are cumbersome and antiquated, so that the compiling of data of the business of the office is a task in itself. The legislature should make it possible for probate judges to be compensated for making these reports in a manner similar to that provided for compensating clerks of the district courts for similar service. We will be glad to join with the judges of the probate court in urging the legislature to take this action. We plan to make other recommendations for the improvement of our courts.

---

We are not collecting data this year from clerks of the district courts. Our present operation now is to collect such data every two years. We did so last year and plan to do so next year.

---

Some time there has been discussion as to the advisability in jury trials of having the jury return special verdicts respecting controverted issues rather than a general verdict in each case, as our statute now provides. Mr. C. L. ... member of the Council, has made an exhaustive study of this subject and has prepared an article, which we print in this issue, under the title of "Special Verdicts v. General Verdicts." He deals not only with the history of the question, but points out in a forceful way other advantages to be gained by using special verdicts only. Experienced trial lawyers and judges know that in practically every case tried to a jury the conflicting testimony centers around a comparatively few points, frequently not more than one or two. It is thought that it would be less confusing to the jury, and more accurate results would be obtained, if, in the court's instructions, the jurors' attention were directed only to their duties and prerogatives respecting the pivotal, controverted issues of the case. The subject is well worth considering as a question for the improvement of our judicial system and its functioning. We trust the attorneys and trial judges throughout the state will read the article carefully, and we would be glad to hear from them with a frank expression of their views.

For several years past there has been quite a little discussion in this state respecting a greater coördination or unification of the bar of the state. Several years ago there was introduced in the legislature an act for the incorporation of the bar similar to that which has been enacted in a number of other states with beneficial results. A lack of the full appreciation of its purposes caused it to fail to pass in the legislature. Nearly two years ago (page 41, BULLETIN, 1934) we called attention to the fact that in the state of Michigan the beneficial results of such an act were being brought about by rules promulgated by the supreme court. Time has demonstrated that much has been accomplished under those rules in that state. Since that time other states, particularly in Michigan and Kentucky, similar rules have been promulgated by the supreme court. Within the last year the bar association of the state of Kansas, under the leadership of its president, Mr. Albert F. Dawson, has made a study of the question, with the result that at the last meeting of the association, held at Wichita in May, resolutions were adopted recommending the supreme court to promulgate similar rules in this state. The new president of the State Bar Association, Hon. John S. Dawson, has appointed a committee for the study of the subject and to prepare suggested rules for the purpose to be submitted to the supreme court for its promulgation.

Generally speaking, there are four purposes which are hoped to be accomplished by the better integration of the bar under rules of court. A more uniform standard of admission to the bar and a more careful examination of applicants therefor. We have that problem very well worked out in this state. For many years a competent forward-looking board of law examiners has been appointed by the supreme court and functioning under rules promulgated by the court has kept the standard of admission to the bar in this state as high as that of any state in the Union. Hence, it is not contended that any improvement can be made respecting the admission of attorneys to practice in this state over that which has been and will be accomplished under the present plan of procedure.

*Second*, the hearing of complaints against and the discipline of members of the bar. From time to time we hear complaints through the public and elsewhere of what is said to be unprofessional conduct of attorneys. Such complaints before the grievance committees of the state and county bar associations approximately seventy-five percent of them, upon investigation are found to be without merit. This indicates that it would be advisable to find some plan to discipline those who unjustly charge attorneys with unprofessional conduct; but that is a goal we can hardly hope to attain. Those complaints not found to be without merit half or more of them are found to be omissions or irregularities promptly corrected as soon as the attention is called to it. The remainder of them are found to be more serious. Some of them to justify or require disbarment. This field affords a great deal of more systematic and effective work than we have heretofore been able to accomplish. It is a field in which work is needed, not only for the benefit of the litigants, but for the benefit of the reputable members of the profession. Perhaps no one thing would give better standing to the legal profession than the strike from the roll of attorneys in this state the names of the comparatively few attorneys who, by their intentional misconduct, bring discredit upon themselves and their associates, and loss or injury to their clients. The board of law examiners does much work each year investigating such

and taking appropriate action thereon—much more, in fact, than the public, or even attorneys generally, know about, for the preliminary steps into those matters necessarily are investigated as quietly as possible. If possible, however, that a better set-up for this purpose could be effected. Certainly more funds should be made available for this work. The funds now available come from fees paid by applicants for admission to the bar, and by far the larger part of that is consumed in the necessary expenses of such applicants and in conducting examinations. If under the integration of the bar the active attorneys in the state were required to pay a small fee, perhaps \$5 or \$10 per year, into a fund for that purpose, this particular difficulty would be eliminated. This is a line of work in which a great good can be accomplished by having an adequate set-up for handling complaints, with sufficient funds to conduct investigations effectively, so that appropriate action thereon may be taken promptly. If, it is thought, the ability of attorneys properly to represent their clients can be improved by an appropriate integration of the bar with local, county and state bar associations. Ordinarily one recently admitted to practice has much to learn of human activity, the conduct of business, the functions of governmental units, and the relation of legal principles thereto, in order to be of the greatest service to his clients. In a recent conference on this question, where a number of attorneys were present, one of them bluntly stated: "Litigants suffer greater losses because of the inability of attorneys to know the best steps to be taken in their behalf than they do by any individual conduct of attorneys." Those present immediately recognized the truth of the statement. The practice of law involves in a broad way the whole field of human endeavor, and every controverted question of importance among our people respecting their property rights, their domestic affairs, their relations to government, may be presented to an attorney for his advice and action. It is important that he be in position to give good advice and to take appropriate action on such questions. He should have access to an adequate library and devote his best efforts to acquiring the information which will enable him to be of greatest value to his clients. Necessarily his work is one of continuous study. It is thought much could be accomplished along this line by a proper integration of the bar under rules of court. In the field of the unlawful practice of the law has received much attention in recent years, and is receiving more. If litigants sustain loss from action on inaccurate advice of attorneys, they certainly sustain a much greater loss from the inaccurate advice of laymen. It has been suggested that attorneys advocate limiting or doing away with the unlawful practice of the law for the selfish purpose that they desire to have a monopoly of the practice of the law. This is incorrect. Attorneys frequently make more money out of commissions which arise because someone has followed the blundering advice of an attorney than they would have made if the person had sought the advice of an attorney in the first instance. Limiting or doing away with the unauthorized practice of the law is advocated in the interest of litigants and those seeking legal advice where litigation is not required. They will find it to their advantage to consult and take the advice of a competent attorney anxious to serve his clients as best he can.

We are glad to present in this issue an article by Robert C. Foulston, a

member of the Council, on the proposed integration of the Kansas which the subject is treated in its larger aspects and from a practical point. The question is a live one, and within the next few months definite proposals will be formulated for the integration of the bar of the state, and the supreme court will be asked to promulgate a set of rules for accomplishing that purpose. We are anxious to have the views of the members of the Kansas on this question. Letters on the question may be addressed to the chairman or secretary of the State Bar Association. The supreme court would not care to promulgate rules and afterwards have the members of the state say that they had not had an opportunity to express their views concerning them. They are invited to do so now.

### ADDITIONAL RULES OF COURT

In our October, 1934, BULLETIN (page 41) we discussed and suggested a rule which might be promulgated by the supreme court with reference to the practice of law in this state by foreign attorneys. At the time it was published it received much favorable comment. When the legislature of 1935 met a bill was introduced in the House which, with some amendments, became chapter 100, Laws of 1935. The statute was so limited in its operations that it was not adequate, and as the matter is one which should be governed by rule rather than by statute, suggestions were made to us by many attorneys. We request the court to promulgate the suggested rule notwithstanding the existing statute. In order to get a full discussion of the matter we again treated the subject in our April, 1936, BULLETIN (page 21), at which time we set forth a suggested rule and asked for comments. We have received many comments, all of them favorable to its promulgation. In view of that, at the last meeting of our Council it was determined that we request the court to promulgate a rule. Having given consideration to the matter the court, under date of July 1, 1936, but to be effective on September 1, 1936, has promulgated additional rules of court applicable to all the state courts, to be numbered 54 and 55, respectively, 54 and 55, and to read as follows:

"No. 54. An attorney residing outside of this state, in good standing as an attorney at the place of his residence, may be recognized as an attorney of the courts of this state, for any action or proceeding in court, but only if he has associated with him as attorney of record in such action an attorney of this state residing within this state, upon whom service may be made in all matters connected with such action or proceeding proper to be served on an attorney of record."

"No. 55. Any pleading, or other paper, filed in any action or proceeding in any of the courts of the state shall have written or printed thereon the name and correct post-office address of the attorney (or litigant, if filed by a litigant) filing the same. Clerks and other court officials who file such papers shall refuse to receive them for filing if this rule is not complied with."

We are confident that the promulgation of these rules and the cooperation of the members of the Council with them will be of great advantage to our trial courts in the speedy disposition of cases, and will also operate greatly to the advantage of the members of the bar in this state, enabling them or their counsel to get in touch with the members of the bar representing the other side of the litigation for the purpose of serving the public by settling pleadings, or taking up other matters connected with the litigation.



**GENERAL VERDICT vs. SPECIAL VERDICT**

By C. L. HUNT

emen of the jury, you are the exclusive judges of the evidence and established by it."

ones a Kansas trial judge. Very good, your honor, but you do not e. You tell the same jury they are bound by your instructions as w, which means they must construe the law as you have written it. ou tell them they must apply the facts to the law as you have written y you have imposed three duties upon your jury; one, to determine e to understand what you wrote, and then to apply such understand- e facts.

eneral verdict, therefore, becomes a composite of three distinct ele- They are so welded into a general verdict as to be utterly immune tion if one be curious enough to attempt to ascertain whether the ed to correctly ascertain the facts, or in its construction of the in- s, or the application of the one to the other.

ten years ago the members of the State Bar Association of Kansas inded that under English practice it might be left to the jury to eneral verdict, or to the court to make a general finding upon special s answered by the jury. The remark then awakened no particular

Recently there has been much discussion of the question of eliminat- eneral verdict and requiring of the jury only a special verdict upon e court can pronounce judgment.

st in the subject has been stimulated by the Fireside Chats depart- ducted by the Hon. Grover Pierpont, of Wichita, in the journal of the ciation of this state. At a recent meeting of the Northwest Kansas ciation at Goodland an interesting paper on the subject was read by es E. Taylor of Sharon Springs. Discussion of the subject has now so widespread as to challenge serious consideration by the bench and Kansas.

pecial verdict possesses long and honorable lineage and is a juridicial of English and American law. It has fallen into disuse in Kansas because of a legislative requirement of 1874 that in all cases where a emandable a general verdict must be rendered. Curiously enough, it ade use of in some equity cases where, indeed, it should be abolished er. In a few jurisdictions in Kansas, trial judges yield to the im- ies of counsel, having the inflammatory side of a suit to contest a render a special verdict in an advisory capacity. This practice, it is d, should be abandoned entirely, and the special verdict should be re- o its proper place in the decision of factual issues in law cases.

Anglo Saxon jury is not comparable with the modern American jury, eed, with the jury as constituted shortly after the Norman conquest, erefore, will not be considered here. Only nine years after Hastings ction of the Anglo Saxon doomsmen came to an end. It was then irst time in England that the jurors reported the facts and the judges e judgment. The instance out of which this revolution in procedure most interesting. It was a case between the King's sheriff and the of Rochester. The trial was presided over by the Bishop of Bayeux,

who chanced to be the King's younger brother, but from all accounts an upright and honest judge. He directed the calling of twelve men to affirm the facts and this is said to be the first instance in English history where twelve in number were assembled to make a conclusive statement of facts upon which the court should render judgment. This was a complete departure from the former inquest held by a like number of countrymen. The King's brother proved to be a model of impartiality, such was not true of the sheriff who brazenly intimidated the jurors, much in the same manner as the Kansas prohibition sheriffs were wont to unduly influence the jury in a intoxicating-liquor case—all for the good of law and order. This early jury yielded to the importunities of the King's sheriff and rendered a verdict. Through sources not consequential here, the judge became suspicious of the falsity of the verdict and upon being called into his presence by the jurors confessed. The justice then called another jury of barons to determine whether the first jury had falsified their verdict. It was found that the first jury had returned a false verdict and thereupon another process was set in English law. The justice reversed the judgment of the first jury and entered a contrary judgment, and fined the members of the first jury ten hundred pounds. So far as I have been able to discover this is the first instance of the newly discovered power of attainder of jurors, although it was not so designated for something like a hundred years. The practice had not yet come common to assemble a jury of twenty-four knights to determine the question whether the first jury had returned a false verdict. When the court pronounced judgment contrary to the verdict of the first jury, apparently it did not occur to the judiciary until about 1650 that the court should set aside the verdict of a jury of twelve and grant a new trial.

Out of the practice of attainder was born the special verdict. Evidently an intelligent juror conceived the idea, or it was implanted in his mind by an unfriendly judge, that a jury might escape the consequences of a general verdict by returning a special verdict finding only naked facts, and praying the court in the application of the law. This device by a jury of free men from attainder was freely made use of after its discovery. True, the jury of those days were in a sense witnesses rather than jurors as they were to use their own knowledge and that which they might acquire through observation about the neighborhood without the calling of witnesses. Nevertheless they performed the same ultimate function of either rendering a general verdict at their peril, or presenting to the court their conclusions as to the facts in the form of a special verdict.

In 1285 chapter 30 of the Statute of Westminster II was enacted, which provided as follows:

"The justices of assize shall not compel the jurors to say in so many words (præcise) whether it be disseisin or not, if they state the truth of the facts and pray the aid of the justices; but if, of their own accord, they say it is disseisin, the verdict shall be received at their peril."

This statute, however, is said to have been only declaratory of the existing law.

In Dowman's Case (9 Coke 7, 12, decided in 1586) it was said:

"In all Pleas, as well of the Crown as in Common Pleas, sc. Actions personal and mixt, and upon all issues joined, either between the King

or between Party and Party, the jury may find the special matter, pertinent, and tends only to the issue joined, upon which, being doubtful in law, they may pray the opinion of the court: And in this they by the Com. Law, which has ordained, that matters in fact shall be for jurors, and matters in law by the judges."

disapproved of the general verdict in the following language:

ough the jurie if they will take upon them the knowledge of the law, re a generall verdict, yet it is dangerous for them so to doe, for if they take the law, they runne into the danger of an attainit; therefore to special matter is the safest way where the case is doubtfull."

ust have been more apparent to the early English judges than to us that y was not an instrument of precision in trials if directed, or permitted not only facts, but judge the law as well, and apply the one to the other. essor Edson R. Sunderland, after reviewing the historical aspects of the verdict, said:

ppears, therefore, that the jury have no vested claim to meddle in any h questions of law. If such questions find their way into the delibera- the jury at all it is through the use of that curious double-natured in- t known as the general verdict." (Yale Law Journal, Jan. 1920, 258).

ight have safely added that the jury have no vested right to render a verdict as distinguished from a verdict finding naked facts only.

common law of England came not only to America, but to Kansas, clearly recognized by the early law-making bodies of this state.

a we read section 60-2918, R. S. 1923, we are impressed with the view e draftsman confused the special verdict with special findings of fact e frequently accompany a general verdict. This confusion of expression ntly attributable to the revisors of the Code in 1909 merging into one the law which had previously been stated in two. Nevertheless, the e of a special verdict is expressly recognized in the 1923 revision by ntion of sections 60-3117 and 60-3118, which have remained unchanged t statute law since, at least, 1862.

e 1862 compilation the prototype of present R. S. 60-2918 is found in 286 and 287. In section 286 the distinction between a general verdict special verdict is clearly expressed, and, in fact, is largely retained in sent revision. However, in section 287 it was provided that in every or the recovery of money only, or specific real property, the jury in cretion might render a general or special verdict. In all other cases t had power to direct the jury to find a special verdict in writing upon all of the issues, and might in all cases instruct the rendition of a gen- dict, and to also find particular questions of fact.

ust be admitted, we think, that these two sections drew more unmis- lines of demarcation between general verdicts, special verdicts, and findings than does our present statute.

general statutes of 1862 also provided (sec. 288) that if the special find- fact be inconsistent with the general verdict, the findings controlled court might give judgment accordingly. This remains unchanged.

a our statutes were revised in 1868 these sections were given slightly t numbers, being 285, 286 and 287. Section 285 is precisely the same n 286 in the 1862 revision. There was a slight change in the next sec-

tion, but in form only. Section 288 of the 1862 compilation became 287 without change.

These sections were all a part of chapter 80, then the Code of Civil Procedure.

By section 7 of chapter 87 of the Laws of 1870, section 286 was amended and read as follows:

"In all cases the court, at the request of the parties, or either of them, may direct the jury to find a special verdict, in writing, upon all or any of the issues in the case; and upon like request, to instruct the jury, if they shall find a general verdict, to find upon particular questions of fact, to be stated in writing, and shall direct a written finding thereon. The special verdict must be filed with the clerk and entered on the journal."

This seems to have resulted in a mismatching of the new section 286 with the old section 287, which was left unchanged, and yet the statute was amended to the right of any party to demand a general verdict.

In 1874 section 286 was again amended by section 1 of chapter 90 of the Laws of 1874, and the amendment read:

"In all cases the jury shall render a general verdict, and the court may, in any case at the request of the parties thereto, or either of them, in addition to the general verdict, direct the jury to find upon particular questions of fact, to be stated in writing by the party or parties requesting the same."

This is apparently the first time the legislature required a general verdict in all cases where a jury was demandable and constitutes the first change in Kansas from the common law of England with reference to the jury to render either a special or general verdict. The reason for the change is not apparent. Possibly at that stage in the development of the personal injury business had commenced to pick up.

As a result of these various amendments sections 285 and 286, Statutes 1868, became paragraphs 5180 and 5181 of the 1905 compilation, the first section being devoted to the definition of general and special verdicts, the second having to do with the matter of special questions in addition to the general verdict; the requirement that a general verdict be returned in all cases being retained.

When the Code of Civil Procedure was revised in 1909 these two sections were merged, which led to apparent confusion of the terms "special verdict" and "special findings." This section was amended by chapter 239 of the Laws of 1913 by placing a discretionary limit on the number of special questions. There was no change made in the Revision of 1923.

It is not difficult, therefore, to understand why special verdicts have fallen into disuse, especially after the 1909 code provision. The sharp distinction between special verdicts and special findings, carefully maintained until 1909, was lost.

At least two things are readily apparent from this brief historical review. Neither a common-law jury nor a Kansas jury, prior to 1874, had an inherent right to return a general verdict. A special verdict was fixed in judicial proceedings from the time of the case of the King against the Bishop of Rochester until 1874 as the general verdict since that date.

Again it is to be remarked that lawmakers and judges mistrusted the

to determine the facts, construe the law contained in the instructions, only one to the other, until the Kansas legislature in 1874 made a verdict mandatory. The special verdict is not new; the general verdict a directory procedure remained dormant from the day remedy by was discovered until 1874. It would, therefore, not be a startling innovation to restore the special verdict to its previous high standing in jurisprudence and to abrogate the general verdict, the remedy by attainder being a relic and unthinkable as a modern method of testing the honesty or the accuracy of their work.

Jury is to be retained for the purpose it was designed to serve, it can work better and more conscientiously through the medium of a special verdict. Jury trials are still in vogue because of the ancient presumption that laymen composing it were more competent triers of fact than judges. Whatever presumption may now be a fiction, but if we are to recognize either the existence of a presumption, it follows that the operation of the jury should be at least confined to those cases in which it was presumed to be superior.

A general verdict is necessarily composed of three elements—a determination of the facts, a determination of what the trial court means by instructions, and a matching of one with the other. In its final form it is as inscrutable as a sphinx. Its inherent vice is the concealment of error. No judge or jury can take it apart and determine whether error was made in the construction of either of the three elements, or the blending of them into one. A perusal of the many Kansas cases where the ability, or even the honesty, of the jury has been tested by special questions resulting in a verdict being set aside and a new trial granted, or judgment rendered on special findings, should prove to be a demonstration of the failure of the general verdict as a useful instrument in arriving at exact justice.

Knowing that jurors can competently find facts from contradictory evidence and that they will honestly do so, they are yet confronted with a task which they are utterly untrained. They are presented by the trial judge with a long and perhaps intricate essay on the details of the law as applicable to the case on trial. The judge has spent many years in the study of the law; in preparation for this particular discourse he calls upon his reserve of legal knowledge; he makes further search for law applicable to the particular issues joined; he has the assistance of counsel in writing instructions for the instant case, and it is submitted to twelve men with no legal training who are directed to assimilate within a few hours the law which the judge and counsel have spent years in learning. The young law student finds the statements of law in textbooks and judicial decisions which to him seem to be in irreconcilable conflict. Naturally, the juror experiences a like distraction in an effort to understand the instructions of the court. He must accomplish the feat of correctly applying the facts which he has correctly determined, to the law which he may or may not understand, and accomplish justice by returning the right verdict.

It would seem that we have taken the juror out of his natural realm of common sense and have transplanted him into fields of endeavor for which he has never been trained, and have assigned him to duties and responsibilities for which he finds himself entirely overreached.

These observations lead to the conclusion that the general

verdict is more of a handicap in judicial machinery than it is an instrumental assistance.

Some members of the profession may be unaware that five years after the supreme court of the United States was established it tried its first case (*Georgia v. Brailsford*, 3 Dall. 1-4; 1 Law. Ed., 483.) Chief Justice Marshall instructed the jury as to the law and admonished them to pay such regard to the instructions as were due to the opinion of the court. He stated on the one hand it is presumed that juries are the best judges of facts, and on the other hand presumably the courts are the best judges of the law, but that both objects were lawfully within the power of the jury to decide. This case remained unfollowed and as well unquestioned until 1894, when the court decided that the jury had no such right as was conferred upon them by Justice Jay. There is no longer any doubt that the courts are the best judges of the law, and if that power is exclusive it necessarily follows that the jury has no right to meddle into such questions. Yet the general verdict leaves them to do that very thing.

There being three separate elements entering into the composition of a general verdict, there result three opportunities for error where there should be only one. The jurors may not testify as to what considerations moved them in determining any one of the three elements, or how they were weighed in reaching a general verdict. The rule is salutary, as otherwise all stability of the law would vanish. If error occur in determining the facts it cannot be corrected because it is indistinguishable from error in comprehending the court's instructions, or the application of the facts to them. Error may thus mar the general verdict, and necessarily the general verdict is altogether wrong, as depends upon whether an undiscernible or undiscernible error may have intruded into the disposition by the jury of any one of the three elements. By the use of the special verdict the possibility of error on the part of the jury is limited to the factual field and the possibility of an erroneous final judgment is proportionately lessened.

In an effort to apply the law, as they construe the instructions to the jury may misapply it. They may fail to apply it at all. No amount of care in the general verdict can be made to disclose the nature of the jury's error, if there be error, or in which of the three separate fields of mental activity the error occurred.

Manifestly, the use of the general verdict increases three-fold the opportunity of the jury to commit error, or to conceal downright insincerity.

True it is that the accuracy of the jury in determining the facts and the integrity in rendering a general verdict may be checked upon to some extent by the use of special questions, yet we find some trial judges who deprecate the use of this statutory provision. Whether this view originates from a conscientious belief in the superior wisdom of the jurors, or whether it is intended as a compliment to citizens of the district who may hold the balance of power at an ensuing election, is quite immaterial. Sound thinking leads to the conclusion that special questions as now in use are a valuable aid in accomplishing justice, but they are by no means adequate, and if they do not cover a controlling issue of fact the general verdict stands as a default on that issue, and it may be entirely contrary to the special findings on other issues.

are to abolish the general verdict and submit issues of fact in civil a jury for the return of a special verdict, a new burden will be cast on court and counsel. Special questions as now in use are frequently suggestive, argumentative, and are so phrased as to invite or even urge answers favorable to that side of the controversy which requests omission. If we are to use the special verdict the questions submitted be prepared by the court with the assistance of counsel. Extreme care be taken to insure an exposition of facts. There must be nothing in the to indicate that it should or should not be answered in a certain

Above all else, there should be no intimation that this or that to that or this question will likely result in a certain judgment by the It may even be necessary to caution counsel that no argument be made estions must be answered in a certain manner if the jury wish his o prevail, and for an infraction of this admonition proper reprimands in order.

questions to be submitted to a jury for a special verdict are scarcely ble with special questions which are now submitted to be returned e general verdict; the former are to elicit facts upon which a court can ce judgment, and special questions are supposedly a test of the cor- of the general verdict.

use of the special verdict will greatly minimize the work of the trial a preparing instructions, and to the same degree will minimize the ty of error. The court will be under no duty to write a thesis on the he abstract, or to give a concrete application of it to a conceded or tical factual situation. The instructions may have the much-desired brevity. Sometimes definitions make it necessary. The court may d upon to give the legal definition of such terms as ordinary care, ce, contributory negligence, proximate cause, or perhaps legal cause, ncy of parties or witnesses, lawful consideration, actionable false repre- as, and so on, but without doubt instructions will be much less verbose, g in less opportunity for the jury to become confused. One Kansas as known to say after the instructions had been prepared that he he had then written enough to properly confuse the jury. Facetiously of course, but the observation may many times be correct, though the ons as a matter of law might pass the scrutiny of an appellate court.

tion of the special verdict should lead to an improvement in pleading. eful lawyer in drawing his petition, answer, or reply will know that s case is to be submitted to the jury it will not be for the rendition of l verdict, but for the tender of specific and controlling issues of fact rmination. Having that future event in mind he will, or at least oe, most painstaking in stating what he conceives to be the issues of ch will control the result of the suit.

plan is to even approach the ideal there must be better pleadings and caution exercised in submitting the necessary questions to the jury. or compels admission that the exclusive use of the special verdict is from objection. There is the ever-present danger of failing to submit try one or more controlling issues of fact. Should even one be omitted ial verdict might prove to be an insufficient basis for judgment, and ing no general verdict to supply the omission a new trial might result

as a matter of right. Again, should the trial court and counsel hold views than the supreme court as to what facts are controlling a reversal judgment might result. It can be said in answer to this objection that a little time and experience may be necessary for lawyers and judges to accustom themselves to the change, it should eventually, and soon, perhaps, be for the trial judge and counsel to avoid these hazards. At least the proposed system seems less perilous than the present system.

There is oftentimes a very shadowy line between conclusions of law and conclusions of fact, and some difficulty may be experienced in the composition of questions confined to facts only without invading the province of the law, a vice, however, which is now inherent in the present system of verdict.

It is possible, of course, that the special verdict may reveal evidence of one matter instead of ultimate facts, but this can hardly prove harmful if the ultimate and controlling facts are found. In any event all of the difficulties are now present, the difference being that they are inherent in the general verdict and escape detection. Surely, there can be no more opportunities for error by the use of the special verdict alone, and on the whole the chance of errors will be minimized and the opportunity of discovery and correcting them will be much more available.

A Kansas lawyer has inquired how the jury rendering a special verdict can determine the amount of recovery in a tort case. The answer does not seem to be difficult. Under our present practice special questions itemizing damages are usually so phrased to make the necessity for an answer contingent upon a general verdict for the plaintiff. This practice would necessarily be continued. An inquiry could be made as to the amount of damage suffered by the plaintiff by reason of a broken leg, and the amount allowable for a wrist. The question of the injury and damage may be an admitted one open to controversy, but in either event the jury could find the amount of damage, if any, regardless of other findings upon which delictual damages may depend. If a judgment for the plaintiff finds warrant in the findings of fact the court can apply the measure of damages found by the jury. If the special verdict requires judgment for the defendant the amount of damage found by the jury will naturally be disregarded.

A cautious voice has been heard to question the constitutionality of a statute which would eliminate the general verdict and make the use of a special verdict exclusive, the question being, would such procedure be a violation of our constitutional guaranty of a jury trial. What has been said before probably answers this question, as at common law the jury had an inherent right to return a general verdict and its field of activity was confined to an ascertainment of facts only. So long as this prerogative is preserved as it would be by a special verdict, there would seem to be no infringement of constitutional rights.

Under existing Kansas statutes a general verdict may be set aside if a contrary judgment entered if the special findings of fact destroy the action or defense of the prevailing party. If this can be done constitutionally does it not necessarily follow that a special verdict is within the constitutional guaranty?

An argument was made under a territorial statute of New Mexico



present statute that where the special findings are returned and found in conflict with the general verdict the court could grant a new trial, should not set aside the verdict and render judgment on the findings, as a statute so authorizing would be in conflict with the seventh amendment to the constitution of the United States. This contention was disposed of by Justice Brewer in *Walker v. New Mexico Southern Pacific Railroad Company*, 165 U. S. 593, 41 L. Ed. 837. In the course of the opinion Justice Brewer

asks why should the power of the court be thus limited? If the facts as found by the jury compel a judgment in one way, why should not the court be free to apply the law to the facts as thus found? It certainly does so when a special verdict is returned. When a general verdict is returned and the court determines that the jury have either misinterpreted or misapplied the law, the only remedy is the award of a new trial, because the constitutional provision forbids it to find the facts. But when the facts are found and it is only the law that is in question, from the inconsistency between the facts as found and the general verdict, that, in the latter, the jury have misinterpreted or misapplied the law, the constitutional mandate requires that all should be set aside and a new trial made of another jury? Of what significance is a question as to a special verdict? Of what avail are special interrogatories and special findings thereon if the result is to result therefrom is a new trial, which the court might grant if it were of opinion that the general verdict contained a wrong interpretation or misapplication of the rules of law? Indeed, the very thought and value of special interrogatories is to avoid the necessity of setting aside a verdict and awarding a new trial—to end the controversy so far as the trial court is concerned upon the whole response from the jury.

The court are clearly of opinion that this territorial statute does not infringe the constitutional provision and that it is within the power of the legislature of the territory to provide that on a trial of a common-law action the court should, in addition to the general verdict, require specific answers to special interrogatories, and, when a conflict is found between the two, render such judgment as the answers to the special questions compel."

The same conclusion was reached by the supreme court of Indiana in *Udell v. Evans State Railroad Company*, 152 Ind. 507, 71 Am. St. Rep. 336. An order was made March 11, 1895, which authorized the court to render judgment on the findings if contrary to the general verdict was challenged as being in violation of the state constitution. It was said, however, that this practice in no way invaded the province of the jury or deprived the citizens of any common-law right connected with a trial by jury. The court further said: "In civil actions, under the constitution of this state, the jury never possess the right to decide questions of law. Their inquiries have always been confined to matters of fact. The scope of such inquiries is not abridged by the order made March 11, 1895."

Without doubtless other authorities could be found to the same effect, but this is sufficient for our present purpose.

The proposal to abolish the general verdict may be expected to arouse the opposition of that fringe of the legal profession which displayed emotional elation in the recent case of *Dunn v. Jones* was decided.

There is no pretense of exhausting the subject in this article. Much has been written upon it. Mr. Geo. B. Clementson of the Wisconsin bar wrote an article on the subject in 1905. Attention has already been directed to the article by Professor Sunderland in the *Yale Law Journal*. The subject of special verdicts was treated by Mr. Edmund B. Morgan in the April, 1923, number of the

*Yale Law Journal*. A valuable article on the same subject by Mr. Le associate professor of law, Yale University, was published in the 1927, *American Bar Association Journal*. "The Story of Law," by M. Zane, is a highly valuable contribution.

From these writings I have drawn freely in the preparation of this. If it be said the historical sketch of the subject has been included a narrative feature, let the accusation stand.

The views herein expressed are advanced in the hope that interesting absorbing question may be stimulated.

## THE PROPOSED INTEGRATION OF THE KANSAS BAR

By ROBERT C. FOULSTON

Provoked by the barrage of lay invective leveled against it, arousing crystallization of adverse public opinion, the bar is making strenuous effort to wipe the libelous stains from its escutcheon. The American bar has become self-conscious. State bar associations are phrenetically devising means whereby they can exorcise the evil element from their membership. Lawyers throughout the country are incensed with the notion that the bar must purge itself. Their obsession might be likened to that of the orator who climaxed every public address with the admonition "Carthage must be destroyed."

Bar integration may seem, superficially, to be an admission, on the part of the bar, of the truth of the scurrilous accusations directed against it. Before endorsing the proposed bar integration movement, the bar desires to point out that the lay opinion which is causing such violent disturbances within the bar is neither new nor justified.

The "juris consulti" and "juris prudentes" were the forbears of modern lawyers. They constituted a group of men who made the law the subject of their interest. These ancient lawyers, who practiced more than twenty centuries ago, originally received no compensation for their services, and expected no fee.

Somewhat later, the giving and acceptance of the "honorarium," given in gratitude for the services rendered, became the custom. The "juris consultus" and his honorarium became the forerunner of the lawyer and his fee.

The right to a fee soon became burdened with the oppressive weight of criticism. In an article appearing in the November, 1935, issue of the *American Bar Association Journal*, Mr. Donald F. Bond writes interestingly on the title, "The Laws and Lawyers in English Proverbs." From what is told one is impressed with the fact that as early as the seventeenth century the inability of the lawyer to live without his fees was proving disastrous to the previously exalted station. Note some of the proverbs discussed by Mr. Bond:

"A goose-quill is more dangerous than a lion's claws."

"No fee, no law."

"Hell and chancery are always open."

"Little money—little law."

"Lawyers houses are built on the heads of fools."

"Agree for the law is costly."

whether the recurring cycle of criticism and calumny heaped upon the bar is more vicious now than in those early days is probably undetermined. There were then no sound decibels, no contraptions for recording noise. Nevertheless, the fact remains that the bar was then, as now, under

modern means of dissemination of news and the increasing demand for news to fill the pages of magazines and columns of newspapers, are contributing factors to the present situation. The story of thousands of lawyers who fail to protect the interests of their clients, many times for inadequate and no compensation, and who faithfully serve a satisfied and appreciative clientele, is not considered newsworthy. Rather, the publishers of the magnitudinous legal grain and publicize what little chaff their ferrets are able to discover. Not the orderly civil trial, but the sordid criminal case sensationalized in blatant headlines. As was observed by the technicians at the last political convention, the "noes" have greater sound value than the "yesses".

So it always is with the critic.

One might wonder that moulded public opinion depicts the lawyers as a class of highly trained thieves, expert at robbing clients, and versed in the administration of justice in the courts. Who among you has seen a movie in which a lawyer was portrayed as honestly conducting himself toward the court and client? It is said that the filming of surgical operations is under the supervision of technicians with such a degree of success that the surgeons can detect no material flaw in the completed picture. Not so in the movie lawsuit.

Images symbolizing the lawyer as a crook, a shyster and a villain are widely used and play their part in fanning the flames of criticism and contempt. A book in particular, entitled "Take the Witness," was enthusiastically received by the public; the extent of its contribution to false public appraisal of the legal profession and bar is unestimable. Most pointed is the laconic review of this book by Prof. E. M. Morgan of the Harvard Law School:

"False, a most dangerous libel upon the dead; if true, the biography of an unattractive, but thoroughly contemptible shyster; in either case an entirely wasted waste of good, white paper."

The attitude of the laity toward law and the lawyer is hardly subject to the same condemnation, since lawyers themselves are often contributing factors. To the bar itself may properly be laid the charge of condoning and even participating in the whispering campaign which threatens to undermine the legal profession. (By "whispering," the writer has reference to that functional lack of stridence which follows too vigorous and too long-continued criticism.) Far too few members of the bar stand ready to defend their profession against unjust criticism. Far too many public admissions are made by the bar as to the "degraded condition" of the bar. Too frequently lawyers feel that, to maintain their own professed spotlessness, they must ignore the fact that conditions are truly very bad with the law and the lawyer. In the utter lack of reason which characterizes most mob thinking, far too many attorneys have joined laymen in the ridiculous generalization "the legal profession is in a disgraceful condition." We say "ridiculous" advisedly. "Lawyers are dishonest" is no less an absurdity than "all animals have trunks." In the first place, the lawyer, more than any other professional (or non-

professional) man, is an individualist. He is called upon, daily, to advise clients from every walk of life. His problems are as varied as his clients are numerous. During his student days, he tended to follow his classmates, but thereafter he has had to act, think and decide for himself. While most merchants use very similar merchandising methods and barbers cut hair in a rather uniform manner, no two lawyers carry on their work in the same way. Perhaps the only thing which lawyers have in common, aside from resolutions of condolence at the passing of their friends, is their license to practice law. They remain as individualistic as the prints despite all efforts to classify them.

In the second place, the particular traits which the laymen profess for all lawyers are traits which have no connection with the profession of the man. Characteristics of honesty, integrity and morality are characteristics which exist (or not, as the case may be) in John Jones, *the man*. Mr. Jones may decide to be a salesman, an accountant, a merchant, an artisan or a lawyer. His decision will not affect the presence (or absence) in him of the virtues. The underlying hypothesis of laymen that "when law comes honesty flies out" is ludicrously unsound. Any given number of attorneys contain no more (and probably, were accurate figures available, will contain less) dishonest men than the same number of laymen.

Only an unexplainable twist of fate can account for the fact that the character of the few lawyers who have failed to live up to their oath of office is attributed to the bar en masse. It is submitted that the bar is not, never has been, and never will be in a "degraded condition."

In considering the necessity and expediency of integrating the Kansas bar with the peculiarities of the local situation must be examined. What may be true in other states, particularly those states having great cities and the incident concentration of population, does not necessarily come into question in our state.

The writer has enjoyed an acquaintanceship with the members of the Kansas bar for more than a quarter of a century, and fears no successful tradition by laymen to the statement that no other group of men, in numbers, in the state of Kansas contains a higher proportion of honest, upright citizens and amiable gentlemen than can be found among practicing lawyers of Kansas. Certainly in this state there is no crying need for a wholesale renovation of the bar.

Moreover, the existing method of disciplining members of the Kansas bar has been quite successful. The administration of discipline, carried on under the supervision of five of the outstanding lawyers of the state, has been conducted without fear or favor, and a review of the actual disbarment records of the supreme court of the state indicates that he who would exercise the franchise to practice law in Kansas is held to a very rigid standard and must strive to retain his right to so earn his livelihood.

At long last, we come now to a discussion of the proposed integration of the Kansas bar. What we have heretofore said indicates that, in our opinion, such integration is not a necessity. Nevertheless, by adopting such a plan the bar might hope to appease the laymen and thus acquire the prestige it deserves. In addition, bar discipline must be maintained and, so long as it has been, our present method is capable of improvement.

concludes that an integrated bar in Kansas will be beneficial, to lawyer and layman alike, and will be an improvement upon our present system. We are in favor of the experiment in Kansas, not as a method of remedying a deplorable condition, but purely as a means of improving an already commendable one. The integration of the bar carries with it reciprocal benefits and duties.

Some of these may be thus noted:

The means for the fulfillment of the obligation of the court and the bar to the discipline of members of the bar.

Freeing the bar of suspicion, whether justified or not.

Protection of the younger lawyers, who are the first and greatest sufferers from encroachment by lay and other agencies.

Presenting before the courts an advocacy which coincides with the standards of conduct.

Providing an assurance to the public of nonabuse by the members of the bar of the privileges and functions of the lawyer.

Protection of the bar from unskilled and unauthorized invasion of the domain of the law.

Setting up of machinery by which disputes between attorneys and laymen may be amicably adjusted, and litigation over fees, which frequently results in much public calumny against the bar, can be eliminated.

The promotion of a better understanding and fraternity among the members of the bar.

The fostering of public confidence in the bar and respect for the courts. The plan is not without its dangers and objections. It must be remembered that the legislature has never acceded to the repeated request made upon it to authorize the incorporation of the bar as an independent body. The well-founded objections expressed by some members of the legislature in rejecting the requests of the bar are not without some merit; but where just and equitable administration of the integration program has been executed in other jurisdictions, the public has accepted the benefits as fully compensatory for any objections which otherwise might be thought to obtain, and press comment has been almost entirely favorable.

The chief argument against integration of the bar is to be found in the word, "regimentation." In seeking to answer this objection, one finds the latest solace and answer, if there be one, in the fact that the relationship of the bar to the public and the courts is at least quasi public, and that the domain of the law is affected with a public interest.

The means of effecting an integration of the bar has been the subject of much discussion. This article will not be expanded by a discussion of the many decisions upon the question of the power of the court to provide for the regulation of the bar by rule of court. In passing, it may be helpful to note some of the decisions of our own supreme court.

In 1909, in the matter of the disbarment of Anthony P. Wilson *et al.*, 79 Kan. 100, 100 Pac. 75, our court used the following language:

The court said that the courts are not the curators of the morals of the bar, and are probably true that the courts should not take cognizance of a solitary bad act of a member of the bar, not amounting to crime and unconnected with the duties in court. It is, however, one of the requisites for admission to the bar that the candidate should present evidence to the court that he is

a person of good moral character, and it would be a great stigma upon an honorable profession if the members of it were powerless to purge themselves of those who have been improvidently received into its fold and whose activities are offensively corrupt or whose business transactions, even outside of the profession, are characterized by dishonesty; in short that the profession is composed of persons who harbor all persons, who gained admission to it and are fortunate enough to keep out of jail or the penitentiary.

"This court, at least, is not prepared to say that persons of such a character have a legal right to officiate as advocates of rights in our courts, who to be, and generally are, temples of justice. This ground of disbarment cannot be included in any of the causes therefore specified by the statute. *This court has inherent power to require of its officers at least common honesty and decency.*"

The severity with which our supreme court, without relying upon the authority of statutory edict, has exercised its inherent power over the disbarment of attorneys, is well illustrated by the case of *The State of Kansas v. R. H. Dawson*, 121 Kan. 536, 247 Pac. 875 (1926).

In the matter of the inherent power of the court over the unlawful practice of the law, our court has already expressed itself at some length in the case of *Depew v. The Wichita Credit Association*, 141 Kan. 481, 42 P. 2d 212. The following excerpt from this decision, contained in the specially concurred decision of Mister Justice Burch, with the concurrence of Justices H. H. Dawson, is pertinent and enlightening:

"My view, however, is that in essence and substance this is not a new question at all. Under the fiction and form of an action between adverse parties, a special proceeding relating to the subject of the unlawful practice of the law."

"It would have been just as well if Mr. Depew had risen in court the morning and had asked leave to file written charges that the credit association was practicing law without a license. Leave to file being granted, the court would have caused a citation to be issued and served, and would have given the time to plead. If, after a hearing, the court should find the charges true, an order to desist would follow."

In the mention of these decisions there has been no effort to extend the authority of decisions of our own court upon the question of the power, inherent in the court, to control the matters affecting the practice of the law, or the disbarment of the attorneys. The power of the court to make rules relating to the practice of the law, not only for the supreme court, but also for the inferior courts, seems to have not been questioned. The numerous cases cited by Mr. Henry M. Dawson, of the Indianapolis bar, in an article entitled, "The Inherent Power of the Judiciary," appearing in the *American Bar Association Journal*, for January, 1935, abundantly support the author's conclusions, in which we fully

"It is said that there is enough latent atomic energy in a single drop of water, if released, to generate 200 horsepower for a whole year. There is enough inherent power in a mass of earth the size of my fist to lift the battleship navy from the bottom of the ocean to the highest hill in England. There is enough power in the material of a copper penny to drive the *Leviathan* from New York to Liverpool."

"So it may be said there is enough latent judicial energy in the members of the bar of this state to generate the power which will purge and dignify the profession not for one year only, but for all time; enough unused potential energy, if released, can drive the profession forward from a defensive attitude to one of aggressive and positive action for the public good; enough 'inherent power' to raise the profession from the place of public criticism to

consigned, to that high and honorable place in public esteem which natural and historic birthright."

meeting in May, 1936, the Kansas State Bar Association unanimously passed a resolution requesting the supreme court to formulate suitable rules for the integration of the bar; similar resolutions were passed by local associations. The Judicial Council approved the program and recommended favorably. Justice W. W. Harvey, being a member of the supreme court, as well as a member of the Judicial Council, did not participate in the "Conclusion" by The Council.")

Integration has proved highly successful in other states, and a fair trial program will undoubtedly result in much accomplishment. To quote Lowell:

"New occasions teach new duties,  
Time makes ancient good uncouth;  
He must upward then and onward,  
Who would keep abreast of truth."







Sec. 56

U. S.

**H**

Topic

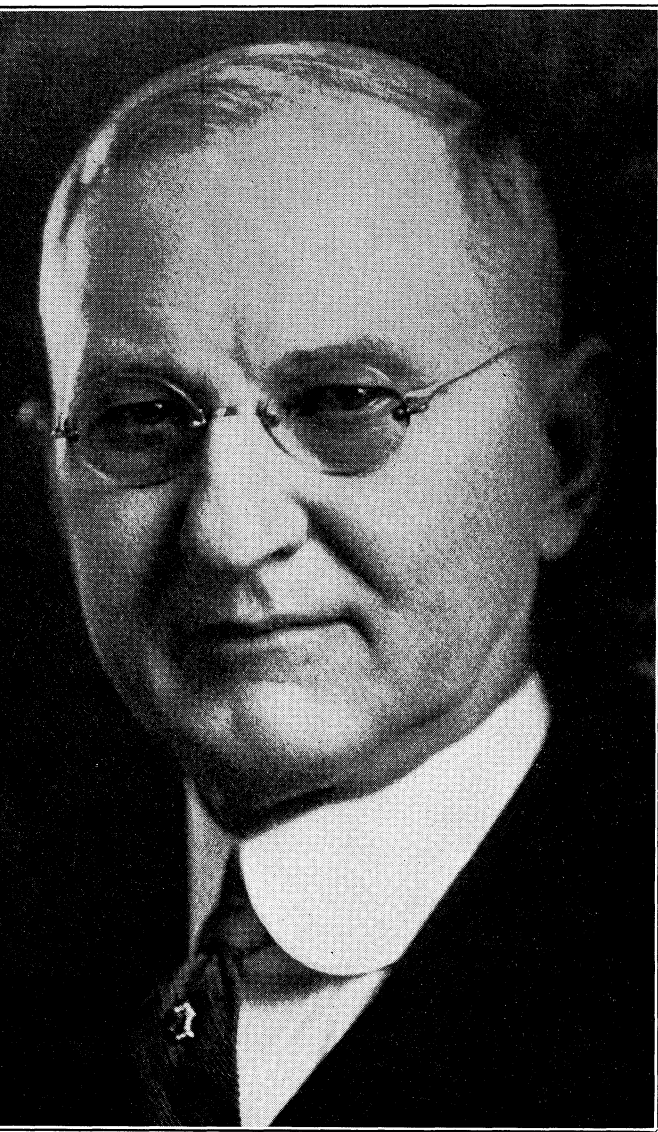
Perm

---

# KANSAS JUDICIAL COUNCIL BULLETIN

, 1936

PART 3—TENTH ANNUAL REPORT



R. A. BURCH

Chief Justice, Supreme Court of Kansas

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge, Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS.....	Independence

### COÖPERATING WITH THE

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the state,

For the improvement of our Judicial System and its efficient functioning.

## TABLE OF CONTENTS

---

	PAGE
ORD.....	72
W's DELAY IN THE SUPREME COURT.....	73
By R. A. Burch, Chief Justice	
RY OF THE WORK OF THE SUPREME COURT.....	75
NINE-YEAR SUMMARY.....	77
r COURTS; TABULATED SUMMARY AND COMMENTS.....	78
RIES OF WORK OF PROBATE COURTS, BY COUNTIES, ALPHABETICALLY	
ANGED.....	81

## FOREWORD

---

We are pleased to present, as the frontispiece of this issue, the portrait of R. A. Burch, chief justice of our supreme court, and an article by him, "Law's Delay in the Supreme Court." Chief Justice Burch is one of many examples of a farm boy who has made good in his chosen life-work. He was a pioneer agriculturalist in central Kansas. He grew up in that section, attended and later taught in the country school, turned his mind to the study of law, in which he was graduated at Ann Arbor, and entered the practice at Salina. A few years later he was appointed to fill a vacancy on the supreme court, and since then has been elected repeatedly, with little opposition. His love for the law and its application to human affairs, his alert, masterful mentality, and his great industry, have made him one of the outstanding jurists of our day. His ardent study of literature is reflected in his opinions. He never strove to be rich, but rather to perform well for the good assigned to him. He is familiar with the law of our state and the procedure in our courts, and we are confident his article will be read with interest and trust with profit.

We present in this issue a detailed summary of the work of the supreme court for the year ending June 30, 1936, and of cases pending on July 1, 1936. Compared with previous similar summaries it discloses that the work of the court is more promptly handled now than it ever was before. There has been a considerable shortening of time between the decision appealed from and the submission of the case to the supreme court, although there is room for still further improvement in this respect. There is also a reduced number of cases submitted to the court which have no substantial merit, but there is also room for improvement in this respect. We have set out a table showing the number of cases, by classes, disposed of for each year, and another showing the number and percent affirmed or reversed of cases submitted.

We also present a tabulated summary of the work of county courts for the year ending June 30, 1936, with some comment thereon.

This year we are collecting reports from the probate courts of the state. The revised blanks used for that purpose enabled the probate judges to give us a more accurate picture of the work of these courts than we have had in the past. These reports confirm our view that these courts are exceedingly important units of our judicial system—fully as important to the people of the state as is the district court. We have concluded that the volume of business transacted in each county can be shown best by a separate summary of the work of each county. Complete reports from some counties have not yet reached us, although they are in process of preparation. In order to keep our monthly BULLETIN from being too large we print some of the summaries in this issue. We shall print the remainder of them in December, also a summary of the work of the state as a whole, and a table compiled from reports from all counties.

## THE LAW'S DELAY IN THE SUPREME COURT

By R. A. BURCH, Chief Justice of the Supreme Court of Kansas

I am away from home and am introduced to a lawyer of another inevitable question is, "How far is your court behind?" The apparent answer is, a state supreme court must be behind with its work.

For the year June 30, 1934-June 30, 1935, the average time elapsing between filing of an appeal and the hearing of the appeal was 7 months and 19 days. For the year June 30, 1935-June 30, 1936, the time was reduced somewhat to 7 months and 9 days.

Appeals in civil cases may be taken within 6 months after the judgment is rendered or the order is made from which the appeal is taken. Since the delay of taking an appeal is simplicity itself I know of no reason why this period could not be shortened to 30 days.

The court becomes possessed of a case when an appeal has been perfected. It then allows the appellant 4 months within which to file his abstract of record when a transcript is necessary. The time was fixed after taking into consideration the time within which the district court reporter can prepare a transcript of the proceedings in the district court, and the time within which an abstract of the proceedings can be prepared, printed, and filed, after receipt of the transcript. In its general application the rule is reasonable, but in serious instances an abstract could be filed within a much shorter time.

When an appellant has filed his abstract the statute allows the appellee 30 days within which to challenge correctness of the abstract, and to supplement it if necessary. The time was fixed after consideration of engagements of the court existing when the abstract is served, the time necessary to check the abstract with the transcript, and the time necessary to prepare, print and file a counter abstract. In its general application the statute is reasonable. Frequently no counter abstract is necessary, and more frequently a counter abstract could be quickly prepared, printed and served.

Usually, five months following the taking of an appeal are consumed in the preparation of the foundation for presentation of a case to the court for decision, and the delay has been taken of the full time within which an appeal may be taken. 11 months have gone by since the judgment complained of was rendered.

Courts assign cases for hearing on specific days of a session of the court and to interested attorneys 2½ months before the session begins. This time was fixed after experiment. When a longer time was allowed too many attorneys postponed preparation of briefs too long. When a shorter time was allowed too many attorneys were continually in default.

As a result of the foregoing is, the court is ready to hear cases just as soon as attorneys are ready to present them for hearing, and the court, as a result, is not "behind" with its docket at all.

Members of the bar generally are interested, not simply in succeeding in litigation, but also in making and keeping the law an efficient instrument of justice. Delays in procedure tend to blunt the instrument, and if those members of the bar who have not thought about it would concentrate on quick

disposal of appeals, the average time between taking an appeal and session of the cause could be reduced to 6 months.

Usually, opinions disposing of cases submitted in a given month are ready for the close of the next month's session of the court. This is not always the case for a variety of reasons, but such is the general rule.

The court would be glad if it could meet appeals on its docket and in the year ending June 30, 1936, some progress was made in reducing the number of continuances.

At the close of the year ending June 30, 1935, there were 318 cases over to the next court year. Deducting the number of cases submitted in June, in which opinions were rendered, and deducting the cases assigned for hearing in July, the carry-over to the next court year was 253 cases.

In the year ending June 30, 1936, 566 new cases were docketed, a gain of 248 cases over the previous year of 48 cases. On June 30, 1936, there were 219 cases over to the next court year. Deducting the number of cases submitted in June, in which opinions were rendered, and deducting the number of cases assigned for hearing in July, the net carry-over was 219 cases, instead of 253 the year before. This represents a reduction of 34 cases, or 13 percent, notwithstanding the increase in the number of filings.

In the year ending June 30, 1935, 75 cases had been continued to the next court year, enough to make up the October docket, and so to set the court a month behind in clearing its docket.

In the year ending June 30, 1936, 60 cases had been continued to the next court year, a reduction of 15 cases, or 20 percent, and this gain was made notwithstanding the increase in the number of cases filed during the year. Too many cases, however, had been continued to October. The court ought to be able to begin the next session each year with a docket made up chiefly of new cases, and with only a small number of old cases, already before the court once, and not twice.

There are good reasons for continuances. Frequently district court cases are not promptly delivered transcripts which were promptly ordered. In some instances this is due to press of work. In a few instances applications for continuance have been granted for orders upon reporters to show cause why transcripts should not be delivered without delay.

Recently, appellants having cases which their attorneys certify as ready for trial have been unable to provide funds to pay for transcripts and for printing abstracts and briefs. In such instances the court has been reluctant in granting continuances and in granting leave to file typewritten briefs and abstracts.

The chief counsel in a case may become sick, or may die, pending trial, and there are other valid grounds for continuance.

It is to be regretted that sometimes counsel for appellant, without leave of court, and without opposing counsel, have filed abstracts a day or two before the case was set for hearing, or so late it was impossible for opposing counsel to prepare for hearing. In some instances, particularly in criminal cases, the motive is obvious, and frequently the appeal has no substantial merit. This practice induced the court to amend its rule, effective in the July, 1936, session. Careful study of this rule by members of the bar is recommended, to the end the court may keep control of its dockets and dispatch its business as any public business should be dispatched.



## SUMMARY OF THE WORK OF THE SUPREME COURT

Following is a summary of the work of the supreme court for the year ending June 30, 1936, and of cases pending on July 1, 1936.

There were 475 appealed civil cases disposed of within the year ending June 30, 1936. Of this number 156 were dismissed without having been presented on the merits and 319 were submitted on the merits and written opinions filed. Of these, 168 were affirmed, 130 reversed, and in 21 the judgment of the trial court was modified.

The court also disposed of 66 appealed criminal cases. Of this number 31 were dismissed without having been presented on the merits and 35 were submitted on the merits and written opinions filed. Of this number 25 were affirmed and 10 reversed.

The court also disposed of 39 original cases. Of this number 19 were dismissed before having been presented on the merits; 20 were submitted on the merits and written opinions filed, resulting in judgment for plaintiff in 11 cases and for defendant in 9 cases.

This makes a total of 580 cases disposed of by the supreme court, of which 319 were dismissed without having been presented on the merits, and 374 were submitted on the merits and written opinions filed.

The cases pending on July 1, 1936, were as follows: 220 appealed civil cases, 14 appealed criminal cases, and 14 original cases, making a total of 268 cases.

Of the 374 cases submitted to the supreme court on their merits and in written opinions were filed, in 37 cases the opinions were filed before the regular opinion day, in 314 cases on the first regular opinion day, in 19 cases on the second opinion day, and in 3 cases on the third opinion day. The regular opinion day ordinarily is a month after the case is submitted; more exactly, it is the Saturday of the week hearings are had the next month after the case is submitted.

As to the appealed civil cases disposed of within the year ending June 30, 1936, and pending on that date, the time between the date of judgment appealed and the date notice of appeal was filed in the trial court is as follows: Within 5 days, 157 cases; in 10 to 30 days, 148 cases; in 1 to 2 months, 115 cases; in 2 to 3 months, 66 cases; in 3 to 4 months, 46 cases; in 4 to 5 months, 38 cases; in 5 to 6 months, 88 cases; over 6 months, 21 cases; time not stated, 11 cases.

As to the appealed civil cases disposed of within the year ending June 30, 1936, and pending on that date, the time between the date notice of appeal was filed in the trial court and the date notice of appeal was filed in the supreme court is as follows: Within 5 days, 276 cases; within 5 to 10 days, 115 cases; within 10 to 20 days, 106 cases; within 20 to 30 days, 70 cases; within 30 to 40 days, 70 cases; within 2 to 3 months, 15 cases; within 3 to 4 months, 15 cases; within 4 to 5 months, 9 cases; over 5 months, 14 cases; time not stated, 11 cases.

As to the appealed civil cases disposed of within the year ending June 30, 1936, and pending on that date, the time between the date the notice of appeal was filed in the supreme court and the date deposit for costs was made is as follows: Within 5 days, 193 cases; in 5 to 15 days, 118 cases; in 15 to 30 days, 118 cases; in 1 to 2 months, 66 cases; in 2 to 3 months, 7 cases; over 3 months, 11 cases; time not stated, 109 cases.

In the appealed civil cases in which opinions were filed within the year ending June 30, 1936, the time between the date the notice of appeal was filed in this court and the date the case was submitted on its merits is as follows: Within 3 months, 20 cases; in 3 to 4 months, 19 cases; in 4 to 5 months, 31 cases; in 5 to 6 months, 71 cases; in 6 to 9 months, 146 cases; in 9 to 12 months, 18 cases; in 12 to 15 months, 9 cases; later than 15 months, 3 cases.

In the appealed criminal cases disposed of within the year ending June 30, 1936, and pending on that date, the time between the date of judgment appealed from and the date the notice of appeal was filed in the trial court is as follows: On the same day, 21 cases; not the same day but within 10 days, 10 cases; from 5 to 10 days, 11 cases; from 10 to 20 days, 10 cases; from 20 to 30 days, 2 cases; from 1 to 2 months, 9 cases; from 2 to 3 months, 10 cases; from 3 to 4 months, 4 cases; from 4 to 5 months, 1 case; from 5 to 6 months, 2 cases; from 6 to 12 months, 4 cases; from 1 to 2 years, 2 cases; later than 2 years, 1 case; time not given, 15 cases.

In the appealed criminal cases disposed of by the supreme court within the year ending June 30, 1936, and pending on that date, the time between the date the notice of appeal was filed in the trial court and the date it was filed in the supreme court is as follows: Within 5 days, 28 cases; in 5 to 10 days, 17 cases; in 10 to 20 days, 26 cases; in 20 to 30 days, 13 cases; in 1 to 2 months, 9 cases; in 2 to 3 months, 1 case; in 3 to 4 months, 1 case; in 5 to 6 months, 1 case; after 6 months, 2 cases; and in 2 cases the time was not given.

In the appealed criminal cases disposed of within the year ending June 30, 1936, and pending on that date, the time between the date notice of appeal was filed in the supreme court and the date the deposit for costs was made is as follows: Within 5 days, 7 cases; in 5 to 15 days, 6 cases; in 15 to 30 days, 30 cases; in 1 to 2 months, 15 cases; in 2 to 3 months, 1 case; over 3 months, 1 case; time not stated, 40 cases.

In the appealed criminal cases in which opinions were filed within the year ending June 30, 1936, the time between the date the notice of appeal was filed in the supreme court and the date the case was submitted on its merits is as follows: Within 3 months, 1 case; in 3 to 4 months, 4 cases; in 4 to 5 months, 7 cases; in 6 to 9 months, 13 cases; in 9 to 12 months, 5 cases; in 12 to 15 months, 2 cases; after 18 months, 2 cases.

In the appealed civil cases disposed of within the year ending June 30, 1936, the costs in 461 cases reported on is as follows: Minimum amount, \$35.70; aggregate, \$5,575.24; average, \$12.09.

In the appealed criminal cases disposed of within the year ending June 30, 1936, the costs in 65 cases reported on is as follows: Minimum amount, \$35.00; aggregate, \$831.35; average, \$12.78.

In the original cases disposed of within the year ending June 30, 1936, the costs in 25 cases reported on is as follows: Minimum, \$3.15; maximum, \$489.05; aggregate, \$893.35; average, \$35.93.

In the year ending June 30, 1936, the court disposed of 811 motions. Of these, 31 were withdrawn or not presented, 609 were allowed, and 175 denied. There were 22 motions pending on July 1, 1936.

There were pending in the supreme court July 1, 1936, a total of 366 cases compared with 291 on the same date in 1935, 366 in 1934, 333 in 1933, 393 in 1932, 393 in 1931, 397 in 1930, 376 in 1929, and 341 in 1928.

## SUPREME COURT: NINE-YEAR SUMMARY

For the nine years the clerk of the supreme court has furnished us detailed information of the work of that court, it has disposed of 5,346 cases, of which 1,729 were dismissed before final submission, and 3,616 were submitted on the merits and written opinions filed.

## NINE-YEAR SUMMARY, KANSAS SUPREME COURT

Ending June 30.	CASES.	Disposed of.	Dismissed.	Submitted.
	Appealed, civil.....	529	143	386
	Appealed, criminal.....	101	44	57
	Original.....	43	13	33
	Totals.....	673	200	473
	Appealed, civil.....	475	128	347
	Appealed, criminal.....	72	29	43
	Original.....	36	18	18
	Totals.....	583	175	408
	Appealed, civil.....	504	143	351
	Appealed, criminal.....	77	37	40
	Original.....	52	16	36
	Totals.....	633	196	437
	Appealed, civil.....	490	131	359
	Appealed, criminal.....	63	29	34
	Original.....	38	13	25
	Totals.....	591	173	418
	Appealed, civil.....	522	159	363
	Appealed, criminal.....	74	45	29
	Original.....	32	6	26
	Totals.....	628	210	418
	Appealed, civil.....	459	135	324
	Appealed, criminal.....	66	35	31
	Original.....	23	5	18
	Totals.....	548	175	373
	Appealed, civil.....	427	149	278
	Appealed, criminal.....	52	30	22
	Original.....	42	11	31
	Totals.....	521	190	331
	Appealed, civil.....	506	167	339
	Appealed, criminal.....	58	26	32
	Original.....	25	11	13
	Totals.....	589	204	384
	Appealed, civil.....	475	156	319
	Appealed, criminal.....	66	31	35
	Original.....	39	19	20
	Totals.....	580	206	374
	Grand totals.....	5,346	1,729	3,616

## DISPOSITION OF APPEALED CASES BY WRITTEN OPINIONS

Year ending June 30.	CASES.	Affirmed.....	Percent.....	Reversed.....	Percent.....	Modified.....	Percent.....
1928.....	Appealed, civil.....	261	68	104	27	21	5
	Appealed, criminal.....	52	91	5	9	0	0
1929.....	Appealed, civil.....	238	69	94	27	15	4
	Appealed, criminal.....	39	91	4	9	0	0
1930.....	Appealed, civil.....	258	72	92	25	11	3
	Appealed, criminal.....	31	78	9	22	0	0
1931.....	Appealed, civil.....	258	72	73	20	28	5
	Appealed, criminal.....	28	82	6	18	0	0
1932.....	Appealed, civil.....	267	74	80	22	16	4
	Appealed, criminal.....	24	83	5	17	0	0
1933.....	Appealed, civil.....	215	66	87	27	22	7
	Appealed, criminal.....	26	84	5	16	0	0
1934.....	Appealed, civil.....	169	61	91	33	18	6
	Appealed, criminal.....	19	86	3	14	0	0
1935.....	Appealed, civil.....	211	62	116	34	12	6
	Appealed, criminal.....	26	81	6	19	0	0
1936.....	Appealed, civil.....	168	53	130	40	21	7
	Appealed, criminal.....	25	72	10	28	0	0
Totals....	Appealed, civil.....	2,045	67	867	28	164	5
	Appealed, criminal.....	270	84	52	16	0	0
	Grand totals.....	2,315	.....	919	.....	164	.....

## COUNTY COURTS

Twenty-six counties have organized and are conducting county courts under the provisions of R. S. 20-801 *et seq.* Under these statutes the judge of the probate court becomes judge of the county court. These courts have jurisdiction, in both civil and criminal cases, throughout their respective territories which justice of the peace courts normally have, and in addition have jurisdiction in actions for the recovery of money in any sum up to \$1,000. In other words, these courts may try any criminal action classified as a misdemeanor, may conduct preliminary examinations in felony cases, and may try almost any kind of a civil action when the amount involved does not exceed \$1,000 and title to real property is not involved. We have received complete reports of the work of these courts, which we have tabulated as follows:

COUNTY.	Year court created.	Criminal cases: Misdemeanors.			Pre-lim-inary examina-tions.	Civil cases in justice of the peace jurisdiction.			Civil cases above justice of the peace jurisdiction.			Total cases.		
		Number.	To jury.	Appeals.		Number.	To jury.	Appeals.	Number.	To jury.	Appeals.	Number.	To jury.	Appeals.
Butler..... Clay..... Cloud..... Coffey..... Edwards.....  Finney..... Ford..... Greenwood..... Hodgeman..... Kearny.....  Marion..... Marshall..... Mitchell..... Morris..... Osage.....  Osborne..... Pawnee..... Phillips..... Rawlins..... Rush.....  Stevens..... Thomas..... Trego..... Wallace..... Washington..... Woodson.....	1934	184	1	6	78	98	3	3	7	0	0	367	4	9
	1934	59	0	0	14	35	0	0	6	0	0	114	0	0
	1930	84	0	0	29	41	0	1	5	0	0	159	0	1
	1930	68	1	0	6	29	3	0	2	0	0	105	1	0
	1926	50	3	0	18	25	1	2	6	0	1	99	4	3
	1924	104	9	4	29	34	1	0	5	0	0	172	10	4
	1932	94	1	6	25	35	0	2	12	0	0	166	1	8
	1926	35	0	0	29	32	0	0	3	0	0	99	0	0
	1927	15	0	0	5	6	0	0	0	0	0	26	0	0
	1923	3	0	0	0	0	0	0	3	0	0	6	0	0
	1929	98	2	0	10	12	0	0	14	0	0	134	2	0
	1929	123	3	0	20	16	2	3	2	0	0	161	5	3
	1923	64	2	3	11	28	1	4	11	1	3	114	4	10
	1924	75	0	0	9	13	0	1	10	0	0	107	0	1
	1929	66	1	1	2	31	0	1	2	0	0	101	1	2
	1924	11	0	0	0	11	0	0	0	0	0	22	0	0
	1921	17	0	1	4	20	1	0	0	0	0	41	1	1
	1925	83	0	1	3	25	0	1	3	0	0	174	0	3
	1920	45	0	0	1	25	0	0	2	0	0	73	0	0
	1924	32	1	4	6	15	0	0	0	0	0	53	0	0
1925	38	0	1	38	14	0	0	2	0	0	92	0	1	
1928	64	0	1	12	28	2	1	2	0	0	106	2	2	
1925	66	0	0	2	15	0	0	6	0	0	89	0	0	
1923	3	0	0	3	1	0	0	0	0	0	7	0	0	
1935	82	0	0	2	16	0	0	3	0	0	103	0	0	
1934	32	0	0	18	26	0	1	11	0	0	87	0	1	
Totals.....		1,595	24	28	374	631	14	20	117	1	5	2,717	35	49

We are sometimes asked whether these county courts are an expense to the county, or make money for it. In one sense the question is one which should not be asked, for courts are not created and operated as money-making institutions; rather they are places for the people to transact their judicial business. They are an essential branch of the government whether they make money or not. However, we have attempted to collect some data on the subject without as much success as we would like. This resulted from the fact that we now know, that our inquiries on this point were not as clear and explicit as they might have been, and the further fact that the judges of the county courts have not been required to keep, and most of them had not kept, a careful record of all the items which should be considered in determining whether the county, from a financial viewpoint, had been an expense or a profit to the county. They have kept records of moneys received and paid to the county treasury, but most of them have kept no records of costs, or other items, that the county commissioners remitted or permitted to be paid in labor, nor of items that the county paid in fees to justices of the peace, sheriff, and other court officers, which the county would have had to pay if it were not for the fact that it was a county court in which the business was transacted. The reports sent to the council show that the total cost to the counties in maintaining the county courts for the year ending June 30, 1936, amounted in the aggregate to \$16,182.21, that there was collected by the county courts and paid to the counties in the same year an aggregate sum of \$18,587.94; that the counties received in work done for them an aggregate of \$5,031.75; that they were saved expenses aggregating \$3,317.59, making a total credit to the county courts of \$26,938.21. Collectively and in the aggregate the maintenance of county courts is not a drain on the pockets of taxpayers.

The above table of business transacted in county courts for the year ending June 30, 1936, shows that in some counties very little, and in others a great deal, of business is transacted. Naturally a court which transacts a large amount of business makes small financial returns to the county treasury, while those which transact a large amount of business make larger returns. This leads us to the inquiry: Why do some county courts have so much business in them than others? Difference in population and other factors which naturally affect the amount of litigation account for part of the difference, but perhaps the most important thing is the difference in judicial ability of the judges of the county courts. We have learned that we cannot have an efficient county court without having a capable judge to preside over it. A judge who is constantly having legal questions to deal with; hence, it is essential that the usefulness that he know something about the principles of law he is able to apply to the matters which come before him. The better he is equipped in this respect the more useful the court becomes. Attorneys and litigants naturally take their lawsuits to courts best equipped to handle them. If a county court is not equipped to handle a case intelligently it is more likely to be filed in the district court, or even before some justice of the peace. If county courts are well equipped, with a well-qualified judge and adequate clerical help, they have proved to be exceptionally useful. They are in business all the time; cases are disposed of promptly, and with such few appeals that they are a relief to the people like them.

## PROBATE COURT SUMMARIES

data collected this year respecting the work of probate courts is by far the most complete and valuable we have ever collected. We wish to acknowledge the coöperation of the probate judges whose labors have made this possible. Only a few of them have indicated indifference on the subject. Uniformly they have willingly prepared with care the somewhat detailed report requested of them by the Judicial Council. And to many of them it was not an easy task, primarily for two reasons: *First*, the normal work of their office is heavy; they lack adequate clerical help, and in some cases they must work in cramped, unsuitable quarters. This situation can and should be remedied. Adequate, competent clerical help to assist them in performing its duties, and suitable quarters, should be furnished. The work is far too important to be done in a slipshod manner, as some of them are inclined to do it. *Second*, the records in most of the counties have not been kept in a way so that it has been easy for the reports to be made. This is in much the fault of present probate judges as it is of their predecessors. Their lack of care in keeping such records which has been all too common in the probate courts of this state. In a few, but only in a few, of the counties the records of the court in such shape that details respecting business transacted within a given time, or matters pending on a given date, can be ascertained. This is a situation which should be remedied. The records of the probate court are fully as important as the records of any court in the state. They affect valuable property rights and personal relations, not only at the time, but in future years. If it were possible to have complete records in our probate court complete and up-to-date, and a complete system installed for keeping such records, it would be worth much more to the people of our state than the expense of having it done.

We have compiled summaries from the reports sent to us from each county. While similar in the main, present such differences from each county that we think it more instructive to print separate summaries. In order to compile these summaries there is much work to do on the reports after they reach our office. From some of the counties complete reports have not reached in time for us to prepare the summaries to be published in this BULLETIN, so we feel must go to the printer October 1st. We are publishing complete summaries from 76 counties, alphabetically arranged, complete reports from those that reached us in time for us to prepare summaries for this BULLETIN. From other counties complete reports have reached us, but too late for us to prepare summaries for this date. We are advised the others are in preparation and will reach us later. Summaries of reports from the counties which are not contained herein will be printed in our December BULLETIN. We may say that copies of summaries printed have been sent to the respective probate judges with the request that they call our attention to any inaccuracy therein. From some of these requests we have received no reply, and assume the summaries to be accurate. Some of the probate judges have specifically approved the summaries as sent them. Others have suggested corrections, and these have been made. We publish them with the confidence they will be interesting, and we hope profitable.

## ALLEN COUNTY

Area, 504 square miles; population, 20,544; assessed value, \$26,821,6

Report made by Hon. Travis Morse, probate judge for 8½ years had been no defalcations by guardians, executors or administrators within the year. Two juvenile officers are employed. Sixteen juvenile cases were within the year and none were pending. There were no orders made in court cases and no proceedings in aid of execution within the year. There was 1 habeas corpus case in which writ was denied; 4 adoption proceedings were had and 4 insanity cases were heard within the year.

Estates of 15 deceased persons were closed within the year. Where these cases had been pending, 8 from 1 to 2 years, 2 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years and 2 from 5 to 10 years. In 3 cases there was a will, and in 12 cases decedent was intestate. In 13 cases bond was required of the executor or administrator, and in all cases bonds have been kept good. In 2 cases no bond was required. The inventory was filed within 60 days in 10 cases; after 60 days in 5 cases. The aggregate value of the estates, as appraised, was \$114,364. In 12 cases attorneys represented the executor or administrator, the heirs or legatees were not represented by attorneys in any case, and in 3 cases the report does not show an attorney appeared for anyone. Fees amounting to \$390 were allowed for executors or administrators and \$312 for attorneys. Five first annual reports were filed. In 12 cases the report shows that the estate paid claims in full, and in 3 cases the estate did not pay claims in full.

Estates of 141 deceased persons were pending July 1, 1936. There have been pending, 46 less than 1 year, 22 from 1 to 2 years, 17 from 2 to 3 years, 15 from 3 to 4 years, 11 from 4 to 5 years, 22 from 5 to 10 years and 17 over 10 years. In 78 of these there was a will and in 63 cases the decedent was intestate. In 103 cases bond was required of the executor or administrator and in 84 cases bond has been kept good. In 38 cases no bond was required. In 58 cases inventory was filed within 60 days, in 59 cases after 60 days and in 24 cases no inventory has been filed. The appraised value of these estates was \$1,103,015, and the estimated value of the property not appraised is \$1,103,015. In 46 cases first annual reports have been filed and in 95 cases they have not been filed. An attorney represented the executor or administrator in 10 cases, the heirs or devisees in 3 cases, and in 72 cases the report does not show an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetent persons closed within the year. Of these 4 had been pending from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years and 1 longer than 10 years. Of these estates 3 were of minors and 4 of insane persons, and 3 of incompetent persons. In 6 cases a guardian was appointed for the person of the ward. The value of these estates as appraised is \$31,471, and some real estate on which the value was not stated. In 6 cases guardians have been required to give bond, and all have kept the bond good. The inventory was filed within 30 days in 3 cases, after 30 days in 3 cases, and in 3 cases no inventory was filed. Twenty-six annual reports have been filed. Investment of funds of the ward were supervised by the guardian in 2 cases. An attorney represented the guardian in 6 cases, but in no case the ward represented. Fees amounting to \$185 were allowed for guardians and \$97 for attorneys. In 6 cases the funds of the ward were accounted for and disbursed.



There were 73 guardianship estate cases pending July 1, 1936. Of these, 11 were pending less than 1 year, 10 from 1 to 2 years, 14 from 2 to 3 years, 3 from 3 to 4 years, 4 from 4 to 5 years, 19 from 5 to 10 years and 7 longer than 10 years. These were estates of 60 minors, 5 insane persons and 8 other persons. A guardian was also appointed for the person of the ward in 72 cases. The value of these estates, as reported, is \$97,057. In 72 cases bond was required of the guardian, and in 63 cases bond has been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 15 cases, within 60 days in 24 cases, and in 34 cases no inventory had been filed. Sixty-three annual reports have been filed. The investment of funds of the ward is supervised by the court in 30 cases, and in 43 cases it is not. An attorney appeared for the guardian in 18 cases and in no case for the ward. The wards have been properly cared for in 52 cases. Fees amounting to \$1,783.50 were allowed for guardians, and \$1,175.50 for attorneys.

#### ANDERSON COUNTY

There are 576 square miles; population, 12, 357; assessed value, \$18,851,770. The probate court was made by Hon. L. H. Spohn, probate judge for 8 years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed as needed. Six juvenile cases were heard within the year, and 2 were pending. There were no habeas corpus orders made in district court cases, and there were no proceedings for execution within the year. One adoption proceeding was had, and no insanity cases were heard within the year.

Estates of 23 deceased persons were closed within the year. In 4 cases the report was filed within 1 year after letters of administration were issued, in 7 cases from 1 to 2 years, in 7 cases from 2 to 3 years, in 2 cases from 3 to 4 years, and in 1 case more than 10 years. In 10 cases there was a will, and in 13 cases decedent was intestate. In 16 cases bond was required of the executor or administrator. All bonds had been kept good. In 7 cases no bond was required. The inventory was filed within 60 days in 10 cases, after 60 days in 14 cases, and in 9 cases no inventory was filed. The aggregate value of these estates, as appraised, was \$41,645.23. The estimated value of property of estates not appraised was \$73,210.45, and in 4 cases the value was not given. In 5 cases attorneys represented the executor or administrator, and in 1 case, the heirs or devisees; in 5 cases the report does not show an attorney appeared for anyone.

Estates of 142 deceased persons were pending July 1, 1936. These cases have been pending, 45 less than one year, 25 from 1 to 2 years, 16 from 2 to 3 years, 7 from 3 to 4 years, 8 from 4 to 5 years, 30 from 5 to 10 years and 19 more than 10 years. In 60 of these there was a will, in 82 the deceased was intestate. In 76 cases bond was required of the executor or administrator; of these the bond has been kept good, in 25 of them it has not, and in 51 cases no bond was required. In 58 cases the inventory was filed within 60 days, in 13 cases after 60 days, and in 71 cases no inventory has been filed. The appraised value of these estates is \$210,074.31, and the estimated value of property not appraised is \$391,962.64. In 8 cases first annual reports have been filed; in 134 cases such reports have not been filed. An attorney appeared for the executor or administrator in 7 cases, the heirs or devisees in 1 case; in 133 cases the report does not show that an attorney appeared for

There were 2 guardianship estates of minors or other incompetents within the year. Of these, 1 had been pending from 1 to 2 years, and 1 from 5 to 10 years. Of these estates, 2 were of minors. In the 2 cases, guardians were appointed for the person of the ward. The value of these estates, as appraised, is \$565. Each guardian was required to give bond and each has kept it good. No inventory was filed in either case. No annual reports have been filed. Investment of funds of the guardian was not supervised by the court in either case. No attorney appeared for the guardian or the ward in either case. Fees amounting to \$42.25 were allowed for guardians. In one case the guardian of the ward were properly accounted for and disbursed.

There were 34 guardianship estate cases pending July 1, 1936. Of these, 6 had been pending less than 1 year, 7 from one to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, 2 from 4 to 5 years, 10 from 5 to 10 years, and 3 longer than 10 years. These were the estates of 23 minors, 8 insane persons, and 3 other incompetents. A guardian was also appointed for the person of the ward in 31 cases. In 3 cases no guardian was appointed. The value of these estates is \$78,670.45. In 28 cases bond was required of the guardian, and in 6 cases no bond was required. In 28 cases the bond was kept good. Inventory was filed within 30 days in 11 cases, and in 23 cases no inventory has been filed. In these cases 43 annual reports have been filed. The investments of the ward are supervised by the court in 10 cases, and in 24 cases they are not. An attorney appeared for the guardian in 4 cases and in 1 case for the ward. In 27 cases the report does not show that an attorney appeared for anyone. The wards' funds have been properly cared for in 11 cases.

#### ATCHISON COUNTY

Area, 423 square miles; population, 22,934; assessed value, \$31,700,000.

Report made by Hon. F. P. Wertz, probate judge for 3 years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed as needed. Twenty-seven probate cases were heard within the year, and none were pending. There were no habeas corpus cases. Five orders were made in district court cases, and there were no proceedings in aid of execution within the year. Seven probate proceedings were had, and 20 insanity cases were heard within the year.

Estates of 59 deceased persons were closed within the year. In 8 cases the final report was filed within 1 year after letters of administration were granted. In 31 cases from 1 to 2 years, in 7 cases from 2 to 3 years, in 3 cases from 3 to 4 years, in 2 cases from 4 to 5 years, in 6 cases from 5 to 10 years, and in 2 cases over 10 years. In 37 of these there was a will, and in 22 cases deceased was intestate. In 28 cases bond was required of the executor or administrator, and bonds had been kept good. In 31 cases no bond was required. Thirty-three reports were filed. The inventory was filed within 60 days in 35 cases, and within 60 days in 14 cases, and in 10 cases no inventory was filed. The value of 66 of these estates, as appraised, was \$277,147.57. The value of property not appraised was \$261,767.60, and in 4 cases the value was not given. In 27 cases attorneys represented the executor or administrator, and in 27 cases the heirs or devisees. In 33 cases report does not show an attorney appeared for anyone. Four first annual reports were filed. Fees amounting to \$9,629.15 were allowed for administrators and executors and \$4,699.15 for attorneys. Fifty-five estates paid claims in full and 4 did not.

ates of 96 deceased persons were pending July 1, 1936. They have been g, 66 less than 1 year and 30 from 1 to 2 years. In 58 of these there will, and in 38 cases the deceased was intestate. In 47 cases bond was d of the executor or administrator; in all of these bond has been kept In 49 cases no bond was required. In 53 cases inventory was filed 60 days, in 9 cases after 60 days, and in 34 cases no inventory had been The appraised value of these estates is \$251,102.13. The estimated value erty not appraised is \$420,165. In 1 case first annual report was filed 95 cases such reports were not filed. An attorney represented executor in 15 cases; the heirs or devisees in 19 cases; in 75 cases the does not show that an attorney appeared for anyone.

re were 5 guardianship estates of minors closed within the year. In 2 he final report was filed within 1 year after letters of guardianship were in 1 case from 3 to 4 years, and in 2 cases from 4 to 5 years. In 5 cases dian was appointed for the person of the ward. The value of these as reported is \$5,634.55. Each guardian was required to give bond and as kept his bond good. The inventory was filed within 30 days in 1 nd in 4 no inventory was filed. Three annual reports have been filed. ment of funds of the guardian was supervised by the court in 3 cases. ases an attorney appeared for the guardian, and in 4 cases an attorney ed for the ward. No fees were allowed for guardians. Fees amounting 2.50 were allowed for attorneys. In all cases the funds of the ward were ly accounted for and disbursed.

re were 34 guardianship estate cases pending July 1, 1936. Of these, 6 en pending less than 1 year, 7 from 1 to 2 years, 4 from 2 to 3 years, 3 to 4 years, 2 from 4 to 5 years, 10 from 5 to 10 years, and 3 longer 0 years. These were the estates of 8 minors, 4 insane persons, and 9 incompetents. A guardian was also appointed for the person of the n 21 cases. The value of these estates is \$41,500. In 15 cases bond was ed of the guardian and in 6 cases no bond was required. In 12 cases nd has been kept good, in 1 of them it has not. An inventory was filed 30 days in 4 cases, after 30 days in 1 case, and in 16 cases no inventory een filed. In these cases 1 annual report has been filed. The invest- of the ward are supervised by the court in 11 cases, and in 10 they are An attorney appeared for the guardian in 2 cases, and in 2 cases for the In 15 cases the report does not show that an attorney appeared for e. The wards' funds have been properly cared for in 13 cases.

#### BARTON COUNTY

a, 900 square miles; population, 20,813; assessed value, \$39,389,124. port made by Hon. H. A. Hall, probate judge for 15½ years. There had no defalcations by guardians, executors or administrators within the year. uvenile officer is employed part time. One juvenile case was heard the year, and no juvenile cases were pending. There were no habeas s cases. Five orders were made in district court cases. There were no edings in aid of execution within the year. Three adoption proceedings had, and 6 insanity cases were heard within the year. ates of 44 deceased persons were closed within the year. In 1 case the report was filed within 1 year after letters of administration were issued,

in 26 cases from 1 to 2 years, in 8 cases from 2 to 3 years, in 3 cases from 3 to 4 years, in 2 cases in 5 to 10 years, and in 4 cases over 10 years. In 11 cases there was a will, and in 13 cases decedent was intestate. In 25 cases bond was required of the executor or administrator and 24 of these bonds had been kept good. In 19 cases no bond was required. The inventory was filed within 30 days in 32 cases, after 60 days in 11 cases, and in 1 case no inventory was filed. Forty-one annual reports were filed. The aggregate value of 44 estates, as appraised, was \$1,526,741. In 16 cases the attorney represented the executors or administrators. In no case were the heirs or devisees represented by attorneys. In 28 cases the report does not show an attorney appeared for anyone. In 40 cases claims were paid in full; 4 did not pay in full, amounting to \$12,231.72 were allowed for guardians or administrators, and \$16,617.64 for attorneys.

Estates of 157 deceased persons were pending July 1, 1936. They have been pending, 52 less than 1 year, 27 from 1 to 2 years, 11 from 2 to 3 years, 14 from 3 to 4 years, 11 from 4 to 5 years, 26 from 5 to 10 years, and 16 more than 10 years. In 99 of these there was a will and in 58 there was no will. In 96 cases bond was required of the executor or administrator; in 93 of these bond has been kept good; in 61 cases no bond was required. In 105 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 35 cases no inventory had been filed. The appraised value of these estates is \$3,404,282.35. In 27 cases first annual reports have been filed and in 130 cases such reports have not been filed. An attorney represented the executor or administrator in 38 cases, the heirs or devisees in 5 cases, and in 116 cases the report does not show that an attorney appeared for anyone.

There were 8 guardianship estates of minors or other incompetents pending within the year. In 2 cases the final report was filed within 2 years, and in 6 cases the reports of guardianship were issued, in 3 cases from 5 to 10 years, and in 3 cases longer than 10 years. Of these estates 6 were of minors and 2 were of incompetents. In 3 cases guardians were appointed for the persons of the estates. The value of these estates as reported, is \$18,509.63. Each guardian was required to give bond, and each has kept his bond good. The inventory was filed within 30 days in 2 cases, and in 6 cases no inventory was filed. Nine annual reports have been filed. Investment of funds of the estates has been supervised by the court in 7 cases. An attorney appeared for the ward in 2 cases, but in no case for the guardian. Fees amounting to \$620 were paid for guardians, and \$87.75 for attorneys. In all cases the funds of the estates were properly accounted for and disbursed.

There were 107 guardianship cases pending July 1, 1936. Of these 10 have been pending less than 1 year, 9 from 1 to 2 years, 12 from 2 to 3 years, 10 from 3 to 4 years, 10 from 4 to 5 years, 39 from 5 to 10 years, and 27 from more than 10 years. These were estates of 98 minors, 7 insane persons, and 2 incompetents. A guardian was appointed for the person of the ward in 107 cases. The value of these estates is \$228,424.30. In all cases bond was required of the guardian, and in all cases bond has been kept good. The inventory was filed within 30 days in 9 cases, after 30 days in 2 cases, and in 96 cases no inventory was filed. In these cases 261 annual reports have been filed. The investments of the ward are supervised by the court in 47 cases, and in 60 cases they are not. An attorney appeared for the guardian in 10 cases, and in 1 case for the ward. In 97 cases the report does not show that an attorney appeared for anyone.

heard for anyone. The wards' funds have been properly cared for in the past. Total amount of fees allowed for guardians was \$510, and for attorneys \$875.

### BOURBON COUNTY

637 square miles; population, 20,913; assessed value, \$22,897,874. Report made by Hon. C. E. Hulett, probate judge for 3½ years. There had been defalcations by guardians, executors, or administrators within the year amounting to \$1,281.91; this entire amount was received.

A juvenile officer is employed. Ten juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no orders of removal, no district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were had and 13 insanity cases were heard within the year.

Estates of 44 deceased persons were closed within the year. In 31 of these cases there was a will, and in 13 cases decedent was intestate. In 27 cases bond was required of executor or administrator. All bonds have been kept good. In 17 cases no bond was required. The inventory was filed within 60 days in 30 cases and after 60 days in 9 cases, and in 5 cases no inventory was filed. Annual reports were filed. The aggregate value of 17 of these estates, as appraised, was \$74,498.91. The estimated value of property not appraised was \$8,964.93, and in 1 case the value was not given. In 21 cases attorneys represented the executor or administrator; and in 6 cases the heirs or devisees. In 13 cases the report does not show an attorney appeared for anyone. Fees allowed for attorneys amounting to \$4,573.02 were allowed for executors or administrators, and \$1,460 for attorneys. In 7 cases the final report was filed within 1 year after letters of administration were issued, in 25 cases from 1 to 2 years, in 3 cases from 2 to 3 years, in 4 cases from 3 to 4 years, in 1 case from 4 to 5 years, in 1 case from 5 to 10 years, and 3 longer than 10 years. Forty-three estates paid in full and 1 estate did not pay claims in full.

Estates of 39 deceased persons were pending July 1, 1936. In 26 of these cases there was a will, in 13 of these the deceased was intestate. In 25 cases bond was required of the executor or administrator. In all of these the bond has been kept good. In 14 cases no bond was required. In 26 cases the inventory was filed within 60 days, in 2 cases after 60 days, and in 11 cases no inventory was filed. The appraised value of these estates is \$86,391.98, and the estimated value of the property not appraised is \$98,876.50. In 21 cases an attorney represented the executor or administrator, and in 11 cases an attorney represented the heirs or devisees. In 15 cases the report does not show an attorney appeared for anyone. All cases have been pending less than 1 year. There were 9 guardianship estates of minors or other incompetents closed within the year. Of these 1 had been pending from 1 to 2 years, 2 from 4 to 5 years, 5 from 5 to 10 years, and 2 longer than 10 years. Of these estates, 6 were of minors, and 3 of insane persons. In 1 case a guardian was appointed person of the ward; in 8 no guardian was appointed. The value of these estates, as reported, is \$16,320.25. Eight guardians were required to give bonds and 8 have kept their bonds good. The inventory was filed within 30 days in 1 case, and after 30 days in 1 case. In 7 cases no inventory was filed. Annual reports have been filed. Investment of funds of the guardian supervised by the court in 9 cases. An attorney appeared for the

guardian or administrator in 2 cases. No attorney appeared for the ward in any case. No fees were allowed for guardians or attorneys. In 9 cases the funds of the ward were properly accounted for and disbursed.

There were 12 guardianship estate cases pending July 1, 1936. Of these 12 had been pending less than a year, 2 from 1 to 2 years, 1 from 2 to 3 years, and 2 from 5 to 10 years. These were estates of 8 minors, 1 insane person, and 3 other incompetents. A guardian was also appointed for the personal care of the ward in 3 cases. The value of these estates is \$17,296.40. In 12 cases an inventory was required of the guardian, and in all cases bond has been kept. In 1 case an inventory was filed within 30 days, and after 30 days in 2 cases. In 9 cases no inventory had been filed. In these cases 3 annual reports have been filed. The investment of the funds of the ward is supervised by the district court in 12 cases. An attorney appeared for the guardian in 7 cases and for the ward in no case. In 5 cases the report does not show an attorney appearing for anyone. The wards' funds have been properly cared for in all cases. No fees were allowed for guardians or attorneys.

#### BROWN COUNTY

Area, 576 square miles; population, 20,186; assessed value, \$35,644,000.

Report made by Hon. J. M. Johnson, probate judge for 7½ years. There had been no defalcations by guardians, executors, or administrators during the year. One juvenile officer is employed; 24 juvenile cases were heard during the year and 1 was pending. There were no habeas corpus cases; 2 cases were made in district court cases; no proceedings in aid of execution were heard during the year; 5 adoption proceedings were had, and 19 insanity cases heard during the year.

Estates of 32 deceased persons were closed within the year. Of these 15 of these cases had been pending from 1 to 2 years. In 15 of these there was a will, and in 17 cases decedent was intestate. In 24 cases bond was required of the executor or administrator, and all bonds had been kept good. In 6 cases no bond was required. The inventory was filed within 60 days in 10 cases, after 60 days in 4 cases, and in 9 cases no inventory was filed. The aggregate value of 12 of these estates, as appraised, was \$156,367.39, and the estimated value of 18 estates, not appraised, was \$166,367.39, and in 10 cases the value was not given. In 4 cases attorneys represented the decedent or administrator; in no case the heirs or devisees; and in 28 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$225 were allowed for executors or administrators, and \$225 for attorneys for the first annual reports were filed. In 30 cases the estate paid claims during the year. In 2 cases the report does not show whether or not they were paid in full.

Estates of 115 deceased persons were pending July 1, 1936. These were 68 pending, 68 less than a year, 41 from 1 to 2 years, and 6 from 2 to 3 years. In 60 of these there was a will, and in 55 cases the deceased was intestate. In 70 cases bond was required of the executor or administrator, and in 45 cases have been kept good. In 45 cases no bond was required. In 5 cases an inventory was filed within 60 days, in 14 cases after 60 days, and in 56 cases no inventory has been filed. The appraised value of the these estates is \$508,733.17, and the estimated value of the property not appraised is \$402.72. In 8 cases first annual reports have been filed; in 107 cases no reports have not been filed. An attorney represented the executor or administrator in 8 cases.

in 3 cases, the heirs or devisees in 2 cases, and in 111 cases the report shows that an attorney appeared for anyone. There was 1 guardianship estate of an incompetent person closed within the year that had been pending from 1 to 2 years. A guardian was appointed for the ward. The value of this estate as reported, was \$10,500. The guardian was required to give bond and has kept his bond good. No inventory was filed in this case. Two annual reports were filed. Investment of funds of the ward was not supervised by the court. In this case no attorney appeared for the guardian or the ward. Fees amounting to \$40 were allowed for the guardian. The funds of the ward were properly accounted for and disbursed. There were 9 guardianship estate cases pending July 1, 1936. All had been pending from 1 to 2 years, all were estates of minors. A guardian was appointed for the person of the ward in 3 cases, and in 6 cases no guardian was appointed. The value of these estates as reported is \$2,950, and interest in the estates was not appraised. In 8 cases bond was required of the guardian; all had been kept good. In 1 case no bond was required. No inventory was filed in any case. In these cases 1 annual report has been filed. The investment of the funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 3 cases, in no case for the ward, and in 6 cases the report does not show an attorney appeared for anyone. The report does not show whether or not the wards' funds have been properly invested. Fees amounting to \$100 were allowed for guardian in 1 case, but no fees have been allowed for attorneys.

#### BUTLER COUNTY

1,428 square miles; population, 30,883; assessed value, \$55,840,439. The report was made by Hon. W. N. Calkins, probate judge for 2½ years. There were no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; 16 juvenile cases were heard within the year and 15 were pending. There were no habeas corpus cases, no orders made by the court, no contempt cases, and no proceedings in aid of execution within the year. Seven adoption proceedings were had, and 13 insanity cases were heard within the year.

There were 38 deceased persons who were closed within the year. In 1 case the report was filed within 1 year after letters of administration were issued, in 10 cases in 1 to 2 years, in 10 cases in 2 to 3 years, in 1 case in from 4 to 5 years, in 1 case in 5 to 10 years, and 1 longer than 10 years. In 17 of these cases there was a will, and in 21 cases decedent was intestate. In 30 cases bond was required of the executor or administrator and in all cases bond was kept good. In 8 cases no bond was required. The inventory was filed within 60 days in 19 cases, after 60 days in 19 cases, and in 7 cases no inventory was filed. The value of 37 of these estates as appraised, was \$294,266. In 1 case the value was not given. In every case attorneys represented the executor or administrator, but in no case were the heirs or devisees represented by an attorney. Fees amounting to \$3,618 were allowed for executors or administrators and \$4,300 for attorneys. Twenty-four first annual reports were filed in the year. In 37 cases the estate paid claims in full.

There were 109 deceased persons who were pending July 1, 1936. These cases have been pending, 54 less than 1 year, 16 from 1 to 2 years, 8 from 2 to 3 years, 9 from 3 to 4 years, 7 from 4 to 5 years, 11 from 5 to 10 years, and 4 longer than 10 years.

10 years. In 54 of these there was a will, and in 55 deceased was intestate. In 69 cases bond was required of the executor or administrator, and in 69 cases bond has been kept good. In 40 cases no bond was required. In 30 cases inventory was filed within 60 days and in 25 cases after 60 days. In 10 cases no inventory has been filed. The appraised value of these estates is \$1,639,698, and the estimated value of property not appraised is \$1,639,698. In 9 cases first annual reports have been filed, and in 100 cases second annual reports have not been filed. An attorney represented the executor or administrator in all cases, but in no case was the heir or devisee represented by an attorney.

There were no guardianship estates of minors or other incompetents within the year.

There were 37 guardianship estate cases pending July 1, 1936. In 37 cases the final report was filed within 1 year after letters of guardianship were granted, and in 6 cases from 1 to 2 years, after final report was filed. There were 26 estates of 26 minors, 5 insane persons and 6 other incompetents. An attorney was also appointed for the person of the ward in 37 cases. The value of the estates is \$33,272. In 37 cases the guardian was required to give bond, and in all cases bond has been kept good. An inventory was filed within 30 days in 37 cases, and after 30 days in 1 case. In 34 cases no inventory was filed. In no cases have annual reports been filed. The investment of funds of the ward is supervised in all cases by the court. An attorney appeared for the guardian in every case, but in no case for the ward. The report does not show that any fees have been allowed for guardians or executors in any case. The funds of the wards have been properly cared for in all cases.

#### CHASE COUNTY

Area, 750 square miles; population, 6,344; assessed value, \$18,560,000.

Report by Hon. A. E. Johnson, probate judge for 1½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; 1 juvenile case was heard within the year. There were no habeas corpus cases, no orders made in dissolution of marriage cases, and no proceedings in aid of execution within the year. One proceeding was had, and 5 insanity cases were heard within the year.

Estates of 12 deceased persons were closed within the year. Within the year these cases had been pending, 8 from 1 to 2 years, 2 from 2 to 3 years, 1 from 5 to 10 years, and 1 longer than 10 years. In 7 cases there was a will, and in 5 cases decedent was intestate. In 7 cases bond was required of the executor or administrator; all bonds had been kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 8 cases, after 60 days in 2 cases, and in 2 cases no inventory was filed. Three first annual reports have been filed. The aggregate value of 11 of these estates as appraised is \$850.42. The estimated value of part of 2 estates not appraised was \$1,639,698, and one estate is reported to be of no value. In 1 case the executor or administrator was represented by an attorney, and in 1 case an attorney represented the heir or devisee. In 11 cases the report does not show an attorney appeared for anyone. Fees amounting to \$477.13 were allowed for executors or administrators, and \$550 for attorneys. In 12 cases the estates were closed in full.

Estates of 23 deceased persons were pending July 1, 1936. Nine cases have been pending less than 1 year, 5 from 1 to 2 years, 4 from 2 to 3 years,



years, 2 from 4 to 5 years, and 2 from 5 to 10 years. In 15 of these was a will, and in 8 cases the deceased was intestate. In 16 cases bond required of the executor or administrator, and in 13 cases bond had been good. In 7 cases no bond was required of the executor or administrator. In 12 cases the inventory was filed within 60 days, in 2 cases after 60 days, and in 1 case no inventory was filed. The appraised value of these estates is \$1,112, and the estimated value of the property not appraised is \$93,998.40. In 15 cases first annual reports have been filed and in 15 cases such reports have not been filed. An attorney represented the executor or administrator in 15 cases, the heirs or devisees in 2 cases, and in 15 cases the report does not show an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents closed during the year. In 6 cases the final report was filed within 2 years after the guardianship were issued, and in 1 case from 1 to 2 years. Of these 6 were of minors and 1 of an incompetent person. In no case was a guardian appointed for the person of the ward. The value of these estates, as reported, is \$10,144. In 7 cases guardians were required to give bond, and in 6 cases bond has been kept good. The inventory was filed after 30 days in 3 cases and in 4 cases no inventory was filed. Ten annual reports have been filed. Investment of funds of the ward were supervised by the court in 6 cases. An attorney represented the guardian in 2 cases and the ward in 1 case. No fees were allowed for guardians, but \$45 was allowed for attorneys. In 6 cases the funds of the ward were properly accounted for and disbursed.

There were 31 guardianship estate cases pending July 1, 1936. Of these, 5 were pending less than 1 year, 6 from 1 to 2 years, 6 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, 5 from 5 to 10 years, and 6 longer than 10 years. These were estates of 27 minors, 2 insane persons and 2 other incompetents. A guardian was also appointed for the person of the ward in 1 case. The value of these estates as reported is \$74,417. In 23 cases bond was required of the guardian and in 18 cases the bond has been kept good, and in 5 cases bond has not been kept good. In 8 cases no bond was required. The inventory was filed within 30 days in 7 cases, after 30 days in 4 cases, and in 1 case no inventory was filed. In these cases 59 annual reports have been filed. The investment of funds of the ward is supervised by the court in 11 cases and in 20 cases it is not supervised by the court. An attorney appeared for the guardian in 1 case and in no case for the ward. In 30 cases the report does not show an attorney appeared for anyone. The report does not state whether or not any fees were allowed for guardians or attorneys. In 10 cases the report shows that the wards' funds have been properly preserved and cared for.

#### CHEYENNE COUNTY

Area, 1,020 square miles; population, 6,868; assessed value, \$7,338,373. Probate court made by Hon. Florence Curry, probate judge for 2 months. There were no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed. Four juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases, no proceedings made in district court cases, and no proceedings in aid of execution. No adoption proceedings were had, and 6 insanity cases heard within the year.

Estates of 14 deceased persons were closed within the year. In 4 there was a will, and in 10 cases decedent was intestate. In 9 cases bond was required of the executor or administrator. All bonds had been kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 5 cases, and in 7 cases no inventory was filed. The aggregate value of these estates, as appraised, was \$115,115.05. In 5 cases attorneys reported for the executor or administrator; in 1 case the heirs or devisees; and in 8 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$535 were allowed for executor or administrator, and \$65 for attorney. In 3 cases the final report was filed within 1 year after letters of administration were issued, in 7 cases from 1 to 2 years, in 1 case from 3 to 4 years, in 3 cases from 5 to 10 years, and 3 longer than 10 years. In 9 cases the estate was paid in full, and in 5 cases did not pay claims in full. Two first reports were filed.

Estates of 25 deceased persons were pending July 1, 1936. In 10 there was a will, and in 15 cases the deceased was intestate. In 16 cases bond was required of the executor or administrator; in all cases bond had been kept good. In 9 cases no bond was required. In 11 cases the inventory was filed within 60 days, in 4 cases after 60 days, and in 10 cases no inventory had been filed. The appraised value of these estates is \$142,406.46, and the estimated value of the property not appraised is \$625. In 5 cases first reports have been filed; in 20 cases they were not. An attorney represented the executor or administrator in 14 cases; the heirs or legatees in no case. In 11 cases the report does not show that an attorney appeared for anyone. These cases have been pending, 10 less than 1 year, 6 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, and 5 from 5 to 10 years.

There was 1 guardianship estate of minors closed within the year. It had been pending from 1 to 2 years. No guardian was appointed for the person of the ward. The value of this estate, as reported, is \$2,774.46. A guardian has been required to give bond, and has kept his bond good. An inventory was filed after 60 days. Investment of the funds of the ward was supervised by the court in this case. Fees amounting to \$100 were allowed for guardian, and \$50 for attorney. In this case the funds of the ward were properly accounted for and disbursed.

There were 11 guardianship cases pending July 1, 1936. Of these 10 had been pending less than a year, 6 from 1 to 2 years, 1 from 2 to 3 years, 1 from 4 to 5 years, 1 from 5 to 10 years, and 1 longer than 10 years. There were the estates of 9 minors and 2 insane persons. In no case was a guardian appointed for the person of the ward. The value of these estates, as reported, is \$18,688.51. Nine guardians were required to give bond, and in 2 cases no bond was required. The inventory was filed within 30 days in 2 cases, and after 30 days in 3 cases. In 6 cases no inventory has been filed. Twelve annual reports have been filed. Investment of funds of the wards is supervised by the court in 1 case, in 10 it is not. An attorney appeared for the guardian in 7 cases, and for the ward in 1 case, and in 4 cases no attorney appeared for anyone. No fees were allowed for guardians or attorneys.

## CLARK COUNTY

, 975 square miles; population, 4,771; assessed value, \$10,828,175. Report made by O. T. Ammon, probate judge for 1 year. There had been applications by guardians, executors or administrators within the year. One officer is employed, and 2 juvenile cases were heard within the year. There were no habeas corpus cases; 1 order was made in district court case; there was 1 proceeding in aid of execution within the year. No adoption proceedings were had, and 2 insanity cases were heard within the year.

Estates of 5 deceased persons were closed within the year. In 1 case the report was filed within 1 year after letter of administration was issued, and cases from 1 to 2 years. In 3 cases there was a will, and in 2 cases deceased was intestate. In 3 cases bond was required of the executor or administrator and all bonds had been kept good. In 2 cases no bond was required. Inventory was filed within 60 days in 1 case, after 60 days in 3 cases, and in 1 case no inventory was filed. The aggregate value of 4 of these estates, as appraised, was \$137,674.52. The estimated value of 1 estate, not appraised, was \$1,150. In all cases attorneys represented the executor or administrator, but in 2 cases were the heirs or devisees represented by attorneys. Fees amounting to \$884.82 were allowed for executors or administrators, and \$1,150 for attorneys. In 3 cases the estates paid claims in full, and in 2 cases estates paid claims.

Estates of 23 deceased persons were pending July 1, 1936. In these cases there have been pending less than 1 year, 4 cases from 1 to 2 years, 2 cases from 2 to 3 years, 7 cases from 5 to 10 years, and 1 longer than 10 years. In 10 cases there was a will, and in 13 the deceased was intestate. In 15 cases bond was required of the executor or administrator, and all bonds have been kept good. In 8 cases no bond was required. In 8 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 8 cases no inventory was filed. The appraised value of these estates is \$137,573.28, and the estimated value of the property not appraised is \$546.15. In 2 cases first annual reports have been filed, and in 21 cases such reports have not been filed. An attorney appeared for the executor or administrator in 20 cases, and in 3 cases the records do not show an attorney appeared for anyone.

There was 1 guardianship estate of minors closed within the year. This estate had been pending from 5 to 10 years. The value of this estate, as reported, was \$1,500. The guardian was required to give bond, and has kept bond. The inventory was filed within 30 days in this case. Seven annual reports have been filed. Investment of funds of the ward was supervised by the court in this case. An attorney appeared for the guardian. No fees were allowed for guardian; fees amounting to \$75 were allowed for attorney. In this case the funds of the ward were properly accounted for and audited.

There were 31 guardianship estate cases pending July 1, 1936. Of these, 1 had been pending less than 1 year, 1 from 1 to 2 years, 6 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 12 from 5 to 10 years, and 5 longer than 10 years. These were the estates of 25 minors, 1 insane person, and 5 incompetents. A guardian was also appointed for the person of the ward in 28 cases. The value of these estates is \$59,976.43. In 28 cases bond was required of the guardian, and in 18 cases bond has been kept good. In 3 cases no

bond was required. An inventory was filed within 30 days in 8 cases, after 30 days in 5 cases, and in 18 cases no inventory was filed. In annual reports have been filed. The investment of the funds of the wards supervised by the court in 9 cases, in 22 cases it is not. An attorney appeared for the guardian in 18 cases, and in 13 cases the report does not show that an attorney appeared for anyone. The wards' funds have been cared for in 11 cases. Fees amounting to \$3,721 were allowed for attorneys and \$69 for the wards.

#### CLAY COUNTY

Area, 660 square miles; population, 14,003; assessed value, \$25,150,000.

Report made by Hon. Frank H. Meek, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators within the year. The amount received was \$7,000. One juvenile officer is employed. Ten juvenile cases were heard within the year, and 1 was pending. There were no habeas corpus cases, 12 orders were made in district court cases, and 12 proceedings in aid of execution within the year. Seven adoption proceedings were had, and 10 insanity cases were heard within the year.

Estates of 39 deceased persons were closed within the year. In 19 cases the final report was filed within 1 year after letters of administration were issued, in 15 cases from 1 to 2 years, in 3 cases from 2 to 3 years, and in 2 cases from 3 to 5 to 10 years. In 19 of these there was a will, and in 20 cases there was no will. In 28 cases bond was required of the executor or administrator, and in all bonds had been kept good. In 11 cases no bond was required. In 30 cases an inventory was filed within 60 days, after 60 days in 8 cases, and in 1 case no inventory was filed. The aggregate value of 5 of these estates was appraised, was \$245,494.67. The estimated value of property, not appraised, was \$16,870. In one case the value was not given. Seven annual reports have been filed. In 14 cases attorneys represented the executor or administrator, and in 25 cases the report does not show an attorney appeared for anyone. Fees amounting to \$3,288.60 were allowed for executors or administrators, and \$1,199.37 for attorneys. In 38 cases the estate paid claims in full, and in 1 case it did not pay in full.

Estates of 85 deceased persons were pending July 1, 1936. In 4 cases there was a will, and in 43 cases the deceased was intestate. In 60 cases bond was required of the executor or administrator; in all of these the bonds had been kept good. In 25 cases no bond was required. In 71 cases the report was filed within 60 days, in 10 cases after 60 days, and in 4 cases no report has been filed. The appraised value of these estates is \$722,812.60. The estimated value of property not appraised is \$17,210.55. In 16 cases final reports have been filed; in 69 cases such reports have not been filed. An attorney represented the executor or administrator in 30 cases, and in 1 case for or devisees in 1 case. In 55 cases the report does not show an attorney appeared for anyone. These cases have been pending, 51 less than 1 year, 4 from 1 to 2 years, 7 from 2 to 3 years, 5 from 3 to 4 years, 4 from 4 to 5 years, and 4 from 5 to 10 years.

There was 1 guardianship estate of an insane person closed within the year. This had been pending for more than 10 years. In this case a guardian had been appointed for the person of the ward. The value of this estate reported, is \$1,200. The guardian was required to give bond and

kept good. No inventory was filed. Thirteen annual reports have been filed. Investment of the funds of the ward was supervised by the court in 51 cases. Fees amounting to \$125 were allowed for the guardian. In this case the funds of the ward were properly accounted for and disbursed.

There were 72 guardianship cases pending July 1, 1936. Of these, 15 had been pending less than a year, 3 from 1 to 2 years, 6 from 2 to 3 years, 4 from 3 to 4 years, 1 from 4 to 5 years, 19 from 5 to 10 years, and 24 longer than 10 years. These were estates of 49 minors, 18 insane persons, and 5 other incompetents. A guardian was also appointed for the person of the ward in 72 cases.

The value of these estates is \$203,808.37. In 71 cases bond was required of the guardian, and in 1 case no bond was required. In all cases the bond has been kept good. An inventory was filed within 30 days in 7 cases, after 31 to 60 days in 5 cases, and in 60 cases no inventory had been filed. In these 72 cases 334 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 51 cases, and in 21 cases it is not. An attorney appeared for the guardian in 18 cases, and in 53 cases the report does not show an attorney appeared for anyone. The wards' funds have been properly cared for in 56 cases. Fees amounting to \$2,121.68 were allowed for guardians and \$151 for attorneys.

#### • CLOUD COUNTY

Area, 720 square miles; population, 17,372; assessed value, \$27,475,463. Probate report made by Hon. E. W. Thompson, probate judge for 6½ years. There have been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed; 6 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases. Two writs were made in district court cases. There were no proceedings in aid of execution within the year, and no adoption proceedings were had. Six inheritance cases were heard within the year.

Estates of 52 deceased persons were closed within the year. In 16 cases an annual report was filed within 1 year after letters of administration were granted, in 19 cases from 1 to 2 years, in 7 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 7 cases from 5 to 10 years, and 1 longer than 10 years. In 10 of these there was a will, and in 19 cases decedent was intestate. In 19 cases bond was required of the executor or administrator, and in all cases the bond has been kept good. In 20 cases no bond was required. The inventory was filed within 60 days in 42 cases, after 60 days in 8 cases, and in 2 cases no inventory was filed. Seventeen first annual reports were filed. The aggregate value of 48 of these estates, as appraised, was \$654,974.79. The estimated value of 5 estates, not appraised, was \$16,542.50. In 1 case report states that there was no property. In 12 cases an attorney represented the executor or administrator, in 3 cases the heirs or devisees, and in 40 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,097.40 were allowed for executors or administrators, and \$1,014.99 for attorneys. In 48 cases the estate paid claims in full and in 4 cases the estate did not pay claims.

Estates of 175 deceased persons were pending July 1, 1936. These cases have been pending, 55 less than 1 year, 25 from 1 to 2 years, 17 from 2 to 3 years, 4 from 3 to 4 years, 12 from 4 to 5 years, 37 from 5 to 10 years, and 28 longer than 10 years. In 114 of these there was a will, and in 61 cases

decedent was intestate. In 113 cases bond was required of the executor or administrator, and all bonds have been kept good. In 62 cases no bond was required. In 131 cases the inventory was filed within 60 days, in 115 cases after 60 days and in 7 cases no inventory was filed. The appraised value of these estates is \$2,307,028.11, and the estimated value of property not appraised is \$306,841.99. In 60 cases first annual reports have been filed, in 115 cases such reports have not been filed. An attorney represented the executor or administrator in 25 cases, the heirs or devisees in 5 cases, and in 148 cases the report does not show an attorney appeared for anyone.

There were 10 guardianship estates of minors or other incompetent persons closed within the year. Of these, 2 had been pending from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 5 to 10 years and 4 longer than 10 years. Of these estates 2 were of minors, 1 of an insane person, and 7 of incompetent persons. In every case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$39,452.90. In all cases guardians were required to give bond, and each has kept his bond good. An inventory was filed within 30 days in 6 cases, and after 30 days in 4 cases. Ten annual reports have been filed. Investment of funds of the ward was supervised in all cases. An attorney represented the guardian in 10 cases but in no case did an attorney appear for the ward. Fees amounting to \$38.65 were allowed for guardians, and \$38.65 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 118 guardianship estate cases pending July 1, 1936. Of these, 3 had been pending less than a year, 10 from 1 to 2 years, 11 from 2 to 3 years, 7 from 3 to 4 years, 5 from 4 to 5 years, 42 from 5 to 10 years, and 38 longer than 10 years. These were estates of 82 minors, 19 insane persons, 14 incompetent persons, and 3 were trusteeships, 2 being used for cemetery funds. A guardian was also appointed for the person of the ward in 115 cases. The value of these estates is \$228,931.36. In 116 cases bond has been required of the guardian and 113 bonds have been kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 43 cases, after 30 days in 24 cases, and in 51 cases no inventory was filed. In these cases 79 annual reports have been filed. The investment of funds of the ward is supervised and approved by the court in 90 cases, and in 28 cases it is not supervised. An attorney appeared for the guardian in 24 cases, and in 17 cases for the ward. Fees amounting to \$3,906.80 were allowed for guardians and \$4,000.00 for attorneys. The wards' funds have been properly cared for in 113 cases.

#### COFFEY COUNTY

Area, 648 square miles; population, 14,021; assessed value, \$18,447,000.

Report made by Hon. J. W. Whitney, probate judge for 3 years. There were no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed; 5 juvenile cases were heard within the year. There were no habeas corpus cases; 4 orders were made in district court and no proceedings in aid of execution within the year; 7 insanity cases were heard within the year.

Estates of 41 deceased persons were closed within the year. In 13 cases the final report was filed within 1 year after letters of administration were granted, in 18 cases in 1 to 2 years, in 4 cases in 2 to 3 years, in 5 cases in 3 to 4 years, and in 1 case in more than 4 years.

1 case in 5 to 10 years. In 19 of these there was a will, and in 22 cases not was intestate. In 26 cases bond was required of the executor or administrator; all bonds have been kept good; in 15 cases no bond was required.

The inventory was filed within 60 days in 39 cases and after 60 days in 11 cases. The aggregate value of 40 of these estates, as appraised, was \$1,866. The estimated value of 1 estate, not appraised, was \$801. In 4 cases first annual reports have been filed; in 37 cases such reports have not been filed. An attorney represented the executor or administrator in 33 cases, 11 for heirs or devisees in 1 case, and in 7 cases the report does not show an attorney appeared for anyone. Total fees allowed executor or administrator in 33 cases was \$2,370.13, and total fees allowed attorneys was \$1,917.72. In 33 cases estates paid claims in full, and in 2 cases they did not.

There were 66 deceased persons were pending July 1, 1936. In 29 of these there was a will and in 37 there was not. In 41 cases, bond has been required of the executor or administrator, and in all cases bond has been kept good; in 25 cases no bond was required. In 57 cases the inventory has been filed within 60 days, in 5 cases after 60 days, and in 4 cases no inventory has been filed. The appraised value of these estates is \$140,256.73. In 12 cases first annual reports have been filed; in 54 cases such reports have not been filed. An attorney represented the executor or administrator in 35 cases, and in 31 cases the report does not show that an attorney appeared for anyone. These cases have been pending, 26 less than 1 year, 11 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 4 years, 6 from 4 to 5 years, 11 from 5 to 10 years, and 1 more than 10 years.

There were 3 guardianship estates of minors or other incompetents closed during the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, and in 2 cases in 5 to 10 years after letter of guardianship was issued. Of these estates, 2 were of minors and 1 of an insane person. In 3 cases a guardian was appointed for the person of the ward. The aggregate value of these estates, as reported, is \$15,756.61. Guardians were required to post bond in 3 cases, and all bonds have been kept good. The inventory was filed within 30 days in 1 case, after 30 days in one case, and in 1 case no inventory was filed. Investment of the funds of the ward was supervised by the court in 3 cases. In no case did an attorney appear for the guardian or the ward. Fees amounting to \$107 were allowed for guardians, and \$10 for attorneys. In 3 cases the funds of the ward were properly accounted for and distributed. Seventeen annual reports were filed.

There were 63 guardianship estate cases pending July 1, 1936. Of these, 8 were pending less than a year, 6 from 1 to 2 years, 6 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, 16 from 5 to 10 years, and 24 longer than 10 years. There were estates of 44 minors, 12 insane persons, and 7 other incompetents. A guardian was also appointed for the person of the ward in 3 cases. The value of these estates is \$99,385.51. In 62 cases bond was required of the guardian, and in 1 case no bond was required; in all cases the bonds have been kept good. The inventory was filed within 30 days in 25 cases, 30 days in 12 cases, and in 26 cases no inventory was filed. In these 63 cases 21 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 47 cases. An attorney appeared for the ward in 18 cases, and in 6 cases for the ward, and in 43 cases the report

does not show an attorney appeared for anyone. The wards' funds have been properly cared for in 30 cases. Fees of \$1,251.72 have been allowed for guardians and \$133.50 for attorneys.

### COMANCHE COUNTY

Area, 795 square miles; population, 5,077; assessed value, \$8,605,784.

Report made by Hon. M. M. Cosby, probate judge for 18 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were heard during the year, but one was pending. There were no habeas corpus cases; no writs were made in district court cases, and no proceedings in aid of execution were made during the year. One adoption proceeding was had, and 2 insanity cases were closed within the year. Estates of 4 deceased persons were closed within the year. When closed 3 cases had been pending from 1 to 2 years, and 1 from 2 to 3 years. In 4 cases there was a will. In 2 cases bond was required of the executor or administrator, and in both cases bond had been kept good. In 2 cases no bond was required. The inventory was filed within 60 days in 3 cases and after 60 days in 1 case. First annual reports were filed in all cases. The aggregate value of the 4 estates, as appraised, was \$122,437.31. In 1 case an attorney represented the executor or administrator, but in no case the heirs or devisees. Fees amounting to \$650 were allowed for the executors or administrators, and \$1,750 for attorneys. The estates paid claims in all cases.

Estates of 23 deceased persons were pending July 1, 1936. Of these 18 have been pending, 18 less than 1 year, and 5 from 1 to 2 years. In 12 cases there was a will, and in 8 the deceased was intestate. In 12 cases no bond was required of the executor or administrator, and in 11 cases no bond was required. All bonds have been kept good. In 16 cases the inventory was filed within 60 days, in 2 cases after 60 days, and in 5 cases no inventory was filed. The appraised value of 19 of these estates, as reported, is \$23,250 and the estimated value of the property, not appraised, is \$23,250. In 12 cases first annual reports were filed, and in 21 cases none were filed. An attorney represented the executor or administrator in 20 cases, but in no case the heirs or devisees represented. In 3 cases the report does not show an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents pending within the year.

There were 11 guardianship estate cases pending July 1, 1936. Of these 10 had been pending less than 1 year, 2 from 2 to 3 years, 1 from 3 to 4 years, and 6 from 4 to 5 years. These were estates of 7 minors, 2 insane persons and 2 incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$34,997.82. In 10 cases bond was required of the guardian and all bonds have been kept good. The inventory was filed within 30 days in 2 cases, after 30 days in 2 cases, and in 7 cases no inventory had been filed. In these cases 45 annual reports had been filed. The investment of the funds of the ward is supervised by the court in 7 cases, and in 4 cases it is not supervised. An attorney represented the guardian in 5 cases but in no case for the ward. In 6 cases the report does not show an attorney appeared for anyone. The report does not



fees were allowed for either the guardians or administrators. The funds have been properly preserved and cared for in all cases.

### COWLEY COUNTY

1,112 square miles; population, 37,812; assessed value, \$60,251,269. Report made by Hon. Ellis Fink, probate judge for 2½ years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officers are employed; 70 juvenile cases were heard within the year and about 50 were pending. There were no habeas corpus cases. Two writs were made in district court cases, and there were no proceedings in aid of writs within the year. Twelve adoption proceedings were had, and 19 cases were heard within the year.

Estates of 44 deceased persons were closed within the year. In 9 cases the report was filed within 1 year after letters of administration were issued, 1 case from 1 to 2 years, in 2 cases from 2 to 3 years, and 1 from 3 to 4 years. In 27 of these there was a will, and in 17 cases decedent was intestate. In 29 cases bond was required of the executor or administrator and in 15 cases no bond was required; 28 bonds had been kept good. The inventory was filed within 60 days in 16 cases, after 60 days in 27 cases, and in 1 case no inventory was filed. Forty-four first annual reports have been filed. The total value of the 44 estates, as appraised, was \$653,852. In 41 cases attorneys represented the executors or administrators, in 23 cases the heirs or next of kin, and in 2 cases the report does not show an attorney appeared for anyone.

Fees amounting to \$5,598 were allowed for executors or administrators and \$5,570 for attorneys. In 37 cases the estates paid claims in full, and in 7 cases they did not pay claims in full.

Estates of 44 deceased persons were pending July 1, 1936. These have been pending less than 1 year, 28 less than 1 year, 9 from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, and 1 from 4 to 5 years. In 30 cases there was a will, and in 14 cases the deceased was intestate. In 26 cases bond was required, and in 18 cases no bond was required; all bonds had been kept good. In 16 cases the inventory was filed within 60 days, and in 28 cases after 60 days. The appraised value of 44 estates is \$1,279,098, and a part of 2 estates, not appraised, is estimated at \$53,500. In 9 cases first annual reports were filed, and in 35 cases such reports have not been filed. An attorney represented the executor or administrator in 36 cases, the heirs or devisees in 24 cases, and in 8 cases the report does not show that an attorney appeared for anyone.

There were no guardianship cases closed during the year.

There were 27 guardianship cases pending July 1, 1936. Of these, 9 had been pending less than 1 year, 5 from 1 to 2 years, 6 from 2 to 3 years, 2 from 3 to 4 years, and 5 longer than 10 years. These were estates of 17 minors, 4 persons, and 6 other incompetents. A guardian was also appointed for the person of the ward in 27 cases. The value of these estates is \$163,105. In 26 cases bond was required of the guardian, and all bonds have been kept good. The inventory was filed within 30 days in 13 cases, after 30 days in 6 cases, and in 8 cases no inventory was filed. In these cases 105 annual reports have been filed. The investment of the funds of the ward is supervised and approved by the court in 26 cases, and in one case there are no funds. An attorney appeared for the guardian in 21 cases, and in 2 cases for the ward. In 6 cases the report does not show an attorney appeared for anyone. Fees amounting

to \$315 were allowed for the guardian, and \$1,045 for attorneys. 7 funds have been properly preserved and cared for in 22 cases.

#### DONIPHAN COUNTY

Area, 379 square miles; population, 15,056; assessed value, \$19,06

Report made by Hon. John R. Bell, probate judge for 4 years. been no defalcations by guardians, executors or administrators with One juvenile officer is employed; 40 juvenile cases were heard within and 8 were pending. There were no habeas corpus cases; 2 orders in district court cases, and 2 proceedings in aid of execution within Two adoption proceedings were had, and 14 insanity cases were he the year.

Estates of 49 deceased persons were closed within the year. W these cases had been pending, 27 from 1 to 2 years, 10 from 2 to from 3 to 4 years, 3 from 4 to 5 years, 1 from 5 to 10 years, and 3 l 10 years. In 26 of these there was a will, and in 23 cases decedent tate. In 32 cases bond was required of the executor or adminis bonds had been kept good; in 17 cases no bond was required. The was filed within 60 days in 46 cases, and after 60 days in 3 cases. gate value of the 49 estates, as appraised, was \$705,235.30. The value of the property, not appraised, was \$5,465. In 20 cases attorn sented the executor or administrator, and in 12 cases the heirs o and in 27 cases the report does not show that an attorney appeared one. Fees amounting to \$4,655 were allowed for guardians or adm and \$2,300 for attorneys. Annual reports were filed in all cases. I the estate paid claims in full, and in 6 cases claims were not paid i 49 cases annual reports were filed.

Estates of 110 deceased persons were pending July 1, 1936. In 6 there was a will, and in 47 cases the deceased was intestate. In 67 was required of the executor or administrator; in all cases the bond kept good; in 43 cases no bond was required. In 104 cases the inve filed within 60 days, and in 6 cases after 60 days. The appraised these estates is \$1,411,272.33, and the estimated value of property, not is \$6,450. In 58 cases first annual reports have been filed; in 52 reports have not been filed. An attorney represented the executor istrator in 56 cases, and the heirs or devisees in 31 cases. In 49 report does not show that an attorney appeared for anyone. These been pending, 45 less than 1 year, 21 from 1 to 2 years, 15 from 2 t 10 from 3 to 4 years, 8 from 4 to 5 years, 10 from 5 to 10 years, and than 10 years.

There were 7 cases of guardianship estates of minors or other inc closed within the year. In 1 case the final report was filed within 1 letter of guardianship was issued, in 1 case from 1 to 2 years, in 2 2 to 3 years, and in 3 cases from 5 to 10 years. Of these estates minors, 3 of insane persons. In 5 cases a guardian was appointe person of the ward. The value of these estates as reported, is \$6, cases guardians were required to give bond, and in all cases bond kept good. The inventory was filed within 30 days in 2 cases, and no inventory was filed; 23 annual reports have been filed. Inve funds of the ward was supervised by the court in 7 cases. An att

for the guardian in 1 case, and for the ward in 1 case. Fees amounting to \$215 were allowed for guardians. In all cases the funds of the ward were properly accounted for and disbursed.

There were 49 guardianship estate cases pending July 1, 1936. Of these, 11 were pending less than 1 year, 6 from 1 to 2 years, 7 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, 15 from 5 to 10 years, and 6 for more than 10 years. These were estates of 26 minors, 20 insane persons, and 3 other dependents. A guardian was appointed for the person of the ward in 34 cases. The value of these estates is \$54,625. In 47 cases bond was required, in all cases bond has been kept good; in 2 cases no bond was required. An inventory has been filed within 30 days in 4 cases, after 30 days in 1 case, and in 44 cases no inventory was filed. In these cases 119 annual reports have been filed. The investment of funds of the ward is supervised by the court in 36 cases, and in 2 it is not. An attorney appeared for the guardian in 36 cases, and for the ward in 5 cases. In 42 cases the report does not show an attorney appeared for anyone. Fees amounting to \$600 were allowed for guardians, and \$150 for attorneys. The wards' funds have been properly cared for in 36 cases.

#### EDWARDS COUNTY

Area, 612 square miles; population, 6,902; assessed value, \$14,211,323. The report was made by Hon. W. N. Beezley, probate judge for 9 years. There have been no defalcations by guardians, executors, or administrators within the year. There were 2 juvenile officers employed part time as needed; 3 juveniles were heard within the year and none were pending. There were no corpus cases and no orders made in district court cases. There were no proceedings in aid of execution within the year. There were 3 adoption proceedings and 4 insanity cases heard within the year. There were 3 estates of 10 deceased persons were closed within the year. In 3 cases an annual report was filed within 1 year after letters of administration were granted, and in 7 cases in 1 to 2 years. In 6 cases there was a will, and in 4 cases the decedent was intestate. In 8 cases bond was required of the executor or administrator, and all bonds were kept good; in 2 cases no bond was required. An inventory was filed within 60 days in 6 cases, and after 60 days in 4 cases. There was 1 first annual report filed. The aggregate value of these estates as appraised, is \$87,080.72, and the estimated value of property not appraised was \$75,010. In all cases the executors or administrators were represented by attorneys, but in no cases were the heirs or devisees represented by attorneys. Fees amounting to \$2,567.25 were allowed for executors or administrators, and \$1,065 for attorneys. In all cases the estates paid claims in full. There were 35 estates of 35 deceased persons were pending July 1, 1936. In 24 cases there was a will, and in 11 cases the deceased was intestate. In these cases 11 had been pending for less than 1 year, 8 from 1 to 2 years, 3 from 2 to 3 years, 2 from 3 to 4 years, 3 from 4 to 5 years, and 2 longer than 10 years. In all cases bond was required of the executor or administrator, and all bonds were kept good; in 9 cases no bond was required. In 27 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 1 case inventory has not been filed. The appraised value of 32 of these estates was \$211,162.16, and the estimated value of property not appraised was \$460,798. There were 9 estates in which no property value is given. In 9 cases first annual reports

have been filed, and in 26 cases such reports have not yet been filed. In all cases an attorney represented the executor or administrator in all cases, and in 11 cases the heirs or devisees were represented by attorneys.

There were no guardianship estates of minors or other incompetents within the year.

There were 13 guardianship estates pending July 1, 1936. Of these 10 had been pending from 5 to 10 years, and 4 longer than 10 years. These estates were of 10 minors and 3 insane persons. A guardian was also appointed for the person of the ward in 11 cases, but in 2 cases no guardian was appointed for the person of the ward. The value of these estates, as appraised, is \$33,846.50. In all cases bond was required, and all bonds have been kept good. An inventory was filed within 30 days in 10 cases, after 30 days in 2 cases, and in 1 case no inventory had been filed. In these cases 9 reports have been filed. The investment of the funds of the ward was supervised by the court in all cases. An attorney appeared for the ward in 8 cases and in no case for the ward. In 5 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$680 were paid for guardians, and \$697.50 for attorneys. The report shows that the funds have been preserved and cared for in all cases.

#### ELK COUNTY

Area, 651 square miles; population, 8,504; assessed value, \$13,738,000.

Report made by Hon. W. M. Gibbons, probate judge for 1 year. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed; no juvenile cases were heard within the year. There were no habeas corpus cases; 2 orders were made in distribution cases; and no proceedings in aid of execution within the year. Two proceedings were had, and 9 insanity cases were heard within the year.

Estates of 16 deceased persons were closed within the year. In 2 cases the final report was filed within 1 year after letters of administration were granted, in 11 cases from 1 to 2 years, in 1 case from 2 to 3 years, in 1 case from 3 to 4 years, and in 1 case from 5 to 10 years. In 10 of these there was a will, and in 6 cases decedent was intestate. In 9 cases bond was required for the executor or administrator; all bonds had been kept good; in 7 cases no bond was required. The inventory was filed within 60 days in 12 cases, and after 60 days in 4 cases. The aggregate value of 16 of these estates, as appraised, is \$193,611.35. In 3 cases first annual report was filed. In 8 cases an attorney represented the executor or administrator; in 3 cases the heirs or devisees were represented. In 7 cases the report does not show an attorney appeared for anyone. Fees amounting to \$448.16 were allowed for executors or administrators, and \$1,743.37 for attorneys. In 14 cases estate paid claims in full, and in 2 cases claims were not paid in full.

Estates of 56 deceased persons were pending July 1, 1936. In 31 cases there was a will, and in 25 cases the deceased was intestate. In 30 cases bond was required of the executor or administrator, and in all cases bond has been kept good; in 26 cases no bond has been required. In 51 cases the inventory was filed within 60 days, in 3 cases after 60 days, and in 2 cases no inventory has been filed. The appraised value of these estates is \$653,851.43, and the estimated value of the property not appraised is \$11,030.50. In 16 cases annual reports have been filed; and in 40 cases such reports have not been

An attorney represented the executor or administrator in 30 cases; the devisees in 2 cases, and in 26 cases the report does not show an attorney appeared for anyone. These cases have been pending, 29 for less than 1 year, 7 from 1 to 2 years, 2 from 2 to 3 years, 5 from 3 to 4 years, 2 from 4 to 5 years, 5 from 5 to 10 years, and 6 for more than 10 years.

There were 3 guardianship estates of minors or other incompetents closed within the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, and in 2 cases final reports were filed after 10 months. 2 of these estates were of minors and 1 of an incompetent person. In 1 case a guardian was appointed for the person of the ward. The value of the estates, as reported, is \$4,203. Three guardians were required to give bond, and all have kept bonds good. The inventory was filed within 30 days in 2 cases, and in 1 case no inventory has been filed. Nine annual reports have been filed. Investment of funds of the ward was supervised by the court in all cases.

An attorney appeared for the guardian in 1 case, and in no case for the ward. Fees amounting to \$10 were allowed for the guardian and \$10 for the ward. In all cases the funds of the ward were properly accounted for and all have been paid.

There were 22 guardianship estate cases pending July 1, 1936. Of these, 8 were pending less than 1 year, 2 from 1 to 2 years, 1 from 2 to 3 years, 3 from 3 to 4 years, 5 from 5 to 10 years, and 3 for more than 10 years. These were estates of 18 minors, and 4 insane persons. A guardian was appointed for the person of the ward in 18 cases. The value of these estates is \$25,343.76. In 18 cases bond was required of the guardian, and in all cases bond has been kept good. An inventory was filed within 30 days in 14 cases; after 30 days in 3 cases; and in 3 cases no inventory had been filed. In these cases 41 annual reports have been filed. The investment of the funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in 1 case, and in 19 cases the report does not show an attorney appeared for the ward. Fees amounting to \$359 were allowed for guardians, and \$60 for attorneys. The wards' funds have been properly cared for in all cases.

#### ELLIS COUNTY

Area, 900 square miles; population, 15,928; assessed value, \$19,520,676. Report made by Hon. Peter Holzmeister, probate judge for 3 years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed; 3 juvenile cases were heard within the year and none were pending. There was 1 habeas corpus case in which writ was allowed; 1 order was made in district court case; there were no writs of mandamus in aid of execution within the year; 2 adoption proceedings were heard and 2 insanity cases were heard within the year.

Reports of 33 deceased persons were closed within the year. In 4 cases the reports were filed within 1 year after letters of administration were issued, 1 case in from 1 to 2 years, 3 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, and 3 from 5 to 10 years. In 23 cases there was a will and in 10 cases decedent was intestate. In 14 cases bond was required of the executor or administrator, and in 19 cases no bond was required. The report does not state how many bonds were kept good. The inventory was filed within 60 days in 24 cases, and after 60 days in 9 cases. No first annual reports were filed. The aggregate value of these estates, as appraised, was

\$654,604.90. In 14 cases an attorney represented the executor or administrator but in no case were the heirs or devisees represented. In 20 cases the report does not show an attorney appeared for anyone. Fees amounting to \$4,920 were allowed for executors or administrators, and \$4,920 for attorneys. In 26 cases the estates paid claims in full, and in 26 cases report does not show whether or not claims were paid in full.

Estates of 42 deceased persons were pending July 1, 1936. All have been pending from 1 to 2 years. In 25 cases there was a will and in 17 the deceased was intestate. In 9 cases bond was required of the executor or administrator, and in 3 cases bond has been kept good. In 33 cases the report does not show that bond was required. In 23 cases the inventory was filed within 60 days, in 8 cases after 60 days, and in 11 cases no inventory was filed. The appraised value of these estates is \$584,336.35. In 18 cases first annual reports have been filed, and in 18 cases no such reports have been filed. In 18 cases an attorney represented the executor or administrator, in 2 cases an attorney represented the heirs or devisees, and in 22 cases the report does not show an attorney appeared for anyone.

There were 2 guardianship estates of minors closed within the year. In each case final report was filed within 1 year after letters of guardianship were issued, and 1 case had been pending from 3 to 4 years. A guardian was appointed for the person of the ward in each case. The value of the estates, as reported, is \$859.84. In both cases the guardians were required to post bonds, and both bonds have been kept good. No inventory was filed in either case. Two annual reports have been filed. Investment of funds of the wards was supervised by the court in both cases. In 2 cases the wards were represented by attorneys, but in neither case were the guardians represented by attorneys. The report does not show any fees allowed for guardians or attorneys. In both cases the wards' funds were properly accounted for and disbursed.

There were 22 guardianship cases pending July 1, 1936. Of these 11 have been pending less than 1 year, and 1 from 5 to 10 years. These wards consist of 15 minors and 7 other incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$11,043. In 22 cases bond was required of the guardian; 12 bonds have been kept good. In 10 cases the report does not state whether or not bond was kept good. An inventory was filed within 30 days in 10 cases, after 30 days in 5 cases, and in 5 cases no inventory was filed. No annual reports have been filed. The investment of funds of the ward is not supervised by the court in any case. An attorney appeared for the guardian in 15 cases, and in no case for the ward. In 7 cases the report does not show an attorney appeared for anyone. No fees were allowed for guardians, but fees amounting to \$280 were allowed for attorneys. The report does not state whether ward's funds have been properly cared for or not.

#### ELLSWORTH COUNTY

Area, 720 square miles; population, 10,349; assessed value, \$23,740,000.

Report made by Hon. Frank Vitek, probate judge for 7 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed, 9 juvenile cases were heard within the year. There were no habeas corpus cases. One order was made in dis-  
tinction

no proceedings in aid of execution were made within the year. Four proceedings were had, and 5 insanity cases were heard within the

cases of 26 deceased persons were closed within the year. In 4 cases the report was filed within 1 year after letters of administration were issued, 1 from 1 to 2 years, and in 1 from 3 to 4 years. In 16 of these there was a will, and in 10 cases decedent was intestate. In 13 cases bond was required of the executor or administrator; all bonds had been kept good; in 13 cases no bond was required. The inventory was filed within 60 days in 21 cases, after 60 days in 4 cases, and in 1 case no inventory was filed. The aggregate value of 25 of these estates as appraised, was \$240,310. The estimated value of property not appraised was \$2,309.70.

In 25 cases attorneys represented the executor or administrator, and in 3 cases the heirs or devisees. In 1 case the report does not show an attorney for anyone. Fees amounting to \$1,120 were allowed for executors and administrators, and \$1,996 for attorneys. In 23 cases the estate paid claims and in 3 cases it did not.

Of 59 deceased persons were pending July 1, 1936. In 41 of these cases a will and in 18 the deceased was intestate. In 32 cases bond was required; all bonds have been kept good; in 27 cases no bond was required. In 32 cases the inventory was filed within 60 days; in 3 cases after 60 days, and in 7 cases no inventory has been filed. The appraised value of these estates was \$941,702, and the estimated value of property not appraised is \$29,538. In 51 cases first annual reports have been filed; in 51 cases such reports have not been filed. An attorney represented the executor or administrator in 52 cases, the heirs or devisees in 3 cases; and in 7 cases the report does not show an attorney appeared for anyone. These cases have been pending: 32 for less than 1 year, 11 from 1 to 2 years, 12 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, and 1 from 5 to 10 years.

There were 4 guardianship estates of minors, or other incompetents, closed within the year. In 2 cases final report was filed within 1 year after letters of guardianship were issued, in 1 case in 1 to 2 years, and 1 case in 5 to 10 years. Of these estates 1 was of a minor, 1 of an insane person, and 2 of incompetents. The value of these estates, as reported, is \$9,517.66. Three cases were required to give bond; all bonds have been kept good; in 1 case no bond was required. The inventory was filed within 30 days in 2 cases, and in 2 cases no inventory was filed. Ten annual reports have been filed. The management of funds of the ward were supervised by the court in no case. An attorney appeared for the guardian in 3 cases. Fees amounting to \$150 were allowed for guardians, and \$75 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 37 guardianship estate cases pending July 1, 1936; of these, 5 cases were pending less than 1 year, 9 from 1 to 2 years, 4 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 11 from 5 to 10 years, and 1 longer than 10 years. These were estates of 29 minors and 8 other incompetents. A guardian was not appointed for the person of the ward in any case. The aggregate value of these estates is \$74,906.55. In 33 cases bond was required of the guardian, and in 4 cases no bond was required; in all cases the bond has been kept good. An inventory was filed within 30 days in 5 cases, after 30 days in

1 case, and in 31 cases no inventory was filed. In these cases 90 ann have been filed. An attorney appeared for the guardian in 23 cases cases the report does not show an attorney appeared for anyone. fees paid to guardians were \$1,253.78, and to attorneys \$480. The w have been properly cared for in all cases.

#### FINNEY COUNTY

Area, 1,296 square miles; population, 10,284; assessed value, \$15,

Report made by Hon. Edgar Foster, probate judge for 5 years. been no defalcations by guardians, executors, or administrators year. One juvenile officer is employed part time; no juvenile heard within the year. There were 3 habeas corpus cases heard year; in 2 writs were allowed, and in 1 case writ was denied. Se were made in district court cases. No proceedings in aid of execo heard within the year. Two adoption proceedings were had, and cases were heard within the year.

Estates of 11 deceased persons were closed within the year. W these cases had been pending, 10 from 1 to 2 years, and 1 longer tha In 9 of these there was a will, and in 2 cases the decedent was inte 7 cases bond was required of the executor or administrator; all been kept good; in 4 cases no bond was required. The inventory within 60 days in 7 cases; after 60 days in 3 cases, and in 1 case no was filed. The aggregate value of these estates, as appraised, was No first annual reports were filed. In 11 cases attorneys repres executor or administrator. Fees amounting to \$407.52 were allowed or administrators and \$505.78 for attorneys. Estates paid claims in cases.

Estates of 50 deceased persons were pending July 1, 1936. In 2 there was a will, and in 28 cases the deceased was intestate. In 39 was required of the executor or administrator; all bonds have been k in 11 cases no bond was required. In 42 cases the inventory was fi 60 days, in 5 cases after 60 days, and in 3 cases no inventory has been appraised value of these estates is \$316,245.26. In 6 cases first annu have been filed; in 44 cases such reports have not been filed. An represented the executor or administrator in 46 cases, and in 4 report does not show that an attorney appeared for anyone. These been pending: 29 less than 1 year, 7 from 1 to 2 years, 7 from 2 to from 3 to 4 years, and 3 from 4 to 5 years. There was 1 guardians of a minor closed within the year. This had been pending from 2 t A guardian was appointed for the person of the ward in this case. of this estate was \$1,410. Guardian was required to give bond. In no inventory was filed, and no annual reports were filed. Investmen of the ward was not supervised by the court in this case. An attor sented the guardian in this case, but no attorney appeared for the w funds of the ward were properly accounted for and disbursed.

There were 14 guardianship estate cases pending July 1, 1936. C had been pending less than 1 year, 2 from 1 to 2 years, 3 from 2 t 4 from 3 to 4 years, 1 from 4 to 5 years, and 1 from 5 to 10 years. T estates of 10 minors and 4 other incompetents. A guardian was



the person of the ward in 14 cases. The value of these estates is \$74,-. In 13 cases bond was required of the guardian, and in 1 case no bond required; in all cases the bond has been kept good. An inventory was within 30 days in 5 cases, after 30 days in 4 cases, and in 5 cases no inventory was filed. Eleven annual reports have been filed. The investment of the ward was supervised by the court in 5 cases, and in 9 cases it. An attorney appeared for the guardian in 8 cases, but in no case for ward. In 6 cases the report does not show an attorney appeared for anyone. No fees have been allowed for guardians. Attorneys' fees amounted to. The wards' funds have been properly cared for in 5 cases.

#### FORD COUNTY

area, 1,080 square miles; population, 18,913; assessed value, \$29,304,141. Report made by Hon. Richard W. Evans, probate judge for 8 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed. Fifteen juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases. Twelve cases were made in district court cases, and there were no proceedings in aid of execution within the year. Ten adoption proceedings were had and 10 cases were heard within the year. Estates of 30 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, 6 cases from 1 to 2 years, in 6 cases from 2 to 3 years and in 2 cases from 3 to 4 years. In 17 cases there was a will and in 13 cases decedent was intestate. In 24 cases bond was required of the executor or administrator; all had been kept good; in 6 cases no bond was required. The inventory was filed within 60 days in 17 cases and after 60 days in 13 cases. In all cases annual reports were filed. The aggregate value of 29 of these estates assessed, was \$312,041.92. In 25 cases attorneys represented the executor or administrator; in 1 case the heirs or legatees, and in 4 cases the report does not show an attorney appeared for anyone. Fees amounting to \$3,854.24 were paid for executors or administrators and \$1,265 for attorneys. In 26 cases estates paid claims in full and in 4 cases they did not pay claims in full. Estates of 105 deceased persons were pending July 1, 1936. Of these, 35 were pending less than 1 year, 16 from 1 to 2 years, 16 from 2 to 3 years, 13 from 3 to 4 years, 10 from 4 to 5 years, and 19 from 5 to 10 years. In 56 of these cases there was a will, and in 49 cases the deceased was intestate. In 78 cases bond was required of the executor or administrator; in 77 cases bond has been kept good, and in 1 case bond was not kept good; in 27 cases no bond was required. In 45 cases the inventory was filed within 60 days, in 25 cases after 60 days and in 35 cases no inventory was filed. The appraised value of 70 of these estates is \$993,368.63, and the estimated value of the property not appraised is \$3,832.50. In 17 cases first annual reports have been filed; in 88 cases such reports have not been filed. An attorney represented the executor or administrator in 72 cases, the heirs or devisees in 4 cases, and in 33 cases the report does not show an attorney appeared for anyone. There were 7 guardianship estates of minors or other incompetents closed within the year. Of these, 1 had been pending from 1 to 2 years and 6 from 2 to 3 years. Two of the estates were of minors, 1 of an insane person and 4 of incompetent persons. In 7 cases a guardian was appointed for the person of

the ward. The value of 1 estate is \$285.64, 1 is of no value, and the others show that there has been no inventory taken in 5 cases. Seven guardians were required to give bond, and all bonds have been kept good. In 10 cases inventory was filed after 30 days. Twenty-one annual reports have been filed. Investment of funds of the wards was supervised by the court in 26 cases. Attorneys did not appear for anyone in any case. Fees amounting to \$527.35 were allowed for guardians. In all cases the funds of the ward were properly preserved and accounted for and disbursed.

There were 94 guardianship estate cases pending July 1, 1936. Of these 10 had been pending less than 1 year, 12 from 1 to 2 years, 14 from 2 to 3 years, 8 from 3 to 4 years, 12 from 4 to 5 years, 36 from 5 to 10 years, and 10 longer than 10 years. These were the estates of 73 minors, 13 insane persons, and 8 other incompetents. In all cases a guardian was also appointed, and in 10 cases a person of the ward. The value of 10 of these estates is \$45,059.12, 1 is of no value, and in 83 cases there has been no inventory. In 86 cases bond was required of the guardian, and all bonds were kept good; in 8 cases no bond was required. An inventory was filed within 30 days in 6 cases, and after 30 days in 5 cases. In these cases 14 annual reports have been filed. The investment of funds of the ward is supervised by the court in 26 cases and in 68 cases it is not supervised. An attorney appeared for the guardian in 22 cases, and in no case for the ward. In 72 cases the report does not show an attorney appeared for anyone. Fees amounting to \$527.35 have been allowed for guardians, and the report does not show that any fees have been allowed for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### FRANKLIN COUNTY

Area, 576 square miles; population, 21,305; assessed value, \$31,889,000.

Report made by Hon. Clive Owen, probate judge for 6 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed. Two juvenile cases were heard within the year and none were pending. There were no habeas corpus cases. Five adoptions were made in district court cases. There were no proceedings in aid of execution within the year. Four adoption proceedings were had, and 11 cases were heard within the year.

Estates of 60 deceased persons were closed within the year. In 11 cases the final report was filed within 1 year after letters of administration were granted, in 35 cases in 1 to 2 years, in 4 cases in 2 to 3 years, in 2 cases in 3 to 4 years, in 3 cases in 4 to 5 years, in 1 case in 5 to 10 years, and 4 cases more than 10 years. In 34 cases there was a will and in 26 cases the decedent was insane. In 38 cases bond was required of the executor or administrator, and all bonds have been kept good; in 22 cases no bond was required. The inventory was filed within 60 days in 50 cases and after 60 days in 10 cases. Four annual reports have been filed. The aggregate value of 53 of these estates as appraised, was \$535,191.38. The estimated value of 26 estates, not appraised, was \$118,422.30. In 23 cases attorneys appeared for the executor or administrator; in no case for the heirs or devisees, and in 37 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,735 were allowed for executors or administrators and \$3,735 for attorneys. In 10 cases the estates paid claims in full, and in 5 cases they did not pay in full.

Estates of 133 deceased persons were pending July 1, 1936. These cases

ending, 82 of them less than 1 year, 22 from 1 to 2 years, 8 from 2 to 3 years, 8 from 3 to 4 years, 8 from 4 to 5 years, 6 from 5 to 10 years, and 2 for more than 10 years. In 77 of these there was a will and in 63 the deceased was sane. In 90 cases bond was required, and all bonds were kept good; in 13 cases no bond was required. In 103 cases the inventory was filed within 60 days, in 18 cases after 60 days and in 12 cases no inventory was filed. The assessed value of 111 of these estates is \$657,787.10 and the estimated value of the portion not appraised is \$285,990.57. In 16 cases first annual reports have been filed; in 117 cases such reports have not been filed. An attorney appeared for the executor or administrator in 66 cases; the heirs or devisees in 10 cases, and in 67 cases the report does not show an attorney appeared for

There were 12 guardianship estates of minors or other incompetents closed during the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, in 1 case in 1 to 2 years, in 2 cases in 2 to 3 years, in 3 cases in 3 to 4 years, in 2 cases in 4 to 5 years, in 2 cases in 5 to 10 years, and in 3 cases more than 10 years. Of these estates 8 were minors, 1 of insane, and 3 of incompetent persons. In 10 cases a guardian was appointed for the person of the ward. The value of these estates as reported, is \$21,185.58. In 10 cases guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 8 cases and after 30 days in 4 cases. Thirty-four annual reports have been filed. In all cases investment of the funds of the wards was supervised by the court. No attorney appeared for the guardian or ward in any case. Fees amounting to \$690 were allowed for guardians. In all cases the funds of the wards were properly accounted for and reported.

There were 114 guardianship estate cases pending July 1, 1936. Of these 17 were pending less than 1 year, 14 from 1 to 2 years, 9 from 2 to 3 years, 7 from 3 to 4 years, 13 from 4 to 5 years, 27 from 5 to 10 years, and 27 longer than 10 years. These were estates of 79 minors, 18 insane persons and 17 other incompetents. A guardian was also appointed for the person of the ward in 10 cases. The value of 105 of these estates is \$315,364.81. In 112 cases bond was required of the guardian, and in 2 cases no bond was required; in all cases bonds have been kept good. An inventory was filed within 30 days in 49 cases, after 30 days in 22 cases, and in 43 cases no inventory was filed. In these cases annual reports have been filed. The investment of funds of the ward was supervised by the court in 82 cases, and in 32 cases it is not supervised by the court. An attorney appeared for the guardian in 17 cases and in 1 case for the ward. In 97 cases the report does not show an attorney appeared for the guardian.

The wards' funds have been preserved and cared for in 87 cases, they have not been preserved and cared for in 2 cases, and in 25 cases there is no report to show whether they have been properly cared for or not. Fees amounting to \$7,368 have been allowed for guardians and \$341 for attorneys.

#### GEARY COUNTY

407 square miles; population, 12,153; assessed value, \$15,704,399.

Report made by Hon. Wm. W. Pease, probate judge for 4 years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed; eight juvenile cases were pending. No proceedings were made in district court cases, and no proceedings in aid of

execution within the year. Five adoption proceedings were had, sanity cases were heard within the year.

Estates of 28 deceased persons were closed within the year. In 2 final report was filed within 1 year after letters of administration were issued, in 19 cases from 1 to 2 years, in 5 cases from 2 to 3 years, in 1 case from 3 to 4 to 5 years, and in 1 case more than 10 years. In 9 of these there was no case the decedent was intestate. In 18 cases bond was required for the executor or administrator, and in all cases bonds had been kept good. In 10 cases no bond was required. The inventory was filed within 60 days in 19 cases, and in 9 cases after 60 days. The aggregate value of these estates as appraised, was \$541,161.66. First annual report has not been filed in 1 case. In 28 cases attorneys represented the executor or administrator, in no case the heirs or devisees. The report does not show that any fees were allowed for guardians or attorneys. In 26 cases the estate paid claims, in 2 cases claims were not paid in full.

Estates of 33 deceased persons were pending July 1, 1936. In 14 cases have been pending less than 1 year; in 14 of these there was no case the deceased was intestate. In 16 cases bond was required for the executor or administrator; in all cases bond has been kept good. In 19 cases no bond was required. In 19 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 7 cases no inventory was filed. The appraised value of these estates is \$300,754.62. In all cases an attorney represented the guardian or administrator, but in no case was the heir or devisee represented. First annual reports have not been filed in any case.

There were 2 guardianship estates of insane persons closed within the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, and in 1 case more than 10 years after it was issued. In 1 case the guardian was appointed for the person of the ward. The value of the ward as reported, is \$15,050. In both cases guardians were required to give bonds, and in both cases bonds have been kept good. The inventory was filed within 60 days in 1 case, and in 1 case no inventory was filed. Eighteen annual reports have been filed. Investment of funds of the ward has been supervised by the court in both cases. Attorneys appeared for the guardian in both cases, amounting to \$610 were allowed for guardians. In both cases the ward were properly accounted for and disbursed.

There were 19 guardianship estate cases pending July 1, 1936. Of these 14 had been pending less than a year, 8 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 5 years, and 1 for more than 10 years. These were 19 minors. A guardian was appointed for the person of the ward in 19 cases. The value of 15 of these estates is \$18,852. In 17 cases bond was required for the guardian, and all bonds have been kept good; in 2 cases no bond was required. An inventory was filed within 30 days in 3 cases, after 30 days in 4 cases, and in 12 cases no inventory was filed. In these cases 14 annual reports have been filed. The investment of the funds of the ward was supervised by the court in 3 cases and in 16 cases it is not. An attorney appeared for the guardian in each case, but for the ward in no case. The report does not show that any fees were allowed for guardians or attorneys. The wards' funds have been properly cared for in all cases.

## GOVE COUNTY

a, 1,080 square miles; population, 5,669; assessed value, \$8,996,057. Report made by Hon. George F. Turner, probate judge for 10 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed, no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases, no proceedings made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had. Two insanity cases were heard within the year. The estates of 9 deceased persons were closed within the year. In 3 cases a final report was filed within 1 year after letters of administration were granted, in 2 cases in 1 to 2 years, in 1 case in 2 to 3 years, in 2 cases in 3 to 4 years, and in 1 case in 5 to 10 years. In 5 cases there was a will, and in 4 cases decedent was intestate. In 6 cases bond was required of the executor or administrator, and all bonds were kept good; in 3 cases no bond was required. In 7 cases the inventory was filed within 60 days and in 2 cases within 90 days. In these cases 3 first annual reports were filed. The aggregate value of these estates, as appraised, was \$162,488. In 4 cases attorneys represented the executor or administrator, but in no cases were the heirs or devisees represented by attorneys. In 5 cases the report does not show an attorney represented for anyone. Fees amounting to \$2,150 were allowed for executors or administrators, and \$100 for attorneys. In 8 cases the estates paid claims in full and in 1 case the estate did not pay claims in full. The estates of 32 deceased persons were pending July 1, 1936. In these cases 16 have been pending less than 1 year, 6 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, and 6 from 5 to 10 years. In 11 of these there was a will, and in 24 cases decedent was intestate. In 28 cases bond was required of the executor or administrator, and all bonds were kept good; in 4 cases no bond was required. The inventory was filed within 60 days in 19 cases, and after 60 days in 12 cases. In 1 case no inventory was filed. The appraised value of these estates is \$68,101.53, and the estimated value of the property not appraised is \$232,850. In these cases 8 annual reports have been filed. In 13 cases these reports are not due, and in 11 cases such reports have not been filed. An attorney represented the executor or administrators in 8 cases, and in 3 cases the administrators are represented by attorneys. In 3 cases the heirs or devisees were represented by attorneys, and in 20 cases the report does not show an attorney appeared for anyone. There were no guardianship estates of minors or other incompetents closed within the year.

There were 31 guardianship estates of minors or other incompetents that have been pending from 5 to 10 years, but detailed report is not given.

## GRAHAM COUNTY

a, 900 square miles; population, 7,303; assessed value, \$9,336,271. Report made by Hon. E. L. McClure, probate judge for 11 years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; no juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no orders

made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had, and 6 insanity cases were within the year.

Estates of 4 deceased persons were closed within the year. In 3 cases final report was filed within 1 year after letters of administration were granted and in 1 case from 4 to 5 years. In 1 of these there was a will, and in the other 3 the decedent was intestate. In all cases bond was required of the executor or administrator; all bonds had been kept good. The inventory was filed within 60 days in 3 cases, and in 1 case no inventory was filed. No first annual reports have been filed. The aggregate value of 3 of these estates, as appraised, was \$14,620. The estimated value of 1 estate, not appraised, was \$8,000. The report does not show that an attorney appeared for anyone in any case. Fees amounting to \$56.50 were allowed for executors or administrators. In all cases the estates paid claims in full.

Estates of 27 deceased persons were pending July 1, 1936. In these 13 had been pending less than 1 year, 2 from 1 to 2 years, 8 from 2 to 3 years, 3 from 3 to 4 years, and 1 from 5 to 10 years. In 17 of these there was a will and in 10 the deceased was intestate. In 16 cases bond was required of the executor or administrator, and all bonds had been kept good; in 11 cases no bond was required. In 19 cases the inventory was filed within 60 days, and in 7 cases no inventory was filed. The appraised value of 22 of these estates is \$158,563.95, and the estimated value of 5 estates not appraised is \$7,700. In 3 cases first annual reports have been filed. In 14 cases the report does not show that any first annual reports have been filed. An attorney represented the executor or administrator in 7 cases, but in no case the heirs or devisees. In 20 cases the report does not show an attorney appeared for anyone.

There was 1 guardianship estate of a minor closed within the year. It had been pending for 7 years. In this case a guardian was appointed for the person of the ward. The value of this estate, as reported, is \$6,000. Bond of the guardian was required to give bond, and kept his bond good. No inventory was filed in this case. Six annual reports were filed. Investment of funds of the ward was supervised by the court in this case. Neither guardian nor ward was represented by an attorney, and no fees were allowed for the guardian. The funds of the ward were properly accounted for and disbursed.

There were 3 guardianship estate cases pending July 1, 1936. Of these 1 had been pending from 5 to 10 years, and 2 longer than 10 years; 2 of these were estates of insane persons and 1 of an incompetent person. In no case was a guardian appointed for the person of the ward. The value of these estates is \$5,260. In all cases the guardian was required to give bond, and all bonds were kept good. An inventory was filed within 30 days in 1 case, and in no case no inventory was filed. Twenty-two annual reports were filed. The investment of funds of the ward is supervised by the court in 2 cases and in 1 case is not supervised by the court. An attorney appeared for the guardian in 1 case, but in no case for the ward. In 2 cases the report does not show that an attorney appeared for anyone. Fees of \$200 have been allowed for attorney in 1 case, and \$200 per year for guardian in this case. The wards' funds have been properly preserved and cared for in 2 cases.

## GRANT COUNTY

a, 576 square miles; population, 2,341; assessed value, \$5,532,632. Report made by Hon. Dorothy Brown, probate judge for 2 years. There were no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases, no orders in district court cases, and no proceedings in aid of execution within the year. No adoption cases were had and no insanity cases were heard within the year.

Estates of deceased persons were closed within the year.

Estates of 4 deceased persons were pending July 1, 1936. All of these had been pending less than 1 year. In 1 case there was a will and in 3 cases the deceased was intestate. In 3 cases bond was required of the executor or administrator, and all bonds were kept good; in 1 case no bond was required. In 1 case the inventory was filed within 60 days. The appraised value of these estates is \$41,046.64. In 1 case the value was not given. First annual reports have not been filed in any case. An attorney represented the executor or administrator in all cases, but in no cases were the heirs or devisees represented by attorneys.

There were no guardianship estates of minors or other incompetents closed within the year, and none were pending on July 1, 1936.

## GRAY COUNTY

a, 864 square miles; population, 5,189; assessed value, \$11,053,578. Report made by Hon. Edith M. Johnston, probate judge for 5½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed; 5 juvenile cases were heard within the year, and 5 were pending. There were no habeas corpus cases; no order was made in district court case, and there were no proceedings in aid of execution within the year. Two adoption proceedings were had and 12 juvenile cases heard within the year.

Estates of 11 deceased persons were closed within the year. When closed, 5 had been pending from 1 to 2 years, and 1 case from 2 to 3 years. In 6 cases there was a will and in 5 cases decedent was intestate. In 9 cases bond was required of the executor or administrator, and all bonds had been kept good; in 2 cases no bond was required. The inventory was filed within 60 days in 9 cases, and after 60 days in 2 cases. No first annual reports were filed. The aggregate value of 11 estates as appraised, was \$183,975.57. The appraised value of part of one estate that was not appraised, was \$100. In 1 case an attorney appeared for the executor or administrator, but in no case were the heirs or devisees represented.

Estates of 33 deceased persons were pending July 1, 1936. These have been pending, 16 less than 1 year, 7 from 1 to 2 years, 4 from 2 to 3 years, 4 from 3 to 4 years, 1 from 4 to 5 years, and 1 longer than 10 years. In 15 of these cases there was a will, and in 18 the deceased was intestate. In 22 cases bond was required of the executor or administrator, and all bonds had been kept good; in 11 cases no bond was required. In 16 cases the inventory was filed within 60 days, and in 13 cases after 60 days. In 4 cases no inventory was filed. The appraised value of 29 of these estates is \$418,156.61. In 4 cases first annual

reports have been filed. In 25 cases such reports have not been filed. An attorney represented the executor or administrator in 32 cases and the ward or devisees in 1 case. An attorney did not appear for anyone in 1 case.

There was 1 guardianship estate of a minor closed within the year. It had been pending for five years. A guardian was appointed for the person of the ward in this case. The value of the estate, as reported, was \$100. The guardian was required to give bond, and had kept his bond good. The report was filed within 30 days, and 3 annual reports have been filed. The management of funds of the ward was supervised by the court. An attorney appeared for the guardian in this case but none for the ward. No fees were allowed for the guardian or attorney. The report does not show whether or not funds of the ward were properly accounted for and disbursed.

There were 25 guardianship estate cases pending July 1, 1936. Of these, 1 had been pending less than 1 year, 5 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 5 from 5 to 10 years. There were 12 estates of 12 minors, 6 insane persons and 7 other incompetents. A guardian was also appointed for the person of the ward in 25 cases. The total value of these estates is \$74,304.91. In 25 cases bond was required of the guardian, and all bonds have been kept good. An inventory was filed within 30 days in 20 cases, after 30 days in 4 cases and in 1 case no inventory has been filed. Thirty-eight annual reports have been filed. The investment of the funds of the ward is supervised in 17 cases, and in 8 cases it is not supervised. An attorney appeared for the guardian in 12 cases, but in no case for the ward. In 13 cases the report does not show an attorney appeared for anyone. In 17 cases the wards' funds have been properly preserved and cared for in 17 cases. The total amounting to \$2,927.41 have been allowed for guardians and \$207.50 for attorneys.

#### GREELEY COUNTY

Area, 780 square miles; population, 1,709; assessed value, \$4,451,000.

Report made by Hon. J. G. Ridlen, probate judge for 3 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases; no proceedings made in district court cases; no proceedings in aid of execution; no proceedings, and no insanity cases were heard within the year.

No estates of deceased persons were closed within the year.

Estates of 9 deceased persons were pending July 1, 1936. The estates had been pending, 3 less than 1 year, 3 from 1 to 2 years, 2 from 2 to 3 years, and 1 from 5 to 10 years. In 5 of these there was a will and in 4 the deceased was intestate. In 2 cases bond was required of the executor or administrator, and both bonds have been kept good; in 7 cases no bond was required. Inventory was filed within 60 days in 2 cases, after 60 days in 3 cases, and in 5 cases no inventory was filed. The appraised value of these estates is \$9,324.60, and the estimated value of property not appraised is \$7,800. In 2 cases first annual reports have been filed, and in 7 cases second annual reports have been filed. An attorney represented the executor or administrator in 7 cases, the heirs or devisees in 1 case and in 2 cases the report does not show an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents pending within the year.



There were 2 guardianship estate cases pending July 1, 1936. Of these, 1 was pending from 1 to 2 years and 1 from 5 to 6 years. Both were estates of minors. A guardian was not appointed for the person of the ward in either case. The value of these estates is \$5,200. In both cases bond was required of the guardian, and both bonds have been kept good. In both cases inventories were filed after 30 days. Five annual reports have been filed. The investment of funds of the ward is supervised by the court in both cases. Neither guardians nor wards were represented by an attorney in either case. No fees were allowed for guardians. The wards' funds have been properly cared for in both cases.

### GREENWOOD COUNTY

There are 1,155 square miles; population, 17,608; assessed value, \$31,069,481. The report made by Hon. Roy L. Hamlin, probate judge for 6 years. There have been no defalcations by guardians, executors or administrators within the year. There were 2 juvenile officers employed. There were 19 juvenile cases heard within the year; of this number 3 cases are pending. There were 10 corpus cases heard within the year. There were 7 orders made in execution of court cases. There were no proceedings in aid of execution within the year. There were 2 adoption proceedings and 11 insanity cases heard within the year.

There were 49 deceased persons were closed within the year. In 7 cases the final report was filed within 1 year after letters of administration were issued, in 20 cases from 1 to 2 years, in 9 cases from 2 to 3 years, in 4 cases from 3 to 4 years, in 5 cases from 4 to 5 years, in 2 cases from 5 to 10 years and in 2 cases longer than 10 years. In 23 cases there was a will, and in 26 cases decedent was intestate. In 37 cases bond was required of the executor or administrator, and all bonds were kept good; in 12 cases no bond was required. The inventory was filed within 60 days in 35 cases, after 60 days in 13 cases, and in 1 case no inventory was filed. There were 60 first annual reports filed. The aggregate value of 47 of these estates, as appraised, was \$1,249.30, and the estimated value of property not appraised was \$11,000. In 2 cases the value was not given. In 9 cases attorneys represented the executor or administrator, and in 5 cases the heirs or devisees. In 38 cases the report does not show an attorney appeared for anyone. Fees amounting to \$5,955.16 were allowed for executors or administrators, and \$1,451.05 for attorneys. In 46 cases the estates paid claims in full and in 3 cases they

There were 153 deceased persons were pending July 1, 1936. In 73 cases there was a will and in 80 cases the deceased was intestate. In 48 cases the final report was filed within 1 year, in 17 cases from 1 to 2 years, in 16 cases from 2 to 3 years, in 16 cases from 3 to 4 years, in 9 cases from 4 to 5 years, in 24 cases from 5 to 10 years, and in 23 cases after 10 years. In 10 cases bond was required of the executor or administrator, and all bonds were kept good; in 40 cases no bond was required. In 69 cases the inventory was filed within 60 days, in 60 cases after 60 days, and in 24 cases no inventory was filed. The appraised value of 127 estates was \$1,911,974.98 and the estimated value in the same cases was \$14,275.02. There were 26 cases in which no property value was given. In 30 cases first annual reports

had been filed, and in 123 cases such reports had not been filed. A represented the executor or administrator in 41 cases, the heirs or 9 cases, and in 111 cases the report does not show an attorney appearing for anyone.

There were 11 guardianship estates of minors or other incompetents within the year. In 1 case the final report was filed within 1 year, 4 of guardianship were issued, in 1 case from 3 to 4 years, in 1 case from 4 to 5 years, in 5 cases from 5 to 10 years, and in 3 cases more than 10 years. All 11 cases were of minors. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$196,021.20. In all cases guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 1 case, and no inventory was filed. There were 13 annual reports filed. In 5 cases the funds of the ward were supervised by the court in 5 cases, and in 8 cases were properly accounted for and disbursed. An attorney appeared for the guardian in 2 cases and for the ward in 1 case. Fees amounted to \$952.55 for attorneys.

There were 217 guardianship estates pending July 1, 1936. Of these, 10 had been pending less than 1 year, 10 from 1 to 2 years, 4 from 2 to 3 years, 5 from 3 to 4 years, 6 from 4 to 5 years, 60 from 5 to 10 years, and 122 more than 10 years. These were estates of 186 minors, 24 insane persons, and 7 other incompetents. A guardian was appointed for the person of the ward in 189 cases, and none was appointed in 28 cases. The value of 13 estates, as reported, is \$196,021.20. In 212 cases bond was required, and in 5 cases no bond was required. An inventory was filed within 30 days in 34 cases, after 30 days in 7 cases, and in 176 cases no inventory had been filed. In these cases 229 annual reports were filed. The investment of the funds of the ward is supervised by the court in 116 cases and is not supervised in 101 cases. An attorney appeared for the guardian in 35 cases, in 17 cases for the ward, and in 182 cases the report does not show that an attorney appeared for anyone. Fees amounted to \$2,599.55 were allowed for guardians, and \$952.55 for attorneys. The report shows that the wards' funds have been preserved and cared for in all cases and in some cases there were no funds.

#### HAMILTON COUNTY

Area, 972 square miles; population, 3,425; assessed value, \$6,374,200.

Report made by Hon. D. P. Hotton, probate judge for 1½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed; no juvenile case was heard, and no cases were pending. There were no habeas corpus cases, no orders made in court cases, no proceedings in aid of execution and no adoption proceedings were had within the year. Two insanity cases were heard within the year.

Estates of 21 deceased persons were closed within the year. Where the cases had been pending from 1 to 2 years, and 2 from 5 to 10 years, the record on 13 cases does not show when they were closed. In 14 cases a will was proved and in 7 cases decedent was intestate. In 11 cases bond was required of the executor or administrator, and in 10 cases no bond was required. All bonds were kept good. The inventory was filed within 60 days in 10 cases.

4 cases, and in 7 cases no inventory was filed. No first annual reports filed. The aggregate value of 14 of these estates was \$58,298.73. The value of part of 1 estate was \$409. In 7 cases the value was not filed. In 9 cases attorneys represented the executor or administrator and in 11 cases the heirs or legatees. In 12 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,353.79 were allowed for executors or administrators and \$589.09 for attorneys. Six estates paid claims and 3 did not. In 12 cases there is no record showing whether or not claims were paid in full.

There were 51 deceased persons were pending July 1, 1936. These have been pending, 12 less than 1 year, 4 from 1 to 2 years, 5 from 2 to 3 years, 2 from 3 to 4 years, 3 from 4 to 5 years, 10 from 5 to 10 years, 14 longer than 10 years, and in 1 case the record does not show how long it has been pending. In 24 of these there was a will and in 27 the deceased was intestate. In 28 cases bond was required of the executor or administrator, and in 23 cases the bond has been kept good; in 23 cases no bond was required. In 26 cases inventory was filed within 60 days and in 9 cases after 60 days. In 16 cases no inventory was filed. The appraised value of 35 of these estates is \$70,513.50, and the estimated value of the property not appraised is \$129,392. In 9 cases first annual reports have been filed; in 42 cases such reports have not been filed. An attorney represented the executor or administrator in 4 cases, the heirs or legatees in no case; in 4 cases no one was represented by an attorney and the record does not show whether anyone was represented by an attorney in 43 cases.

There was 1 guardianship estate of a minor closed within the year. This estate has been pending from 3 to 4 years. A guardian had been appointed for the care of the ward. There was no estate of any value. Guardian was required to keep bond but did not keep his bond good. No inventory was filed, no annual reports have been filed, there were no investments supervised by the court and record does not show that an attorney appeared for either the guardian or the ward.

There were 9 guardianship cases pending July 1, 1936. Of these, 1 had been pending less than 1 year, 3 from 1 to 2 years, 4 from 5 to 10 years, and 1 longer than 10 years. All were estates of minors, and a guardian was also appointed for the person of the ward in all cases. The value of 8 of these estates is \$1,000. In 7 cases bond was required, and all bonds kept good; in 2 cases no bond was required. Inventory was filed within 30 days in 1 case, after 30 days in 2 cases, and in 6 cases no inventory was filed. In these cases 10 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 8 cases. In 1 case there was no property. An attorney appeared for the guardian in 2 cases and in no case for the ward. In 8 cases the report does not show an attorney appeared for anyone. No fees were allowed for guardians or attorneys. The wards' funds have been carefully cared for in all cases.

#### HARPER COUNTY

Area, 810 square miles; population, 12,566; assessed value, \$25,268,388. Report made by Hon. D. C. Hawk, probate judge for 26 years. There have been no defalcations by guardians, executors or administrators within the year. Two juvenile officers are employed; 13 juvenile cases were heard

within the year, and 1 was pending. There were no habeas corpus orders were made in district court cases; there were no proceedings of execution; no adoption proceedings were had, and 4 insanity cases heard within the year.

Estates of 40 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration issued, in 31 cases in 1 to 2 years, in 3 cases in 2 to 3 years, in 1 case 4 years, in 1 case in 4 to 5 years, in 1 case in 5 to 10 years, and 1 case longer than 10 years. In 23 of these there was a will and in 17 cases deceased intestate. In 28 cases bond was required of the executor or administrator; all bonds had been kept good; in 12 cases no bond was required. Inventory was filed within 60 days in 34 cases and after 60 days in 6 cases. Forty first annual reports were filed. The aggregate value of 40 estates appraised, is \$418,192.76. In 31 cases an attorney appeared for the executor or administrator, in no case for the heirs or devisees, and in 9 cases the report does not show an attorney appeared for anyone. Fees amounting to \$3,880 were allowed for executors or administrators and \$3,880 for attorneys in 9 cases the estates paid claims in full.

Estates of 51 deceased persons were pending July 1, 1936. There have been pending, 31 less than 1 year, 7 from 1 to 2 years, 3 from 2 to 3 years, 2 from 3 to 4 years, and 8 from 5 to 10 years. In 29 of these there was a will, and in 22 the deceased was intestate. In 30 cases bond was required of the executor or administrator; all bonds have been kept good; in 21 cases no bond was required. In 42 cases the inventory was filed within 60 days and in 9 cases after 60 days. The appraised value of these estates is \$975.66, and in 7 cases there is land to be sold that has not been appraised. In 18 cases first annual reports have been filed and in 33 cases such reports have not been filed. An attorney represented the executor or administrator in 43 cases, the heirs or devisees in no case, and in 8 cases the report does not show an attorney appeared for anyone.

There were 6 guardianship estates of minors or other incompetents closed within the year. Of these, 1 had been pending from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 1 from 5 to 10 years and 3 longer than 10 years. All 6 estates were of minors. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$7,407.98. In 5 cases guardians were required to give bond, and all bonds have been kept good. The inventory was filed with 30 days in 3 cases, after 30 days in 2 cases, and in 1 case no inventory was filed. Twenty annual reports have been filed. Investment of funds of the ward was supervised in 5 cases by the court. An attorney appeared for the guardian in 1 case, but no attorney appeared for the ward in any case. Fees of \$320 were allowed for the guardian in 1 case and \$25 for attorneys in 1 case. In all cases the report of the ward were properly accounted for and disbursed.

There were 46 guardianship estate cases pending July 1, 1936. Of these 7 had been pending less than 1 year, 4 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, 6 from 4 to 5 years, 10 from 5 to 10 years, and 1 case longer than 10 years. These were estates of 33 minors, 10 insane persons and 3 other incompetents. A guardian was appointed for the person of the ward in 27 cases. The value of these estates is \$95,805.04. In all cases but

d of the guardian, and all bonds have been kept good. An inventory d within 30 days in 28 cases, after 30 days in 12 cases and in 6 cases ntory was filed. In these cases 160 annual reports have been filed. vestment of the funds of the ward is supervised and approved by the n 39 cases, and in 7 cases it is not. An attorney appeared for the n in 23 cases, but in no case for the ward. In 23 cases the report does w an attorney appeared for anyone. Fees amounting to \$2,295 were r for guardians and \$280 for attorneys. The wards' funds have been y preserved and cared for in all cases.

### HARVEY COUNTY

, 540 square miles; population, 21,705; assessed value, \$37,852,096. ort made by Hon. Grant Mitchell, probate judge for 5½ years. There n no defalcations by guardians, executors, or administrators within the No juvenile officer is employed; 59 juvenile cases were heard within the nd 25 were pending. There were no habeas corpus cases, no orders n district court cases, and no proceedings in aid of execution within the Four adoption proceedings were had, and 7 insanity cases were heard the year.

tes of 40 deceased persons were closed within the year. In 2 cases the port was filed within 1 year after letters of administration were issued, ases from 1 to 2 years, in 6 cases from 2 to 3 years, in 1 case from 3 to 4 nd in 1 case from 5 to 10 years. In 20 of these there was a will and in s decedent was intestate. In 26 cases bond was required of the executor inistrator; all bonds were kept good; in 14 cases no bond was required. ntory was filed within 60 days in 13 cases, after 60 days in 19 cases, 8 cases no inventory was filed. Two first annual reports were filed. The te value of 31 of these estates, as appraised, was \$641,086. The estimated f 7 estates, not appraised, was \$105,074, and in 2 cases the value was not In 23 cases an attorney represented the executor or administrator and ses the heirs or devisees. In 19 cases the report does not show an at- appeared for anyone. Fees amounting to \$4,437.09 were allowed for rs or administrators, and \$3,982.08 for attorneys. In 36 cases the estates aims in full, and in 4 cases they did not pay in full.

tes of 225 deceased persons were pending July 1, 1936. Of these, 84 had ending less than 1 year, 27 from 1 to 2 years, 26 from 2 to 3 years, 16 to 4 years, 18 from 4 to 5 years, 36 from 5 to 10 years, and 18 for more 0 years. In 127 of these there was a will, and in 95 cases the deceased estate; 4 were estates of convicts. In 147 cases bond was required of ecutor or administrator; in 139 of these, bonds were kept good; in 78 o bond was required. In 107 cases the inventory was filed within 60 n 50 cases after 60 days, and in 68 cases no inventory was filed. The ed value of 156 of these estates is \$2,404,355. The estimated value of y not appraised is \$458,450. In 51 cases first annual reports have been n 91 cases such reports have not been filed, and in 83 cases these reports t yet due. An attorney represented the executor or administrator in ses; the heirs or devisees in 8 cases, and in 99 cases the report does w an attorney appeared for anyone.

ere were 3 guardianship estates of minors and 1 of an insane person

closed within the year. Of these, 1 had been pending from 2 to 3 years, 5 to 10 years and 2 longer than 10 years. In 1 case a guardian was appointed for the person of the ward. The value of 3 of these estates, in all equity in real estate, is \$11,313. All guardians were required to give bonds. These have been kept good except as to 1 guardian, who was removed and a new one appointed. The inventory was filed within 30 days in 1 case, 3 cases no inventory was filed. Eleven annual reports were filed. In 1 case no funds in 2 cases and in no case are funds of the ward supervised by the court. An attorney appeared for the guardian in 2 cases and for the ward in 1 case. Fees for guardians or attorneys are not shown to have been paid in any case. In 1 case the ward's funds were properly accounted for, disbursed, in 1 case report shows estate exhausted, and in 2 cases there were no funds.

There were 171 guardianship estate cases pending July 1, 1936. Of these, 1 had been pending less than 1 year, 16 from 1 to 2 years, 11 from 2 to 3 years, 9 from 3 to 4 years, 15 from 4 to 5 years, 74 from 5 to 10 years, and 10 longer than 10 years. In 1 case report does not show how long it has been pending. These were the estates of 120 minors, 34 insane persons, and 17 competent persons. A guardian was also appointed for the person of the ward in 1 case. The value of these estates is \$355,592.53 and income from real estate and pensions. In all cases bond was required of the guardian; in 153 cases bonds were kept good. No reports were filed in a number of cases where bonds were due and these bonds are questionable. An inventory was filed within 30 days in 26 cases, after 30 days in 24 cases, and in 121 cases no inventory was filed. Three hundred and eighty-two annual reports have been filed. In 14 cases the investment of funds of the ward is supervised by the court. In 1 case it is not. An attorney appeared for the guardian in 32 cases; an attorney appeared for the ward in 1 case. In 132 cases the report does not show an attorney appearing for anyone. The wards' funds have been properly cared for in 84 cases. Funds were used for support of wards and some for care of patient in hospital. Fees of \$6,016 were allowed for guardians, and \$3,862.50 for attorneys.

#### HASKELL COUNTY

Area, 576 square miles; population, 2,334; assessed value, \$5,913.

Report made by Hon. Laurence G. Meairs, probate judge for Haskell County. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases; no orders made in district court cases; no proceedings in adoption within the year, and no adoption proceedings were had. Two cases were heard within the year.

Estates of 2 deceased persons were closed within the year; 1 had been pending from 1 to 2 years and 1 from 2 to 3 years. In 1 of these there was a will and in 1 case decedent was intestate. In 1 case bond was required of the executor or administrator, and the bond was kept good; in 1 case no bond was required. In both cases the inventory was filed within 30 days and 2 first annual reports were filed. The aggregate value of these estates as appraised, was \$33,949.75. In both cases the executor or administrator was represented by an attorney, but in neither case did an attorney

heirs or devisees. In both cases the estates paid claims in full. Fees amounting to \$120 were allowed for executors or administrators, and \$200 for attorneys.

Estates of 12 deceased persons were pending July 1, 1936. In these cases 3 had been pending less than 1 year, 4 from 1 to 2 years, and 2 from 2 to 3 years. In 5 of these there was a will, and in 7 cases the deceased was intestate.

In 8 cases bond was required of the executor or administrator. All bonds had been kept good. In 4 cases no bond was required. In 5 cases the inventory was filed within 60 days, and in 5 cases after 60 days. In 2 cases the annual report was filed. The appraised value of these estates is \$49,603.65, and the estimated value of the property not appraised is \$39,070. In 1 case the annual report has been filed, in 11 cases such reports have not been filed. An attorney represented the executor or administrator in 8 cases, but heirs or devisees were not represented in any case. In 4 cases the report does not show an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed during the year.

There were 14 guardianship estate cases pending July 1, 1936. Of these, 3 had been pending less than 1 year, 2 from 1 to 2 years, 1 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 4 from 5 to 10 years, and 1 longer than 10 years. These were estates of 9 minors, 4 insane persons, and 1 other incompetent. A guardian was also appointed for the person of the ward in 13 cases. The value of these estates as reported, is \$39,033.02. In 13 cases bond was required of the guardian, and all bonds were kept good; in 1 case no bond was required. An inventory was filed within 30 days in 11 cases, and after 30 days in 3 cases. In these cases 27 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 13 cases. In 1 case there were no funds. In 5 cases an attorney appeared for the guardian, but in no case for the ward. In 9 cases the report does not show an attorney appeared for anyone. In 13 cases the wards' funds have been properly cared for. Fees amounting to \$441.36 were allowed for guardian and \$117.50 for attorneys.

#### HODGEMAN COUNTY

Area, 864 square miles; population, 4,084; assessed value, \$7,707,806. Probate made by Hon. Jacob Sorem, probate judge for 3½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed; no juvenile cases were heard during the year, and none were pending. There was 1 habeas corpus case which writ was allowed. No orders were made in district court cases, and there was 1 proceeding in aid of execution within the year. One adoption proceeding was had. No insanity cases were heard within the year.

Estates of 9 deceased persons were closed within the year. When closed, 3 had been pending from 1 to 2 years, and 1 case from 3 to 4 years. In 5 of these there was a will, and in 3 cases decedent was intestate. In 4 cases bond was required of the executor or administrator; all bonds had been kept good; in 5 cases no bond was required. The inventory was filed within 60 days in 6 cases and after 60 days in 3 cases. One first annual report was filed. The aggregate value of the 9 estates, as appraised, was \$67,135.61. In

all cases attorneys represented the executor or administrator, and in some cases the heirs or devisees. Fees of \$1,013.19 were allowed for executors or administrators, and \$1,114.04 for attorneys. The estates paid claims in all cases.

Estates of 23 deceased persons were pending July 1, 1936. These were 13 less than 1 year, 4 from 1 to 2 years, 1 from 2 to 3 years, 3 to 4 years, and 3 from 5 to 10 years. In 8 of these there was a will, and in 15 the deceased was intestate. In 22 cases bond was required, and in all cases bonds were kept good; in 1 case no bond was required. In 19 cases the inventory was filed within 60 days, in 4 cases after 60 days and in 1 case no inventory was filed. The appraised value of 17 of these estates was \$314.17. In 1 case first annual report has been filed. In 22 cases such reports have not been filed. In all cases an attorney represented the executor or administrator, but in no case the heirs or devisees.

There were no guardianship estates of minors or other incompetents pending within the year.

There were 23 guardianship estate cases pending July 1, 1936. Of these 2 had been pending less than 1 year, 1 from 1 to 2 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 17 from 5 to 10 years, and 1 longer than 10 years. There were 17 minors, and 6 insane persons. A guardian was appointed for the person of the ward in all cases. The value of 13 of these estates, as reported, is \$23,565.50. The report states that the value of the other 10 estates is not known. In 22 cases bond was required of the guardian, and in 20 cases bond has been kept good; in 1 case no bond was required. An inventory was filed within 30 days in 6 cases, after 30 days in 14 cases no inventory was filed. In these cases 23 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 9 cases, and in 14 cases it is not supervised by the court. An attorney appeared for the guardian in 11 cases, and in no case for the ward. In 12 cases the report does not show an attorney appeared for anyone. Amounting to \$200 were allowed for guardians, and \$117.50 for attorneys. The wards' funds have been properly cared for in 8 cases.

#### JEFFERSON COUNTY

Area, 568 square miles; population, 14,020; assessed value, \$22,929,000.

Report made by Hon. Arthur Ferris, probate judge for 1½ years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; 1 juvenile case involving a child was heard within the year, and no cases were pending. There were no corpus cases; 3 orders were made in district court cases; there were no proceedings in aid of execution within the year, and no adoption proceedings had. Seven insanity cases were heard within the year.

Estates of 37 deceased persons were closed within the year. Of these 22 cases had been pending, 22 from 1 to 2 years, 3 from 2 to 3 years, 4 from 4 to 5 years, and 9 from 5 to 10 years. In 16 of these there was a will, and in 20 cases decedent was intestate. In 25 cases bond was required of the executor or administrator; all bonds had been kept good; in 12 cases no bond was required. The inventory was filed within 60 days in 27 cases, 60 days in 10 cases, and in all cases first annual reports were filed.



value of 37 estates, as appraised, was \$514,428.73. In 20 cases attorneys nted the executor or administrator, and in 6 cases the heirs or devisees. ases the report does not show an attorney appeared for anyone. Fees ating to \$3,220.61 were allowed for executors or administrators, and \$1,920 rneys. In 35 cases the estates paid claims in full, in 1 case the estate ay in full, and 1 case shows compromise was made.

tes of 97 deceased persons were pending July 1, 1936. These have ending, 27 for less than 1 year, 14 from 1 to 2 years, 12 from 2 to 3 5 from 3 to 4 years, 12 from 4 to 5 years, 18 from 5 to 10 years, and r than 10 years. In 49 cases there was a will and in 48 the deceased was te. In 68 cases bond was required of the executor or administrator. In s bond has been kept good and in 4 of them it has not been kept good. ases no bond was required. In 69 cases the inventory was filed within s, in 24 cases after 60 days, and in 4 cases no inventory has been filed. appraised value of these estates is \$1,197,026.06. In 61 cases first annual ave been filed; in 36 cases such reports have not been filed. An y represented the executor or administrator in 51 cases, the heirs or s in 16 cases, and in 46 cases the report does not show an attorney ed for anyone.

guardianship estates of minors or other incompetents were closed within r.

ere were 70 guardianship estate cases pending July 1, 1936. Of these, 8 en pending less than 1 year, 11 from 1 to 2 years, 5 from 2 to 3 years, 3 to 4 years, 1 from 4 to 5 years, 20 from 5 to 10 years, and 20 longer 0 years. These were estates of 46 minors, 20 insane persons and 4 other etents. A guardian was also appointed for the person of the ward in s. The value of these estates is \$150,044.85. In 67 cases bond was re- of the guardian, and in 3 cases no bond was required; in 59 cases bond en kept good. An inventory was filed within 30 days in 45 cases, after s in 18 cases, and in 7 cases no inventory had been filed. In these 52 annual reports have been filed. The investment of the funds of the re supervised and approved by the court in 14 cases. In some cases ds had been used for the care of the ward, and in some cases there o funds. An attorney appeared for the guardian in 17 cases, and for rd in 8 cases. In 52 cases the report does not show that an attorney ed for anyone. Fees amounting to \$3,045 were allowed for guardians 5.75 for attorneys. The wards' funds have been properly preserved and or in 29 cases.

#### JEWELL COUNTY

, 900 square miles; population, 13,183; assessed value, \$25,734,596. ort made by Hon. Frank Kissinger, probate judge for 5 years. There o defalcations by guardians, executors or administrators within the year. venile officer is employed; 13 juvenile cases were heard within the year, were pending. There were no habeas corpus cases; 1 order was made istrict court case, and there were no proceedings in aid of execution the year. Two adoption proceedings were had, and 5 insanity cases within the year.

estates of 45 deceased persons were closed within the year. In 2 cases al report was filed within 1 year after letters of administration were

issued, in 24 cases within 2 years, in 5 cases in 2 to 3 years, in 3 cases years, in 2 cases in 4 to 5 years, in 8 cases within 5 to 10 years, and more than 10 years. In 22 of these there was a will and in 23 cases was intestate. In 37 cases bond was required of the executor or administrator and in 36 cases bonds had been kept good; in 8 cases no bonds were required. The inventory was filed within 60 days in 34 cases, after 60 days in 1 case and in 1 case no inventory was filed. Eleven first annual reports were filed. The aggregate value of personal property, as appraised, was \$140,411.66 and of real estate was \$287,173.66. In 21 cases attorneys appeared for the executor or administrator, and in no case for the heirs or devisees. In 24 cases the report does not show an attorney appeared for anyone. Fees amounting to \$3,567.67 were allowed for executors or administrators, and \$1,178.91 for attorneys. In 44 cases the estates paid claims in full, and in 1 case estate did not pay claims in full.

The estates of 101 deceased persons were pending July 1, 1936. There had been pending, 37 less than 1 year, 15 from 1 to 2 years, 5 from 2 to 3 years, 7 from 3 to 4 years, 5 from 4 to 5 years, 19 from 5 to 10 years, and 10 more than 10 years. In 57 of these there was a will, and in 54 cases the estate was intestate. In 79 cases bonds were required of the executors or administrators; in 78 cases bonds had been kept good; in 22 cases no bonds were required. In 66 cases the inventory was filed within 60 days, in 27 cases after 60 days, and in 8 cases no inventory was filed. The appraised value of personal property in these estates is \$472,178.67, and of real estate is \$600,000.00. In 7 cases the value is not given. In 35 cases first annual reports have been filed. In 66 cases such reports have not been filed. An attorney represented the executor or administrator in 36 cases, the heirs or devisees in 4 cases, and in 65 cases the report does not show an attorney appeared for anyone.

There were 2 guardianship estates of minors closed within the year. Both had been pending from 3 to 4 years, and 1 longer than 10 years; in both cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$6,813.51. Both guardians were required to give bonds, and each has kept his bond good. No inventory was filed in either case. The management of funds of the ward was supervised by the court in both cases. Annual reports have been filed. An attorney appeared for the guardian in 1 case and for the ward in 1 case. Fees amounting to \$75 were allowed for the guardian and \$310 for attorneys. In both cases the funds of the ward were accounted for and disbursed.

There were 71 guardianship estate cases pending July 1, 1936; of these had been pending less than 1 year, 5 from 1 to 2 years, 11 from 2 to 3 years, 5 from 3 to 4 years, 2 from 4 to 5 years, 26 from 5 to 10 years, and 10 more than 10 years. These were estates of 48 minors, 17 insane persons and 6 incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$100,901.95. In 70 cases a bond was required of the guardian, and in 1 case no bond was required; in 69 cases the bond has been kept good, in 3 it has not been kept good. An inventory was filed within 30 days in 17 cases, after 30 days in 6 cases, and in 1 case no inventory had been filed. In these cases 128 annual reports have been filed. The investment of funds of the ward is supervised by the court in 69 cases and in 52 cases it is not supervised by the court. An attorney

guardian in 9 cases, and in 1 case for the ward. In 61 cases the report did not show an attorney appeared for anyone. Fees amounting to \$1,678.10 were allowed for guardians, and \$479 for attorneys. In 24 cases the report showed that the funds of the wards have been properly preserved and cared for.

### JOHNSON COUNTY

Area, 480 square miles; population, 28,324; assessed value, \$39,718,028. Report made by Hon. Bert Rogers, probate judge for 1½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed; 10 juvenile cases were heard within the year and 3 were pending. There were no habeas corpus cases. Orders were made in district court cases. There were no proceedings in execution within the year. Five adoption cases were had and 16 inheritance cases heard within the year.

Estates of 60 deceased persons were closed within the year. In 3 cases the report was filed within 1 year after letters of administration were issued, 1 case from 1 to 2 years, in 7 cases from 2 to 3 years, in 3 cases from 3 to 4 years, in 2 cases from 4 to 5 years, in 3 cases from 5 to 10 years, and in 1 case longer than 10 years. In 30 cases bond was required of the executor or administrator, and all bonds have been kept good; in 30 cases no bond was required. The inventory was filed within 60 days in 40 cases, after 60 days in 16 cases, and in 4 cases no inventory was filed; 28 first annual reports have been filed. The aggregate value of 59 of these estates, as appraised, was \$8,097. In 58 cases attorneys represented the executor or administrator and 10 cases the heirs or devisees. In 2 cases the report does not show an attorney appeared for anyone. Fees amounting to \$13,872 were allowed for executors or administrators and \$11,880 for attorneys. The estates paid in full in 16 cases and in 44 cases estates did not pay claims in full.

Estates of 96 deceased persons were pending July 1, 1936. These cases have been pending, 86 less than 1 year, 5 from 1 to 2 years, 2 from 2 to 3 years, and 3 from 3 to 4 years. In 49 of these there was a will and in 47 cases the deceased was intestate. In 62 cases bond was required of the executor or administrator, and in all cases bond has been kept good; in 34 cases no bond was required. In 60 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 19 cases no inventory was filed. The assessed value of 74 of these estates is \$1,380,768. In several cases the records show there was also some real estate which had not been appraised. First annual reports have been filed, in 89 cases such reports have not been filed. An attorney represented the executor or administrator in 56 cases, the heirs or devisees in 3 cases, and in 40 cases the report does not show an attorney appeared for anyone.

There were 10 guardianship estates of minors or other incompetents closed within the year. In 2 cases the final report was filed within 1 year after letters of guardianship were issued, 1 from 1 to 2 years, 2 from 3 to 4 years, 1 from 4 to 5 years, 2 from 5 to 10 years and 2 longer than 10 years. Of these estates, 6 were of minors, 2 of insane and 2 of incompetent persons. In 1 case a guardian was also appointed for the person of the ward. The aggregate value of 9 of these estates, as reported, is \$88,226. In all cases guardian was required to give bond, and all bonds have been kept good. The inventory

was filed within 30 days in 4 cases, after 30 days in 2 cases, and in no inventory was filed; 38 annual reports have been filed. Investments of the ward were supervised by the court in 10 cases. An attorney appeared for the guardian in 1 case and in no case for the ward. Fees amounting to \$1,085 were allowed for guardians and \$2,565 for attorneys. This shows that in 8 cases the funds of the ward were properly accounted for and disbursed.

There were 50 guardianship estate cases pending July 1, 1936; of these 14 had been pending less than 1 year, 14 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 7 from 5 to 10 years, and 4 from 10 to 15 years. These were the estates of 40 minors, 8 insane persons and 2 incompetents. In 38 cases a guardian was also appointed for the ward. The value of these estates is \$1,101,437. In 50 cases bond was required of the guardian, and in all cases bond has been kept good. The inventory has been filed within 30 days in 26 cases, after 30 days in 11 cases, and in 13 cases no inventory has been filed. In these cases 5 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 10 cases. An attorney appeared for the guardian in 7 cases and in 2 cases for the ward. In 43 cases the report does not show an attorney appeared for the ward. The wards' funds have been properly preserved and cared for in all cases.

#### KEARNY COUNTY

Area, 864 square miles; population, 2,707; assessed value, \$6,718,943.

Report made by Hon. Alice L. Geer, probate judge for 2 months. There have been no defalcations by executors, administrators or guardians within the year. One juvenile officer is employed; 1 juvenile case was heard within the year, and none were pending. There were no habeas corpus cases; no writs made in district court cases, and no proceedings in aid of execution within the year; no adoption proceedings were had, and 2 insanity cases were heard within the year.

Estates of 3 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letter of administration was issued, and in 2 cases from 1 to 2 years. In 1 of these there was a will and in 2 the decedent was intestate. In all cases bonds were required of the executor or administrator and all bonds were kept good. The inventory was filed within 30 days in 1 case and after 60 days in 2 cases. No first annual reports have been filed. The aggregate value of 2 of these estates as appraised, was \$181,574.59, and 1 case is reported insolvent. In 3 cases attorneys represented the heirs or administrator; and in 2 cases the heirs or devisees. In all cases the claims were paid in full.

Estates of 14 deceased persons were pending July 1, 1936. In these 14 cases 3 had been pending less than 1 year, 3 from 1 to 2 years, 1 from 3 to 4 years, and 1 from 4 to 5 years; in 9 of these there was a will and in 5 the decedent was intestate. In 9 cases bond was required of the executor or administrator and all bonds have been kept good; in 5 cases no bond was required. The inventory was filed within 60 days, in 2 cases after 60 days, and in 1 case no inventory has been filed. The appraised value of 10 of these estates was \$181,574.59. Two first annual reports have been filed; in 12 cases subsequent reports have not been filed. An attorney represented the executor or administrator in 10 cases.

cases, the heirs or legatees in 1 case, and in 2 cases the report does not show an attorney appeared for anyone. There were no guardianship estates of minors or other incompetents closed within the year.

There were 6 guardianship estate cases pending July 1, 1936; of these, 2 had been pending from 1 to 2 years, 1 from 2 to 3 years, 2 from 5 to 10 years and 1 more than 10 years. These were estates of 4 minors and 2 insane persons. A guardian was also appointed for the person of the ward in all cases. In 5 cases bond was required of the guardian, and in 1 case no bond was required; the others were kept good. The value of 2 of these estates is \$1,425; in one case the estate consists of real estate not appraised, and in 2 cases the value is not known.

An inventory was filed within 30 days in 1 case, after 30 days in 1 case and in 4 cases no inventory was filed. Five annual reports have been filed. The investment of the funds of the wards is not supervised by the court in any case. An attorney appeared for the guardian in 3 cases and for the ward in 1 case. In 3 cases the report does not show an attorney appeared for anyone. Fees amounting to \$131.50 have been allowed for guardians and attorneys. The report does not show whether or not the wards' funds have been preserved and cared for in any case.

#### KINGMAN COUNTY

Area, 864 square miles; population, 12,106; assessed value, \$23,886,875. Report made by Hon. L. W. Kabler, probate judge for 9½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed part time; 8 juvenile cases were closed within the year, and 2 were pending. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in aid of execution within the year. Two adoption cases were had, and 3 insanity cases were heard within the year.

Estates of 28 deceased persons were closed within the year. In 5 cases an annual report was filed within 1 year after letters of administration were granted, in 15 cases from 1 to 2 years, in 2 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 2 cases from 4 to 5 years, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. In 16 of these there was a will, and in 12 cases the decedent was intestate. In 18 cases bond was required of the executor or administrator, and in 10 cases no bond was required; all bonds had been kept good. The inventory was filed within 60 days in 23 cases and after more than 60 days in 5 cases; 28 first annual reports have been filed. The aggregate value of these estates, as appraised, was \$290,570.43, and the report states that in three cases part of the estate consisted of real estate not appraised. In 12 cases attorneys represented the executor or administrator, in 1 case the heirs or devisees, and in 11 cases the report does not show an attorney appeared for anyone. Fees amounting to \$3,956.76 were allowed for executors and administrators and \$1,900 for attorneys. In all cases the estates paid claims.

Estates of 62 deceased persons were pending July 1, 1936; of these, 44 were pending less than 1 year, 9 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, and 3 from 4 to 5 years. In 35 of these there was a will and in 27 decedent was intestate. In 29 cases bond was required of the

executor or administrator, and in all cases bond has been kept good. In 40 cases no bond was required. In 40 cases the inventory was filed within 30 days; in 18 cases after 60 days, and in 4 cases no inventory has been filed. The appraised value of 54 of these estates is \$697,704.84. The report includes some real estate that has not been appraised. In 9 cases first reports have been filed; in 53 cases such reports have not been filed. An attorney represented the executor or administrator in 44 cases, but no attorney or devisees were not represented in any case. In 18 cases the report does not show an attorney appeared for anyone.

There were 6 estates of minors closed within the year. In 1 case a report was filed within 1 year after letter of guardianship was issued. In 1 case from 1 to 2 years, and in 2 cases from 5 to 10 years, and 2 longer than 10 years. In all cases a guardian was also appointed for the person of the ward. The value of these estates, as reported, is \$6,517.50. All guardians have been required to give bond, and all have kept their bonds good. An inventory was filed within 30 days in 3 cases, after 30 days in 1 case, and in 2 cases no inventory was filed; 27 annual reports have been filed. Investment of funds of the ward has been supervised or approved by the court in all cases. An attorney appeared for the guardian in 5 cases, but no attorney for the ward. Fees amounting to \$40.50 were allowed for guardians in 1 case, and the total amount of fees allowed for attorneys in 2 cases was \$38. In all cases the funds of the ward were properly accounted for and disbursed.

There were 29 guardianship estate cases pending July 1, 1936; of these 9 had been pending less than 1 year, 3 from 1 to 2 years, 6 from 2 to 3 years, 9 from 3 to 4 years, 1 from 5 to 10 years, and 1 longer than 10 years. There were estates of 24 minors and 5 insane persons. In all cases a guardian was also appointed for the person of the ward. The value of these estates was \$29,105.41, and in 15 cases there was also real estate that had not been appraised. In 28 cases bond was required of the guardian; all bonds have been kept good; in 1 case no bond was required. An inventory was filed within 30 days in 13 cases, after 30 days in 4 cases, and in 12 cases no inventory had been filed. Nineteen annual reports have been filed. The report does not state whether or not investment of funds of the ward was supervised by the court. An attorney appeared for the guardian in 10 cases and for the ward in 4 cases. In 10 cases the report does not show an attorney appeared for anyone. The report does not show that any fees were allowed for guardians; \$22.50 was allowed for attorneys. The wards have been properly cared for in all cases.

#### KIOWA COUNTY

Area, 720 square miles; population, 6,046; assessed value, \$9,751,444.

Report made by Hon. Harry Paxton, probate judge for 1½ years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases; no proceedings were made in district court cases. There were no proceedings in aid of execution within the year. No adoption proceedings were had. One insane person was heard within the year.

ates of 15 deceased persons were closed within the year. In 4 cases the report was filed within 1 year after letters of administration were issued, cases from 1 to 2 years, in 5 cases from 2 to 3 years, and in 1 case from 3 to 4 years. In 3 of these there was a will, and in 12 cases decedent was intestate. In 14 cases bond was required of the executor or administrator, and all bonds were kept good; in 1 case no bond was required. The inventory was filed within 60 days in 12 cases and after 60 days in 3 cases. In 6 cases first annual reports were filed. The aggregate value of these estates, as appraised, was \$181,760.39. The estimated value of property not appraised was \$125. In 11 cases attorneys represented the executor or administrator, in no case the heirs or devisees, and in 1 case the administrator was an attorney. Fees amounting to \$1,444.50 were allowed for guardians and \$1,180 for attorneys. In 11 cases the estates paid claims in full, in 3 cases estates did not pay claims, and in 1 case there were no claims to be paid.

ates of 29 deceased persons were pending July 1, 1936; in these cases 12 were pending less than 1 year, 10 from 1 to 2 years, 2 from 2 to 3 years, 3 from 3 to 4 years and 3 from 4 to 5 years; in 8 of these there was a will, and in 21 the deceased was intestate. In 24 cases bond was required of the executor or administrator, and all bonds had been kept good; in 5 cases no bond was required. In 26 cases the inventory was filed within 60 days, after 60 days in 2 cases, and in 1 case no inventory was filed. The appraised value of these estates is \$499,866.07. In 11 cases first annual reports have been filed, in 18 cases such reports have not been filed. An attorney represented the executor or administrator in 28 cases, the heirs or devisees in no case. An attorney did not appear for anyone in 1 case.

There was 1 guardianship case of a minor closed within the year. It had been pending for 7 years. A guardian was appointed for the person of the ward. The value of this estate, as reported, is \$1,333.33. The guardian was required to give bond and has kept his bond good. The inventory was filed within 60 days in this case. Three annual reports have been filed. The investment of funds of the ward was supervised and approved by the court in this case. An attorney appeared for the guardian in this case, but no attorney appeared for the ward. No fees were allowed for the guardian. Fees amounting to \$100 were allowed for attorney. The funds of the ward were properly accounted for and disbursed.

There were 14 guardianship estate cases pending July 1, 1936; of these, 4 were pending less than 1 year, 1 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 5 from 5 to 10 years, and 2 longer than 10 years. These were the estates of 14 minors. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$37,764.04. In 11 cases bond was required of the guardian, and all bonds have been kept good. An inventory was filed within 30 days in 1 case, after 30 days in 5 cases, and in 8 cases no inventory was filed. In these cases 35 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 10 cases, and in 4 cases it is not supervised by the court. An attorney appeared for the guardian in 11 cases, but in no case for the ward. In 4 cases the report does not show an attorney appeared for anyone. Fees amounting to \$100 were allowed for guardians and \$165 for attorneys. The wards' funds have been preserved and cared for in 10 cases.

## LANE COUNTY

Area, 720 square miles; population, 2,949; assessed value, \$6,827,4

Report made by Hon. J. A. Radford, probate judge for 5 years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were within the year, and none were pending. There were no habeas corpus orders made in district court cases; no proceedings in aid of execution within the year, and no adoption proceedings were had. Four insurances were heard within the year.

Estates of 6 deceased persons were closed within the year; all cases had been pending from 1 to 2 years. In 2 cases there was a will and in 4 cases the decedent was intestate. In 4 cases bond was required of the executor or administrator, and in 2 cases no bond was required; all bonds had been kept good. The inventory was filed within 60 days in 2 cases, after 60 days in 1 case and in 3 cases no inventory was filed. No first annual reports have been filed. The aggregate value of 3 of these estates, as appraised, was \$14,715. The estimated value of 3 estates, not appraised, was \$4,500. In 1 case an attorney represented the executor or administrator, but in 5 cases the heir or devisee represented by an attorney. In 5 cases the report does not show an attorney appeared for anyone. Fees amounting to \$100 were allowed for executors or administrators and \$100 for attorneys; in all cases the estate paid claims in full.

Estates of 18 deceased persons were pending July 1, 1936; in 8 cases had been pending less than 1 year, 3 from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years and 2 from 5 to 6 years. In 13 of these there was a will and in 5 cases the deceased was intestate. In all cases bond was required of the executor or administrator, and all bonds had been kept good. Inventory was filed within 60 days in 12 cases, after 60 days in 3 cases and in 3 cases no inventory was filed. The aggregate value of these estates is \$87,895.96, and the estimated value of the 3 estates not appraised is \$144,755. In 6 cases first annual reports have been filed, in 12 cases such reports have not been filed. An attorney represented the executor or administrator in 2 cases; the heirs or devisees in 1 case, and in 5 cases the report does not show an attorney appeared for anyone.

There was 1 guardianship estate of a minor closed within the year. It had been pending for 6 years. A guardian was not appointed for the person of the ward. The value of this estate, as reported, is \$1,000. The guardian was required to give bond and has kept his bond good. No inventory was filed. 2 annual reports have been filed. Investment of the funds of the ward was not supervised by the court in this case. An attorney did not appear for the guardian or the ward. No fees have been allowed for guardian or attorney. The funds of the wards were properly accounted for and disbursed.

There were 3 guardianship estate cases pending July 1, 1936; one had been pending from 1 to 2 years, 1 from 4 to 5 years, and 1 longer than 10 years; 2 were estates of minors, and 1 of an insane person. A guardian was also appointed for the person of the ward in 1 case. The aggregate value of these estates is \$3,339.50. In 3 cases bond was required of the guardian, and all bonds were kept good. Inventory was filed within 30 days in 1 case, after 30 days in 2 cases; 2 annual reports have been filed. The inventory



funds of the ward are supervised by the court in 2 cases, and in 1 case are not supervised by the court. In no case did an attorney appear for the guardian or the ward. No fees were allowed for guardian. The funds have been properly cared for in all cases.

## LINCOLN COUNTY

, 720 square miles; population, 8,653; assessed value, \$19,187,677. Report made by Hon. A. Artman, probate judge for 33½ years. There had no defalcations by guardians, executors, or administrators within the year. A juvenile officer is employed; 5 juvenile cases were heard within the year, none were pending. There were no habeas corpus cases; 2 orders were in district court cases. There were no proceedings in aid of execution the year. Two adoption proceedings were had, and 1 insanity case within the year.

Estates of 52 deceased persons were closed within the year. In 5 cases the report was filed within 1 year after letters of administration were issued, 1 case from 1 to 2 years, in 9 cases from 2 to 3 years, in 2 cases from 4 years, in 2 cases from 5 to 10 years, and in 19 cases longer than 10 years. In 1 of these there was a will and in 30 cases decedent was intestate. In 39 cases bond was required of the executor or administrator, and in all cases have been kept good; in 13 cases no bond was required. The inventory was filed within 60 days in 43 cases, after 60 days in 7 cases and in 2 cases no inventory was filed. In 40 cases first annual reports have been filed. The appraised value of 51 of these estates, as appraised, was \$433,214.73. The estimated value of property not appraised, was \$1,303.12. In 1 case the value was not given. In 11 cases an attorney represented the executor or administrator in 1 case the heirs or devisees, and in 41 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,351.02 were allowed executors or administrators and \$132 for attorneys. In 29 cases the estates were paid in full and in 23 cases estates did not pay claims in full.

Estates of 100 deceased persons were pending July 1, 1936; in these cases, 1 case pending less than 1 year, 24 from 1 to 2 years, 6 from 2 to 3 years, 13 from 3 to 4 years, 9 from 4 to 5 years, 9 from 5 to 10 years, and 10 longer than 10 years. In 48 of these there was a will, and in 52 the deceased was intestate. In 71 cases bond was required of the executor or administrator, in 29 cases no bond was required; all bonds had been kept good. In 79 cases inventory was filed within 60 days; in 17 cases after 60 days, and in 4 cases no inventory has been filed. The appraised value of 97 of these estates was \$8,360.76 and the estimated value of property not appraised is \$1,400. In 39 cases first annual reports have been filed, and in 61 cases such reports have not been filed. An attorney represented the executor or administrator in 22 cases, the heirs or devisees in 4 cases, and in 77 cases the report does not show an attorney appeared for anyone.

There was 1 guardianship estate of an insane person closed within the year, the final report was filed within 1 year after letter of guardianship was issued. A guardian was not appointed for the person of the ward in this case. The value of this estate, as reported, was \$15,899. The guardian was required to post bond, and has kept his bond good. The inventory was filed within 30 days and 1 annual report was filed. Investment of funds of the ward were

supervised by the court in this case. An attorney appeared for the ward and one for the ward in this case. Fees amounting to \$5 were allowed for attorneys. The ward's funds were properly accounted for and distributed.

There were 68 guardianship estate cases pending July 1, 1936; of these 12 have been pending less than 1 year, 12 from 1 to 2 years, 6 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, 21 from 5 to 10 years, and 12 more than 10 years. These were the estates of 46 minors, 18 insane persons and 4 other incompetents. A guardian was also appointed for the person of the ward in 36 cases and in 32 cases no guardian was appointed for the person of the ward. The value of these estates is \$233,295.12. In 65 cases bond was required of the guardian, and in 3 cases no bond was required; in 64 cases the bond has been kept good, in 1 case bond has not been kept good. An inventory has been filed within 30 days in 22 cases, after 30 days in 13 cases, and in 3 cases no inventory has been filed; 121 annual reports have been filed. The person of the funds of the ward is supervised by the court in 38 cases, in 30 cases it is not supervised by the court. An attorney appeared for the guardian in 12 cases, and in 13 cases for the ward; in 53 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,475.00 were allowed for guardians, and \$570 for attorneys. The wards' funds were properly preserved and cared for in 38 cases.

#### LINN COUNTY

Area, 637 square miles; population, 13,183; assessed value, \$16,000,000.

Report made by Hon. Owen E. Rost, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed regularly; 14 juvenile cases were heard within the year, and 2 were pending. There was 1 habeas corpus case in which writ was allowed; 3 orders were made in district court cases; there were no proceedings in aid of execution within the year; 3 adoption proceedings were had and 10 insanity cases were heard within the year.

Estates of 27 deceased persons were closed within the year. In 8 cases the final report was filed within 1 year after letters of administration were issued, in 9 cases from 1 to 2 years, in 3 cases from 2 to 3 years, in 3 cases from 3 to 4 years, in 3 cases from 4 to 5 years, in 2 cases from 5 to 10 years, and in 1 case longer than 10 years. In 13 cases there was a will, in 14 cases decedent was intestate. In 18 cases bond was required of the executor or administrator; all bonds had been kept good; in 9 cases no bond was required. The inventory was filed within 60 days in 26 cases and in 1 case no inventory was filed; 26 first annual reports have been filed. The value of 26 of these estates, as appraised, was \$104,081.74; the estimated value of property not appraised, was \$4,250. In 4 cases an attorney represented the executor or administrator and in no case the heirs or devisees appeared. In 23 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,247.50 were allowed for executors or administrators and \$570 for attorneys. In 25 cases the estate paid claims in full, and in 2 cases did not pay claims in full.

Estates of 86 deceased persons were pending July 1, 1936; in 32 cases have been pending less than 1 year, 13 from 1 to 2 years, 12 from 2 to 3 years, 6 from 3 to 4 years, 6 from 4 to 5 years, 8 from 5 to 10 years, and 3 more than 10 years.

than 10 years. In 52 of these there was a will and in 34 cases the decedent was intestate. In 62 cases bond was required of the executor or administrator, and all bonds were kept good; in 25 cases no bond was required. In 10 cases the inventory was filed within 60 days, in 6 cases after 60 days, and in 4 cases no inventory has been filed. The appraised value of 82 of these estates is \$692,240.20, and the estimated value of property not appraised is \$10,000. In 39 cases first annual reports have been filed; in 43 cases such reports have not been filed. An attorney represented the executor or administrator in 26 cases; the heirs or devisees in 10 cases, and in 59 cases the report does not show an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents closed during the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, in 3 cases from 5 to 10 years, and in 3 cases longer than 10 years. Of these estates 5 were of minors and 2 of insane persons. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$4,583.50. Six guardians were required to give bonds, and all bonds have been kept good; in 1 case no bond was required. In 1 case the inventory was filed within 30 days in 2 cases, after 30 days in 1 case, and in 4 cases no inventory was filed; 41 annual reports have been filed. The investment of funds of the ward was supervised and approved by the court in 10 cases. An attorney appeared for the guardian in 2 cases and for the ward in 1 case. In all cases the funds of the ward were properly accounted for and disbursed. Fees amounting to \$183 were allowed for guardians and attorneys.

There were 41 guardianship estate cases pending July 1, 1936. Of these 9 were pending less than 1 year, 5 from 1 to 2 years, 2 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, 16 from 5 to 10 years, and 5 longer than 10 years. These were the estates of 23 minors, 11 insane persons, and 7 incompetents. A guardian was appointed for the person of the ward in 10 cases. The value of these estates, as reported, is \$96,378.69. In all cases bond was required of the guardian, and all bonds have been kept good. In 1 case the inventory was filed within 30 days in 31 cases, after 30 days in 8 cases, and in 2 cases no inventory was filed. In these cases 105 annual reports have been filed. The investment of the funds of the ward are supervised by the court in 38 cases, and in 3 cases they are not supervised by the court. An attorney appeared for the guardian in 9 cases and in 9 cases for the ward. In 10 cases the report does not show an attorney appeared for anyone. The funds have been properly preserved and cared for in 37 cases. In 4 cases there are no funds now.

#### LOGAN COUNTY

Area, 1,080 square miles; population, 4,070; assessed value, \$6,861,876. Report made by Hon. Winnie G. Seitz, probate judge for 7 years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases; no appeals made in district court cases, and no proceedings in aid of execution during the year. One adoption proceeding was had, and no insanity cases were heard within the year.

No estates of deceased persons were closed within the year.

Estates of 9 deceased persons were pending July 1, 1936. In 8 final report was filed within 1 year after letters of administration were granted and in 1 case from 1 to 2 years. In 5 of these there was a will, and in 4 cases the decedent died intestate. In 3 cases bond was required of the executor or administrator; all bonds have been kept good; in 6 cases no bond was required. In 5 cases the inventory was filed within 60 days, in 2 cases after 60 days, and in 2 cases no inventory has been filed. The appraised value of 8 estates was \$28,725, and in 1 case the value is not given. In all cases an attorney represented the executor or administrator; in no cases were heirs or devisees represented by an attorney. First annual report was filed in 8 cases such reports have not been filed.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 2 guardianship estate cases pending July 1, 1936; both of the estates of minors and had been pending less than 1 year. A guardian was also appointed for the person of the ward in both cases. The value of the estates is \$725. In both cases bond was required of the guardian, and all bonds were kept good. An inventory was filed within 30 days in 1 case and after 30 days in 1 case. No annual reports have been filed. The income of the funds of the ward are supervised by the court in 1 case, and in the other they are not supervised by the court. An attorney appeared for the ward in both cases, but in no case for the guardian. The report does not show whether fees were allowed for guardians or attorneys. The wards' funds have been properly preserved and cared for in both cases.

#### MARION COUNTY

Area, 954 square miles; population, 20,377; assessed value, \$36,100,000.

Report made by Hon. Jay E. Hargett, probate judge for 8 years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed; 1 juvenile case was heard within the year, and none were pending. There were no habeas corpus orders made in district court cases, and no proceedings in aid of writs within the year. Six adoption proceedings were had, and 4 insane persons were heard within the year.

The estates of 53 deceased persons were closed within the year. In 42 cases closed, 42 cases had been pending from 1 to 2 years, 7 from 2 to 3 years, 1 from 3 to 4 years, and 1 from 4 to 5 years. In 29 cases there was a will and in 24 cases decedent was intestate. In 38 cases bond was required of the executor or administrator, and 36 bonds had been kept good; in 2 cases no bond was required. The inventory was filed within 60 days in 19 cases, after 60 days in 5 cases, and in 1 case no inventory was filed. Two annual reports had been filed. The aggregate value of 52 of these estates appraised, was \$517,081.32, and in 1 case the value was not given. In 33 cases attorneys represented the executors or administrators, and in 19 cases the heirs or devisees, and in 33 cases the report does not show an attorney appeared for anyone. Fees amounting to \$3,723.81 were allowed for executors or administrators, and \$2,305.05 for attorneys. In 52 cases the estates were closed in full.

of 144 deceased persons were pending July 1, 1936; in these cases pending less than 1 year, 24 from 1 to 2 years, 18 from 2 to 3 years, 3 from 3 to 4 years, 16 from 4 to 5 years, 16 from 5 to 10 years, and 5 more than 10 years. In 73 cases there was a will, and in 71 cases the decedent was intestate. In 110 cases bond was required of the executor or administrator, and all bonds were kept good; in 34 cases no bond was required.

In 99 cases the inventory was filed within 60 days, in 31 cases after 60 days, and in 14 cases no inventory was filed. The appraised value of 130 decedent estates is \$1,990,622.39. In 63 cases first annual reports have been filed, in 81 cases such reports have not been filed. An attorney represented the executor or administrator in 50 cases, and the heirs or devisees in 9 cases. In 10 cases the report does not show an attorney appeared for anyone.

There were 7 guardianship estates of minors and 1 of an insane person pending within the year. In 1 case the final report was filed within 1 year, in 2 cases letters of guardianship were issued, and in 2 cases from 5 to 10 years, and in 3 cases were pending longer than 10 years. In all cases a guardian was also appointed for the person of the ward. The value of 5 of these estates, as reported, is \$21,475. In all cases guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 11 cases, and in 6 cases no inventory was filed; 62 annual reports have been filed. Investment of funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in 1 case, but in no case for the ward. Fees amounting to \$193.08 were allowed for guardians, and \$50 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 163 guardianship estate cases pending July 1, 1936; of these, 16 were pending less than 1 year, 16 from 1 to 2 years, 7 from 2 to 3 years, 9 from 3 to 4 years, 9 from 4 to 5 years, 58 from 5 to 10 years, and 17 more than 10 years. These were estates of 141 minors, 9 insane persons, and 13 other incompetents. A guardian was also appointed for the person of the ward in 156 cases. The value of 73 of these estates, as reported, is \$9,558. In 161 cases bond was required of the executor or administrator, and all bonds had been kept good; in 2 cases no bond was required. An inventory was filed within 30 days in 20 cases, after 30 days in 9 cases, and in 34 cases no inventory had been filed. In these cases 401 annual reports have been filed. The investment of the funds of the ward is supervised by the court in all cases where the ward has funds. An attorney appeared for the guardian in 20 cases, and in no case for the ward. In 143 cases the report does not show an attorney appeared for anyone. The wards' funds have been properly cared for in all cases. Fees of \$2,123.50 have been allowed for guardians and \$644.75 for attorneys.

#### MARSHALL COUNTY

Area, 900 square miles; population, 22,543; assessed value, \$39,424,009. Report made by Hon. P. R. Pulleine, probate judge for 3 years. There had been no defalcation by a guardian, executor or administrator, amounting to all of which amount was recovered. No juvenile officer is employed; juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases; no orders made in district court cases, and no

proceedings in aid of execution within the year. Four adoption proceedings were had, and 14 insanity cases were heard within the year.

Estates of 72 deceased persons were closed within the year. In 67 the final report was filed within 1 year after letters of administration were issued, in 40 cases from 1 to 2 years, in 9 cases from 2 to 3 years, in 3 cases from 3 to 4 years, in 5 cases from 4 to 5 years, in 4 cases from 5 to 6 years, and in 5 cases longer than 10 years. In 40 cases there was a will and in 32 cases the decedent was intestate. In 48 cases bond was required of the executor or administrator, and all bonds had been kept good. In 24 cases no bond was required. The inventory was filed within 60 days in 53 cases, after 60 days in 18 cases, and in 1 case no inventory was filed. In 21 cases first annual reports have been filed. The aggregate value of 71 of these estates as appraised, was \$825,445, and the estimated value of property not appraised was \$49,373. In 32 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees. In 40 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,316 were allowed for executors or administrators, and \$1,460 for attorneys. In 67 cases the executor or administrator paid claims in full, and in 5 cases estates did not pay claims in full.

Estates of 203 deceased persons were pending July 1, 1936; in these 137 had been pending less than 1 year, 26 from 1 to 2 years, 13 from 2 to 3 years, 11 from 3 to 4 years, 12 from 4 to 5 years, 38 from 5 to 10 years, and 10 longer than 10 years. In 126 of these there was a will and in 77 cases the decedent was intestate. In 120 cases bond was required of the executor or administrator, and in 119 cases bonds had been kept good; in 83 cases no bond was required. In 172 cases the inventory was filed within 60 days, in 22 cases after 60 days, and in 9 cases no inventory had been filed. The appraised value of these estates is \$3,354,431.53, and the estimated value of the property not appraised is \$16,017. In 45 cases first annual reports have been filed, in 158 cases such reports have not been filed. An attorney represented the executor or administrator in 80 cases, but in no cases were the heirs or devisees represented by attorneys. In 123 cases the report does not show an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents closed within the year. One case was pending from 2 to 3 years, 5 were pending from 3 to 5 years, 1 from 5 to 10 years, and 1 longer than 10 years. Of these estates 6 were of minors and 1 of an insane person. In 5 cases a guardian was also appointed for the person of the ward. The value of these estates, as reported, was \$282.53. All guardians were required to give bond, and all bonds had been kept good. No inventory was filed in any case; 20 annual reports had been filed. Investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 3 cases and in 1 case for the ward. Fees amounting to \$205 were allowed for guardians and \$150 for attorneys. In all cases the funds of the ward were properly accounted for and reported.

There were 137 guardianship cases pending July 1, 1936; of these 109 had been pending less than 1 year, 13 from 1 to 2 years, 7 from 2 to 3 years, 6 from 3 to 4 years, 6 from 4 to 5 years, 50 from 5 to 10 years, and 10 longer than 10 years; these were estates of 98 minors, 27 insane persons and 12 incompetents. A guardian was also appointed for the person of the ward in 28 cases. In 109 cases no guardian was appointed for the person of the ward.

ue of 111 of these estates is \$222,090.55. In 130 cases bond was required guardian, and in 117 cases bonds were kept good; in 7 cases no bond required. An inventory was filed within 30 days in 25 cases, after 30 days cases, and in 92 cases no inventory was filed. In these cases 188 annual have been filed. The investment of the funds of the ward is super-52 cases. In 17 cases the report shows that an attorney appeared for dian and in 12 cases for the ward, and in 106 cases no one was repre- by an attorney. Fees amounting to \$6,627 were allowed for guardians, 5 for attorneys. The wards' fund have been properly cared for in 65

## MEADE COUNTY

975 square miles; population, 6,048; assessed value, \$10,861,989. rt made by Hon. Florilla DeCow, probate judge for 11 years. There n no defalcations by guardians, executors, or administrators within . A juvenile officer is employed only by special appointment; 1 juve- was heard within the year, and none were pending. There were no corpus cases; no orders made in district court cases, and no proceed- aid of execution within the year. Two adoption proceedings were insanity cases were heard within the year. es of 6 deceased persons were closed within the year. When closed en pending from 1 to 2 years, and 1 from 2 to 3 years. In 1 of these s a will and in 5 cases decedent was intestate. In 6 cases bond was and all bonds had been kept good. The inventory was filed within in 2 cases and after 60 days in 4 cases. In 1 case first annual as filed. The aggregate value of these estates, as appraised, was In 6 cases an attorney represented the executor or administrator; l case the heirs or devisees. Fees amounting to \$357 were allowed utors or administrators and \$66 for attorneys. In 4 cases the estates ims in full and in 2 cases the estates did not pay claims in full. es of 37 deceased persons were pending July 1, 1936; these cases have nding, 9 less than 1 year, 9 from 1 to 2 years, 6 from 2 to 3 years, 3 to 4 years, 5 from 4 to 5 years, 6 from 5 to 10 years, and 1 longer years. In 26 of these there was a will, and in 11 the deceased was . In 20 cases bond was required of the executor or administrator; s have been kept good; in 17 cases no bond was required. In 26 nventory was filed within 60 days, in 8 cases after 60 days, and in 3 o inventory has been filed. The appraised value of 34 of these s \$1,038,029.65. Fifteen first annual reports have been filed. In 22 h reports have not been filed. An attorney represented the executor nistrator in 32 cases; the heirs or devisees in 6 cases, and in 5 cases rt does not show an attorney appeared for anyone. report does not show any guardianship estates of minors or other ents closed within the year. were 20 guardianship estate cases pending July 1, 1936; of these en pending less than 1 year, 1 from 1 to 2 years, 2 from 2 to 3 years, to 5 years, 8 from 5 to 10 years, and 3 longer than 10 years. These ates of 14 minors, 4 insane persons and 2 other incompetents. A was also appointed for the person of the ward in 9 cases and in a guardian was not appointed. The value of these estates is \$42.-

086.38. In all cases bond was required of the guardian, and in 18 cases have been kept good. An inventory was filed within 30 days in 13 cases, after 30 days in 3 cases and in 1 case no inventory was filed. In 13 cases annual reports have been filed. The investment of the funds of the wards are supervised by the court in 13 cases, and in 7 cases they are not supervised by the court. An attorney appeared for the guardian in all cases, in no case for the ward. Fees amounting to \$130 were allowed for guardians and \$305 for attorneys. The wards' funds have been preserved and accounted for in 15 cases.

#### MITCHELL COUNTY

Area, 720 square miles; population, 11,492; assessed value, \$22,300.

Report made by Hon. J. M. Rodgers, probate judge for 5½ years. There had been no defalcations by guardians, executors, or administrators during the year. Two juvenile officers are employed; 3 juvenile cases were closed within the year, and 1 was pending. There were no habeas corpus cases. There were 7 orders made in district court cases, and 24 proceedings of execution within the year. One adoption proceeding was had and 2 sanity cases heard within the year.

Estates of 37 deceased persons were closed within the year. In 13 cases the final report was filed within 1 year after letters of administration were issued, in 30 cases from 1 to 2 years, in 3 cases from 2 to 3 years, in 1 case from 5 to 10 years. In 15 of these there was a will and in 22 cases the decedent was intestate. In 28 cases bond was required of the executor or administrator; all bonds had been kept good; in 9 cases no bond was required. The inventory was filed within 60 days in 33 cases, after 60 days in 3 cases, and in 1 case no inventory was filed. No first annual report was filed. The aggregate value of 36 of these estates, as appraised, was \$30.55. In 1 case the value was not given. In 2 cases attorneys represented the executor or administrator and in 2 cases the heirs or devisees, and in 3 cases the report does not show an attorney appeared for anyone. Fees amounting to \$874.50 were allowed for guardians and \$175 for attorneys. In 35 cases the estates paid claims in full and in 2 cases claims were still pending in full.

Estates of 104 deceased persons were pending July 1, 1936. In 39 cases there was a will and in 65 cases the deceased was intestate. When these cases had been pending, 57 less than 1 year, 23 from 1 to 2 years, 10 from 2 to 3 years, and 10 from 3 to 4 years. In 68 cases bond was required of the executor or administrator and in 36 cases no bond was required. In 67 of these the bond has been kept good. In 72 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 15 cases no inventory was filed. The appraised value of these estates is \$883,658.83, and the estimated value of the property not appraised is \$15,450. In 4 cases first annual reports have been filed, in 100 cases such reports have not been filed. An attorney represented the executor or administrator in 6 cases, the heirs or devisees in 5 cases, and in 93 cases the report does not show an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetents closed within the year. In 1 case the final report was filed within 1 year after a letter of guardianship was issued, in 1 case from 3 to 4 years and in 1 case from 4 to 5 years.



years. Two of these estates were of minors and 1 of an incompetent. In 2 cases a guardian was appointed for the person of the ward and in 1 case no guardian was appointed for the person of the ward. The value of the estates, as reported, is \$6,906.35. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case and in 2 cases no inventory has been filed. Six annual reports have been filed. Investment of funds of the ward was supervised by the court in all cases. In no case did an attorney appear for either the guardian or the ward. Fees amounting to \$10 were allowed for guardians, but the report does not show any fees allowed for attorneys. In all cases the funds of the ward were properly accounted for and disbursed. There were 37 guardianship estate cases pending July 1, 1936. Of these there were 7 been pending less than 1 year, 8 from 1 to 2 years, 13 from 2 to 3 years, 7 from 3 to 4 years, and 1 from 4 to 5 years. These were the estates of 3 minors, 5 insane persons and 5 other incompetents. A guardian was appointed for the person of the ward in 36 cases, and in 1 case no guardian was appointed for the person of the ward. The value of 34 of these estates is \$82,389.68. Two estates consist of interest in land, and in 1 case the report does not give the value of the estate. In 34 cases bond was required for the guardian, and all bonds have been kept good. In 3 cases no bond was required. An inventory was filed within 30 days in 8 cases, and in 1 case after 30 days. In 28 cases no inventory had been filed. In these cases annual reports have been filed. The investment of the funds of the ward was supervised by the court in 35 cases, and in 2 cases they are not supervised by the court. An attorney appeared for the guardian in no case and in no case for the ward. Fees of \$50 were allowed in 1 case for guardian. The funds have been preserved and cared for in 35 cases.

#### MORRIS COUNTY

1,700 square miles; population, 11,257; assessed value, \$18,904,573. The report made by Hon. W. T. Williams, probate judge for 6 years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; two juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases; 5 orders were made in district court cases; and no proceedings in aid of execution within the year. Six adoption proceedings were had, and 4 insanity cases were heard within the year. Estates of 34 deceased persons were closed within the year. In 5 cases the report was filed within 1 year after letters of administration were issued, 10 cases from 1 to 2 years, in 4 cases from 2 to 3 years, in 1 case from 4 to 5 years, and in 1 case from 5 to 10 years. In 16 of these cases there was a bond, and in 18 cases decedent was intestate. In 24 cases bond was required of the executor or administrator, and in all cases bond had been kept good; in 10 cases no bond was required. The inventory was filed within 60 days in 10 cases, and after 60 days in 1 case. The aggregate value of these estates, as reported, was \$164,643. In 19 cases attorneys represented the executor or administrator, in 4 cases the heirs or devisees, and in 14 cases the report does not show an attorney appeared for anyone. Fees amounting to \$1,614.09 were allowed for executors or administrators, and \$485 for attorneys. In 29 cases

the estate paid claims in full; in 1 case the estate did not pay in full report as to payment of claims is made in 4 cases.

Estates of 65 deceased persons were pending July 1, 1936; 41 of them have been pending less than a year, 13 from 1 to 2 years, 6 from 2 to 3 years, 2 from 3 to 4 years, 2 from 4 to 5 years, and 1 from 5 to 10 years. In 33 cases there was a will, and in 33 cases deceased was intestate. In 33 cases bond was required of the executor or administrator, and in most cases has been kept good; in 19 cases no bond was required. In 51 cases inventory was filed within 60 days, in 9 cases after 60 days, and in 5 cases no inventory has been filed. The appraised value of these estates is \$27,683. In 3 cases first annual reports have been filed, and in 62 cases such reports have not been filed. An attorney represented the executor or administrator in 3 cases, the heirs or devisees in 4 cases, and in 21 cases the report does not show an attorney appeared for anyone.

No guardianship estates of minors or other incompetents were closed within the year.

There were 56 guardianship estate cases pending July 1, 1936. Of these 34 had been pending less than a year, 10 from 1 to 2 years, 4 from 2 to 3 years, 5 from 3 to 4 years, 5 from 4 to 5 years, 9 from 5 to 10 years, and 1 from more than 10 years. These were estates of 42 minors, 9 insane persons, and 5 incompetents. A guardian was also appointed for the person of the ward in 50 cases. The value of these estates is \$27,683. In 50 cases bond was required of the guardian, and in 6 cases no bond was required; in all cases bond has been kept good. An inventory was filed within 30 days in 30 cases, 31 days in 11 cases, and in 15 cases no inventory had been filed. In these 50 cases 11 annual reports have been filed. The investment of the funds of the ward supervised by the court in 39 cases. An attorney appeared for the ward in 39 cases, and for the ward in 4 cases. In 49 cases the report does not show an attorney appeared for anyone.

#### MORTON COUNTY

Area, 729 square miles; population, 3,006; assessed value, \$4,600,500.

Report made by Hon. Jennie M. Smallwood, probate judge for Morton County. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed, no juvenile cases were closed within the year, and none were pending. There were no habeas corpus orders made in a district court case, and there were no proceedings of execution within the year. No adoption proceeding was had. One case was heard within the year.

Estates of 3 deceased persons were closed within the year. In 1 case report was filed within 1 year after letter of administration was issued. In 2 cases from 1 to 2 years. In 2 cases there was a will and in 1 case deceased was intestate. In 2 cases bond was required of the executor or administrator, both bonds were kept good. In 1 case no bond was required. The inventory was filed within 60 days in 1 case, and after 60 days in 2 cases. In 1 case was first annual report filed. The aggregate value of these estates appraised, was \$1,468.11. The estimated value of part of the estates of real estate, was \$6000. In 2 cases attorneys represented the executor or administrator, but in no cases were the heirs or legatees represented. In 3 cases the report does not show an attorney appeared for anyone. Fees and

31 were allowed for executors or administrators, and \$75 for attorneys. The estates paid claims in full, and in 1 case the estate paid part claims.

Of 12 deceased persons were pending July 1, 1936. Of these 7 have pending less than 1 year, 2 from 1 to 2 years, and 3 from 2 to 3 years. In these there was a will and in 5 the deceased was intestate. In 8 cases was required of the executor or administrator; all bonds were kept good; in 8 cases no bond was required. In 8 cases the inventory was filed within 60 days, in 3 cases after 60 days, and in 1 case no inventory was filed. The appraised value of these estates is \$79,051.97 and the estimated value of property not appraised is \$50. In 1 case first annual report was filed, in 11 cases such reports have not been filed. An attorney represented the executor or administrator in 8 cases, the heirs or devisees in 1 case, and in 3 cases the report does not show an attorney appeared for anyone. There were no guardianship of minors or other incompetents closed within the year.

There were 6 guardianship estate cases pending July 1, 1936. Of these 1 are pending less than 1 year, 2 from 1 to 2 years, 1 from 2 to 3 years, and 2 from 4 to 5 years. These were the estates of 5 minors and 1 incompetent. A guardian was also appointed for the person of the ward in 4 cases. The value of these estates is \$16,498.63. One estate consisted of interest in real estate and in 1 case the value is not given. In all cases bond was required of the guardian; all bonds have been kept good. An inventory was filed after 30 days in 1 case, and in 5 cases no inventory had been filed. In these cases 8 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 1 case, and in 5 cases it is not supervised by the court. An attorney appeared for the guardian in 1 case, but in no case for the ward. In 5 cases the report does not show an attorney appeared for anyone. The wards' funds have been preserved and cared for in 2 cases, in 1 case have been spent for support and education of the ward, and in 3 cases the report does not show whether funds have been preserved and cared for to the satisfaction of the court. No fees have been allowed for guardians or attorneys.

#### NESS COUNTY

Area, 1,080 square miles; population, 8,128; assessed value, \$13,236,815. Report made by Hon. J. C. M. Anderson, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; 3 juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases, no appeals made in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were had, and 4 insanity cases were heard within the year.

Of 23 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, in 2 cases from 1 to 2 years, in 2 cases from 2 to 3 years, in 1 case from 3 to 4 years, in 1 case from 4 to 5 years, in 2 cases from 5 to 10 years, and in 1 case more than 10 years. In 12 of these there was a will and in 11 cases the decedents were intestate. In 17 cases bond was required of the executor or administrator, and in 6 cases no bond was required. In 1 case the report shows bond was not good, and in 16 cases does not state whether or not bond was kept good. The inventory was filed within 60 days in 21 cases and in 2 cases after

60 days. First annual reports were filed in all cases. The aggregate value of 22 of these estates, as appraised, was \$77,142. In 1 case report does not show valuation of estate. In 9 cases attorneys represented the executor or administrator, in no cases were the heirs or devisees represented, and in 14 cases report does not show an attorney appeared for anyone. Fees amounting to \$1,235 were allowed for executors or administrators, and \$570 for attorneys. In 18 cases the estates paid claims in full, and in 5 cases they did not pay in full.

Estates of 52 deceased persons were pending July 1, 1936. In 21 cases there was a will, and in 31 cases the deceased was intestate. These cases have been pending, 18 less than 1 year, 11 from 1 to 2 years, 7 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, 2 from 5 to 10 years, and 6 longer than 10 years. In 45 cases bond was required of the executor or administrator; all bonds were kept good; in 7 cases no bond was required. In 46 cases an inventory was filed within 60 days, in 2 cases after 60 days, and in 4 cases no inventory has been filed. The appraised value of 48 of these estates is \$4,550 and the estimated value of the property not appraised is \$4,550. In 46 cases first annual reports have been filed; in 45 cases no such reports have been filed. An attorney represented the executors or administrators in 17 cases; heirs or devisees in no case, and in 35 cases the report does not show an attorney appeared for anyone.

There were 3 guardianship estates of minors and 2 of incompetent persons pending within the year. In 2 cases the final report was filed within 1 year. Letters of guardianship were issued, in 1 case from 1 to 2 years, in 1 case from 3 to 4 years, and in 1 case more than 10 years. In all cases a guardian was also appointed for the person of the ward. The value of these estates as reported, is \$9,557. Five guardians were required to give bond, and all bonds kept good. The inventory was filed within 30 days in 2 cases, and within 30 days in 3 cases. Twelve annual reports have been filed. Investments of the funds of the ward were supervised by the court in 5 cases. An attorney appeared for the guardian in 2 cases, and in 1 case for the ward. In 1 case the report does not show an attorney appeared for anyone. Fees amounting to \$12.50 were allowed for guardian in 1 case; the report does not show fees allowed for attorneys. In all cases the funds of the ward were accounted for and disbursed.

There were 36 guardianship estate cases pending July 1, 1936. Of these cases had been pending less than 1 year, 9 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 14 from 5 to 10 years, and 1 more than 10 years. These were the estates of 30 minors, 3 insane persons, and 3 incompetent persons. A guardian was also appointed for the person of the ward in 34 cases. The value of these estates is \$29,413.50. In 36 cases bond was required of the guardian and all bonds were kept good. The inventory was filed within 30 days in 16 cases, after 30 days in 13 cases, and in 7 cases no inventory was filed. Fifty-six annual reports have been filed. The management of the funds of the ward have been supervised by the court in 35 cases and in 1 case there are no funds. An attorney appeared for the guardian in 1 case, and for the ward in 1 case. In 35 cases the report does not show an attorney appeared for anyone. Fees amounting to \$155.17 were allowed for guardians and \$106 for attorneys. The wards' funds have been properly accounted for in 35 cases.

## NORTON COUNTY

a, 900 square miles; population, 10,915; assessed value, \$13,458,847. Report made by Hon. W. A. Hendrickson, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators during the year. One juvenile officer is employed; 3 juvenile cases were heard during the year, and 1 was pending. There were no habeas corpus cases. Three were made in district court cases, and there were no proceedings in aid of execution within the year. Two adoption proceedings were had, and 4 inheritance cases heard within the year.

Estates of 24 deceased persons were closed within the year. In 4 cases the final report was filed within 1 year after letters of administration were issued, in 1 case from 1 to 2 years, in 3 cases from 2 to 3 years, and in 1 case from 3 to 4 years. In 15 of these there was a will and in 9 cases decedent was intestate. In 15 cases bond was required of the executor or administrator; in 9 cases no bond was required. The inventory was filed within 60 days in 19 cases; after 60 days in 5 cases. No annual reports were filed. The aggregate value of these estates, as appraised, was \$100,192.51. In all cases the executors or administrators were represented by attorneys, and in 2 cases the heirs or devisees were represented by attorneys. Fees amounting to \$1,037.50 were allowed for executors or administrators and \$1,529.88 for attorneys. In 19 cases the estates paid claims in full, and in 5 cases estates did not pay claims in full.

Estates of 59 deceased persons were pending July 1, 1936. These have been pending, for example, 21 for less than 1 year, 16 from 1 to 2 years, 11 from 2 to 3 years, 6 from 3 to 4 years, 1 from 4 to 5 years, 3 from 5 to 10 years, and 1 longer than 10 years. In 31 of these there was a will and in 28 the deceased was intestate. In 31 cases bond was required of the executor or administrator, and all bonds were kept good; in 16 cases no bond was required. In 44 cases the inventory was filed within 60 days, in 8 cases after 60 days, and in 7 cases no inventory was filed. The appraised value of these estates is \$460,497.97, and the estimated value of the property not appraised is \$33,348.30. In 2 cases first annual reports have been filed, and in 57 cases such reports have not been filed. In 1 case an attorney represented the executor or administrator, but in no cases were the heirs or devisees represented by attorneys.

There were 3 guardianship estates of incompetents closed within the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, in 1 case from 1 to 2 years, and in 1 case longer than 2 years. In 2 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,431.85. In these cases 3 guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 2 cases, and in 1 case no inventory was filed; 6 annual reports were filed. Investment of the funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in 1 case, but in no case for the ward. Fees amounting to \$20.51 were allowed for guardians, but no fees were allowed for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 52 guardianship cases pending July 1, 1936. Of these 16 had been pending less than 1 year, 10 from 1 to 2 years, 3 from 2 to 3 years, 2 from 3 to 4 years, 2 from 4 to 5 years, 11 from 5 to 10 years, and 8 longer than 10 years.

than 10 years. These were estates of 44 minors, 5 insane persons, and incompetents. In 37 cases a guardian was also appointed for the ward. The value of these estates, as reported, is \$53,736.26. In all cases the bond has been kept good. An inventory was filed within 30 days in 14 cases, after 30 days in 9 cases, and in 29 cases no inventory has been filed. In these cases 88 annual reports have been filed. The inventory of the funds of the ward is supervised by the court in all cases. In 37 cases an attorney appeared for the guardian, but in no case for the ward. Amounts amounting to \$298.49 have been allowed for guardians, and \$195.72 for attorneys. The wards' funds have been preserved and cared for in all

#### OSBORNE COUNTY

Area, 900 square miles; population, 10,894; assessed value, \$18,224,000.

Report made by Hon. James W. Bell, probate judge for 4 years. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer was employed; 1 juvenile case was heard within the year, and none were pending. There were no habeas corpus cases, and no was made in a district court case, and there were 4 proceedings in adoption within the year. Two adoption proceedings were had, and 9 cases were heard within the year.

Estates of 58 deceased persons were closed within the year. Where these cases had been pending, 36 from 1 to 2 years, 8 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 6 from 5 to 10 years, and 5 longer than 10 years. In 23 of these there was a will, and in 35 cases decedent was intestate. In 40 cases bond was required of the executor or administrator; 36 cases bonds had been kept good; in 18 cases no bond was required. An inventory was filed within 60 days in 47 cases, after 60 days in 7 cases, and in 4 cases no inventory was filed. Three annual reports were filed. The appraised value of 55 of these estates, as appraised, was \$293,091.56. The estimated value of property, not appraised, was \$20,660. In 13 cases a representative represented the executors or administrators, in no case were the devisees represented by attorneys, and in 45 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,547.59 were allowed for executors or administrators, and \$845.28 for attorneys. In 52 cases estates paid claims in full, and in 3 cases they did not pay claims in full.

Estates of 71 deceased persons were pending July 1, 1936. In 37 cases had been pending less than 1 year, 18 from 1 to 2 years, 8 from 2 to 3 years, 4 from 3 to 4 years, 3 from 5 to 10 years, and 1 longer than 10 years. In 23 cases there was a will, and in 48 cases the deceased was intestate. In 56 cases bond was required of the executor or administrator, and 36 cases bonds had been kept good; in 16 cases no bond was required. An inventory was filed within 60 days, in 8 cases after 60 days, and in 1 case no inventory has been filed. The appraised value of these estates is \$355,897.50. Annual reports have been filed in 3 cases. In 68 cases such reports have been filed. An attorney represented the executor or administrator in 37 cases but in no cases were the heirs or devisees represented by an attorney. In 3 cases the report does not show an attorney appeared for anyone.

There were 6 guardianship estates of minors or other incompetents within the year. In 1 case the final report was filed within 1 year after

guardianship was issued, and in 5 cases more than 10 years. Of these 5 were of minors and 1 of an insane person. In all cases a guardian was appointed for the person of the ward. The value of these estates as reported is \$3,298.69. In all cases guardians were required to give bond, and bonds have been kept good. The inventory was filed within 30 days in 10 cases and in 5 cases no inventory was filed. Eight annual reports have been filed. Investment of funds of the ward was supervised by the court in 5 cases. Fees amounting to \$100 were allowed for guardians, and \$25 for attorneys. In 5 cases the funds of the ward were properly accounted for and reported.

There were 46 guardianship estate cases pending July 1, 1936. Of these, 10 were pending less than 1 year, 3 from 1 to 2 years, 3 from 2 to 3 years, 3 to 4 years, 1 from 4 to 5 years, 14 from 5 to 10 years, and 11 longer than 10 years. These were estates of 25 minors, 18 insane persons, and 3 other persons. A guardian was also appointed for the person of the ward in 10 cases. The value of these estates is \$48,325. In 45 cases bond was required of the guardian; 41 bonds were kept good, and 5 were not kept good; no bond was required in 1 case. An inventory was filed within 30 days in 2 cases, 30 to 60 days in 2 cases, and in 42 cases no inventory had been filed. In these 43 cases annual reports have been filed. The investment of funds of the ward was supervised by the court in 29 cases, and in 17 cases it is not supervised by the court. An attorney appeared for the guardian in 2 cases, and for the ward. In 45 cases the report does not show an attorney appeared for anyone. Fees of \$100 were allowed for guardians and \$25 for attorneys. In 26 cases the report shows that the wards' funds have been properly accounted for.

#### PAWNEE COUNTY

Area, 756 square miles; population, 9,168; assessed value, \$19,594,990. Report made by Hon. W. H. Goddard, probate judge for 1½ years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; 2 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no orders in district court cases, and no proceedings in aid of execution within the year. Three adoption proceedings were had, and 26 insanity cases were heard during the year.

Estates of 23 deceased persons were closed within the year. When closed 10 cases had been pending, 21 from 1 to 2 years, and 2 from 2 to 3 years. In 10 of these cases there was a will, and in 10 cases decedent was intestate. In 10 cases bond was required of the executor or administrator; all bonds had been kept good; in 13 cases no bond was required. The inventory was filed within 60 days in 22 cases and after 60 days in 1 case. Three first annual reports were filed. The aggregate value of these estates as appraised, was \$320,000 and the estimated value of property not appraised was \$1,490. In 20 cases attorneys represented the executors or administrators, in no case were the devisees represented by attorneys, and in 3 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,166.41 were allowed for executors or administrators and \$2,370 for attorneys. In all cases estates paid claims in full.

Estates of 23 deceased persons were pending July 1, 1936. These have been pending, 15 less than 1 year, 6 from 1 to 2 years, and 2 from 2 to 3 years. In

16 of these there was a will and in 7 cases the deceased was intestate. In 16 cases bond was required of the executor or administrator; all bonds kept good; in 16 cases no bond was required. In 15 cases the inventory was filed within 60 days, in 5 cases after 60 days, and in 3 cases no inventory had been filed. The appraised value of these estates as reported, is \$1,200. First annual report was filed in 1 case; in 22 cases such reports have not been filed. An attorney represented the executor or administrator in 20 cases, heirs or devisees in no case, and in 3 cases the report does not show whether an attorney represented anyone.

There were 3 guardianship estates of minors or other incompetents closed within the year. In 1 case the final report was filed within 1 to 2 months, in 1 case from 3 to 4 years, and in 1 case from 5 to 10 years. Two of these estates were of minors and 1 of an incompetent person. A guardian was also appointed for the person of the ward in 3 cases. The value of these estates, as reported, is \$2,706. All guardians have been required to give bond, and all have kept their bonds good. In 1 case an inventory was filed within 30 days, and in 2 cases no inventory had been filed. Nineteen annual reports were filed. Investment of funds of the ward is supervised by the court in all cases. In no case was the guardian represented by an attorney; in 1 case an attorney appeared for the ward. No fees were allowed for guardians or attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 13 guardianship estate cases pending July 1, 1936. Of these these had been pending from 1 to 2 years, 3 from 4 to 5 years, 5 from 6 to 10 years, and 4 longer than 10 years. These were estates of 11 minors and 2 incompetents. In all cases a guardian was also appointed for the person of the ward. The value of 7 of these estates is \$47,286.70; in 6 cases the value was not given. In 10 cases bond was required of the guardian, and in 3 cases no bond was required; all bonds have been kept good. An inventory was filed within 30 days in 2 cases, after 30 days in 6 cases, and in 5 cases no inventory had been filed. In these cases 65 annual reports have been filed. Investment of the funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 3 cases, and for the ward in 1 case. In 10 cases the report does not show whether an attorney appeared for the ward. In all cases the wards' funds have been properly cared for in all cases. Fees amounting to \$430 were allowed for guardians, and \$100 for attorneys.

#### PHILLIPS COUNTY

Area, 900 square miles; population, 11,510; assessed value, \$17,400,000.

Report made by Hon. Fred Kelly, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; 15 juvenile cases were closed within the year, and 3 were pending. There were no habeas corpus cases. The report states that several orders were made in district court which no record was kept. There were no proceedings in aid of execution within the year. Five adoption proceedings were had and 7 insolvencies were heard within the year.

Estates of 34 deceased persons were closed within the year. In 4 cases the final report was filed within 1 year after letters of administration were



ases from 1 to 2 years, in 2 cases from 2 to 3 years, in 3 cases from years, in 1 case from 4 to 5 years, in 2 cases from 5 to 10 years, and e more than 10 years. In 19 of these there was a will, and in 15 cases t was intestate. In 25 cases bond was required of the executor or rator; all bonds were kept good; in 9 cases no bond was required. entory was filed within 60 days in 25 cases, after 60 days in 8 cases, t case no inventory was filed. Two first annual reports were filed. The te value of 34 of these estates, as appraised, was \$293,369.13. The ed value of property not appraised, was \$650. In 23 cases attorneys ated the executor or administrator, in no cases the heirs or devisees, 11 cases the report does not show an attorney appeared for anyone. ounting to \$1,438.47 were allowed for executors or administrators, 486 for attorneys. In 31 cases the estates paid claims in full, in 2 ey did not pay claims in full, and in 1 case the report did not state r or not claims were paid in full.

es of 96 deceased persons were pending July 1, 1936. In these cases 57 en pending less than 1 year, 27 from 1 to 2 years, 9 from 2 to 3 years, rom 3 to 4 years. In 37 of these there was a will, and in 59 cases the d was intestate. In 74 cases bonds were required, and all bonds were od; in 22 cases no bond was required. In 79 cases the inventory was thin 60 days, in 7 cases after 60 days, and in 10 cases no inventory d. The appraised value of these estates, as reported, is \$461,571.35. ases first annual reports have been filed; in 84 cases such reports have n filed. An attorney represented the executor or administrator in 82 e heirs or devisees in 1 case, and in 14 cases the report does not show rney appeared for anyone.

e were 2 guardianship estates of incompetent persons closed within r; both had been pending from 2 to 3 years. A guardian was not ap- for the person of the ward in either case. The value of these estates, rted, is \$2,334.41. Both guardians were required to give bond, and the ere kept good. No inventory was filed in either case; 3 annual re- ave been filed. Investment of funds of the ward was supervised by rt in 1 case. In both cases an attorney appeared for the guardian, neither case for the ward. Fees amounting to \$75 were allowed for ys, but none for guardians. In both cases the funds of the ward were y accounted for and disbursed.

e were 19 guardianship estates cases pending July 1, 1936. Of these 8 en pending less than 1 year, 6 from 1 to 2 years, 3 from 2 to 3 years, rom 3 to 4 years. These were estates of 10 minors and 9 insane persons. dian was also appointed for the person of the ward in 9 cases. The f these estates is \$31,645.53. In all cases bonds were required of the n, and all bonds were kept good. An inventory was filed within 30 7 cases, after 30 days in 3 cases, and in 9 cases no inventory was annual reports have been filed. In all cases the investment of funds ward is supervised by the court. In 16 cases an attorney appeared guardian, but in no case for the ward. In 3 cases the report does not a attorney appeared for anyone. Fees amounting to \$116 were allowed rdians and \$55 for attorneys. In all cases the funds of the wards have properly preserved and cared for.

## POTTAWATOMIE COUNTY

Area, 848 square miles; population, 15,204; assessed value, \$23,504.

Report made by Hon. Frank Brooks, probate judge for 4 years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; no juvenile cases were heard within the year but 3 were pending. There were no habeas corpus cases; 3 orders were granted in district court cases; and there were no proceedings in aid of execution within the year. Two adoption proceedings were had, and 5 insanity cases were heard within the year.

Estates of 51 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration were issued, in 23 cases from 1 to 2 years, in 4 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 4 cases from 4 to 5 years, and in 6 cases from 5 to 10 years. In 24 cases there was a will and in 27 cases decedent was intestate. In all cases bond was required of the executor or administrator, and all bonds were kept good; in 11 cases no bond was required. The inventory was filed within 60 days in 45 cases, after 60 days in 5 cases, and in 1 case no inventory was filed. Eight first annual reports have been filed. The aggregate value of these estates, as appraised, was \$359,063.32. In 1 case the value was not given. In 37 cases attorneys represented the executor or administrator, and in no cases were the heirs or devisees represented by attorneys. In the report does not show an attorney appeared for anyone. Fees amounting to \$5,875.58 were allowed for executors or administrators, and \$1,000.00 for attorneys. In 47 cases the estates paid claims in full, and in 4 cases did not pay claims in full.

Estates of 42 deceased persons were pending July 1, 1936. All but 1 were pending less than 1 year. In 17 of these there was a will, and in 25 cases decedent was intestate. In 28 cases bond was required of the executor or administrator, and all bonds were kept good; in 14 cases no bond was required. In 37 cases the inventory was filed within 60 days, and in 1 case after 60 days; in 1 case no inventory has been filed. The appraised value of 40 of these estates is \$345,172.19, and the estimated value of 2 estates is \$800. First annual report was filed in 1 case. In 41 cases reports have not been filed. An attorney represented the executor or administrator in 33 cases, but in no cases were the heirs or devisees represented by attorneys. In 9 cases the report does not show an attorney appeared for anyone.

There were 8 guardianship estates of minors or other incompetent persons within the year. Of these 1 had been pending from 1 to 2 years, 1 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, and 3 from 5 to 10 years. Of these estates 5 were of minors and 3 of insane persons. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$4,032.52. In all cases guardians were required to post bond, and all bonds have been kept good. The inventory was filed within 30 days in 3 cases, after 30 days in 1 case, and in 4 cases no inventory was filed. Thirteen annual reports have been filed. Investment of funds of the ward was supervised by the court in 7 cases. An attorney appeared for the guardian in 2 cases, but in no case for the ward. Fees amounting to \$121.22 were allowed for guardians, and \$121.22 for attorneys. In 7 cases the accounts of the ward were properly accounted for and disbursed; in 1 case there were no funds.

ere were 3 guardianship estate cases of minors pending July 1, 1936. es had been pending less than 1 year. A guardian was also appointed person of the ward in all cases. The value of 2 of these estates is In all cases bond was required of the guardian, and all bonds have ept good. An inventory was filed within 30 days in 1 case, and after s in 2 cases. No annual reports have been filed. The investment of ds of the ward is supervised by the court in all cases. An attorney ed for the guardian in 1 case, but in no case for the ward. In 2 cases ort does not show an attorney appeared for anyone. The report does ow that any fees have been allowed for either guardians or attorneys. ards' funds have been properly preserved and cared for in all cases.

### PRATT COUNTY

a, 720 square miles; population, 12,667; assessed value, \$25,492,210. ort made by Hon. E. R. Barnes, probate judge for 10½ years. There een no defalcations by guardians, executors or administrators within ar. Two juvenile officers are employed part of the time; 6 juvenile ere heard within the year, and 1 was pending. There were no habeas cases, 3 orders were made in district court cases, and there were no dings in aid of execution within the year. Seven adoption proceedings ad, and 7 insanity cases heard within the year. ates of 28 deceased persons were closed within the year. In 8 cases al report was filed within 1 year after letters of administration were in 14 cases from 1 to 2 years, in 4 cases from 2 to 3 years, and in 2 from 3 to 4 years. In 15 of these there was a will, and in 13 cases nt was intestate. In 18 cases bond was required of the executor or istrator, and all bonds have been kept good; in 10 cases no bond was ed. The inventory was filed within 60 days in 14 cases, and after 60 n 14 cases; 7 first annual reports have been filed. The aggregate value se estates, as appraised, was \$369,303.96. In all cases attorneys repre- the executor or administrator, but in no cases were the heirs or devisees ented. Fees amounting to \$1,353 were allowed for executors or admin- rs, and \$2,875 for attorneys. In all cases the estates paid claims in full. ates of 79 deceased persons were pending July 1, 1936. In these cases ve been pending less than 1 year, 16 from 1 to 2 years, 5 from 2 to 3 7 from 3 to 4 years, 6 from 4 to 5 years, and 17 from 5 to 10 years. In es there was a will and in 26 the deceased was intestate. In 38 cases was required of the executor or administrator, and 37 bonds have been ood; in 41 cases no bond was required. The inventory was filed within ys in 17 cases, after 60 days in 29 cases, and in 33 cases no inventory ed. The appraised value of these estates is \$1,498,957.98, and the esti- value of property not appraised in 1 case is \$8,000. In 9 cases first l reports have been filed. In 70 cases such reports have not been filed. cases an attorney represented the executor or administrator, and in s the heirs or devisees were represented by attorneys. ere were 3 guardianship estates of minors closed within the year. All se had been pending from 5 to 10 years. In all cases a guardian was ppointed for the person of the ward. The value of these estates, as ed, is \$37,265. In all cases the guardians were required to give bond

and all bonds have been kept good. No inventory was filed in any case. Five annual reports have been filed. In all cases the investment of the ward was supervised by the court. Attorneys appeared for the wards in all cases, but in no case for the ward. The report does not show any fees have been allowed for guardians or attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 37 guardianship estate cases pending July 1, 1936. Of these 10 had been pending less than 1 year, 7 from 1 to 2 years, 6 from 2 to 3 years, 1 from 3 to 4 years, 3 from 4 to 5 years, and 12 from 5 to 10 years. There were 30 estates of minors, 6 insane persons, and 1 other incompetent. In 36 cases a guardian was also appointed for the person of the ward in 37 cases the aggregate value of these estates is \$109,312.46. In 36 cases bond was required of the guardian, and all bonds have been kept good; in 1 case no bond was required. In 7 cases an inventory was filed within 30 days, after 30 days in 2 cases, and in 28 cases no inventory was filed. In these cases 25 annual reports have been filed. Investments of the ward are supervised by the court in 34 cases, and in 3 cases they are not supervised by the court. An attorney appeared for the ward in 36 cases, and in 1 case for the ward. No fees were allowed for a guardian in any case, and the report states that there is no record of fees allowed for attorneys. The wards' funds have been preserved and accounted for in 31 cases.

#### RAWLINS COUNTY

Area, 1,080 square miles; population, 7,443; assessed value, \$9,150,000.

Report made by Hon. M. H. Bird, probate judge for 3½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, no juvenile cases were pending within the year, and none were pending. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in execution within the year. Two adoption proceedings were had within the year, and 1 insanity case was heard within the year.

The estates of 33 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letter of administration was issued, in 21 cases from 1 to 2 years, in 3 cases from 2 to 3 years, in 1 case from 3 to 4 years, and in 2 cases from 5 to 10 years. In 5 cases the report does not show when cases were filed or when final reports are made. In 11 cases there was a will, and in 22 cases decedent was intestate. In all cases bond was required of the executor or administrator, and all bonds were kept good; in 8 cases no bonds were required. The inventory was filed within 30 days in 20 cases, after 60 days in 6 cases, and in 7 cases no inventory was filed. Twenty-six annual reports were made. The aggregate value of these estates, as appraised, was \$63,740.51. The estimated value of the personal property not appraised was \$195,178, and in 5 cases the value was not shown. In 28 cases attorneys represented the executor or administrator, but in 5 cases were the heirs or devisees represented, and in 5 cases the report does not show an attorney represented anyone. Fees amounting to \$1,239.00 were allowed for executors or administrators, and \$1,738.32 for attorneys. In 12 cases the estates paid claims in full and in 12 cases the report does not show that claims were paid in full.

Estates of 85 deceased persons were pending July 1, 1936. In the 35 cases were pending less than 1 year, 14 from 1 to 2 years, 8 from 2 to 3 years, and 12 from 3 to 10 years.

to 4 years, 4 from 4 to 5 years, and 19 from 5 to 10 years. In 17 cases as a will, and in 68 cases the deceased was intestate. In 40 cases as required of the executor or administrator; in 2 cases bonds were good; in 45 cases no bond was required. The inventory was filed within 33 cases, after 60 days in 8 cases, and in 44 cases no inventory was filed. The appraised value of 38 of these estates is \$117,491.46, and the unappraised value of the property not appraised is \$201,645. In 6 cases first reports have been filed; in 79 cases the report does not show that reports have been filed. An attorney represented the executor or administrator in 34 cases, but in no case were the heirs or devisees represented by attorneys. In 51 cases the report does not show an attorney appeared for

there were 3 guardianship estates of minors, and 1 of an insane person within the year. In 2 cases the final reports were filed within 1 year. Letters of guardianship were issued, in 1 case from 3 to 4 years, and in 1 case within 7 years. In 2 cases a guardian was also appointed for the person of the ward. The value of 1 estate, as reported, is \$250; in 3 cases the value of the estates was not reported. In 2 cases guardians were required to post bond, and both bonds were kept good; in 2 cases no bond was required. No inventory was filed in any case, and 4 annual reports were filed. Investments of funds of the ward were supervised by the court in 2 cases. An attorney appeared for the guardian in 1 case, but in no case for the ward. The report does not show that any fees were allowed for guardians or attorneys. In 1 case the report shows that the funds of the ward were accounted for and disbursed.

There were 61 guardianship estate cases pending July 1, 1936. Of these 14 have been pending less than 1 year, 14 from 1 to 2 years, 12 from 2 to 3 years, 7 from 3 to 4 years, 7 from 4 to 5 years, and 14 from 5 to 10 years. There were estates of 51 minors, 6 insane persons, and 4 other incompetents. A guardian was also appointed for the person of the ward in 51 cases. The value of 38 of these estates, as reported, is \$98,500.92. In 55 cases bond was required of the guardian, and 53 bonds were kept good; in 6 cases no bond was required. In 22 cases the inventory was filed within 30 days, 10 days in 10 cases, and in 29 cases no inventory was filed. In these 29 cases annual reports have been filed. The investment of funds of the ward was supervised by the court in 4 cases, and in 57 cases the report does not show whether investment of funds is supervised by the court or not. An attorney appeared for the guardian in 29 cases, and in no case for the ward. In 2 cases the report does not show an attorney appeared for anyone. In 2 cases fees amounting to \$40 were allowed for the guardian, and fees amounting to \$175 were allowed for attorneys in 2 cases. The report does not show whether or not the wards' funds have been preserved and cared for in any

#### RILEY COUNTY

Area, 617 square miles; population, 20,301; assessed value, \$29,608,588. Report made by Hon. Chas. F. Johnson, probate judge for 7½ years. There were no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed; 50 juvenile cases were heard within the year, and 5 were pending. There was 1 habeas corpus case in which writ was granted, 6 orders were made in district court cases, and 1 proceeding in

aid of execution within the year. Twelve adoption proceedings and 6 insanity cases heard within the year.

Estates of 56 deceased persons were closed within the year. In final report was filed within 1 year after letters of administration in 35 cases from 1 to 2 years, in 7 cases from 2 to 3 years, in 3 cases from 3 to 4 years, in 5 cases from 4 to 5 years, and in 3 cases from 5 to 10 years. In 32 of these cases there was a will, and in 24 cases decedent was intestate. In 34 cases bond was required of the executor or administrator, and all bonds were kept good; in 22 cases no bond was required. The inventory was filed within 60 days in 48 cases, and after 60 days in 8 cases. Twenty annual reports have been filed. The aggregate value of these estates as appraised, was \$755,830. The estimated value of property not appraised is \$6,787. In 15 cases attorneys represented the executor or administrator, in 8 cases the heirs or devisees. In 41 cases the report does not show an attorney represented anyone. Fees amounting to \$4,876.93 were allowed to executors or administrators, and \$1,042.07 for attorneys. In all cases estates paid claims in full.

Estates of 160 deceased persons were pending July 1, 1936. In 52 had been pending less than 1 year, 36 from 1 to 2 years, 13 from 2 to 3 years, 18 from 3 to 4 years, 9 from 4 to 5 years, 28 from 5 to 10 years, and 1 longer than 10 years. In 77 of these there was a will and in 83 cases deceased was intestate. In 122 cases bond was required of the executor or administrator, and all bonds were kept good; in 38 cases no bond was required. In 112 cases the inventory was filed within 60 days, in 30 cases after 60 days, and in 18 cases no inventory has been filed. The appraised value of these estates, as reported, is \$845,612.04. The estimated value of those not appraised is \$5,808. In 76 cases first annual reports have been filed, in 84 cases such reports have not been filed. An attorney represented the executor or administrator in 19 cases and the heirs or devisees in 4 cases. In 137 cases the report does not show an attorney appeared for anyone.

There were 6 guardianship estates of minors or other incompetents within the year. Of these 1 had been pending from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, 1 from 5 to 10 years, and 1 longer than 10 years. Of these estates 5 were of minors and 1 of an insane person. In 5 cases a guardian was also appointed for the person of the ward. The aggregate value of these estates, as reported, is \$13,892.27. In these cases 5 guardians were required to give bond, and all bonds have been kept good. In 3 cases inventory was filed within 30 days, in 2 cases after 30 days, and in 1 case no inventory was filed. Fourteen annual reports have been filed. In 5 cases the funds of the ward were supervised by the court in 5 cases. An attorney appeared for the guardian in 1 case and for the ward in 2 cases. Fees amounting to \$155.20 were allowed for guardians and \$25 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 139 guardianship estate cases pending July 1, 1936. In 12 had been pending less than 1 year, 19 from 1 to 2 years, 8 from 2 to 3 years, 5 from 3 to 4 years, 16 from 4 to 5 years, 60 from 5 to 10 years, and 1 longer than 10 years. These were estates of 109 minors, 20 insane persons, and 10 other incompetents. In 134 cases a guardian was also appointed for the person of the ward. The value of 68 estates as reported, is \$1,111. In 133 cases bond was required of the guardian, and 132 bonds

in 6 cases no bond was required. In 41 cases inventory was filed 30 days, in 27 cases after 30 days, and in 71 cases no inventory was filed. In these cases 304 annual reports have been filed. The investments of the wards of the ward are supervised by the court in 135 cases, and in 4 cases are not supervised by the court. An attorney appeared for the guardian in 13 cases and for the ward in 13 cases. In 117 cases the report does not show an attorney appeared for anyone. Fees of \$3,507.82 were allowed for guardians and \$380 for attorneys. In 135 cases the wards' funds have been managed and cared for. In 2 cases there are no funds, as guardian was appointed for insane ward only.

## ROOKS COUNTY

1,900 square miles; population, 8,679; assessed value, \$13,399,537.

Court made by Hon. H. E. Lenhard, probate judge for 1½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; 4 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no orders in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were had, and 4 insanity cases heard within the year.

Estates of 26 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, in 4 cases from 1 to 2 years, in 4 cases from 2 to 3 years, in 1 case from 3 to 4 years, and in 3 cases more than 10 years. In 18 of these there was a will, and in 8 cases decedent was intestate. In 18 cases bond was required of the executor or administrator; 18 bonds had been kept good; in 8 cases no bond was required. The inventory was filed within 60 days in 21 cases, after 60 days in 4 cases, and in 1 case no inventory was filed. First annual reports were filed in all cases. The aggregate value of these estates, as appraised, was \$3,844. The estimated value of property not appraised was \$750. In 20 cases attorneys represented the executors or administrators, and in 2 cases the heirs or devisees. In 6 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,138.09 were allowed for executors or administrators, and \$3,575 for attorneys. In all cases the estates paid claims in full. Estates of 100 deceased persons were pending July 1, 1936. In these cases 17 have been pending less than 1 year, 17 from 1 to 2 years, 16 from 2 to 3 years, 6 from 3 to 4 years, 6 from 4 to 5 years, 16 from 5 to 10 years, and 7 more than 10 years. In 56 cases there was a will, and in 44 cases the decedent was intestate. In 59 cases bonds were required of the executor or administrator, and all bonds have been kept good; in 41 cases no bond was required. In 75 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 8 cases no inventory has been filed. The appraised value of these estates is \$1,071,206.53, and the estimated value of the property not appraised is \$7,690. In 43 cases first annual reports have been filed; in 57 cases such reports have not been filed. An attorney represented the executor or administrator in 68 cases. The heirs or devisees were not represented by an attorney in any case. In 32 cases the report does not show that an attorney appeared for anyone.

There were 8 guardianship estates of minors or other incompetents closed within the year. Of these, 1 had been pending less than 1 year, 2 from 3 to 4

years, 4 from 5 to 10 years, and 1 longer than 10 years. Of these were of minors and 2 of incompetent persons. In 7 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$13,105. In all cases the guardian was required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 4 cases, after 30 days in 4 cases. Eighteen annual reports have been filed. Investments of funds of the ward were supervised by the court in all cases. An attorney appeared for the guardian in 3 cases and for the ward in 2 cases. The report does not show an attorney appeared for anyone. Fees amounting to \$640 were allowed for guardians, and \$218 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 63 guardianship estate cases pending July 1, 1936. Of these had been pending less than 1 year, 11 from 1 to 2 years, 7 from 2 to 3 years, 4 from 3 to 4 years, 2 from 4 to 5 years, 17 from 5 to 10 years, and 1 more than 10 years. These were the estates of 55 minors, 2 insane persons and 6 other incompetents. A guardian was also appointed for the person of the ward in 54 cases. The value of these estates, as reported, is \$83,821.03. In all cases bond was required of the guardian, and all bonds have been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 10 cases, after 30 days in 15 cases, and in 5 cases no inventory had been filed. In these cases 85 annual reports have been filed. Investments of funds of the ward are supervised by the court in 57 cases, and in 6 cases not supervised by the court. An attorney appeared for the guardian in 10 cases, and in 3 cases for the ward. In 23 cases the report does not show an attorney appeared for anyone. The wards' funds have been properly accounted for in 57 cases. Fees amounting to \$1,610 were allowed for guardians, and \$1,240 for attorneys.

#### SCOTT COUNTY

Area, 720 square miles; population, 3,762; assessed value, \$6,352,700.

Report made by Hon. James H. Force, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; 1 juvenile case was heard within the year, and none was pending. There were no habeas corpus cases. 7 cases were made in district court cases, and there were no proceedings in execution within the year. No adoption proceedings were had and no cases heard within the year.

Estates of 8 deceased persons were closed within the year. In 3 cases the final report was filed within 1 year after letters of administration were issued, in 2 cases from 1 to 2 years, in 2 cases from 5 to 10 years, and in 1 case more than 10 years. In 3 of these there was a will, and in 5 cases the decedent was intestate. In 6 cases bond was required of the executor or administrator, and all bonds were kept good; in 2 cases no bond was required. The inventory was filed within 60 days in 5 cases, after 60 days in 2 cases, and in 1 case no inventory was filed. In these cases 3 first annual reports have been filed. The aggregate value of these estates, as appraised, was \$45,920.54, and the estimated value of part of 1 estate not appraised, was \$7,700. In all cases the heirs, executors or administrators, and in all cases the devisees were represented by attorneys. Fees amounting to \$1,000 were allowed for executors or administrators, and \$170 for attorneys. In all cases the estates paid claims in full.



ates of 21 deceased persons were pending July 1, 1936. In these 7 have pending less than 1 year, 6 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, and 4 from 5 to 10 years. In 7 of these there was no will and in 14 cases the deceased was intestate. In 18 cases bond was required of the executor or administrator, and all bonds have been kept good; in 2 cases no bond was required. In 18 cases the inventory was filed within 30 days, in 1 case after 60 days, and in 2 cases no inventory was filed. The aggregate value of these estates as appraised, is \$81,313, and the estimated value of the estates not appraised is \$80,140. In 14 cases first annual reports were filed; in 7 cases such reports have not been filed. In 18 cases the executors or administrators, and the heirs or devisees were represented by attorneys; in 3 cases the report does not show an attorney appeared for anyone.

The report does not show any guardianship estates of minors or other interested persons closed within the year.

There were 8 guardianship estate cases pending July 1, 1936. Of these 2 were pending from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 1 from 5 to 10 years, and 1 longer than 10 years. These were the estates of 1 sane person, 1 insane person, and 1 other incompetent. The report does not show whether or not a guardian was also appointed for the person of the ward in any case. The value of these estates as reported is \$9,445. In 7 cases bond was required of the guardian, and all bonds have been kept good; in 1 case no bond was required. An inventory was filed within 30 days in 5 cases; in 3 cases the inventory was not filed. In these cases 24 annual reports have been filed. The investment of the funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 6 cases, and in 2 cases for the ward. In 1 case the report does not show an attorney appeared for anyone. Fees amounting to \$1,200 have been allowed for guardians, but the report does not show any fees allowed for attorneys. The wards' funds have been preserved and cared for in all cases.

#### SEDGWICK COUNTY

Area, 1,008 miles; population, 130,031; assessed value, \$186,972,634.

Report made by Hon. Clyde M. Hudson, probate judge for 3 years. There have been no defalcations by guardians, executors or administrators within the year.

Three juvenile officers are employed; 426 official juvenile cases, and 145 official juvenile cases were heard within the year and none were pending. There was 1 habeas corpus case in which writ was allowed. There were no appeals made in district court cases, and no proceedings in aid of execution within the year. Forty-eight adoption proceedings were had, and 145 inheritance cases were heard within the year.

The estates of 168 deceased persons were closed within the year. In 24 cases the final report was filed within 1 year after letters of administration were issued, in 97 cases from 1 to 2 years, in 16 cases from 2 to 3 years, in 10 cases from 3 to 4 years, in 7 cases from 4 to 5 years, in 5 cases from 5 to 10 years, and in 3 cases more than 10 years. In 74 cases bond was required of the executor or administrator, and 74 bonds had been kept good; in 94 cases no bond was required. The inventory was filed within 60 days in 63 cases, within 60 days in 103 cases, and in 2 cases no inventory was filed. Twenty-first annual reports were filed. The aggregate value of 92 of these estates as appraised, was \$2,281,421.26. The estimated value of 74 estates, not

appraised, was \$829,153.74, and in 2 cases the value was not given. In 15 cases an attorney represented the executor or administrator, and in 10 cases the heirs or devisees, and in 5 cases the report does not show an attorney appeared for anyone. Fees amounting to \$54,725.21 were allowed for executors or administrators, and \$72,613.86 for attorneys. In 158 cases the estate claims in full, and in 10 cases the reports do not show that claims were in full. In these cases 23 first annual reports were filed.

The estates of 300 deceased persons were pending July 1, 1936. 176 had been pending less than 1 year. In 176 cases there was a will, and in 124 cases the deceased was intestate. In 185 cases bond was required of the executor or administrator, and all bonds were kept good; in 115 cases no bond was required. In 148 cases the inventory was filed within 60 days, and in 152 cases after 60 days, and in 87 cases no inventory had been filed. The appraised value of 109 of these estates is \$1,992,559.39, and the estimated value of the property not appraised is \$536,338.20. In 90 cases the value was not given. In 6 cases first annual reports have been filed; in 294 cases such reports have not been filed. An attorney represented the executor or administrator in 158 cases, but the heirs or devisees were not represented by attorneys in 142 cases. In 24 cases the report does not show an attorney appeared for anyone.

There were 45 guardianship estates of minors or other incompetents pending within the year. In 9 cases the final report was filed within 1 year and in 36 cases no final report was filed. Letters of guardianship were issued, in 11 cases from 1 to 2 years, in 4 cases from 2 to 3 years, in 1 case from 3 to 4 years, in 3 cases from 4 to 5 years, in 1 case from 5 to 10 years, and in 9 cases more than 10 years. Of these 27 were of minors, 7 of insane persons, and 11 of other incompetents. In 43 cases a guardian was appointed for the person of the ward, and in 2 cases no guardian was appointed for the person of the ward. The value of these estates, as reported, is \$160,355.90; in 13 cases the value is not given. In 43 cases the guardian was required to give bond, and all bonds were kept good; in 2 cases no bond was required. The inventory was filed within 30 days in 8 cases, after 30 days in 15 cases, and in 22 cases no inventory was filed. One hundred thirteen annual reports have been filed. Investment of the ward was supervised by the court in all cases. An attorney appeared for the guardian in 41 cases and for the ward in 42 cases. Fees amounting to \$2,392.49 were allowed for guardians and \$595 for attorneys. In 101 cases the funds of the ward were properly accounted for and disbursed.

There were 102 guardianship estate cases pending July 1, 1936. 72 had been pending less than 1 year. These were estates of 72 minors, 20 insane persons, and 20 other incompetents. A guardian was also appointed for the person of the ward in 15 cases. The value of these estates, as reported, is \$157,350.65. In 101 cases bond was required of the guardian, and in 1 case no bond was required. An inventory was filed within 30 days in 24 cases, after 30 days in 14 cases, and in 64 cases no inventory had been filed. Two annual reports have been filed. Investment of funds of the ward are supervised by the court in 101 cases, and in 1 case they are not supervised by the court. An attorney appeared for the guardian in 73 cases, and in no case for the ward. In 29 cases the report does not show an attorney appeared for anyone. Fees amounting to \$445 were allowed for guardians, and \$470 for attorneys. The report shows that the funds of the ward have been preserved and cared for in 101 cases.

## SEWARD COUNTY

, 648 square miles; population, 6,816; assessed value, \$10,593,399.

ort made by Hon. L. A. Etzold, probate judge for 8 years. There had o defalcations by guardians, executors, or administrators within the Two juvenile officers are employed, 25 or 30 juvenile cases were heard the year, and 13 were pending. There were no habeas corpus cases, ers made in district court cases, and no proceedings in aid of execution the year. Four adoption proceedings were had, and 4 insanity cases heard within the year.

estates of 13 deceased persons were closed within the year. In 2 cases al report was filed within 1 year after letters of administration were in 7 cases from 1 to 2 years, in 1 case from 2 to 3 years, in 2 cases from years, and in case more than 10 years. In 3 cases there was a will, and cases decedent was intestate. In 11 cases bond was required of the or or administrator, and all bonds were kept good; in 2 cases no bond quired. The inventory was filed within 60 days in 9 cases, after 60 days es, and in 1 case no inventory was filed. Five first annual reports have led. The aggregate value of 12 of these estates, as appraised, was 44. The estimated value of property not appraised was \$117. In 11 torneys represented the executor or administrator, but in no cases were rs or devisees represented by attorneys. In 2 cases the report does not at an attorney appeared for anyone. Fees amounting to \$373.97 were d for executors, and \$739.98 for attorneys. In 10 cases the estates paid in full, and in 3 cases the report does not show that claims were paid

estates of 33 deceased persons were pending July 1, 1936. In these 6 have been pending less than 1 year, 7 from 1 to 2 years, 6 from 2 ars, 2 from 3 to 4 years, 1 from 4 to 5 years, and 1 longer than 8 years. f these there was a will, and in 13 cases the deceased was intestate. In s bond was required of the executor or administrator, and all bonds have ept good; in 14 cases no bond was required. In 16 cases the inventory rd within 60 days, in 11 cases after 60 days, and in 6 cases no inventory n filed. The appraised value of 28 of these estates is \$610,495.26. In 5 e value was not given. First annual reports were filed in 8 cases, and es such reports have not been filed. An attorney represented the or or administrator in 29 cases, and the heirs or devisees were repre- by an attorney in 1 case. In 4 cases the report does not show an at- appeared for anyone.

ere were 2 guardianship estates of minors or other incompetents closed the year; 1 case had been pending from 1 to 2 years, and 1 longer than . Of these estates, 1 was of a minor, and 1 of an incompetent person. dian was also appointed for the body of the ward in both cases. The f 1 estate, as reported, is \$9,576.50, and in 1 case the value was not In both cases bond was required of the guardian, and both bonds were od. In 1 case the inventory was filed within 30 days and in 1 case no ury was filed. In these cases 7 annual reports have been filed. Invest- of the funds of the wards have been supervised by the court in both An attorney appeared for the guardian in 1 case, and for the ward in se. Fees amounting to \$25 were allowed for the guardian in 1 case.

No fees were allowed for attorneys in either case. In both cases of the ward were properly accounted for and disbursed.

There were 13 guardianship estate cases pending July 1, 1936. 6 had been pending less than 1 year, 4 from 2 to 3 years, 3 from 4 to 5 years, and 1 longer than 10 years. These were 10 minors and 2 insane persons. A guardian was also appointed for the ward in 11 cases. The value of 2 of these estates is \$4,807.34; there was nothing of value to report, and in 8 cases the value is \$0. In 10 cases bond was required of the guardian, and all bonds were kept good; in 3 cases no bond was required. An inventory was filed after 30 days in 11 cases, and in 10 cases no inventory was filed. In these cases 17 annual reports have been filed. Investments of the funds of the ward are supervised by the court in 6 cases and in 7 cases they are not supervised by the court. An attorney appeared for the guardian in 7 cases, but in no case for the ward. In 6 cases the report does not show an attorney appeared for anyone. In 10 cases the funds have been properly cared for in 10 cases; in 3 cases there were no funds. The report does not show that any fees were allowed for guardians or attorneys.

#### SHERIDAN COUNTY

Area, 900 square miles; population, 6,107; assessed value, \$8,300,000.

Report made by Hon. N. F. McWilliams, probate judge for 4 years. There had been no defalcations by guardians, executors or administrators in the year. One juvenile officer is employed; 1 juvenile case was heard in the year, and 1 was pending. There were no habeas corpus cases, no orders in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had, and 3 insanity cases were heard in the year.

The estates of 12 deceased persons were closed within the year. 10 cases had been pending from 1 to 2 years, 1 from 2 to 3 years, and 1 from 3 to 4 years. In 4 of these there was a will and in 8 cases deceased was intestate. In 8 cases bond was required of the executor or administrator; all bonds were kept good; in 4 cases no bond was required. In 1 case an inventory was filed within 60 days, and in 1 case after 60 days. In 10 cases an annual report was filed. The aggregate value of these estates, as appraised, was \$73,034.62. The estimated value of property not appraised was \$0. In 10 cases attorneys represented the executor or administrator; in 2 cases the heirs of devisees represented; and in 2 cases the report does not show an attorney appeared for anyone. Fees amounting to \$263 for attorneys were allowed for executors or administrators, and \$263 for attorneys. In 10 cases the estates paid claims in full.

Estates of 24 deceased persons were pending July 1, 1936. In 15 cases had been pending less than 1 year, 4 from 1 to 2 years, 4 from 2 to 3 years, and 1 from 3 to 4 years. In 10 of these there was a will and in 14 cases deceased was intestate. In 18 cases bond was required of the executor or administrator, and all bonds were kept good; in 6 cases no bond was required. In 15 cases the inventory was filed within 60 days, in 6 cases after 60 days, and in 3 cases no inventory was filed. The appraised value of these estates was \$59,339.87. In 7 cases first annual reports have been filed, and in 17 cases reports have not been filed. An attorney represented the executor or administrator in 7 cases.

er in 13 cases, and in 1 case the heirs or devisees. In 11 cases the report not show an attorney appeared for anyone. ere was 1 guardianship case of an insane person closed within the year. ase had been pending from 2 to 3 years. A guardian was also appointed e person of the ward. The value of this estate, as reported, is \$1,000. uardian was required to give bond, and has kept his bond good. The ory was filed within 30 days, and no annual reports have been filed. In ase the investment of funds of the ward was supervised by the court. eys represented the guardian and ward in this case. Fees of \$15 were d for the guardian, but the report does not show any fees allowed for eys. The funds of the ward were properly accounted for and disbursed. ere were 16 guardianship cases pending July 1, 1936. Of these, 3 had pending less than 1 year, 7 from 1 to 2 years, 5 from 2 to 3 years, and 1 4 to 5 years. These were estates of 13 minors, 2 insane persons and 1 petent. A guardian was also appointed for the person of the ward in 7 and in 9 cases no guardian was appointed for the person of the ward. alue of these estates, as reported, is \$8,006.60. In 13 cases bond was ed of the guardian, and all bonds have been kept good. An inventory ed within 30 days in 7 cases, after 30 days in 1 case, and in 8 cases no ory was filed. In these cases 11 annual reports have been filed. In 11 he investments of the ward are supervised by the court, and in 5 cases re not supervised by the court. An attorney appeared for the guardian ases, but in no case for the ward. In 10 cases the report does not showorney appeared for anyone. The report does not show that any fees een allowed for either guardians or attorneys. The wards' funds have properly preserved and cared for in 15 cases.

#### SHERMAN COUNTY

a, 1,080 square miles; population, 6,608; assessed value, \$9,217,197. port made by Hon. Bryan Baderstadt, probate judge for 1½ years. had been 1 defalcation by a guardian or executor within the year, at of such defalcation being undetermined, and none of it has been red. One juvenile officer is employed; 26 juvenile cases were heard the year, and none were pending. There was 1 habeas corpus case in writ was denied, 1 order was made in district court case, and there were oceedings in aid of execution within the year. No adoption proceed- ere had, and 4 insanity cases were heard within the year. ases of 10 deceased persons were closed within the year. In 1 case the report was filed within 1 year after letter of administration was issued, ases from 1 to 2 years, and in 1 case from 3 to 4 years. In 4 of these as was a will, and in 6 cases decedent was intestate. In 7 cases bond was re- of the executor or administrator, and all bonds were kept good; in 3 no bond was required. The inventory was filed within 60 days in 9 and in 1 case no inventory was filed. No first annual report was filed case. The aggregate value of 9 of these estates, as appraised, was \$74,-. The estimated value of 1 estate, not appraised, was \$300. In all cases eys represented the executor or administrator, but in no cases were the or devisees represented. In 8 cases the estates paid claims in full and ases claims were not paid in full. ases of 21 deceased persons were pending July 1, 1936. In these cases

20 have been pending less than 1 year, and 1 from 1 to 2 years. In there was a will, and in 16 cases the deceased was intestate. In 16 cases was required of the executor or administrator, and all bonds were kept good; in 5 cases no bond was required. In 15 cases the inventory was filed within 30 days, in 2 cases after 60 days and in 4 cases no inventory was filed. The appraised value of 17 of these estates is \$98,528.42, and the estimated value of estates not appraised, is \$5,400. First annual report was not made in any case. In all cases an attorney represented the executor or administrator. In no cases were heirs or devisees represented by attorneys.

There was 1 guardianship estate of an insane person closed within the year. It had been pending from 2 to 3 years. In this case a guardian was appointed for the person of the ward. The value of this estate, as reported, was \$300. The guardian was required to give bond and has kept his bond good. The inventory was not filed in this case. The investment of funds of the ward is supervised by the court in this case. An attorney appeared for the guardian and also for the ward in this case. No fees were allowed for the guardian, but fees amounting to \$15 were allowed for attorneys. The ward's funds have been properly cared for and disbursed.

There were 23 guardianship estate cases pending July 1, 1936. Cases had been pending from 2 to 3 years, 1 from 3 to 4 years, 3 from 4 to 5 years, 16 from 5 to 10 years, and 1 longer than 10 years. These were estates of 16 minors, 4 insane persons, and 1 incompetent person. In 22 cases a guardian was also appointed for the person of the ward. The value of these estates was \$29,169.76. In 22 cases bond was required for the guardian, and all bonds were kept good; in 1 case no bond was required. An inventory was filed within 30 days in 5 cases, after 30 days in 4 cases, and in 14 cases no inventory was filed. In these cases 84 annual reports have been filed. The investment of funds of the ward has been supervised by the court in 9 cases, and in 14 cases investments have not been supervised by the court. An attorney appeared for the guardian in 6 cases, but in no case for the ward. In 17 cases the report does not show an attorney appeared for anyone. Fees amounting to \$15 have been allowed for guardians, and \$330 for attorneys. In 22 cases the ward's funds have been preserved and cared for.

#### STAFFORD COUNTY

Area, 792 square miles; population, 10,486; assessed value, \$23,098.

Report made by Hon. F. R. Seely, probate judge for 1½ years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; no juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no appeals made in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were had, and 7 insanity cases heard within the year.

Estates of 31 deceased persons were closed within the year. In 8 cases the final report was filed within 1 year after letters of administration were granted; in 17 cases from 1 to 2 years, and in 6 cases from 2 to 3 years. In 17 cases there was a will, and in 17 cases decedent was intestate. In 19 cases bond was required of the executor or administrator, and in 1 case bond has not been kept good; in 11 cases no bond was required. The inventory was filed within 30 days in 25 cases, after 60 days in 5 cases, and in 1 case no inventory was filed.

First annual reports were filed in 3 cases. The aggregate value of 30 estates, as appraised, was \$202,025; in 1 case the deceased was bankrupt. In 19 cases attorneys represented the executor or administrator; in 1 case heirs or devisees, and in 12 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,315 were allowed for executors or administrators and \$4,770 for attorneys. In 28 cases the estates were closed in full, and in 3 cases claims were not paid in full. Estates of 50 deceased persons were pending July 1, 1936. In these cases, 1 had been pending less than 1 year, 13 from 1 to 2 years, 8 from 2 to 3 years, and 2 from 5 to 10 years. In 31 cases there was a will, and in 19 the decedent was intestate. In 21 cases bond was required of the executor or administrator. In 4 cases the bond has been kept good, and in 17 of them it was not; in 29 cases no bond was required. In 37 cases the inventory was filed within 60 days, in 12 cases after 60 days, and in 1 case no inventory was filed. The appraised value of these estates is \$943,530. Seventeen first annual reports have been filed; in 33 cases such reports have not been filed. An attorney represented the executor or administrator in 29 cases, but in no case did an attorney appear for the heirs or devisees. In 21 cases the report does not show an attorney appeared for anyone. There were no guardianship estates of minors or other incompetents closed during the year in Stafford county.

There were 13 guardianship estate cases pending July 1, 1936. Of these, 7 had been pending less than 1 year, 1 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 2 from 5 to 10 years, and 1 longer than 10 years. These included estates of 7 minors, 2 insane persons, and 4 other incompetents. A guardian was also appointed for the person of the ward in 12 cases. The aggregate value of these estates is \$48,243.93. In all cases bond was required, and all bonds have been kept good. An inventory was filed within 30 days in 10 cases and after 30 days in 3 cases. Twenty-three annual reports have been filed. The investments of the funds of the ward have been supervised by the court in 11 cases, and in 2 cases they have not been supervised by the court. An attorney appeared for the guardian in 5 cases, but in no case for the ward. In 12 cases the report does not show an attorney appeared for anyone. Fees amounting to \$6,300 have been allowed for guardians and \$140 for attorneys. The wards' funds have been preserved and cared for in 12 cases.

#### STEVENS COUNTY

Area, 729 square miles; population, 4,120; assessed value, \$8,607,998. Report made by Hon. J. A. Cole, probate judge for 4 years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; 3 juvenile cases were heard within the year, and none were pending. There was 1 habeas corpus case in which writ was allowed, 1 order was made in district court case, and there were no proceedings in aid of execution within the year. No adoption proceedings were heard, and 2 insanity cases were heard within the year. Estates of 5 deceased persons were closed within the year. When closed the report shows all cases had been pending from 1 to 2 years. In 3 of these cases there was a will, and in 2 cases decedent was intestate. In 3 cases bond was required of the executor or administrator, and all bonds had been kept good; in 2 cases no bond was required. The inventory was filed within 60 days in

4 cases and after 60 days in 1 case. Five first annual reports were filed. The aggregate value of these estates, as appraised, was \$29,995.90. In 1 case the executor or administrator was represented by an attorney, in 1 case the heirs or legatees were represented by attorneys, and in 3 cases the report does not show an attorney appeared for anyone. Fees amounting to \$359.03 were allowed for executors or administrators, and \$359.03 for attorneys. In 1 case the estates paid claims in full, and in 1 case the estate did not pay in full.

Estates of 25 deceased persons were pending July 1, 1936. In 6 cases final reports were filed within 1 year, 2 cases were pending from 1 to 2 years, 3 from 2 to 3 years, 7 from 3 to 4 years, 3 from 4 to 5 years, and 4 from 5 to 10 years. In 7 of these there was a will and in 18 the deceased was intestate. In 22 cases bond was required of the executor or administrator, all bonds were kept good; in 3 cases no bond was required. In 17 cases an inventory was filed within 60 days, in 5 cases after 60 days, and in 3 cases no inventory has been filed. The appraised value of 22 of these estates was \$31,905, and the estimated value of the property not appraised is \$2,090. In 8 cases first annual reports have been filed; in 17 cases such reports have not been filed. An attorney represented the executor or administrator in 1 case and the heirs or devisees in 1 case, and in 24 cases the report does not show an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents pending within the year.

There were 10 guardianship estate cases pending July 1, 1936. Of these 1 had been pending less than 1 year, 2 from 1 to 2 years, 2 from 2 to 3 years, and 4 from 5 to 10 years. These were estates of 9 minors and 1 incompetent person. A guardian was also appointed for the person of the ward in 9 cases. The value of 9 of these estates is \$18,241. In 9 cases bond was required of the guardian, and all bonds were kept good; in 1 case no bond was required. An inventory was filed within 30 days in 4 cases, after 30 days in 3 cases, and in 3 cases no inventory was filed. In these cases first annual reports have been filed. The investment of the funds of the ward was advised by the court in 9 cases, and in 1 case there are no funds. An attorney appeared for the guardian in 1 case and for the ward in 1 case. In 1 case the report does not show an attorney appeared for anyone. The ward has been properly cared for in all cases. Fees amounting to \$359.03 have been allowed for guardians, but the report does not show any fees allowed for attorneys.

#### TREGO COUNTY

Area, 900 square miles; population, 6,574; assessed value, \$9,687,000.

Report made by Hon. Walter F. Swiggett, probate judge for 4 years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed; 12 juvenile cases were heard within the year, and 2 were pending. There were no habeas corpus cases pending. There was made in a district court case, and there were no proceedings in execution within the year. One adoption proceeding was had, and 2 cases heard within the year.

The estates of 10 deceased persons were closed within the year. In 1 case closed, 8 cases had been pending from 1 to 2 years, 1 from 2 to 3 years.



5 to 10 years. In 5 cases there was a will, and in 5 cases the deceased was intestate. In 7 cases bond was required of the executor or administrator, and in 3 cases no bond was required. The report was filed within 60 days in 9 cases, and after 60 days in 1 case. No annual reports have been filed. The aggregate value of these estates, as appraised, was \$168,700. In 3 cases the executors or administrators were represented by attorneys, and in 1 case the heirs or legatees were represented by an attorney; in 7 cases the report does not show that anyone was represented by an attorney. Fees amounting to \$450 were allowed for executors or administrators, and \$500 for attorneys. In 9 cases the estates paid claims in full, and in 1 case the estate did not pay claims in full.

There were 49 deceased persons whose estates were pending July 1, 1936. In these 22 cases had been pending less than 1 year, 9 from 1 to 2 years, 3 from 2 to 3 years, 2 from 3 to 4 years, 4 from 4 to 5 years, 17 from 5 to 10 years, and 1 longer than 10 years. In 17 of these there was a will, and in 32 cases the decedent was intestate. In 39 cases bond was required of the executor or administrator; the report shows that 14 bonds were kept good, but does not show whether or not other bonds were kept good; in 10 cases no bond was required. In 42 cases the inventory was filed within 60 days, in 4 cases after 60 days, and in 3 cases no inventory was filed. The appraised value of 47 estates is \$38,300, and in 2 cases the value was not given. In 16 cases annual reports have been filed. In 33 cases such reports have not been filed. An attorney represented the executor or administrator in 6 cases, the heirs or devisees in 3 cases. In 43 cases the report does not show whether an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed during the year.

There were 14 guardianship estate cases pending July 1, 1936. Of these, 1 had been pending less than 1 year, 1 from 1 to 2 years, 1 from 4 to 5 years, 1 from 5 to 10 years, and 4 longer than 10 years. These were estates of 10 persons, 3 insane persons, and 1 other incompetent. A guardian was also appointed for the person of the ward in 7 cases, and in 7 cases no guardian was appointed. The value of these estates, as reported, is \$38,300. In 13 cases bond was required of the guardian, and all bonds were kept good; in 1 case no bond was required. An inventory was filed within 30 days in 2 cases, after 30 days in 3 cases, and in 9 cases no inventory was filed. In 13 cases 28 annual reports have been filed. The investment of the funds of the ward is supervised by the court in all cases. No attorney appeared for the guardian or the ward in any case. Fees amounting to \$30 were allowed for the guardian in 1 case. The report does not show any fees allowed for guardians in other cases, or for attorneys. The wards' funds have been preserved and cared for in all cases.

#### WABAUNSEE COUNTY

There are 804 square miles; population, 10,133; assessed value, \$19,454,665. The probate court was made by Hon. H. R. Williams, probate judge for 3½ years. There have been no defalcations by guardians, executors, or administrators within the year. The juvenile officer is employed as needed; 4 juvenile cases were heard during the year, and 2 were pending. There were no habeas corpus cases, no

orders made in district court cases, and no proceedings in aid of within the year. Two adoption proceedings were had, and 9 insane were heard within the year.

Estates of 41 deceased persons were closed within the year. In final report was filed within 1 year after letters of administration was in 29 cases from 1 to 2 years, in 3 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 2 cases from 4 to 5 years, in 2 cases from 5 to 10 years, and in 2 cases longer than 10 years. In 16 of these the decedent died testate, and in 25 cases decedent was intestate. In 30 cases bond was required of the executor or administrator, and all bonds had been kept good. In 11 cases no bond was required. The inventory was filed within 60 days in 38 cases, after 60 days in 7 cases, and in 3 cases no inventory was filed. The aggregate value of 38 of these estates, as appraised, was \$214,399.96, the estimated value of one estate, not appraised, was \$5,540, and in 2 cases the value was not given. In 2 cases attorneys represented the executor or administrator, in 1 case the heirs or devisees, in 38 cases the report does not show an attorney appeared for anyone.

Estates of 142 deceased persons were pending July 1, 1936. There have been pending, 49 less than 1 year, 25 from 1 to 2 years, 18 from 2 to 3 years, 7 from 3 to 4 years, 6 from 4 to 5 years, 22 from 5 to 10 years, and more than 10 years. In 76 of these there was a will; in 66 the decedent died intestate. In 101 cases bond was required of the executor or administrator, in 95 of these the bond has been kept good, and in 6 of them it has not. In 41 cases no bond was required. In 105 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 20 cases no inventory has been filed. The appraised value of these estates is \$1,920,430.96, and the estimated value of the portion not appraised is \$61,730. In 29 cases first annual report has been filed; in 112 cases such reports have not been filed. An attorney represented the executor or administrator in 8 cases; the heirs or devisees in 12 cases; in 128 cases the report does not show an attorney appeared for anyone.

There were 8 guardianship estates of minors or other incompetent persons closed within the year. In 1 case the final report was filed within 1 year after letters of guardianship was issued, in 4 cases from 2 to 3 years, in 1 case from 3 to 4 years, in 1 case from 5 to 10 years, and in 1 case more than 10 years. In these estates 6 were minors and 2 of incompetent persons. In no case was the guardian appointed for the person of the ward. The value of the ward as reported, is \$26,615.92. Each guardian was required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 7 cases, and after 30 days in 2 cases. Nineteen annual reports have been filed. The investment of funds of the ward was supervised by the court in 8 cases. No attorney appeared for the guardian or the ward in any case. Fees and expenses totaling \$50 were allowed for guardians. In all cases the funds of the ward were properly accounted for and disbursed.

There were 52 guardianship estate cases pending July 1, 1936. Of these 3 had been pending less than 1 year, 7 from 1 to 2 years, 7 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, 7 from 5 to 10 years, and 11 from more than 10 years. These were estates of 34 minors, 13 insane persons and 5 incompetent persons. A guardian was also appointed for the person of the ward in 25 cases. The value of these estates is \$54,940.78. In 51 cases bond was required of the guardian, and in 1 case no bond was required; in 48 cases the bond has been kept good; in 3 of them it has not. An inventory

30 days in 33 cases, after 30 days in 4 cases, and in 15 cases no inventory was filed. In these cases 83 annual reports have been filed. The investments of the ward are supervised by the court in 45 cases, and in 7 cases they are not. An attorney appeared for the guardian in 3 cases, and in no case for the ward. In 49 cases the report does not show an attorney appeared for the ward. The guardians' funds have been properly cared for in 51 cases.

#### WALLACE COUNTY

Area, 900 square miles; population, 2,433; assessed value, \$4,667,920. Report made by Hon. L. V. Thomas, probate judge for 5½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; no juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases, no cases made in district court cases, and no proceedings in aid of execution within the year. No adoption proceeding was had, and 1 insanity case was heard within the year.

Estate of 1 deceased person, who was intestate, was closed within the year. This case had been pending from 1 to 2 years. Bond was required of the executor or administrator, and bond was kept good. The inventory was filed within 60 days, but no first annual report was filed. The aggregate value of this estate, as appraised, was \$13,100. An attorney represented the executor or administrator in this case, but the heirs or devisees were not represented by an attorney. The report does not show that any fees were paid for executor, administrator or attorney. In this case the estate did not pay claims in full.

Estates of 9 deceased persons were pending July 1, 1936. In these cases 5 have been pending less than 1 year, and 4 from 1 to 2 years. In 3 cases there was a will, and in 6 the deceased was intestate. In 7 cases bond was required, and all bonds were kept good; in 2 cases no bond was required. The inventory was filed within 60 days in 6 cases, and in 3 cases no inventory was filed. The appraised value of 6 of these estates, as reported, is \$16,093, and the estimated value of the property not appraised is \$1,000.

No first annual reports have been filed in these cases. An attorney represented the executor or administrator in 8 cases, but in no case were the heirs or devisees represented by attorneys. In 1 case the report does not show an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 2 guardianship estates pending July 1, 1936. Both of these cases had been pending for less than 1 year; 1 was the estate of a minor, and the other of an insane person. A guardian was not appointed for the person of the ward in either case. The value of personal property belonging to one of the wards is \$80 and the value of real estate was not given in either case. In both cases bond was required, and both bonds were kept good. An inventory was filed within 30 days in both cases. No annual reports have been filed. The investments of funds of the ward are supervised by the court in both cases. An attorney appeared for the guardian in both cases, but in no case for the ward. Fees amounting to \$5 were paid the attorney in 1 case, but the report

does not show any fees allowed for guardians. The wards' funds have been properly cared for in all cases.

#### WASHINGTON COUNTY

Area, 900 square miles; population, 17,230; assessed value, \$32,600.

Report made by Hon. R. L. Rust, probate judge for 5½ year. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed; no juvenile cases were within the year and none were pending. There were no habeas corpus orders made in district court cases, and no proceedings in aid of writs within the year. One adoption case was had, and 5 insanity cases were within the year.

Estates of 36 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were issued, in 21 cases from 1 to 2 years, in 4 cases from 2 to 3 years, and in 1 case from 3 to 4 years. In 17 of these there was a will and in 19 the decedent was intestate. In 30 cases bond was required of the executor or administrator; all bonds were kept good; in 6 cases no bond was required. The inventory was filed within 60 days in 30 cases, after 60 days in 4 cases, and in 1 case no inventory was filed. Two first annual reports were filed. The aggregate value of these estates, as appraised, was \$238,705.46. The estimated value of estates not appraised, was \$119,027. In 15 cases an attorney represented the executor or administrator, but in no case were the devisees represented. In 21 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,126.59 were allowed for executors or administrators, and \$768.52 for attorneys. In all cases the estate claims were paid in full.

Estates of 44 deceased persons were pending July 1, 1936. In 11 cases 28 have been pending less than 1 year, 6 from 1 to 2 years, 2 from 2 to 3 years, 5 from 3 to 4 years, 5 from 5 to 10 years, and 3 longer than 10 years. In 27 of these there was a will, and in 17 the deceased was intestate. In 32 cases bond was required of the executor or administrator; all bonds were kept good; in 6 cases no bond was required. In 38 cases the inventory was filed within 60 days, and after 60 days in 6 cases. The appraised value of these estates reported, is \$391,294.74, and the estimated value of property not appraised, is \$99,070. In 10 cases first annual reports have been filed; and in 34 cases reports have not been filed. An attorney represented the executor or administrator in 8 cases, but the heirs or devisees were not represented in any case. In 36 cases the report does not show an attorney appeared for anyone.

There were 5 guardianship estates of minors or other incompetent persons within the year. In 1 case the final report was filed within 1 year after letters of guardianship was issued, in 1 case from 1 to 2 years, in 3 cases from 2 to 3 years, 10 years, and in 1 case for more than 10 years. Of these estates 4 were of minors and 1 of an insane person. In 2 cases a guardian was also appointed for the person of the ward, and in 3 cases a guardian was not appointed for the person of the ward. The value of these estates, as reported, is \$1,000. In all cases guardians were required to give bond, and all bonds were kept good. The inventory was filed within 30 days in 2 cases, after 30 days in 1 case, and in 2 cases no inventory was filed. Twelve annual reports have been filed. Investment of the funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in 1 case, but in no other case.

ward. Fees amounting to \$50 were allowed for guardians and \$200 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 37 guardianship estate cases pending July 1, 1936. In these cases there had been pending less than 1 year, 1 from 1 to 2 years, 1 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, 11 from 5 to 10 years, and 1 over than 10 years. These were estates of 15 minors, 18 insane persons, 10 other incompetents. In 19 cases a guardian was also appointed for the care of the ward. The value of these estates is \$64,025.08. In all cases bond was required of the guardian, and in all cases bonds have been kept good. An annual report was filed within 30 days in 13 cases, after 30 days in 10 cases, and in 14 cases no inventory had been filed. In these cases 193 annual reports had been filed. The investment of the funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 12 cases, and in no case for the ward. In 25 cases the report does not show an attorney appeared for anyone. Fees amounting to \$1,930.65 were allowed for guardians and \$770.75 for wards. The wards' funds have been properly cared for in all cases.

#### WICHITA COUNTY

Area, 720 square miles; population, 2,206; assessed value, \$5,188,304.

Report made by Hon. Maggie Gilmore, probate judge for 1½ years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed, no juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no orders in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had, and no insanity cases heard within the year.

There were estates of 4 deceased persons were closed within the year. In 1 case an annual report was filed within 1 year after letter of administration was issued, 1 case from 1 to 2 years, and in 1 case from 4 to 5 years. In 1 case there was a will and in 3 cases decedent was intestate. In all cases bond was required of the executor or administrator, and all bonds have been kept good. In 2 cases the inventory was filed within 60 days, and in 2 cases after 60 days. The first annual report was filed. The aggregate value of these estates, as reported, was \$1,050. In all cases the executors or administrators were represented by attorneys, but in no cases were the heirs or devisees represented by attorneys. Fees amounting to \$150 were allowed for executors or administrators and \$270 for attorneys. In 1 case the estate paid claims in full, and in 3 cases there were no claims against the estates.

There were estates of 8 deceased persons were pending July 1, 1936. In these cases, there had been pending less than 1 year, 1 from 1 to 2 years, and 1 from 4 to 5 years.

In 2 of these there was a will, and in 6 cases the deceased was intestate. In all cases bond was required of the executor or administrator, and all bonds have been kept good; in 1 case no bond was required. In 4 cases the inventory was filed within 60 days, and in 4 cases no inventory was filed. The appraised value of these estates, as reported, is \$13,650. No first annual reports have been filed. In all cases an attorney represented the executor or administrator, and in all cases the heirs or devisees were represented by attorneys.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 3 guardianship estate cases pending July 1, 1936. All cases were estates of minors that had been pending less than 1 year. In no case was a guardian appointed for the person of the ward. The value of these estates, as reported, is \$390. In all cases bond was required of the guardian and all bonds have been kept good. No inventory was filed in any case. No reports have been filed. Attorneys represented the guardians in all cases and in no cases were the wards represented. The report does not show what fees were allowed for guardians or attorneys. The wards' funds have been properly cared for in all cases.

#### WILSON COUNTY

Area, 576 square miles; population, 19,288; assessed value, \$25,223,600.

Report made by Hon. D. J. Sheedy, probate judge for 17½ years. There had been no defalcations by guardians, executors, or administrators during the year. One juvenile officer is employed, and the sheriff and his deputies also serve as probation officers; 24 juvenile cases were heard within the year and 33 were pending. There were no habeas corpus cases, 1 order was granted in district court case, and there were no proceedings in aid of execution during the year. Three adoption proceedings were had, and 11 insanity cases were heard within the year.

Estates of 26 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letter of administration was granted, in 19 cases from 1 to 2 years, in 2 cases from 2 to 3 years, in 1 case from 3 to 4 years, in 1 case from 5 to 10 years, and in 2 cases more than 10 years. In 16 of these there was a will, and in 10 cases decedent was intestate. In 21 cases bond was required of the executor or administrator; all bonds have been kept good; in 5 cases no bond was required. The inventory was filed within 60 days in 5 cases, and after 60 days in 1 case. Five first annual reports have been filed. The aggregate value of these estates, as appraised, is \$182,911.20. The executor or administrator was represented by attorney in 7 cases, but in no case did an attorney appear for the heirs or legatees. In 19 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,275.16 were allowed for executors or administrators, and \$100.00 for attorneys. In all cases the estates paid claims in full.

Estates of 47 deceased persons were pending July 1, 1936. In the year 34 have been pending less than 1 year, 9 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, and 1 from 4 to 5 years. In 27 cases there was a will, and in 20 the deceased was intestate. In 36 cases bond was required of the executor or administrator; all bonds had been kept good; in 11 cases no bond was required. In 44 cases the inventory was filed within 60 days, in 2 cases after 60 days, and in 1 case no inventory was filed. The aggregate value of these estates, as reported, is \$1,035,732.27, and the estimated value of the property not appraised, is \$27,800. In 6 cases first annual reports have been filed. In 41 cases such reports have not been filed. An attorney represented the executor or administrator in 20 cases, and the heirs or legatees in 5 cases. In 27 cases the report does not show an attorney appeared for anyone.

There were 3 guardianship estates of minors closed within the year. One case had been pending from 4 to 5 years, 1 from 5 to 10 years, and 1 more than 10 years. In 2 cases a guardian was also appointed for the person of the ward. The value of these estates, as reported, is \$4,500. All g

required to give bond, and all bonds have been kept good. No injury has been filed in any case. Eight annual reports have been filed. Investments of funds of the ward were supervised by the court in all cases. An attorney appeared for the guardian in 1 case, but in no case did an attorney appear for the ward. Fees amounting to \$65 were allowed for guardian, but the report does not show that any fees have been allowed for attorneys. In all cases the funds of the ward have been properly accounted for and disbursed.

There were 63 guardianship estate cases pending July 1, 1936. Of these, 12 were pending less than 1 year, 5 from 1 to 2 years, 7 from 2 to 3 years, 3 to 4 years, 4 from 4 to 5 years, 25 from 5 to 10 years, and 8 longer than 10 years. These were estates of 56 minors, 5 insane persons, and 2 other incompetents. A guardian was also appointed for the person of the ward in 53 cases, and in 53 cases the report does not show that a guardian was appointed. The value of these estates, as reported, is \$100,142.53. In all cases bond was required of the guardians and all bonds were kept good. An injury was filed within 30 days in 6 cases, after 30 days in 1 case, and in 53 cases no inventory was filed. In these cases 105 annual reports have been filed. The investments of the funds of the ward are supervised by the court in 53 cases, and in 13 cases they are not supervised by the court. An attorney appeared for the guardian in 10 cases but in no case for the ward. In 53 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$965 have been allowed for guardians and \$265 for attorneys. The wards' funds have been preserved and cared for in 52 cases.

#### WOODSON COUNTY

Area, 504 square miles; population, 8,359; assessed value, \$11,463,802. Report made by Hon. D. S. Bell, probate judge for 1½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 7 juvenile cases were heard within the year, and none were pending. There were no habeas corpus cases and no appeals made in district court cases. There was 1 proceeding in aid of execution, 6 adoption proceedings were had, and 5 insanity cases heard within the year.

Estates of 14 deceased persons were closed within the year. In 1 case the report was filed within 1 year after letter of administration was issued, in 2 cases from 1 to 2 years, in 2 cases from 2 to 3 years, and in 1 case for more than 10 years. In 9 cases there was a will and in 5, decedent was injured. In 8 cases bond was required of the executor or administrator, and all bonds had been kept good; in 6 cases no bond was required. The injury was filed within 60 days in 8 cases, and after 60 days in 6 cases. Annual reports were filed in all cases. The aggregate value of 14 of the estates, as appraised, was \$65,493.37. The estimated value of property appraised was \$71,797. In 7 cases attorneys represented the executor or administrator, but in no case were the heirs or devisees represented. In 5 cases the report does not show an attorney appeared for anyone. Fees amounting to \$409 were allowed for executors or administrators, and \$115 for attorneys. In all cases the estates paid claims in full.

Estates of 47 deceased persons were pending July 1, 1936. In these cases, 12 were pending less than 1 year, 9 from 1 to 2 years, 4 from 2 to 3 years, 3 to 4 years, 2 from 4 to 5 years, and 1 from 5 to 10 years. In 26 of

these there was a will, and in 21 cases the deceased was intestate. In 29 cases bond was required of the executor or administrator, and 29 bonds were kept good; in 17 cases no bond was required. The inventory was filed within 60 days in 25 cases, after 60 days in 14 cases, and in 8 cases no inventory was filed. The appraised value of 38 of these estates, as reported, is \$124,289.40 and the estimated value of the property not appraised is \$124,289.40. Five first annual reports have been filed. In 42 cases such reports have been filed. An attorney represented the executor or administrator in 18 cases, but in no cases were the heirs or devisees represented. In 18 cases the report does not show an attorney appeared for one.

There were no guardianship estates of minors or other incompetents within the year.

There were 41 guardianship estate cases pending July 1, 1936. Of these, 3 had been pending less than 1 year, 3 from 1 to 2 years, 3 from 2 to 3 years, 6 from 3 to 4 years, 1 from 4 to 5 years, 12 from 5 to 10 years, and 16 more than 10 years. These were estates of 24 minors, 9 insane persons, and 8 incompetents. A guardian was also appointed for the person of the ward in 39 cases. The value of 21 of these estates, as reported, is \$29,844.10. In 12 cases the value of the estates was not reported. In 32 cases bonds were required of the guardian, and in 25 cases bonds were kept good; in 7 cases no bond was required. An inventory was filed within 30 days in 3 cases, within 30 days in 7 cases, and in 31 cases no inventory was filed. Eight first annual reports have been filed. The investment of funds of the ward was supervised by the court in 9 cases, and in 32 cases investment of funds was not supervised by the court. In 7 cases an attorney appeared for the guardian, but in no case for the ward. In 34 cases the report does not show an attorney appeared for anyone. The wards' funds have been properly managed and cared for in 3 cases. Fees amounting to \$595 were allowed for guardians and \$217 for attorneys.

#### WYANDOTTE COUNTY

Area, 153 square miles; population, 146,236; assessed value, \$114,350.

Report made by Hon. Henry Meade, probate judge for 11 years. There have been no defalcations by guardians, executors or administrators within the year. Three juvenile officers are employed; the number of juvenile cases within the year was not reported, and 278 cases were pending. There were 1 habeas corpus case in which writ was not allowed. No orders were granted in district court cases, and there were no proceedings in aid of execution within the year. Fifty-nine adoption proceedings were had, and 64 insanity cases were heard within the year.

The estates of 183 deceased persons were closed within the year. In 183 cases the final report was filed within 1 year after letters of administration were issued, in 101 cases within 1 to 2 years, in 27 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 2 cases from 4 to 5 years, in 2 cases from 5 to 10 years, and in 9 cases more than 10 years. In 74 of these there was a will, and in 109 cases the decedent was intestate. In 143 cases bond was required of the executor or administrator, and all bonds were kept good; in 40 cases no bond was required. The inventory was filed within 60 days in 122 cases, after 60 days in 18 cases, and in 10 cases no inventory was filed. Twenty first annual reports were filed. The aggregate value of 168 of these estates, as appraised, was \$816,900.



the value was not given. In 110 cases attorneys represented the executor or administrator, but in no cases were the heirs or devisees represented by attorneys. In 73 cases the report does not show an attorney appeared for anyone. Fees amounting to \$10,116 were allowed for executors or administrators, and \$10,802 for attorneys. In all cases the estates paid claims in full. The estates of 523 deceased persons were pending July 1, 1936. In 261 cases there was a will, and in 248 cases the deceased was intestate. In 242 cases the final report was filed within 1 year, 103 cases were pending from 1 to 2 years, 50 from 2 to 3 years, 47 from 3 to 4 years, 39 from 4 to 5 years, and 42 from 5 to 10 years. In 392 cases bond was required of the executor or administrator, and all bonds have been kept good; in 131 cases no bond was required. In 285 cases the inventory was filed within 60 days, and in 144 cases after 60 days, and in 94 cases no inventory has been filed. The appraised value of the estates is \$2,795,971; in 85 cases no property of value is listed; and in 103 cases the report shows real estate not appraised. In 41 cases first annual reports have been filed, and in 482 cases such reports have not been filed. An attorney represented the executor or administrator in 342 cases, the heirs or devisees in 10 cases, and in 181 cases the report does not show an attorney appeared for anyone.

There were 62 guardianship estates of minors or other incompetents closed during the year. In 7 cases the final report was filed within 1 year after letters of guardianship were issued, in 19 cases from 1 to 2 years, in 6 cases from 2 to 3 years, in 4 cases from 3 to 4 years, in 3 cases from 4 to 5 years, in 10 cases from 5 to 10 years, and in 13 cases more than 10 years. Of these estates 48 were of minors, 9 of insane persons, and 5 of other incompetents. In 61 cases a guardian was appointed also for the person of the ward. The value of 47 of these estates, as reported, is \$76,699. In all cases guardians were required to post bond, and all bonds have been kept good. The inventory was filed within 30 days in 18 cases, after 30 days in 15 cases, and in 29 cases no inventory was filed. One hundred and eighty-six annual reports have been filed. Investments of the funds of the wards were supervised by the court in all cases and the funds were properly accounted for and disbursed. An attorney appeared for the guardian in 36 cases, but in no case for the ward. Fees amounting to \$1,135 were allowed for guardians, and \$920 for attorneys.

There were 212 guardianship estate cases pending July 1, 1936. Of these 103 had been pending less than 1 year, 38 from 1 to 2 years, 33 from 2 to 3 years, 19 from 3 to 4 years, 32 from 4 to 5 years, and 44 from 5 to 10 years. There were estates of 170 minors, 23 insane persons, and 19 other incompetents. A guardian was also appointed for the person of the ward in all cases. The value of 189 of these estates, as reported, is \$253,582. In 22 cases the report shows the estates consist of real estate or securities, the value of which is not stated. In all cases bond was required, and all bonds have been kept good. The inventory was filed within 30 days in 80 cases, after 30 days in 48 cases, and in 84 cases no inventory had been filed. In these cases 237 annual reports have been filed. The investment of the funds of the ward is supervised by the court in practically all cases. An attorney appeared for the guardian in 103 cases, but in no case for the ward. In 65 cases the report does not show an attorney appeared for anyone. Fees amounting to \$2,510 were allowed for guardians, and \$1,065 for attorneys.

Sec. 56

U. S.

**F**

Topel

Perm

---

PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1936  
16-5224

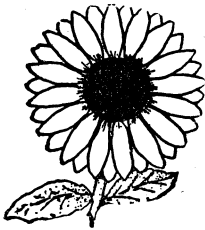
# KANSAS JUDICIAL COUNCIL BULLETIN

DECEMBER, 1936

PART 4—TENTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
"SUNSHINE DAYS" FOR 1937.....	175
WORD .....	182
UNIFIED STATUTORY AND CONSTITUTIONAL PROVISIONS:	
Probate and County Courts .....	183
Appeals in Criminal Cases .....	185
Appeals in Civil Cases .....	187
Joint Trials of Defendants Jointly Charged.....	188
Depositions in Criminal Cases .....	188
Trials by Jury of Six unless Twelve Requested .....	190
Improvements in Probate Law and Procedure .....	191
Compensation for Clerks of District Court and Probate Judges for Making Reports .....	193
The Judiciary Article of our Constitution.....	195
Summary of Probate Courts, by COUNTIES .....	196
Summary for the State as a Whole .....	230



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1936  
16-5935

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas C.
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John.
Judge Twentieth Judicial District.	
E. H. REES.....	Emporia.
Chairman Senate Judiciary Committee.	
O. P. MAY.....	Atchison.
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independence.

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATION,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the state.

For the improvement of our Judicial System and efficient functioning.

County.	County seat.	Judge.	Clerk.	Dist.	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.
Allen.....		Wallace H. Anderson,	Nell Hogan Stirnman,	37	5 12	16 23	2	6 13 20 27	4 11	29	7 14	12 19 26	2 30	7 14
Anderson.....	Garnett.....	Hugh Means.....	Mrs. Erna Miller.....	4	2	5	1	2	8	14	10	11	5	10
Atholison.....	Atholison.....	Lawrence F. Day.....	Hal Waisner.....	2	2 9 16 23 30	6 13 20 27	6 13 20 27	3 10 17 24	1 8 15 22 29	5 12 19 26	11 18 25	2 9 16 23 30	6 13 20 27	4 11 18
Barber.....	Medicine Lodge...	George L. Hay.....	Edith Myers.....	24	7	8	6	26	14	5	11	25	5	10
Barton.....	Great Bend.....	Ray H. Beals.....	Jack Morrison, Jr.....	20	9	6	2	3	1	1	4	2	6	4
Bourbon.....	Fort Scott.....	W. F. Jackson.....	Geo. T. Farmer.....	6	2 9 16 23 30	6 13 20 27	6 13 20 27	3 10 17 24	1 8 15 22 29	5 12 19 26	4 11 18 25	2 9 16 23 30	6 13 20 27	4 11 18
Brown.....	Hiawatha.....	C. W. Ryan.....	H. N. Zimmerman.....	22	26	23	23	27	25	15	28	26	23	21
Butler.....	El Dorado.....	A. T. Ayres..... Geo. J. Benson.	Charles G. Smith.....	13	2	6	1	2	1	14	4	2	8	7
Chase.....	Cottonwood Falls,	Lon C. McCarty.....	Clinton W. Scott.....	5	22	26	26	23	28	25	24	22	26	22
Chautauqua.....	Sedan.....	A. T. Ayres..... Geo. J. Benson.	J. B. McNown.....	13	16	2	15	5	8	1	6	12	2	6
Cherokee..... Columbus div..... Galena div.....	Columbus.....	V. J. Bowersock.....	Ernest Milton.....	11	5 7	2 4	2 4	6 8	4 6	8 3	7 9	5 7	2 4	7 9
Cheyenne.....	St. Francis.....	E. E. Kite.....	Minnie A. Lawless.....	17	23	13	29	5	24	5	18	9	29	6 - 18
Clark.....	Ashland.....	Karl Miller.....	Mrs. Hope Grimes.....	31	14b	11b	11b	15b	13b	17b	9b	7b	4b	16b

MOTION DAYS IN DISTRICT COURTS—CONTINUED

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1937.											
					Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.		
Clay.....	Clay Center.....	Edgar C. Bennett...	Harold Crawford.....	21	7	5	1	1	6	7	2	7	1	2		
Cloud.....	Concordia.....	Tom Kennett.....	Lawrence Johnson...	12	4	2	2	5	4	8	27	19	16	14		
Coffey.....	Burlington.....	Lon C. McCarty...	Bernice Thompson.....	5	25	22	22	26	24	28	27	25	22	27		
Comanche.....	Coldwater.....	Karl Miller.....	Jessie Chamness.....	31	13a	10a	10a	14a	12a	16a	8a	6a	3a	15a		
Cowley.....	Winfield.....	Stewart F. Bloss...	Mrs. Marie Snyder...	19	4 18	1 15	1 15	5 19	3 17	7 21	6 20	4 18	1 15	6 20		
Crawford.....	Girard.....	L. M. Resler.....	Jean Bell.....	38	11 18	1 15	1 15	5 19	3 10	7 21	6 20	4 18	1 16	6 20		
Girard div. Pittsburg div.																
Decatur.....	Oberlin.....	E. E. Kite.....	Dorothy McGee.....	17	21	11 - 22	12	16	10	3	16	5 - 11	5	14		
Dickinson.....	Abilene.....	C. M. Clark.....	Seth Barter, Jr.....	8	4a	12a	1c	17c	17a	7c	13a	15a	8c	18a		
Doniphan.....	Troy.....	C. W. Ryan.....	Mrs. L. D. Swiggett...	22	28	25	25	29	27	17	30	28	24	22		
Douglas.....	Lawrence.....	Hugh Means.....	John Callahan.....	4	9	1	6	3	3	5	11	2	1	4		
Edwards.....	Kinsley.....	Lorin T. Peters.....	C. E. Burke.....	33	5	8	3	5	3	2	9	6	1	7		
Elk.....	Howard.....	A. T. Ayres..... Geo. J. Benson.	Mary E. Johnson.....	13	4	1	20	3	3	7	20	4	1	7		
Ellis.....	Hays.....	Herman Long.....	Clement J. Worth.....	23	15	1	26	16	17	17	16	18	26	16		
Ellsworth.....	Ellsworth.....	Dallas Grover.....	James M. Wilson.....	30	25	26	4	26	14	1	4	11	3	3		
Finney.....	Garden City.....	Fred J. Evans.....	Mrs. Walter Harvey...	32	11e	16e	19e	23e	10e	29e	13e, 27e	22e	19e	10e		
Ford.....	Dodge City.....	Karl Miller.....	Susan Ader Evans.....	31	16a	13a	13a	17a	15a	19a	11a	19a	6a	18a		

County.	County seat.	Judge.	Clerk.	Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May.	Jun.	Sept.	Oct.	Nov.	Dec.
Gove.....	Gove City.....	Herman Long.....	J. B. Chenoweth.....	23	18	12	15	15	14	21	17	15	15	17
Graham.....	Hill City.....	W. K. Skinner.....	Grace Schweitzer.....	34	9	1	5	15	17	3	20	11	12	7
Grant.....	Ulysses.....	F. O. Rindom.....	Jewell Rowland.....	39	4d	1d	1b	13b	3d	7d	4d	4d	3d	6b
Gray.....	Cimarron.....	Karl Miller.....	Mollie Parks.....	31	11f	8f	8f	12f	10f	14f	6f	4f	1f	13f
Greeley.....	Tribune.....	Fred J. Evans.....	T. P. Tucker.....	32	6e	8e	18e	20e	26e	23e	16e	18e	16e	8e
Greenwood.....	Eureka.....	A. T. Ayres..... Geo. J. Benson	Warren R. Willis.....	13	18	3	19	2	17	12	7	11	3	1
Hamilton.....	Syracuse.....	Fred J. Evans.....	Amelia J. Minor.....	32	5e	22e	17e	19e	25e	22e	15e	25e	15e	7e
Harper.....	Anthony.....	George L. Hay.....	Ed C. Wolff.....	24	11	4	5	12	13	21	10	11	4	9
Harvey.....	Newton.....	J. G. Somers.....	Lloyd L. McMullen.....	9	6	8	9	7	10	8	22	29	8	7
Haskell.....	Sublette.....	F. O. Rindom.....	Mrs. E. M. Yarbrough.....	39	4b	1b	8b	7b	3b	7b	20b	4b	3b	2b
Hodgeman.....	Jetmore.....	Lorin T. Peters.....	Fred R. Wilson.....	33	6	22	1	6	17	4	10	5	8	8
Jackson.....	Holton.....	Lloyde Morris.....	Mrs. Elfa Rudy.....	36	11	4	4	8	3	11	9	4	4	9
Jefferson.....	Oskaloosa.....	Lloyde Morris.....	Marguerite N. McCoy.....	36	4	1	1	9	7	7	10	8	1	10
Jewell.....	Mankato.....	W. R. Mitchell.....	Bernice Howard.....	15	9	19	1	16	27	7	24	14	8	23
Johnson.....	Olathe.....	G. A. Roberds.....	Violet Paris.....	10	4	15	22	12	3	24	7	18	15	13
Kearny.....	Lakin.....	Fred J. Evans.....	Paul Wood.....	32	4e	15e	8e	22e	24e	21e	14e	12e	8e	6e
Kingman.....	Kingman.....	George L. Hay.....	Mrs. Nell H. Walter.....	24	9	6	22	10	15	7	27	9	6	13
Kiowa.....	Greensburg.....	Karl Miller.....	Herbert Miller.....	31	12d	9d	9d	13d	11d	15d	7d	5d	2d	14d
Labette.....	Oswego.....	L. E. Goodrich.....	Fred Wyrick.....	16	22	26	26	30	28	25	24	29	26	17
Oswego div. Parsons div.	.....	.....	Parsons div.....	.....	18	22	22	26	24	21	20	18	22	20

MOTION DAYS IN DISTRICT COURTS—CONTINUED

Country.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1937.											
					Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.		
Lane.....	Dighton.....	Fred J. Evans.....	Q. H. Jewett.....	32	9e	19e	22e	21e	28e	28e	21e	13e	22e	9e		
Leavenworth.....	Leavenworth.....	J. H. Wendorff.....	Howard Oliver.....	1	2 16	2 20	6 20	3 17	1 15	5 19	4 18	2 16	6 20	4 18		
Lincoln.....	Lincoln.....	Dallas Grover.....	Ernest D. Harlow.....	30	4	15	20	2	17	2	1	5	8	2		
Linn.....	Mound City.....	W. F. Jackson.....	C. B. Platt.....	6	5 19	1 15	1 15	12 26	3 17	7 21	7 20	4 18	1 15	6 20		
Logan.....	Russell Springs.....	Herman Long.....	Alfred Rogge.....	23	19	15	12	5	27	18	6	28	12c	6		
Lyon.....	Emporia.....	Lon C. McCarty.....	Mrs. Maude Evans.....	5	27	24	24	21	26	23	22	27	24	21		
Marion.....	Marion.....	C. M. Clark.....	Peter F. Flannery.....	8	16a	1a	13a	12a	3a	19a	7a	4a	1a	0		
Marshall.....	Marysville.....	Edgar C. Bennett...	Wallace J. Koppes.....	21	8	1	5	2	3	4	3	4	5	3		
McPherson.....	McPherson.....	J. G. Somers.....	Donald S. Clark.....	9	7	11	8	8	13	7	23	28	11	6		
Meade.....	Meade.....	Karl Miller.....	Ethel Copenhaver.....	31	15b	12b	12b	16b	14b	18b	10b	8b	5b	17b		
Miami.....	Paola.....	G. A. Roberds.....	Hugh W. Campbell...	10	18	1	15	26	17	7-28	2	4	8	20		
Mitchell.....	Beloit.....	W. R. Mitchell.....	Herbert Shaefer.....	15	11	18	19	19	28	28	27	15	30	22		
Montgomery.....	Independence.....	Jas. W. Holdren.....	Chester Chritton.....	14	2	6	6	3	1	5	4	2	6	4		
Independ. div. Coffeeville div.	Independence.....	Independence.....	Independence.....	16	16	20	20	17	15	19	18	16	20	18		
Morris.....	Council Grove.....	C. M. Clark.....	J. A. Bruton.....	8	16c	13	12	5a	15a	21a	7c	16a	1c	6a		
Morton.....	Richfield.....	F. O. Rindom.....	Kathleen Crawford...	39	5d	8b	2b	1b	4d	8d	6b	5d	4d	3b		
Nemaha.....	Seneca.....	C. W. Ryan.....	Ella Schmeidler.....	22	25	22	22	26	24	14	27	25	22	20		



County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Norton.....	Norton.....	E. E. Kite.....	Ethel Bechtoldt.....	17	4 11 - 20	10	10	19	6	2	6 15	7	3	16
Osage.....	Lyndon.....	Robert T. Price.....	Paul F. Cummings.....	35	8	5	9	2	7	8	10	1	9	3
Osborne.....	Osborne.....	W. R. Mitchell.....	Alva Anderson.....	15	8	1	18	15	10	30	23	18	23	21
Ottawa.....	Minneapolis.....	Dallas Grover.....	A. H. Finley.....	30	11	4	3	12	28	3	2	6	2	4
Pawnee.....	Larned.....	Lorin T. Peters.....	Rose Mason.....	33	4	1	2	12	13	1	8	11	2	6
Phillips.....	Phillipsburg.....	E. E. Kite.....	L. R. Halbert.....	17	19	1	11	17	3	1	14 - 20	6	4	15
Pottawatomie.....	Westmoreland.....	Lloydde Morris.....	Chas. S. Smith.....	36	7	5	5	6	6	10	7	7	5	7
Pratt.....	Pratt.....	George L. Hay.....	Mary Fairchild.....	24	8	5	8	9	17	4	13	8	8	11
Rawlins.....	Atwood.....	E. E. Kite.....	Elizabeth Thompson.....	17	22	12	9 - 15	15	17	4	17	8	8	17
Reno.....	Hutchinson.....	J. G. Somers.....	Walter Mead.....	9	9 16 23 30	6 13 20 27	6 13 20 27	3 10 17 24	1 8 15 22 - 29	5 12 19 26	18 25 16 23 - 30	2 9 11 16 20 27	6 13 11 20 27	4 11 18
Republic.....	Belleville.....	Tom Kennett.....	Wm. R. Goodwin.....	12	5	1	3	6	3	9	28	18	17	15
Rice.....	Lyons.....	Ray H. Beals.....	L. A. Hollaway.....	20	5	1	6	6	3	5	7	4	1	1
Riley.....	Manhattan.....	Edgar C. Bennett.....	Hal McCord.....	21	4	4	4	5	7	3	6	8	4	1
Rooks.....	Stockton.....	W. K. Skinner.....	Geo. F. Crane.....	34	11	13	13	14	3	5	6	12	13	6
Rush.....	La Crosse.....	Lorin T. Peters.....	Edwin Popp.....	33	11	2	22	7	14	3	7	4	3	9
Russell.....	Russell.....	Herman Long.....	Geo. W. Brandt.....	23	4	17	25	14	3	16	15	4	25	15
Saline.....	Salina.....	Dallas Grover.....	Howard Ford.....	30	2	3	8	1	12	4	3	1	1	6
Scott.....	Scott City.....	Fred J. Evans.....	Nellie Scheuerman.....	32	8e	17e	15e	12e	29e	25e	20e	14e	18e	13e

MOTION DAYS IN DISTRICT COURTS—CONTINUED

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1937.											
					Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.		
Sedgwick. First div. Second div. Third div. Fourth div.	Wichita.	Ross McCormick.	A. E. Jaques.	18	2	6	6	3	1	5	4	2	6	4		
		R. L. NeSmith.	1st and 2d divisions.		16	20	20	17	15	19	18	16	20	18		
		Grover Pierpont.	3d and 4th divisions.		9	13	13	10	8	12	11	9	13	11		
		L. N. Williams.			23	27	27	24	22	26	25	23	27			
Seward.	Liberal.	F. O. Rindom.	H. W. Lane.	39	11b	20b	20b	17b	24b	19b	18b	16b	8b	19b		
Shawnee. First div.	Topeka.		Leah B. Willcuts.	3	9	20	13	3	1	5	18	9	20	11		
		Geo A. Kline.			30			24	15	26		30				
Second div.		Paul L. Heinz.			16	6	8	10	1	12	4	16	6	18		
Third div.		Otis E. Hungate.			2	13	6	17	8	19	11	2	13	4		
					23		27		29			23				
Sheridan.	Hoxie.	W. K. Skinner.	Noah Turner.	34	8	22	22	16	13	7	2	4	11	8		
Sherman.	Goodland.	W. K. Skinner.	William Mangus.	34	6	15	23	5	14	4	4	1	15	10		
Smith.	Smith Center.	W. R. Mitchell.	Ronald McClain.	15	7	17	22	2	26	21	22	13	22	6		
Stafford.	St. John.	Ray H. Beals.	Gertrude Bartle.	20	4	2	1	5	4	7	6	5	2	2		
Stanton.	Johnson.	F. O. Rindom.	J. E. Saunders.	39	5b	22b	1d	7d	4b	8b	13b	5b	4b	2d		
Stevens.	Hugoton.	F. O. Rindom.	John F. Fulkerson.	39	25b	2b	22b	1d	5b	9b	4b	25b	5b	3d		
Sumner.	Wellington.	Wendell Ready.	Jessie Haverstock.	25	5	4	4	1	4	3	7	7	4	2		
Thomas.	Colby.	W. K. Skinner.	N. C. Knudson.	34	7	16	15	17	15	21	3	2	1	9		
Trego.	Wakeenev.	Herman Long.	Elba Brandenberg.	23	16	13	1	17	15	7	18	16	1	18		

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1937.											
					Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.		
Wallace.....	Sharon Springs....	Herman Long.....	Mrs. Ida Ward.....	23	20	16	13	19	28	19	20	29	12a	20		
Washington.....	Washington.....	Tom Kennett.....	Mrs. Alta Hermon.....	12	6	3	1	7	5	7	29	20	15	13		
Wichita.....	Leoti.....	Fred J. Evans.....	Mrs. Kate Elder.....	32	7e	18e	16e	26e	27e	24e	17e	15e	17e	20e		
Wilson.....	Fredonia.....	J. T. Cooper.....	Leslie V. York.....	7	5	2	2	6	4	1	7	5	2	7		
Woodson.....	Yates Center.....	Wallace H. Anderson,	John F. Timm.....	37	1 8	19 26	5 12	9 16 23 - 30	14 25	8 25	3 22 - 29	8 15	5 9	3 10 17		
Wyandotte. First div.....	Kansas City.....	E. L. Fischer.....	Pal E. Bush.....	29	2	6	6	3	1	5	4	2	6	4		
Second div.....	Harvey J. Emerson	Willard M. Benton.	.....	.....	9	13	13	10	8	12	11	9	13	11		
Third div.....	.....	.....	.....	.....	16	20	20	17	15	19	18	16	20	18		
Fourth div.....	.....	C. A. Miller.....	.....	.....	23	27	27	24	22	26	25	23	27	0		

a. 9:00 a. m.      b. 10:00 a. m.      c. 1:30 p. m.      d. 2:00 p. m.      e. 10:00 a. m. mountain time.      f. 1:00 p. m. mountain time.

NOTE.—Italics indicate the date is also the first day of a regular term of court.

NOTE.—The four divisions of the court in Wyandotte county work with three jury divisions and one "law division," which is rotated among the judges. The "law division" has a motion day each week. The day of the week is designated by the judge at the beginning of the term. Except as modified by the work of the "law division," the motion days are as shown in the above tabulation.

NOTE.—For the months of July and August, in the judicial districts having two or more divisions, one or more judges holds court for the hearing of matters needing prompt attention, and in all the judicial districts some provision is made for the hearing of urgent matters. The days for such hearing are not stated in the above schedule. Parties interested should take the matter up with the judge or clerk of the court with respect to the time of hearing. In a few districts there is a publication, such as the *Legal News* in Shawnee county, in which notice is given of matters not covered by the above schedule.

## FOREWORD

---

We print in this issue a list of "motion days" for the various districts in the several counties of the state for the year 1937. This has been obtained from orders made by the respective district judges and filed by them with the supreme court. In order to avoid any mistakes in the dates we have sent to each of the district judges the portion of the list which applies to the counties of his district for any correction which needed to be made, and have complied with the request of the judges for corrections where such requests have been made.

These motion days have been fixed in compliance with Rule 4 of the supreme court promulgated at the suggestion of the Judicial Council. They have proved helpful in the prompt dispatch of business in our districts, not only to the courts, but to attorneys and to litigants. All of the rules heretofore promulgated by the supreme court, at the suggestion of the Judicial Council, and which pertain to district courts, are being printed in the Statutes of Kansas of 1935, under section 60-3827, with the history and date of each of the rules. The General Statutes are now being printed and will be ready for distribution about the first of the year.

We also print herein proposed statutory and constitutional measures which we plan to present to the legislature for adoption. Each of these measures is the product of much research and study on the part of the Judicial Council, and we believe their adoption will effect substantial improvements in the structure and functioning of our judicial system.

The Judicial Council has had five meetings this year, of two days each, devoted to the study of the measures recommended, and others. In addition to that the individual members of the Council have done a great deal of work between meetings. The members of the Council put in their time and their work in connection with it without financial remuneration, being reimbursed only to be reimbursed for actual expenses incurred by their attendance at the meetings.

In our October, 1936, BULLETIN we printed summaries made up from reports furnished to us from 76 probate judges of the state of the business transacted in their courts within the year ending June 30, 1936, and of the business transacted during July 1, 1936. In this issue we print summaries of the reports from the remaining counties (except from Lyon county, from which we have no report). We also print a summary of the state as a whole. These reports sent us from probate judges, and the summaries and tables made from them, are by far the most complete and instructive of any heretofore made from probate courts. They show in a way not otherwise easy to see the vast importance of these courts to the citizens of our state, and they also disclose the necessity of making these courts more efficient.

## PROBATE AND COUNTY COURT

For several years we have sought to improve our judicial system with reference to courts inferior to the district court. We have not only made an intensive study of the matter ourselves, but have published statements and discussed measures about it in our BULLETIN, discussed it at bar association meetings, and with attorneys, legislators and others. We have concluded generally speaking, justice-of-the-peace courts have outlived their usefulness in this state and that the most useful thing to our people, so far as courts are concerned, is to have one well equipped court in each county, all the time for the transaction of business, for the purpose of handling business now handled by the probate courts and justices of the peace, and giving jurisdiction in civil actions for the recovery of money or specific property where the amount involved does not exceed \$1,000. To accomplish this we have provided a measure creating what we have called a probate and county court. The sentiment throughout the state favorable to such a court has been constantly growing until we feel the people are ready to take the necessary steps for the creation of such a court. A bill designed to accomplish that purpose was introduced at the last regular session of the legislature. It was purposely held up in the committee in order to have copies of the bill sent to the probate judges and at least one attorney in each county, with the request that the specific bill be discussed with the judges and others interested in the county, and that letters be written to the members of the legislature and to us respecting the merits of the bill. We received letters from more than eighty counties favorable to the measure. Only two or three letters expressed opposition to it. The bill was then considered in the judiciary committee of the House. An amendment was sought and obtained to eliminate from it those counties which have city courts at county seat. With this amendment the bill was recommended for passage. By that time it was late in the session, there were a number of bills on the calendar, and it was not reached for action. Since then the measure has been discussed at meetings of bar associations, by attorneys and others, and reports coming to us indicate even greater sentiment favorable to the measure than existed when the legislature was last in session. We recommend the adoption of the measure at the coming session. As proposed it is as follows:

*Section relating to the judiciary, creating courts inferior to the district court, repealing the jurisdiction of justices of the peace, and repealing sections 801 to 20-819, inclusive, and sections 20-1601 to 20-1634, inclusive, and section 80-204, and sections 80-701 to 80-707, inclusive, of the Revised Statutes of Kansas of 1923, and chapter 154, Laws of 1925, and chapter 178, Laws of 1927, and chapter 167, Laws of 1929, and chapter 170, Laws of 1933, and all acts of the present session of the legislature amending or supplementing any of the statutes above mentioned, and fixing a time when the repeal shall become effective.*

*Enacted by the Legislature of the State of Kansas:*

**SECTION 1.** In each county in the state except counties in which the county seat is the city of the first class having a city court there shall be a court known as a probate and county court, which is hereby created, and is to be organized so as to come into existence on the second Monday in January, 1934. The probate judge shall be judge of the probate and county court.

SEC. 2. The probate and county court shall be a court of record and the judge thereof shall have such jurisdiction as is now upon probate courts and the judges thereof, and such jurisdiction as is conferred upon justices of the peace, and in addition thereto shall have jurisdiction in civil actions for the recovery of personal property or money where the amount claimed does not exceed one thousand dollars and proceedings for attachment and garnishment in such actions.

SEC. 3. The supreme court by rule may prescribe the procedure in actions and proceedings in the probate and county court and in appeals therefrom, which rules, when made, shall supersede any statutes relating thereto. When the volume of business in any probate and county court is such as to justify it, the supreme court may by rule create divisions of the probate and county court, and when so created there shall be a judge for each division. The judges of the extra divisions so created shall, by virtue of their commissions, be judges pro tem of probate court. The supreme court may by rule prescribe the procedure for designating a judge pro tem for the probate and county court for temporary purposes. Where the centers of population in the county are such as to justify it the supreme court may by rule provide for the location of the probate and county court at some place in the county in addition to the county seat, either for the trial of specific cases or for permanent divisions of the court in such county. The supreme court shall, before the first of March, 1938, designate divisions of the probate and county court in the county where such is deemed necessary, and the cities other than the county seat in which a division of the probate and county court shall sit, and the places where such divisions and places where the court shall sit shall not be made more than once in two years.

SEC. 4. The judge of the probate and county court shall be elected at the general election held biennially in November, the first election to be held in November, 1938, and shall hold their offices for a term of two years beginning on the second Monday in January following such election. Any person shall be qualified to act as judge of the probate and county court who has been regularly admitted to practice law in this state, or who has not served as probate judge in this state for as long as two years prior to the beginning of his term as judge of the probate and county court. No judge of the probate and county court shall, while serving in this capacity, practice law in any of the courts of the state.

SEC. 5. The salary of the judge of the probate and county court in the various counties of this state shall be as follows: In counties with a population of less than five thousand, \$1,800; in counties with a population of five to ten thousand, \$2,100; in counties with a population from ten to fifteen thousand, \$2,400; in counties with a population of more than fifteen thousand and not more than sixty thousand, \$2,700; and in counties with a population over sixty thousand, \$3,000; the salaries to be paid by the county in monthly payments. All fees received by the judge of the probate and county court except fees for performing marriage ceremonies for services performed by virtue of his office shall be by him paid into the county treasury and become a part of the general fund of the county. The county commissioners shall provide such facilities in the way of a court room, supplies, clerical and stenographic help as may be necessary properly to conduct the business of the court. The clerical help shall be appointed by the judges, of the probate and county court and hold their positions at the pleasure of the court.

SEC. 6. All process issued by the probate and county court shall be served by the sheriff. If the sheriff is the party to be served the court shall appoint someone not interested in the case as a special officer to make the service.

SEC. 7. On and after the first Monday in January, 1939, justice of the peace in each and every county in this state shall have no jurisdiction in civil case, civil or criminal, except in civil actions for the recovery of money where the amount claimed does not exceed one dollar.

8. The following statutes are hereby repealed, the repeal to take effect on the second Monday of January, 1939: Sections 20-801 to 20-819, inclusive, sections 20-1601 to 20-1634 and section 80-204 and sections 80-701 to 80-706, inclusive, of the Revised Statutes of 1923, and chapter 154, Laws of 1925, chapter 178, Laws of 1927, and chapter 167, Laws of 1929, and chapter 167, Laws of 1933, and all acts of the present session of the legislature amending or supplementing any of the statutes above mentioned, and all acts and parts of acts in conflict herewith. Courts existing under statutes repealed by this act shall cease to function at the time the repeal goes into effect, and the dockets, records and files of such courts shall be transferred to and become a part of the records and files of the probate and county court, and all cases then pending in such courts shall proceed in the probate and county court as though originally brought in that court.

9. This act shall take effect and be in force from and after its publication in the statute book.

When this bill becomes effective a bill should be passed creating courts of limited jurisdiction for the use of merchants and others in cities or communities outside of the county seat of any county, such as the proposed probate courts mentioned in sections 6 and 7 of our suggested bill, p. 51 Bulletin, October, 1934, BULLETIN.

## APPEALS IN CRIMINAL CASES

To avoid unnecessary delay between the time a criminal case is disposed of by the district court and when it is submitted to the supreme court on its appeal, whether the appeal be taken by the defendant or by the state on appeal, we have proposed a measure revising our statute on that subject. It leaves the right of any defendant to appeal from any judgment rendered in a criminal case, and also leaves the right of the state to appeal on a question reserved, as these rights now exist, but it places the duty on the appellant to take his appeal promptly and see to it that his appeal is filed promptly in the supreme court, and that the other necessary steps be taken as rapidly as the circumstances of the case will permit to have his appeal presented to the supreme court. The measure has the recommendation of the State Bar Association and of others interested in the prompt dispatch of business in our courts. At the last regular session of the legislature the bill was introduced and passed the house of representatives. We think it should be enacted into law. The bill follows:

Bill relating to appeals in criminal actions, and repealing sections 62-1702, 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713, 62-1714 of the Revised Statutes of Kansas of 1923.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. In any criminal action in which defendant pleads guilty, or is found guilty by a jury, or by the court if the trial is to the court, if defendant is then in custody of the sheriff, he shall be taken into custody at once; unless he announces that he desires to file a motion for a new trial, he shall be sentenced either on that date or at a fixed time within ten days.

SECTION 2. If at the time the plea, verdict, or finding of guilty is made defendant announces that he desires to file a motion for a new trial, the court shall grant him time, not exceeding five days, in which to file the motion for a new trial, and such motion shall be heard and determined as expeditiously as possible and in no event later than thirty days after it is filed. Pending the

filing and hearing of the motion for a new trial, if defendant desires liberty on bond, and the offense is bailable after conviction, the court shall fix the amount of the bond, which bond shall be approved by the court, if the court so direct, by the clerk of the court. If the motion for a new trial is overruled, sentence shall be imposed at once. If defendant desires to appeal promptly, and has given bond pending the hearing of his motion for a new trial, the court may order the bond to be in force pending the appeal to the supreme court for bond.

**SEC. 3. *Proceeding on appeal:*** (a) If defendant does not seek to have execution of his sentence stayed, or release from custody on bond pending appeal, he may appeal at any time within six months from the date of sentence by serving notice of appeal on the county attorney of the county in which he was tried and filing the same with the clerk of the district court; or he may file the same with the clerk of the court, order a transcript of so much of the testimony as is needed to present his case on appeal, see that the journal entry of trial and sentence is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry to be filed with the clerk of the supreme court within ten days after sentence. On the appeal, the clerk of the supreme court, or any justice thereof, shall order execution of the sentence stayed, and if the offense is bailable after conviction, shall fix the amount of the bond and direct that it be approved by the supreme court, or any justice thereof, or its clerk, or by the trial court, or its clerk. If defendant shall thereafter prepare and present his appeal in accordance with the statutes and rules of court applicable thereto: *Provided*, If the offense for which defendant was convicted was a misdemeanor, and the bondsman required by section 62-1705 of the Revised Statutes of Kansas of 1923 have been approved by the supreme court, and that fact duly certified as required by section 62-1706 of the Statutes of Kansas of 1923, no further bond shall be required.

**SEC. 4.** If the state desires to appeal in any case mentioned in section 1703 of the Revised Statutes of 1923, the county attorney, within ten days after the ruling complained of, shall serve notice of appeal upon the defendant or his attorney of record, and file the same with the clerk of the court in which the ruling was made, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry, to be filed with the clerk of the supreme court. If the appeal by the state in no case stays or affects the operation of the judgment appealed from until the ruling or judgment is reversed. The state shall thereafter prepare and present its appeal in accordance with the statutes and rules of the court applicable thereto.

**SEC. 5.** The supreme court shall have authority to make such rules, not repugnant to statute, as it may deem necessary or proper in order to facilitate the prompt and orderly preparation and presentation of the appeal, and to carry into effect the final order of the court in such appealed cases.

**SEC. 6.** Sections 62-1702, 62-1704, 62-1709, 62-1710, 62-1711, 62-1712 and 62-1714 of the Revised Statutes of Kansas of 1923 are hereby repealed. *Provided*, That appeals in criminal actions in which the verdict of guilty was returned before the effective date of this act may be appealed and the judgment disposed of under the statutes in force at the time the verdict was returned.

**SEC. 7.** This act shall take effect and be in force from and after January 1, 1935, and its publication in the statute book.



## APPEALS IN CIVIL ACTIONS

her proposed measure seeks to do away with unnecessary delay in appeal of civil actions. In this respect it would make a substantial improvement over the provisions of our present statute. It reads as follows:

relating to civil procedure, amending sections 60-3307, 60-3309, 60-3312 and 60-3314 of the Revised Statutes of Kansas of 1923, and repealing said sections, and also repealing section 60-3313 of the Revised Statutes of Kansas of 1923.

enacted by the Legislature of the State of Kansas:

SECTION 1. That section 60-3307 of the Revised Statutes of Kansas of 1923 be amended so as to read: Section 60-3307. When the appeal is perfected and service of notice of the appeal, or the affidavit provided for in the foregoing section showing inability to make service on a nonresident party, is made, the clerk of the trial court, he shall forthwith make a certified copy of the notice and proof of service or affidavit and transmit the same to the clerk of the supreme court, together with a certified copy of the journal entry of judgment or order from which the appeal is taken. The failure of the clerk of the trial court without just cause to make such copies and transmit them to the clerk of the supreme court within ten days after the notice of appeal or affidavit above mentioned is filed with him, shall be grounds for his removal from office.

SECTION 2. That section 60-3309 of the Revised Statutes of Kansas of 1923 be amended so as to read: Section 60-3309. The appeal shall be perfected within four months from the date of the judgment or order from which the appeal is taken. *Provided*, That appeals from judgments and appealable orders of a court shall be taken within four months immediately prior to the taking effect of this act may be amended within two months after the effective date of this act.

SECTION 3. That section 60-3312 of the Revised Statutes of Kansas of 1923 be amended so as to read: Section 60-3312. In all cases in which a transcript of evidence is not necessary in order to review the questions presented on appeal, the abstract of appellant shall be served on the opposing party or his attorney of record and filed in the supreme court within forty days after the notice of appeal is filed with the clerk of the trial court, and in all cases in which a transcript of the testimony is necessary to present the question presented on appeal the abstract of appellant shall be so served and filed within four months after the notice of appeal is filed with the clerk of the trial court. The abstract of the appellant shall contain a synopsis of so much and of such character of the pleadings, record, evidence and proceedings in the case as appears necessary for the consideration of the court. If appellee deems the abstract of appellant to be insufficient to present the questions for review, he may, within thirty days after the service upon him of appellant's abstract, serve upon appellant, or his counsel, and file with the clerk of the supreme court a counter abstract. Abstracts not challenged shall be deemed accurate and sufficiently complete to present the questions sought to be reviewed. In the event the accuracy of any abstract is challenged, the court shall make such determination as the nature of the case and justice warrant. Abstracts shall be reviewed unless, on application therefor and for good cause shown, the court orders that they be presented otherwise. The abstract may be bound separately with the brief, as the party presenting the same desires.

SECTION 4. That section 60-3314 of the Revised Statutes of Kansas of 1923 be amended so as to read: Section 60-3314. When notice of appeal has been given in a case and the appellee desires to have a review of rulings and decisions of which he complains, he shall, within twenty days after the notice of appeal is filed with the clerk of the trial court, give notice to the adverse party or his attorney of record, of his cross-appeal and file the same with the clerk of the trial court, who shall forthwith forward a duly attested copy of it to the clerk of the supreme court.

SEC. 5. When a party appeals, after a final judgment against him that some ruling of which he complains was made more than two months before he perfected his appeal shall not prevent a review of the ruling.

SEC. 6. That sections 60-3307, 60-3309, 60-3312, 60-3313 and 60-3314 of the Revised Statutes of Kansas of 1923 be and the same are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its publication in the statute book.

## JOINT TRIAL OF DEFENDANTS JOINTLY CHARGED

Our statute, R. S. 72-1429, now provides that when two or more defendants are jointly charged with the same offense any one of them can demand a separate trial if the offense charged is a felony, but if the offense charged is a misdemeanor they may be tried together, or separately, in the discretion of the court. We think the latter rule should apply whether the offense charged is a felony or a misdemeanor. Many county attorneys in the state are forced to go through two, or as many as five or six trials for that matter, for defendants who collectively constitute a gang of robbers. Some of these trials drag out over six months or a year or more before all of them can be completed, each trial being an expensive one for the county, with the possible loss of material witnesses. In the federal court, and in many of the states, such trials are conducted jointly whether the charge be a felony or a misdemeanor. The court, in its discretion, grants a severance. To remedy this we have recommended the following bill:

AN ACT relating to criminal procedure, amending section 62-1429 of the Revised Statutes of 1923, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1429 of the Revised Statutes of 1923 be amended so as to read: Section 62-1429. When two or more defendants are jointly charged with the same offense in the same complaint, indictment, or information, they shall be tried jointly: *Provided*, The court, upon the hearing and application for separate trials, timely made, may order separate trials if in the interests of justice.

SEC. 2. That section 62-1429 of the Revised Statutes of 1923 be and the same are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its publication in the official state paper.

## DEPOSITIONS IN CRIMINAL CASES

In the trial of criminal cases it sometimes happens that a material witness for the prosecution is outside of the state, or because of illness cannot be produced as a witness at the trial. This results in a serious disadvantage to the prosecution and occasionally requires the dismissal of a case which otherwise would be prosecuted. Our statutes now authorize the defendant to take depositions under such circumstances, but there is no provision in our law authorizing the prosecution to take depositions. Some other states have enacted statutes authorizing the prosecution to take depositions under such circumstances. Such statutes may be framed so as not to be in violation of any principle of

stitution. We see no reason why a statute of this kind should not be enacted in this state. We therefore propose a measure to read as follows:

relating to criminal procedure and providing for the taking and use of depositions, and repealing sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of 1923.

enacted by the Legislature of the State of Kansas:

SECTION 1. In any criminal action or proceeding pending in a court of this state before a judge thereof, depositions may be taken when allowed by an order of the court or judge. Such order may be made only when the court or judge is satisfied that due diligence has been used in making application therefor by the person whose deposition is wanted is a material witness, and that the witness resides without this state; or, residing in this state, is pregnant, infirm, or is about to or likely to leave the state, and that his attendance at the trial or examination cannot be procured by the use of ordinary diligence. Such application by the defendant shall be accompanied by proof to the county attorney of the time and place it is to be presented, and an application on the part of the state shall be accompanied by proof of notice to the defendant or to his attorney of record. The order for the taking of the depositions shall direct whether they shall be taken on oral or written interrogatories.

2. When the state procures such an order its notice, in addition to the notice required by the preceding section, shall inform the defendant that he is required personally to attend the taking of such deposition and that his failure to do so shall constitute a waiver of his right to face the witness whose deposition is to be taken; and the failure of defendant to attend the taking of such depositions shall constitute such waiver unless the court or judge is satisfied that the deposition is offered in evidence that defendant was physically unable to attend. If the defendant be not then in custody he shall be paid by the county in which the action or proceeding is pending a sum equal to witness fees for travel and attendance upon the taking of such deposition; but if defendant be in custody the court shall adjudge, direct and order the sheriff to take defendant to and from the place the deposition is to be taken and to take defendant in attendance at the taking of such deposition, the expense of which shall be paid by the county. If the order for the taking of the deposition be made upon application of the state, and defendant shows to the court that he desires his attorney present and that he is unable financially to pay the fee of his attorney to attend the taking of such deposition, the court shall order a sum equal to witness fees for travel and attendance to be paid defendant for the use of his attorney in attending, on behalf of defendant, the taking of such deposition. Any sum the court orders to be paid by the county, under the provisions of this act, to enable defendant or his attorney to be present at the taking of such deposition, shall be paid by the county promptly and before the taking of the deposition.

3. Depositions taken under the provisions of this act may be read in evidence upon the hearing of the action or proceeding subject to rulings applicable to the reception in evidence in a civil action of depositions taken under the provisions of this act.

4. Sections 62-1313, 62-1314 and 62-1315 of the Revised Statutes of 1923 are hereby repealed.

5. This act shall take effect and be in force from and after its publication in the official state paper.

## TRIAL BY JURY OF SIX UNLESS TWELVE REQUIRED

When we collected data on the question a few years ago we found several counties in this state pay approximately one fourth of a billion a year for the per diem and mileage of jurors called to serve in the courts. Having studied the matter, we concluded that a substantial saving can be made by having the cases tried by a jury of six unless a jury of twelve should be demanded by one of the litigants. Some of the trial judges encouraged litigants to use six jurors instead of twelve, and it is found that the results are fully as satisfactory as when twelve are used. In many states one who demands a jury trial in a civil action is required to deposit a sum of money equal to the amount necessary to pay the per diem of twelve jurors. We do not feel like going that far in our recommendation. We do think if a litigant insists on having a jury of twelve the litigant should reimburse the county for a part of the additional expense made thereby. To carry out our ideas on this matter we propose two measures, one amending a section of our civil code and another amending a section of our criminal code. They read as follows:

AN ACT relating to civil procedure, amending section 60-2903 of the Revised Statutes of Kansas of 1923, and repealing said original section 60-2903.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-2903 of the Revised Statutes of Kansas of 1923, be and the same is hereby amended to read as follows: Section 60-2903. Issues of fact arising in actions for the recovery of money or of specific personal property shall be tried by jury, unless a jury trial is waived by reference be ordered as hereinafter provided. All other issues of fact shall be tried by the court, subject to its power to order any issue or issues to be tried by a jury or referred as provided in this code. Unless a jury of twelve is demanded by either party within ten days after the answer is filed the trial shall be by six jurors. The party demanding a jury of twelve at the time the writ of mandamus is made shall deposit \$18 with the clerk of the court, which sum shall be paid to the county treasurer and become a part of the county's general fund. The clerk of the court shall tax the amount as costs in the case, and at the final disposition of the action the same shall be adjudged against the party liable for costs.

SEC. 2. That section 60-2903 of the Revised Statutes of Kansas of 1923, in all acts or parts of acts in conflict herewith, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage and publication in the statute book.

AN ACT relating to criminal procedure, amending section 62-1401 of the Revised Statutes of Kansas of 1923, and repealing said original section 62-1401.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 62-1401 of the Revised Statutes of Kansas of 1923, be and the same is hereby amended to read as follows: Section 62-1401. In all criminal cases the defendant and prosecuting attorney, with the assent of the court, may waive the trial to the court, except in cases of felonies. All other trials shall be by jury, to be selected, summoned and returned as prescribed by law: *Provided*, That in misdemeanor cases shall be tried by a jury of six, unless the defendant, complaining witness, or the prosecuting attorney, in writing filed with the clerk of the court ten days before the case is called for trial, shall demand a jury of twelve: *And further provided*, That upon due application and for good cause shown the court may order a trial by jury of six.

the court may, in its discretion, permit the demand to be made at any time before the day the case is called for trial.

2. That section 62-1401 of the Revised Statutes of Kansas of 1923, and all parts of acts in conflict with this act, are hereby repealed.

3. This act shall take effect and be in force from and after its publication in the statute book.

## IMPROVEMENTS IN OUR PROBATE LAW AND PROCEDURE

We have been unable to complete all of the plans we have had in mind for making improvements in our law pertaining to the estates of decedents, minors, or other incompetents, and procedure in our probate courts. We have, however, prepared two measures which if enacted into law, would make a substantial improvement in our law respecting those matters. Both of these measures passed the Senate at the last session of the legislature, but reached the House too late for final action there. It is possible that by the time the legislature meets we will have other measures formulated. If so, they will be recommended at that time. The two measures now prepared, which we hereby recommend be enacted into law, are as follows:

ACT RELATING TO DECEDENTS' ESTATES, PROVIDING WHAT PROPERTY OF DECEASED PERSONS SHALL BE CHARGEABLE WITH PAYMENT OF DEBTS AND COSTS OF ADMINISTRATION, AND FOR THE POSSESSION, MANAGEMENT, CONTROL, AND DISPOSITION OF SUCH PROPERTY, AND THE RENTS, ISSUES, AND PROFITS THEREOF, BY EXECUTORS AND ADMINISTRATORS.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. The property owned by a deceased person at the time of his death, except such as is specifically exempt therefrom, shall be chargeable with the payment of his debts and the costs of administration, and shall be applied for the purposes in the following order: *First*, the personal property; *second*, the rents, issues and profits of the real property, whether accrued before or after the death of decedent, including income by whatever name called from mining leases on such property; *third*, the real property, including any interest or right which decedent had in or to such property, or which he, his heirs, devisees or legatees had therein by reason of his death. If a debt is not, or provable, against the estate is secured by specific real or personal property, the property securing such debt shall be used to pay or apply upon the debt before other property of decedent is used for that purpose.

2. The administrator or executor (unless other provision is made by a will) shall have the right to the possession of all the real and personal property of decedent chargeable with the payment of debts, and shall control and manage the same under the direction and orders of the probate court. When directed or ordered to do so by the court the administrator or executor may have the real property under his control, or any part thereof, for a term not exceeding one year, and shall receive the rents, issues and profits therefrom, and may, in like direction or order may keep up the repairs, insurance and taxes, on the real property. The administrator or executor may join with the heirs or devisees of any real property under his control in executing a mining lease on such property, the income therefrom by whatever name called to be paid to the administrator or executor and to be chargeable with debts of decedent as are other rents, issues and profits of real property.

3. If in the judgment of the court it will promote the interest of the estate and not be prejudicial to creditors, the court shall have power to order the administrator or executor to pay interest or installments of principal on

any mortgage or other lien on any real or personal property chargeable with the payment of debts of the deceased, or to entirely discharge or pay off such liens, or to redeem, for the benefit of the estate, any nonexempt real estate sold at execution or judicial sale either before or after the death of the decedent, or to order the sale of any of the nonexempt real estate to provide funds for any of the purposes mentioned in this section: This act shall not be construed so as to take away or alter the right of the heirs or devisees of the deceased to redeem, for their own benefit, any real estate, or to redeem, for their own benefit, real estate sold at execution or judicial sale, in the event that the executor or administrator does not elect to redeem for the benefit of the estate any such personal property or real estate, and upon the application of any of the heirs or devisees, in such pledged personal property, or real estate subject to redemption, the court, if such redemption appears to be to the best interest of the estate and the creditors, shall make an order directing the executor or administrator to redeem such property for the benefit of the estate, but if the court determines that such redemption will not be to the best interest of the estate or the court shall order such redemption right surrendered and the property turned over to the heirs or devisees.

SEC. 4. Whenever the court shall be satisfied that any real estate should be sold or leased for the payment of debts of the estate, legacies, or administration, the executor or administrator may be ordered to deliver possession of the same to those entitled to it as heirs or devisees.

SEC. 5. Upon final settlement and distribution of the estate all real estate not sold for the payment of debts, legacies, or costs of administration remaining in the possession of the administrator or executor, shall be turned over to the heirs or devisees entitled to the same.

SEC. 6. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage and publication in the statute book.

---

AN ACT relating to executors and administrators, providing for hearing and settling claims against decedents' estates, amending sections 22-507 and 22-601 of the Revised Statutes of 1923, and sections 22-702 and 22-729 of the Revised Statutes Supplement of 1933, and repealing said sections.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 22-504 of the Revised Statutes of 1923 is amended to read as follows: Section 22-504. The personal estate and real estate together with the real estate chargeable with the payment of debts, contained in the inventory, shall be appraised by three disinterested householders of the county, who shall be appointed by the court.

SEC. 2. That section 22-507 of the Revised Statutes of 1923 is amended to read as follows: Section 22-507. The appraisers shall prepare an estimate and appraise the personal property, together with the real estate interest in real estate, chargeable with the payment of debts, and each item of personal property and each tract of real estate shall be so appraised separately, with the value thereof in dollars and cents, distinctly in the inventory opposite to the articles or items of personal property, or tracts of real estate, respectively.

SEC. 3. That section 22-601 of the Revised Statutes of 1923 is amended to read as follows: Section 22-601. The executor or administrator shall, within such time as the court may order, sell the whole of the real estate property belonging to the estate, not exempt by law from payments of debts, and which constitutes assets in his hands to be administered: *Provided*, that such personal property as is specifically bequeathed shall not be sold by the court, by its orders, shall have determined the residue of the personal

et to the payment of debts, to be insufficient for the payment of debts of estate and costs of administration, and direct the personal property specially bequeathed to be sold: *And provided further*, That whenever the court shall find that the sale of the personal property, or any part thereof, is necessary for the payment of debts, legacies, or costs of administration, it may in its discretion, order such property not sold.

4. That section 22-702 of the Revised Statutes Supplement of 1933 is hereby amended to read as follows: Section 22-702. All demands against an estate, whether due or to become due, whether absolute or contingent, not excepted as required by statute within one year after the date of the administration bond, shall be forever barred, including any demand arising from or on account of any statutory liability of decedent or on account of or arising from any liability of decedent as surety, guarantor or indemnitor; saving to infants, insane, or of unsound mind, imprisoned or absent from the United States, one year after the removal of their disabilities, from payment by an administrator or executor unless a provision of a will requires payment of a demand thereafter. No creditor shall have any claim against or lien upon the real estate of the decedent, other than a lien of record prior to death of decedent, unless he shall have filed his claim in the probate court within one year after the death of decedent.

5. That section 22-729 of the Revised Statutes Supplement of 1933 is hereby amended to read as follows: Section 22-729. Any creditor of the decedent whose right of action shall not accrue within the said one year after the date of the administration bond, must nevertheless present his demands within the said time, and if on examination thereof it shall appear to the court that the claim is justly due from the estate, it may by consent of that creditor and the executor or administrator, order the same to be discharged in like manner as if the claim were due, after discounting interest as mentioned in this article, or the court may order the executor or administrator to retain in his hands sufficient to satisfy the claim; or if any of the heirs of the deceased, or devisees, or others interested in the estate, shall offer to give bond to the alleged creditor with sufficient surety or sureties, for the payment of the demand in case the same cannot be proved to be due from the estate, the court may, if it thinks proper, order such bond to be taken instead of ordering the claim to be discharged as aforesaid, and instead of requiring the executor or administrator to retain the same as aforesaid.

6. Contingent claims or demands against an estate shall be heard and determined by the court in accord with the rights of the parties respecting such claims, and in such a way as not to delay the closing of the estate, if that can be done with justice to the parties.

7. That sections 22-504, 22-507 and 22-601 of the Revised Statutes of Kansas, and section 22-702 of the Revised Statutes Supplement of 1933, and section 22-729 of the Revised Statutes of Kansas, Supplement of 1933, are hereby amended.

8. This act shall take effect and be in force from and after its publication in the statute book.

## PENSATION FOR CLERKS OF DISTRICT COURT AND PROBATE JUDGES FOR MAKING REPORTS

The data collected by the Judicial Council from clerks of the district court and from probate judges requires a lot of work of those officers. The Judicial Council is required by statute to collect this class of data and it is essential to the Council to make the necessary study of the condition of business in our courts so we can make proper recommendations for the improvement of probate in such courts. A few years ago the clerks of the district court found their work to be so great that they asked the legislature to make a small special

compensation for that work. As a result of this, chapter 189 of the Session Laws of 1931 was enacted, which in substance provides that the clerk shall be taxed by the county ten cents for each case reported, and that he shall turn over to the county ten cents in each case as costs, which, when collected, will be turned over to the county treasury to reimburse the county for the payment. This method of compensation as costs is inadequate if the clerks of the court are required to make reports each year, as should be done, for the reason that there are a substantial number of district court cases—perhaps twenty-five percent of them—for one reason or another, costs are never collected. Again, a case may be reported more than once, and a fee taxed but one time is insufficient to reimburse the county for paying the clerk for reporting it two or more times. The legislature has not provided for paying probate judges for making reports. That should be done, for the blanks now used in collecting reports call for a great deal of information, some of it of a detailed nature, all of which is beneficial to the Council in its work. To enable us to collect reports both from the clerks of the district court and from the probate judges each year, and in order for them to be paid a small fee therefor by the county, and the county be reimbursed by a cost taxed especially for that purpose, we propose the following measure:

AN ACT relating to salaries of clerks of the district court and of judges of the probate court in all counties, providing for extra compensation for making reports of pending material for the Judicial Council, as required by law, and providing for the collection of fees to pay the same, and repealing chapter 189 of the Session Laws of 1931.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That when the Judicial Council requests clerks of the district court to furnish complete and accurate detailed information with respect to cases disposed of or pending in their respective courts, and such clerks make reports, the chairman of the Judicial Council shall certify that fact to the board of county commissioners of the county from which the report is made, together with the number of cases so reported, and the board of county commissioners shall allow and pay to the clerk of the court a sum equal to a fee of ten cents for each case so reported, the sum so paid to be in addition to the salary of the clerk of the court as otherwise provided by law. The clerk of the court shall tax a fee of fifteen cents as costs in each case for each case so reported as pending or closed, which fee shall be collected as other costs are collected by the clerk of the court, and when collected shall be paid by him into the county treasury.

SEC. 2. That when the Judicial Council requests judges of the probate court to furnish complete and accurate detailed information with respect to cases disposed of or pending in their respective courts, and such judges make reports, the chairman of the Judicial Council shall certify that fact to the board of county commissioners of the county from which the report is made, together with the number of cases so reported, and the board of county commissioners shall allow and pay to the probate judge a sum equal to a fee of ten cents for each case so reported, the sum so paid to be in addition to the salary of the probate judge as otherwise provided by law. The probate judge shall tax a fee of fifteen cents as costs in each case or proceeding for each time such case is so reported as closed or pending, which fee shall be collected as other costs are collected by the probate judge, and when collected shall be paid by him into the county treasury.

SEC. 3. That chapter 189 of the Session Laws of 1931 be and the same are hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its publication in the official state paper.



## THE JUDICIAL ARTICLE OF OUR CONSTITUTION

When after the Judicial Council was first organized and had undertaken the study of our judicial system and procedure therein and methods of improvement we concluded it would be advantageous to redraft the judicial article of our constitution. First and last members of the Council, and others interested in the question, have given the matter extensive study. Suggested redrafts have been presented to the State Bar Association and other bar associations throughout the state, and have been printed from time to time in our BULLETIN. Each of these drafts were proposed simply as a basis for study. Shortly thereafter and since the last general session of the legislature a committee from the State Bar Association, of which Judge W. D. Jochems, of Wichita, is chairman, and others, have coöperated with the Judicial Council in preparing a new amendment in the form which we feel justified in asking the legislature to submit to a vote of the people. We believe its adoption would be a long step forward in the improvement of the judicial system of our state. As proposed the judiciary article of our constitution would read as follows:

## ARTICLE III—THE JUDICIARY

SECTION 1. The judicial power of the state is vested in a system of courts composed of the supreme court, district courts and county courts, which shall be courts of record, and in such other courts inferior to the district court as may be created by law.

2. The supreme court shall be the highest court in the judicial system and shall supervise the administration of justice in all state courts. It shall be composed of seven justices, of whom the older justice who is senior in continuous service shall be the chief justice. It may appoint a clerk, a reporter, and other necessary officers of the court. It shall have original jurisdiction of any legal proceeding when the facts have been agreed upon in writing, and also of any proceeding in quo warranto, mandamus and habeas corpus. It shall have jurisdiction on questions of law by appeal from any final decision of any district court, and of the right to such appeal litigants shall not be denied; and it shall have such other appellate jurisdiction as may be provided by law. It may prescribe the practice and procedure in all state courts, and provide for the selection of judges pro tem, of courts inferior to it. It may reassign district judges to assist in the work of the supreme court, and may appoint or the judge of any district court to serve temporarily as judge of any district court.

3. The legislature, by joint resolution adopted by a two-thirds vote of each house, after notice and hearing, may remove, or retire on terms, any justice or judge of any state court, for the good of the service; and the supreme court, by a two-thirds vote of its members, for like reason and under the same conditions provided by it, after notice and hearing, may remove any justice or judge of any state court, or may retire such justice or judge upon such conditions as may be provided by law; but neither the legislature nor the supreme court may remove or retire more than two justices of the supreme court during any two-year period.

4. There shall be a district court in each county, but the legislature may divide several counties in one district and make divisions of the court in each district. The district court shall be a court of original general jurisdiction over the trial of all civil and criminal actions and special proceedings, except that original jurisdiction is vested herein in county courts. It shall have appellate jurisdiction of questions of law and of fact of all actions or special proceedings originating in courts inferior to the district court and before boards, commissions, tribunals and officers when exercising judicial functions, and of any appeal to such appeal litigants shall not be denied.

SEC. 5. In each county there shall be a county court which shall have original jurisdiction in all actions or proceedings, whether the question presented be legal or equitable, relating to the probate of wills and the administration upon and distribution of estates of decedents, minors and infants. It shall have, also, such other original jurisdiction, concurrent with the district court, in civil and criminal actions and special proceedings as may be provided by law. The legislature may make divisions of the county courts in any county.

At the first session of the legislature following the adoption of this section, the legislature shall provide for the organization of county courts in accordance with this section, and until such provision is so made effective courts now existing shall continue to function.

SEC. 6. In each county there shall be a court clerk who shall be elected as provided by law and who shall serve as clerk for both the district court and the county court in such county, and whose duties shall be prescribed by rule of the supreme court.

SEC. 7. To be eligible to hold the office of justice or judge of any court, a person must have been duly admitted to practice law in this state and be a citizen and a resident of the state and county or district for which he is selected, and before taking such office must have been engaged in the active practice of law, or have served as judge of a court of record, in this state, in the aggregate as follows: For justice of the supreme court, ten years; for judge of the district court, five years; for judge of the county court, two years. Additional requirements of eligibility for justice or judge of any state court may be provided by law. No person shall be ineligible to accept any judicial office in this state on account of his holding another office, but no person shall hold more than one judicial office at the same time. In the event a justice or judge of any court of record shall file for, or be nominated for, or an appointment to, a nonjudicial office, his office or position as justice or judge shall become vacant immediately.

SEC. 8. Justices and judges, provided for herein, shall be elected for terms as follows: Justices of the supreme court, ten years; judges of the district court, six years; judges of the county court, four years. When a vacancy occurs in the office of such justice or judge, the governor shall appoint a qualified person to fill the position until the second Monday in January following after the first general election held more than six months after the vacancy occurs, at which general election a justice or judge shall be elected for a term beginning the second Monday in the next January.

SEC. 9. Justices and judges, provided for herein, shall receive such salaries, payable monthly by the state, as the legislature may provide, but such salaries shall not be less than: For justices of the supreme court, \$6,000; for judges of the district court, \$4,000; for judges of the county court, \$3,000. The salaries of judges of the county court may be graduated by population. No such justice or judge shall receive any additional fee, salary or per diem from the state or any of its subdivisions, nor shall he practice law while he continues in office.

---

## PROBATE COURT SUMMARIES

In our October BULLETIN we published summaries of the work of the probate court prepared from reports sent to us from probate judges of various counties. Reports from other counties had not reached us in time for summaries to be prepared and printed in that bulletin. We now have reports from the probate judges but one, although some of them were not as complete as we would like to have had them. We have had no part of the reports from the judge of Lyon county.

Summaries prepared from these reports not heretofore published are now set out in alphabetical order of the counties.

## BARBER COUNTY

a, 1,134 square miles; population 9,096; assessed value, \$16,840,927.

Report made by Hon. S. P. Garrison, probate judge for 29 years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, 2 juvenile cases were heard within the year and 1 was pending. There was 1 habeas corpus case in which writ was denied. There were 9 orders made in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were made and 4 insanity cases heard within the year.

The estates of 15 deceased persons were closed within the year. In 3 cases final report was filed within 1 year after letters of administration were granted. Nine cases had been pending from 1 to 2 years, and 3 cases from 3 to 4 years. In 8 cases there was a will and in 7 cases decedent was intestate, 3 cases being insolvent. In 7 cases bond was required of the executor or administrator and all bonds were kept good. In 8 cases no bond was required. An inventory was filed within 60 days in 5 cases, after 60 days in 2 cases and in 8 cases no inventory was filed. No first annual reports were filed. The aggregate value of these estates as appraised was \$105,535, and the estimated value of property not appraised was \$10,400. In 12 cases an attorney appeared for the executor or administrator, and in no case for the heirs or devisees. In 3 cases the report does not show an attorney appeared for anyone. Fees amounting to \$1,275 were allowed for executors or administrators and \$2,850 for attorneys. In 13 cases the estates paid claims in full and in 2 cases did not pay claims in full.

The estates of 27 deceased persons were pending July 1, 1936. All cases have been pending less than 1 year. In 17 cases there was a will and in 10 cases decedent was intestate. In 14 cases bond was required and all bonds were kept good. In 13 cases no bond was required. The inventory was filed within 60 days in 9 cases, after 60 days in 5 cases, and in 13 cases no inventory was filed. No first annual reports were filed in any case. The aggregate value of these estates as appraised was \$141,839.02, and the estimated value of property not appraised was \$36,675.00. In 25 cases an attorney represented the executor or administrator and in 2 cases the heirs or devisees, and in 2 cases the report does not show an attorney appeared for anyone.

The report does not show that any guardianship estates of minors or other incompetents were closed within the year.

There were 8 guardianship estate cases pending July 1, 1936. Of these 4 cases have been pending less than 1 year, 1 case from 1 to 2 years, 2 cases from 5 to 10 years, and 1 case longer than 10 years. These were estates of 7 minors and 1 insane person. A guardian was also appointed for the person of the ward in 6 cases, and in 2 cases a guardian was not appointed for the person of the ward. The value of these estates is \$2,130. In 7 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed after 30 days in 1 case and in 7 cases no inventory was filed. In these cases 2 annual reports have been filed. The management of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 6 cases, but in no case for the ward. In 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$260 were allowed for guardian and \$270 for attorneys. The funds have been properly preserved and cared for in all cases.

## CHAUTAUQUA COUNTY

Area, 651 square miles; population 10,099; assessed valuation, \$1

Report made by Hon. W. H. Helmick, probate judge for 4 years. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, and 3 juvenile cases were within the year. There were no habeas corpus cases, 2 orders were in district court cases, and there were no proceedings in aid of execution within the year. Two adoption proceedings were had, and 9 insanity cases were within the year.

The estates of 8 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration were issued; 2 cases had been pending from 1 to 2 years, and 2 cases from 2 to 3 years. In 4 cases bond was required of the executor or administrator, and in 4 cases no bond was required. The inventory was filed within 60 days in 3 cases, after 60 days in 3 cases, and in 2 cases no inventory was filed. In these cases 6 first annual reports were filed. The aggregate value of 5 of these estates as appraised was \$9,454.42. The estimated value of property not appraised, was \$12,826.74. In 6 cases an attorney represented the executor or administrator, and in 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$325 were allowed for executors or administrators, and \$451.50 for attorneys. In all cases the estates paid claims in full.

The estates of 48 deceased persons were pending July 1, 1936. Of these cases 27 had been pending less than 1 year, 13 from 1 to 2 years, and 8 from 2 to 3 years. In 15 cases there was a will, and in 33 cases the decedent was intestate. In 36 cases bond was required of the executor or administrator, and all bonds have been kept good. In 12 cases no bond was required. In 18 cases the inventory was filed within 60 days, in 12 cases after 60 days, and in 18 cases no inventory was filed. The appraised value of the property, as reported, is \$74,755.34, and the estimated value of the property not appraised is \$25,619. In 4 cases first annual reports have been filed, and in 44 cases such reports have not been filed. An attorney represented the executor or administrator in 38 cases, and in 2 cases the heirs or legatees. In 2 cases the report does not show an attorney appeared for anyone.

There were 2 guardianship estates of insane persons closed within the year. The report does not show how long these cases had been pending. The report shows that in both cases there was no property of value, and no guardian was appointed for the person of the ward. In both cases the ward was represented by the county attorney.

There were 43 guardianship estate cases pending July 1, 1936. Of these cases 13 had been pending less than 1 year, 12 from 1 to 2 years, and 18 from 2 to 3 years. These were estates of 10 minors, 20 insane persons, and 13 other incompetents. In all cases a guardian was also appointed for the person of the ward. The value of 17 of these estates as appraised is \$1,150. In 15 cases bond was required of the guardian, and all bonds were kept good. In 28 cases no bond was required. An inventory was filed within 60 days in 12 cases, after 30 days in 2 cases, and in 29 cases no inventory was filed. In these cases 9 annual reports have been filed. The investment of the ward are supervised by the court in 14 cases, and in 29 cases no supervision is shown.

supervised by the court. An attorney appeared for the guardian in 11 and in 5 cases for the ward. In 32 cases the report does not show that an attorney appeared for anyone. The report shows that the wards' funds have been properly preserved and cared for in 15 cases. In 26 cases there were no funds. Fees amounting to \$75 each were allowed for guardians in

#### CHEROKEE COUNTY

, 589 square miles; population, 31,228; assessed value, \$23,562,073. Report made by Hon. Walter Largen, probate judge for 3½ years. There were no defalcations by guardians, executors or administrators within the year. Three juvenile officers are employed, and 15 juvenile cases were heard during the year. There were no habeas corpus cases, no orders made in dissolution cases, and no proceedings in aid of execution within the year. Six divorce proceedings were had and 11 insanity cases were heard within the

report does not show that any estates of deceased persons were closed during the year.

estates of 123 deceased persons were pending July 1, 1936. In these 123 had been pending less than 1 year, 31 cases from 1 to 2 years, 12 from 2 to 3 years, 6 cases from 3 to 4 years, 5 cases from 4 to 5 years, 10 cases from 5 to 10 years. In 56 cases there was a will, and in 65 cases the decedent was intestate. In 74 cases bond was required of the executor or administrator, and 72 bonds have been kept good. In 49 cases no bond was required. In 86 cases the inventory was filed within 60 days, and in 16 cases the inventory was filed after 60 days. In 21 cases no inventory was filed. The assessed value of these estates is \$488,259.25, and the estimated value of property not appraised is \$50. In 1 case first annual report has been filed; in 10 cases such reports have not been filed. An attorney represented the decedent or administrator in 5 cases and the heirs or devisees in 27 cases. In 10 cases the report does not show that an attorney appeared for anyone.

report does not show any guardianship estates of minors or other incompetents closed within the year.

there were 150 guardianship estate cases pending July 1, 1936. Of these, 10 cases had been pending less than 1 year, 19 cases from 1 to 2 years, 10 from 2 to 3 years, 6 cases from 3 to 4 years, 7 cases from 4 to 5 years, 10 cases from 5 to 10 years, and 41 cases longer than 10 years. These were 103 cases of 105 minors, 30 insane persons, and 15 incompetents. A guardian was appointed for the person of the ward in 116 cases. The value of the estates, as reported, is \$17,475. In 118 cases bond was required of the guardian, and the report shows 103 bonds have been kept good. In 32 cases no bond was required. An inventory was filed within 30 days in 5 cases, after 30 days in 1 case, and in 144 cases no inventory has been filed. In these cases annual reports have been filed. The investment of funds of the wards is supervised by the court in 21 cases, and in 129 cases it is not supervised by the court. An attorney appeared for the guardian in 5 cases, but in no case for the ward. In 145 cases the report does not show an attorney appeared for anyone. In 1 case fees of \$900 were allowed for the guardian, but in no case were fees allowed for attorneys.

## CRAWFORD COUNTY

Area, 592 square miles; population, 49,222; assessed value, \$36,377

Report made by Hon. Robert W. Colburn, probate judge for Crawford County. There had been 1 defalcation, amounting to \$4,500, by a guardian, or administrator. The entire amount was recovered. One juvenile was employed part time, and 10 juvenile cases were heard within the year. There was 1 habeas corpus case in which writ was denied. Two orders were issued in district court cases, and there were 2 proceedings in aid of execution within the year. Five adoption proceedings were had and 23 insanity cases were heard within the year.

The estates of 70 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration were issued, 34 cases had been pending from 1 to 2 years, 6 cases from 2 to 3 years, 2 cases from 3 to 4 years, 2 cases from 4 to 5 years, and 2 cases from 5 to 10 years. In 41 cases there was a will, and in 29 cases decedent was intestate. In 44 cases bond was required of the executor or administrator and all bonds were kept good. In 26 cases no bond was required. The inventory was filed within 60 days in 59 cases, after 60 days in 10 cases, and in 1 case no inventory was filed. In these cases 70 first annual reports were filed. The aggregate value of these estates as appraised was \$31,190.71, and the value of property not appraised was \$2,927. In 31 cases attorneys represented the executor or administrator, and in 3 cases the heirs or devisees. In 15 cases the report does not show that an attorney appeared for anyone. Amounting to \$5,254.47 were allowed for executors or administrators. \$4,862 for attorneys. The estates paid claims in full in 66 cases, and in 4 cases the estates did not pay claims in full.

The estates of 232 deceased persons were pending July 1, 1936. In 91 cases had been pending less than 1 year, 36 cases from 1 to 2 years, 16 cases from 2 to 3 years, 16 cases from 3 to 4 years, 12 cases from 4 to 5 years, 39 cases from 5 to 10 years, and 25 cases longer than 10 years. In 117 cases there was a will and in 117 cases decedent was intestate. In 167 cases bond was required of the executor or administrator and all bonds were kept good. In 65 cases no bond was required. In 175 cases the inventory was filed within 60 days, in 31 cases after 60 days, and in 26 cases no inventory was filed. The appraised value of these estates is \$984,882.57, and the estimated value of property not appraised is \$64,200. In 46 cases first annual reports have been filed; and in 186 cases such reports have not been filed. An attorney represented the executor or administrator in 122 cases, and the heirs or devisees in 15 cases. In 110 cases the report does not show that an attorney appeared for anyone.

There were 16 guardianship estates of minors or other incompetents closed within the year. In 2 cases the final report was filed within 1 year after letters of guardianship were issued, 2 cases had been pending from 1 to 2 years, 7 cases from 3 to 4 years, 7 cases from 5 to 10 years, and 4 cases longer than 10 years. Of these estates 11 were of minors, 4 of insane persons, and 1 of an incompetent person. In 10 cases a guardian was also appointed for the person of the ward, and in 6 cases no guardian was appointed for the person of the ward. The value of these estates as reported is \$31,190.71. In these cases all guardians were required to give bond and all bonds have been kept good.

ry was filed within 30 days in 1 case, and in 15 cases no inventory d. Five annual reports were filed. Investment of funds of the ward supervised by the court in all cases. An attorney appeared for the guard- 4 cases, but in no case for the ward. In 12 cases the report does not hat an attorney appeared for anyone. Fees amounting to \$413 were for guardians and \$162.50 for attorneys. In all cases the funds of the ere properly accounted for and disbursed.

ere were 124 guardianship estate cases pending July 1, 1936. Of these een pending less than 1 year, 13 from 1 to 2 years, 9 from 2 to 3 from 3 to 4 years, 7 cases from 4 to 5 years, 39 cases from 5 to 10 and 30 cases longer than 10 years. These were the estates of 93 minors, ne persons, and 9 other incompetents. A guardian was also appointed person of the ward in 98 cases. The value of these estates as reported 075.58. In all cases bond has been required of the guardian and all ave been kept good. The report does not show that an inventory was any case. In these cases 372 annual reports have been filed. The in- nt of funds of the ward is supervised by the court in 108 cases; in ases funds are being used for care of the ward, and in some cases funds austed. An attorney appeared for the guardian in 28 cases and for the 1 case. In 96 cases the report does not show that an attorney appeared one. Fees amounting to \$6,565 have been allowed for guardians and for attorneys.

9 cases the report shows that the funds of the wards have been properly ed and cared for.

#### DECATUR COUNTY

, 900 square miles; population 8,411; assessed value, \$10,407,949. ort made by Hon. Ralph McLaughlin, probate judge for 1½ years. had been no defalcations by guardians, executors or administrators the year. No juvenile officer is employed. One juvenile case was within the year. There were no habeas corpus cases, 2 orders were made ict court cases, and there were no proceedings in aid of execution within ar.

estates of 16 deceased persons were closed within the year. When 9 cases had been pending from 1 to 2 years, 2 cases from 3 to 4 years, from 5 to 10 years, and 2 cases longer than 10 years. In 7 cases there will, and in 9 cases decedent was intestate. In 14 cases bond was re- of the executor or administrator, and all bonds have been kept good. ases no bond was required. The inventory was filed within 60 days in es, after 60 days in 2 cases and in 1 case no inventory was filed. Two nual reports have been filed. The aggregate value of 15 of these estates raised, was \$133,102, and the estimated value of property not appraised 1,000 and in 1 case the value was not given. In 14 cases an attorney nted the executor or administrator, in 3 cases an attorney represented rs or devisees, and in 2 cases the report does not show that an attorney ed for anyone. Fees amounting to \$2,585 were allowed for executors ministrators, and \$1,560 for attorneys. In 15 cases the estates paid in full, and in 1 case the estate did not pay claims in full.

report was made on estates of deceased persons pending.

There were 4 guardianship estate cases closed July 1, 1936. In final report was filed within 1 year after letters of guardianship were granted. In 1 case had been pending from 1 to 2 years, 1 case from 3 to 4 years, 1 case from 5 to 10 years. Of these estates, 3 were of minors, and 1 of an insane person. In all cases a guardian was also appointed for the person. The value of these estates is \$6,500. In all cases bond was required of the guardian, and all bonds were kept good. An inventory was filed within 30 days in 1 case, and in 3 cases no inventory was filed. One annual report has been filed. In 2 cases the investment of funds of the ward was approved by the court. An attorney appeared for the guardian in all cases, and in 1 case for the ward. Fees amounting to \$125 were allowed for guardian and \$50 for attorneys. In all cases the funds of the ward were properly preserved and disbursed.

There were 40 guardianship estate cases pending July 1, 1936. Of these cases had been pending less than 1 year, 7 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 11 from 5 to 10 years, and 10 longer than 10 years. These were estates of 28 minors, 6 insane persons, and 6 other incompetents. A guardian was also appointed for the person in all cases. The value of these estates is \$80,950. In 38 cases bond was required of the guardian and all bonds were kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 10 cases, after 30 to 60 days in 3 cases and in 27 cases no inventory was filed. In these cases 11 annual reports have been filed. The investment of funds of the ward is approved by the court in 5 cases and in 35 cases investment of funds is not approved by the court. An attorney appeared for the guardian in 12 cases and for the ward in no case. In 28 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$980 were allowed for guardian and \$100 for attorneys. The report does not show that any fees have been allowed for attorneys. In all cases the wards' funds have been properly preserved and cared for in 39 cases.

#### DICKINSON COUNTY

Area, 851 square miles; population, 25,130; assessed value, \$44,073.

Report made by Hon. D. W. Nickles, probate judge for 3½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, and 24 juvenile cases have been heard within the year. There were no habeas corpus cases; 7 orders of writs made in district court cases, and there were no proceedings in aid of writs within the year. Three adoption proceedings were had, and 15 insane persons were heard within the year.

The estates of 58 deceased persons were closed within the year. Of these cases 47 had been pending from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, 2 from 4 to 5 years, and 3 from 5 to 10 years. In 38 cases there was a will, and in 20 cases decedent was intestate. In 39 cases bond was required of the executor or administrator, and all bonds have been kept good. In 19 cases no bond was required. The inventory was filed within 60 days in 48 cases, and after 60 days in 10 cases. In these cases 58 first annual reports have been filed. The aggregate value of these estates as appraised was \$715.29. In 22 cases an attorney represented the executor or administrator, and in 4 cases the heirs or devisees, and in 36 cases the report does not show



ney appeared for anyone. Fees amounting to \$6,649.38 were allowed for executors or administrators and \$1,597.85 for attorneys. In 55 cases the claimants paid claims in full and in 3 cases they did not pay in full.

Of the estates of 133 deceased persons were pending July 1, 1936. In these 133 cases 2 had been pending less than 1 year, 29 from 1 to 2 years, 12 from 2 to 3 years, 9 from 3 to 4 years, 8 from 4 to 5 years, 11 from 5 to 10 years, and 63 more than 10 years. In 100 cases there was a will, and in 33 cases the decedent was intestate. In 83 cases bond was required of the executor or administrator, and 82 of these bonds have been kept good. In 52 cases no bond was required. In 92 cases the inventory was filed within 60 days, in 32 cases within 30 days, and in 9 cases no inventory was filed. The appraised value of the estates as reported was \$507,999.30, and the estimated value of the estates not appraised was \$577,080.92. In 64 cases first annual reports have been filed, and in 69 cases such reports have not been filed. Some of these reports are not yet due. In 39 cases an attorney represented the executor or administrator, and in 2 cases the administrators are attorneys. An attorney did not represent the heirs or devisees in 13 cases, and in 90 cases the report does not show an attorney appeared for any one.

There were 18 guardianship estates of minors or other incompetents closed during the year. In 2 cases final report was filed within 1 year after letters of administration were issued, 2 cases had been pending from 1 to 2 years, 1 case from 2 to 3 years, 1 case from 3 to 4 years, 3 cases from 5 to 10 years, and 9 cases longer than 10 years. Of these estates 13 were of minors and 5 of incompetent persons. In 13 cases a guardian was appointed for the person of the ward, and in 5 cases no guardian was appointed for the person of the ward. The value of these estates as reported was \$158,925.17. In 18 cases guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 5 cases, after 30 days in 7 cases, and in 6 cases no inventory was filed. In these cases 96 annual reports have been filed. Investment of funds of the ward was supervised by the court in 16 cases. An attorney appeared for the guardian in 10 cases, and in 8 cases for the ward. In 8 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,184.26 were allowed for guardians, and \$14.60 for attorneys. In all cases the wards' funds have been properly accounted for and disbursed.

There were 198 guardianship cases pending July 1, 1936. Of these 10 had been pending less than 1 year, 15 from 1 to 2 years, 15 from 2 to 3 years, 11 from 3 to 4 years, 11 from 4 to 5 years, 71 from 5 to 10 years, and 60 more than 10 years. These were estates of 148 minors, 25 insane persons, and 25 other incompetents. A guardian was also appointed for the person of the ward in 91 cases. The value of these estates as reported is \$821,757.03. The estates also include real estate, value of which is not given. In all cases bond was required of the guardian, and all bonds were kept good. An inventory was filed within 30 days in 89 cases, after 30 days in 71 cases, and in 38 cases no inventory was filed. In these cases 130 annual reports have been filed. The investment of funds of the ward is being supervised by the court in 153 cases. An attorney appeared for the guardian in 58 cases, and in 140 cases for the ward. In 140 cases the report does not show an attorney appeared for anyone. Fees amounting to \$12,050.57 have been allowed for

guardians, and in 5 cases the guardian received 5 percent of income estate. Fees amounting to \$1,624.57 have been allowed for attorney. Report shows that in 156 cases the wards' funds have been preserved for to date.

#### DOUGLAS COUNTY

Area, 469 square miles; population, 25,753; assessed value, \$39,179.

Report made by Hon. L. H. Menger, probate judge for 15 years. Had been 1 defalcation by a guardian, executor or administrator within the year, no part of which has been recovered. The report did not show amount of defalcation. One juvenile officer is employed, 7 juvenile cases heard within the year, and 16 cases were pending. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in execution within the year. No adoption proceedings were had, and no cases were heard within the year.

The estates of 51 deceased persons were closed within the year. Closed, 31 cases had been pending from 1 to 2 years, 13 cases from 2 to 3 years, 3 cases from 3 to 4 years, 1 case from 4 to 5 years, 1 case from 5 to 10 years, and 2 cases longer than 10 years. In 34 cases there was a will, and in 17 cases decedent was intestate. In 34 cases bond was required of the executor or administrator, and all bonds have been kept good. In 17 cases no bond was required. The inventory was filed within 60 days in 37 cases and in 14 cases after 60 days. Eight annual reports have been filed. The aggregate value of 50 of these estates as appraised is \$603,413.81, and in 1 case the value of the estate is not known. The report does not show that an attorney appeared for anyone in any case. Fees amounting to \$15,865.08 were allowed for attorneys or administrators. The report does not show whether or not estates were claimed in full.

The estates of 175 deceased persons were pending July 1, 1936. Pending, 22 cases, 22 had been pending less than 1 year, 21 cases from 1 to 2 years, 8 cases from 2 to 3 years, 8 cases from 3 to 4 years, 11 cases from 4 to 5 years, 26 cases from 5 to 10 years, and 74 cases longer than 10 years. In 126 cases there was a will, and in 59 cases the deceased was intestate. In 82 cases bond was required of the executor or administrator and all bonds were kept good. In 93 cases no bond was required. In 101 cases the inventory was filed within 60 days, in 46 cases after 60 days, and in 28 cases no inventory has been filed. The appraised value of 145 of these estates as reported is \$1,170,900. In several cases the estates consisted of real estate not appraised, and in several cases there was no property of value. No first annual reports have been filed. The report does not show that an attorney represented anyone in any case.

There were 14 guardianship cases of minors or insane persons closed within the year. In 3 cases the final report was filed within 1 year after guardianship were issued, 3 cases had been pending from 1 to 2 years, 1 case from 3 to 4 years, 1 case from 4 to 5 years, 3 cases from 5 to 10 years, and 4 cases longer than 10 years. Nine of these estates were of minors, and 5 of insane persons. In 8 cases a guardian was also appointed for the personal property. The value of these estates, as reported, is \$4,586.75, and in 6 cases some real estate, the value of which was not reported. Eleven guardians were required to give bond, and all bonds were kept good. In 3 cases

quired. The inventory was filed within 30 days in 6 cases, after 30 in 5 cases, and in 3 cases no inventory was filed. In these cases 38 reports have been filed. The report does not show whether or not investment of wards' funds has been supervised by the court, or that an attorney represented anyone in any case.

There were 164 guardianship estate cases pending July 1, 1936. Of these 14 had been pending less than 1 year, 14 from 1 to 2 years, 6 from 2 to 3 years, 17 from 3 to 4 years, 8 from 4 to 5 years, 50 from 5 to 10 years, and 58 longer than 10 years. These were estates of 128 minors, 31 insane persons and 5 other incompetents. A guardian was also appointed for the management of the ward in 160 cases. The value of 88 of these estates as appraised, was \$393.96, and in many cases the value of real estate and other property was not known. In 155 cases bond was required of the guardian, and in 4 cases bonds were kept good. In 9 cases no bond was required. An inventory was filed within 30 days in 67 cases, after 30 days in 54 cases, and in 43 cases no inventory was filed. In these cases 470 annual reports have been filed. The management of the funds of the ward is supervised by the court in 160 cases, and in 4 cases there are no funds to be supervised. The report does not show whether an attorney appeared for anyone in any case, or that any fees have been paid for guardians or attorneys. In all cases where wards have funds they have been properly preserved and cared for.

#### JACKSON COUNTY

County, 658 square miles; population, 15,061; assessed value, \$22,929,393. The report made by Arthur P. Hoagland, probate judge for 3¼ years. There have been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed. Nineteen juvenile cases were heard during the year. There were no habeas corpus cases, 4 orders were made in probate court cases, and there were no proceedings in aid of execution within the year. Two adoption proceedings were had, and 10 insanity cases were closed within the year.

There were estates of 48 deceased persons were closed within the year. In 3 cases no annual report was filed within 1 year after letters of administration were issued. In 27 cases were pending from 1 to 2 years, 6 cases from 2 to 3 years, 1 case from 3 to 4 years, 4 cases from 4 to 5 years, and 7 cases from 5 to 10 years.

In 24 cases there was a will, and in 24 cases decedent was intestate. In all cases bond was required of the executor or administrator, and all bonds were kept good. In 14 cases no bond was required of the executor or administrator, and all bonds were kept good. In 14 cases no bond was required. The inventory was filed within 60 days in 29 cases, after 60 days in 16 cases, and in 3 cases no inventory was filed. Ten first annual reports have been filed. The assessed value of 45 of these estates as appraised was \$287,402.74, and the unassessed value of property not appraised was \$6,050, and in 3 cases the value was not given. In 30 cases attorneys represented the executor or administrator, and in 18 cases the heirs or devisees. In 18 cases the report does not show whether an attorney appeared for anyone. Fees amounting to \$1,738.90 were paid for executors or administrators and \$932.50 for attorneys. In all cases the estates paid claims in full.

There were estates of 58 deceased persons were pending July 1, 1936. All of these have been pending less than 1 year. In 27 cases there was a will, and in 31 cases no will.

31 cases the deceased was intestate. In 43 cases bond was required of the executor or administrator, and all bonds have been kept good. In 1 case no bond was required. In 42 cases the inventory was filed within 60 days, 14 cases after 60 days, and in 2 cases no inventory has been filed. The appraised value of these estates is \$414,720.83. No first annual reports have been filed. In all cases an attorney represented the executor or administrator and also the heirs or devisees.

There were 3 guardianship estates of minors or other incompetents closed within the year. In all cases the final report was filed within 1 year. Letters of guardianship were issued. Of these estates 2 were of minors and 1 of an insane person. A guardian was not appointed for the person of an insane person in any case. No annual reports have been filed. In no case was the ward represented by an attorney, but wards were represented by attorneys in 2 cases. No fees were allowed for anyone in these cases.

There were 17 guardianship estate cases pending July 1, 1936, all of which had been pending less than 1 year. These were the estates of 8 minors, 10 sane persons and 3 other incompetents. A guardian was also appointed for the person of the ward in 13 cases, and in 4 cases no guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,200. In 12 cases bond was required of the guardian and all bonds have been kept good. In 5 cases no bond was required. An inventory was filed within 60 days in 9 cases, after 30 days in 4 cases, and in 4 cases no inventory was filed. No annual reports have been filed in these cases. The investment of the ward is being supervised by the court in 15 cases, and in 2 cases there are no funds. An attorney appeared for the guardian in 13 cases, and for the ward in 4 cases. The report does not show an attorney for anyone. Fees were allowed for guardians in 3 cases, which amounted to \$15. In 4 cases fees amounting to \$20 were allowed for attorneys. In all cases the wards' funds have been preserved and cared for to date.

#### LABETTE COUNTY

Area, 649 square miles; population, 32,312; assessed value, \$36,899,000.

Report made by Hon. C. S. Carlton, probate judge for 13 years. There have been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed, 20 juvenile cases were heard within the year, and of this number 3 were pending. There were no habeas corpus cases, 2 orders were made in district court cases, and there were no writs in aid of execution within the year. Four adoption proceedings were heard and 25 insanity cases heard within the year.

The estates of 48 deceased persons were closed within the year. In all cases the final report was filed within 1 year after letters of administration were issued, 30 cases had been pending from 1 to 2 years, 6 cases from 2 to 3 years, 1 case from 3 to 4 years, 3 cases from 4 to 5 years, and 1 case more than 10 years. In 28 cases there was a will, and in 20 cases decedents were intestate. In 21 cases bond was required, and in 27 cases no bond was required. The report does not state how many bonds were kept good. The inventory was filed within 60 days in 26 cases, after 60 days in 14 cases, and in 8 cases no inventory was filed. The report does not show that any first annual reports have been filed. The aggregate value of 43 of these estates, as reported, was \$172,411.25, and in 5 cases the value was not given. In 11 cases

represented the executor or administrator, but in no cases were heirs or devisees represented by attorneys. In 37 cases the report does not show whether an attorney appeared for anyone. Fees amounting to \$2,970.36 were allowed for executors or administrators and \$1,511.48 for attorneys. In 19 cases the claims were paid in full, and in 29 cases estates did not pay claims in full. In 117 cases estates of deceased persons were pending July 1, 1936. In these cases the claims had been pending less than 1 year, 14 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, 9 from 4 to 5 years, and 27 from 5 to 10 years. In 108 cases there was a will. In 108 cases bond was required of the executor or administrator, and in 9 cases no bond was required. All bonds were kept good. The inventory was filed within 60 days in 39 cases, after 60 days in 21 cases, and in 57 cases no inventory was filed. The appraised value of these estates was \$183,811.67. The report does not show that any first annual reports have been filed. An attorney represented the executor or administrator in 108 cases, but in no cases were the heirs or devisees represented by attorneys. In 108 cases the report does not show that anyone was represented by an attorney.

There were 18 guardianship estates of minors or insane persons closed within the year. In 3 cases the final report was filed within 1 year after letters of guardianship were issued, 1 case had been pending from 1 to 2 years, 1 from 2 to 3 years, 3 cases from 3 to 4 years, 1 case from 4 to 5 years, 7 cases from 5 to 10 years, and 2 cases longer than 10 years. Of these estates 12 were of minors and 6 of insane persons. The value of these estates as reported, is \$74,174. In 17 cases guardians were required to give bond and all bonds were kept good. In 1 case no bond was required. The inventory was filed within 30 days in 1 case, and in 17 cases no inventory was filed. Investment of the funds of the ward was supervised by the court in 1 case. In these cases annual reports have been filed. An attorney appeared for the guardian in 17 cases, and in 17 cases the report does not show an attorney appeared for anyone. Fees amounting to \$284 were allowed for guardians, and \$134.50 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 220 guardianship estate cases pending July 1, 1936. Of these cases 10 had been pending from 1 to 2 years, 30 cases from 2 to 3 years, 21 from 3 to 4 years, 29 cases from 4 to 5 years, and 110 cases from 5 to 10 years. These were the estates of 154 minors, 44 insane persons, and 22 incompetents. In each case a guardian was appointed for the person. The value of these estates as reported, is \$69,864.63. In 180 cases bond was required of the guardian and in 40 cases no bond was required. The report does not show how many bonds were kept good, or that inventory was taken in any case. In these cases 120 annual reports have been filed. The investment of funds of the ward is being supervised by the court in 21 cases. The report does not show that an attorney appeared for anyone in any case. The wards' funds have been properly preserved and cared for in 111 cases.

#### LEAVENWORTH COUNTY

Area, 455 square miles; population, 35,121; assessed value, \$32,940,711. Report made by Hon. Sam Parisa, probate judge for 1½ years. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed; 242 juvenile cases were heard within

the year. There were 8 habeas corpus cases; in 3 cases writ was granted and in 5 cases writ was denied. There were no orders made in district court and no proceedings in aid of execution within the year. Seventeen adoption proceedings were had and 19 insanity cases heard within the year.

The estates of 90 deceased persons were closed within the year. In 10 cases the final report was filed within 1 year after letters of administration were issued, 27 cases had been pending from 1 to 2 years, 22 cases from 2 to 3 years, 1 case from 3 to 4 years, 1 case from 4 to 5 years, and 2 cases from 5 to 10 years. In 58 cases there was a will and in 32 cases decedent was intestate. In 35 cases bond was required of the executor or administrator, and in 34 bonds have been kept good. In 55 cases no bond was required. Inventory was filed within 60 days in 28 cases, after 60 days in 38 cases, and in 24 cases no inventory was filed. In these cases 7 first annual reports have been filed. The aggregate value of 36 of these estates as appraised was \$190,008.03, and the estimated value of property not appraised was \$1036.19. In 65 cases attorneys represented the executor or administrator, and in 1 case the heirs or devisees, and in 25 cases the report does not show an attorney appeared for anyone. Fees amounting to \$32,585.66 were allowed for executors or administrators, and \$11,113.90 for attorneys. In 8 cases estates paid claims in full and in 5 cases the estates did not pay claims.

There was no report from Leavenworth county covering estates of deceased persons pending.

There was no report of guardianship estates of minors or of incompetents closed within the year.

There was no report covering guardianship estate cases pending within the year 1936.

#### McPHERSON COUNTY

Area, 900 square miles; population, 25,335; assessed value, \$52,200,000.

Report made by Hon. J. J. Heidebrecht, probate judge for 11 years. There were no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed. Seven juvenile cases were heard within the year and 6 were pending. There were no habeas corpus orders made in district court cases, and there were no proceedings in aid of execution within the year. Six adoption proceedings were had and 1 insanity case heard within the year.

Estates of 78 deceased persons were closed within the year. In 10 cases these cases had been pending, 2 less than 1 year, 49 from 1 to 2 years, 2 to 3 years, 6 from 3 to 4 years, 2 from 4 to 5 years, 5 from 5 to 10 years, and 3 longer than 10 years. In 35 of these there was a will and in 43 cases decedent was intestate. In 63 cases bond was required of the executor or administrator, and in 15 cases no bond was required. All bonds were kept good. The inventory was filed within 60 days in 56 cases, after 60 days in 20 cases, and in 2 cases no inventory was filed. Eight first annual reports have been filed. The aggregate value of 77 of these estates, as appraised, was \$1,271,369.64. The estimated value of 2 estates not appraised was \$1036.19. In 51 cases an attorney represented the executor or administrator, and in 1 case the heirs or devisees. In 26 cases the report does not show an attorney appeared for anyone. Fees amounting to \$10,771.31 were allowed for executors or administrators and \$12,142.15 for attorneys. In 72 cases estates paid claims in full and in 6 cases the estates did not pay claims in

tes of 195 deceased persons were pending July 1, 1936. In these cases e been pending less than 1 year, 30 from 1 to 2 years, 21 from 2 to 3 2 from 3 to 4 years, 11 from 4 to 5 years, 32 from 5 to 10 years, and er than 10 years. In 111 of these there was a will and in 84 cases eased was intestate. In 134 cases bond was required of the executor or rator. In 133 cases bonds have been kept good. In 61 cases no bond uired. In 140 cases the inventory was filed within 60 days, in 38 cases 0 days, and in 17 cases no inventory has been filed. The appraised f 189 of these estates is \$3,587,412.65. The estimated value of prop- t appraised is \$82,900.00. In 25 cases first annual reports have been a 170 cases such reports have not been filed. An attorney represented eutor or administrator in 137 cases and the heirs or devisees in 15 cases ases the report does not show that an attorney appeared for anyone. e were 9 guardianship estates of minors or other incompetents closed he year. In these cases 2 had been pending from 2 to 3 years, 1 case to 4 years, 1 case from 4 to 5 years, 2 cases from 5 to 10 years, and 3 nger than 10 years. Of these estates 7 were of minors and 2 of insane . In all cases a guardian was also appointed for the person of the . The value of these estates as reported, is \$45,720.49. All guardians quired to give bond and all bonds were kept good. The inventory d within 30 days in 2 cases, after 30 days in 3 cases, and in 4 cases no ry was filed. In these cases 29 annual reports have been filed. In- nt of the funds of the ward was supervised by the court in 8 cases. ases an attorney appeared for the guardian but in no case for the ward. ases the report does not show that an attorney appeared for anyone. ounting to \$390 were allowed for guardians and \$9,713 for attorneys. ases the funds of the ward were properly accounted for and disbursed. e were 120 guardianship estate cases pending July 1, 1936. Of these een pending less than 1 year, 11 cases from 1 to 2 years, 8 cases from years, 5 cases from 3 to 4 years, 6 cases from 4 to 5 years, 46 cases to 10 years, and 35 cases longer than 10 years. Of these estates 96 minors, 18 of insane persons and 6 of other incompetents. In 115 guardian was also appointed for the person of the ward and in 5 cases dian was appointed for the person of the ward. The value of these as reported, is \$442,845.52. In 119 cases bond was required of the n and 116 bonds were kept good. In 1 case no bond was required. nventory was filed within 30 days in 23 cases, after 30 days in 8 cases 89 cases no inventory was filed. In these cases 208 annual reports were The investment of funds of the ward is supervised by the court in 75 nd in 45 cases investment of funds is not supervised by the court. An y appeared for the guardian in 54 cases and for the ward in 3 cases. In s the report does not show an attorney appeared for anyone. Fees ing to \$3,098.91 were allowed for guardians and \$2,169.15 for attorneys. ases the report shows that the wards' funds have been properly pre- and cared for.

#### MIAMI COUNTY

, 588 square miles; population, 19,872; assessed value, \$27,140,342. ort made by Hon. C. E. Rossman, probate judge. report was made regarding defalcations, juvenile or habeas corpus to.

The estates of 47 deceased persons were closed within the year. The final report was filed within 1 year after letters of administration were issued, 21 cases had been pending from 1 to 2 years, 6 cases from 2 to 3 years, 3 cases from 3 to 4 years, 2 cases from 4 to 5 years, and 5 cases from 5 to 10 years. In 25 cases there was a will and in 22 cases decedent was intestate. In 34 cases bond was required of the executor or administrator, 28 bonds were kept good. In 13 cases no bond was required. The final report was filed within 60 days in 31 cases, after 60 days in 5 cases and in 1 case no report was filed. In these cases 13 first annual reports have been filed. The aggregate value of these estates as appraised was \$827,824.72 and the value of property not appraised, was \$79,391.13. In 11 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees were represented by attorneys, and in 34 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,349.45 were allowed for administrators or executors, and \$1,034.75 for attorneys. In 45 cases all paid claims in full and in 2 cases the estates did not pay claims in full.

There was no report on estates of deceased persons pending July 1 from Miami county.

There were 11 guardianship estates of minors or other incompetent persons within the year. In these cases 3 had been pending from 1 to 2 years, 2 from 2 to 3 years, 5 cases from 5 to 10 years, and 1 case longer than 10 years. In 1 case guardian died and no final report was made. Of these 10 cases 6 were of minors and 1 of an insane person. In 7 cases a guardian was appointed for the person of the ward and in 4 cases a guardian was appointed for the person of the ward. The value of these estates as appraised was \$38,397.46. All guardians were required to give bond and all bonds good. The inventory was filed within 30 days in 3 cases, and in 8 cases no inventory was filed. In these cases 48 annual reports were filed. The investment of funds of the wards was supervised by the court in 10 cases. An attorney appeared for the guardian in 1 case, and in 10 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,350 were allowed for guardians and \$48.65 for attorneys. In 10 cases funds of the ward were properly accounted for and disbursed.

There was no report on guardianship estate cases pending July 1.

#### MONTGOMERY COUNTY

Area, 648 square miles; population, 50,493; assessed value, \$51,342,000.

Report made by Hon. Earl L. Bailey, probate judge for 1½ years. There had been no defalcations by guardians, executors or administrators within the year. Three juvenile officers are employed part time, and 251 juvenile cases were heard within the year. There were no habeas corpus cases, no writs made in district court cases, and no proceedings in aid of execution within the year. Thirteen adoption proceedings were had and 23 insanity cases and 14 feeble-minded cases were heard within the year.

The estates of 93 deceased persons were closed within the year. The final report was filed within 1 year after letters of administration were issued, 63 cases were pending from 1 to 2 years, 10 cases from 2 to 3 years, 3 cases from 3 to 4 years, and 9 cases from 5 to 10 years. In 46 cases there was a will and in 47 cases decedent was intestate. In 62 cases bond was required of the executor or administrator and all bonds were kept good.



es no bond was required. An inventory was filed within 60 days in 63 after 60 days in 29 cases, and in 1 case no inventory was filed. In these 2 first annual reports have been filed. The aggregate value of these as appraised is \$395,922.74, and the estimated value of property not esd is \$332,569.54. In 61 cases attorneys represented the executor or ristrator, and in 6 cases the heirs or devisees were represented by attor- In 32 cases the report does not show that an attorney appeared for e. Fees amounting to \$10,304.73 were allowed for executors or adminis- and \$4,634.01 for attorneys. In 88 cases the estates paid claims in full 5 cases the estates did not pay claims in full.

estates of 430 deceased persons were pending July 1, 1936. In these 66 were pending less than 1 year, 35 from 1 to 2 years, 30 cases from years, 25 cases from 3 to 4 years, 19 cases from 4 to 5 years, 81 cases 5 to 10 years, and 174 cases longer than 10 years. In 226 cases there will, and in 204 cases the deceased was intestate. In 60 cases bond was d of the executor or administrator. In 52 cases bond has been kept In 370 cases no bond was required. The inventory was filed within s in 140 cases, after 60 days in 90 cases, and in 200 cases no inventory ed. The appraised value of these estates is \$229,968.80, and the esti- value of property not appraised is \$200,742.73. In these cases 67 first reports have been filed. In 363 cases such reports have not been filed. orney represented the executor or administrator in 178 cases, but in no vere the heirs or devisees represented by attorneys. In 252 cases the does not show that an attorney appeared for anyone.

re were 14 guardianship estates of minors closed within the year. In cases 1 had been pending from 3 to 4 years, 5 cases from 5 to 10 years, cases longer than 10 years. In all cases a guardian was also appointed e person of the ward. The value of these estates as reported, was .07. In these cases 13 guardians were required to give bond and all were kept good. In 1 case no bond was required. The inventory was ter 30 days in 9 cases, and in 5 cases no inventory was filed. In these 3 annual reports have been filed. Investment of funds of the ward een supervised in all cases. An attorney appeared for the guardian in and in 1 case for the ward. In 10 cases the report does not show thatorney appeared for anyone. No fees were allowed for guardians or a any case. In all cases the funds of the ward were properly accounted l disbursed.

re were 345 guardianship estate cases pending July 1, 1936. In these 2 had been pending from 3 to 4 years, 18 cases from 4 to 5 years, 106 rom 5 to 10 years, and 209 cases longer than 10 years. These were of 304 minors, 32 insane persons and 9 other incompetents. A guardian o appointed for the person of the ward in 156 cases, and in 189 cases rdian was appointed for the person of the ward. The value of 12 of states as reported is \$33,750.84. In 333 cases the value was not given. cases bond was required and 11 bonds were kept good. In 333 cases ort does not show that bond was required. The inventory was filed 30 days in 35 cases, after 30 days in 53 cases, and in 257 cases no ry was filed. In these cases 426 annual reports have been filed. The ent of funds of the ward is supervised by the court in 12 cases, in 1 ere were no funds, and in 332 cases the report does not show whether

funds are supervised by the court. An attorney appeared for the guardian in 103 cases and for the ward in 2 cases. In 242 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$77 were paid in 1 case. In 3 cases the total amount of fees was \$756. The ward's property have been properly preserved and cared for in 11 cases. In 2 cases there were no funds. In 334 cases there is no report in regard to ward's property being preserved and cared for.

#### NEMAHA COUNTY

Area, 720 square miles; population, 17,661; assessed value, \$32,000,000. Report made by Hon. L. S. Slocum, probate judge.

No miscellaneous report was made covering defalcations by guardians, tutors, juvenile cases, habeas corpus cases, adoption, or insanity cases.

The estates of 49 deceased persons were closed within the year. In the final report was filed within 1 year after letter of administration issued, 27 cases had been pending from 1 to 2 years, 6 cases from 2 to 3 years, 7 cases from 3 to 4 years, 1 case from 4 to 5 years, 5 cases from 5 to 10 years, and 1 case longer than 10 years. In 23 cases there was a will and in 26 cases decedent was intestate. In 31 cases bond was required of executor or administrator and all bonds were kept good. In 18 cases no bond was required. The inventory was filed within 60 days in 17 cases, after 60 days in 9 cases, and in 2 cases no inventory was filed. In the 17 first annual reports were filed. The aggregate value of these estates appraised, was \$188,289.92, and the estimated value of property not appraised was \$201,799.83. In 26 cases attorneys represented the executor or administrator, and in 6 cases the heirs or devisees. In 23 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,567.50 were allowed for executors or administrators, and \$1,355.25 for attorneys. In 23 cases the estates paid claims in full, and in 2 cases the estates did not pay claims in full.

The estates of 139 deceased persons were pending July 1, 1936. In 63 cases had been pending less than 1 year, 22 cases from 1 to 2 years, 15 cases from 2 to 3 years, 15 cases from 3 to 4 years, 8 cases from 4 to 5 years, 3 cases from 5 to 10 years, and 3 cases longer than 10 years. In 84 cases there was a will and in 55 cases the deceased was intestate. In 83 cases bond was required of the executor or administrator and all bonds were kept good. In 56 cases no bond was required. The inventory was filed within 60 days in 112 cases, after 60 days in 19 cases and in 8 cases no inventory was filed. The appraised value of these estates is \$2,421,669, and the estimated value of property not appraised is \$75,803. In 49 cases first annual reports were filed. In 90 cases such reports have not been filed. An attorney appeared for executor or administrator in 79 cases, and in 17 cases for the heirs or devisees, and in 60 cases the report does not show an attorney appeared for anyone.

There were no reports on guardianship estates of minors or other incompetents closed within the year.

There were 76 guardianship estate cases pending July 1, 1936. In 8 cases had been pending less than 1 year, 6 cases from 1 to 2 years, 6 cases from 2 to 3 years, 6 cases from 3 to 4 years, 6 cases from 4 to 5 years, 3 cases from 5 to 10 years, and 27 cases longer than 10 years. These were estates of 17 minors, 17 insane persons and 17 other incompetents. A guardian

ated for the person of the ward in 75 cases. The value of these estates as ed, is \$229,437.88. In 74 cases bond was required of the guardian and ds were kept good. In 2 cases no bond was required. An inventory was within 30 days in 14 cases, after 30 days in 15 cases and in 47 cases no in- y was filed. In these cases 442 annual reports have been filed. The ment of funds of the ward is being supervised by the court in 73 cases. case there are no funds. An attorney appeared for the guardian in 20 and in 5 cases the guardians are attorneys. In 9 cases attorneys ap- for the wards, and in 50 cases the report does not show that an at- appeared for anyone. Fees amounting to \$8,217.17 were allowed for ans and \$2,369.33 for attorneys. In 73 cases the funds of the wards been properly preserved and cared for.

### NEOSHO COUNTY

a, 576 square miles; population, 22,336; assessed value, \$25,821,127. report made by Hon. C. C. Yockey, probate judge for 5½ years. There een no defalcations by guardians, executors, or administrators within ear. One juvenile officer is employed part time, and 10 juvenile cases heard within the year. No habeas corpus cases were had, and there were lers made in district court cases. There were no proceedings in aid of ion within the year, 5 adoption proceedings were had, and 13 insanity heard within the year. e estates of 43 deceased persons were closed within the year. In 1 case nal report was filed within 1 year after letter of administration was , 34 cases had been pending from 1 to 2 years, 3 cases from 2 to 3 1 case from 3 to 4 years, 2 cases from 4 to 5 years, and 2 cases longer 10 years. In 21 cases there was a will and in 22 cases decedent was in- e. In 31 cases bond was required of the executor or administrator, and ds were kept good. In 12 cases no bond was required. The inventory led within 60 days in 26 cases, after 60 days in 10 cases, and in 7 cases ventory was filed. In these cases 40 first annual reports have been filed. ggregate value of 37 of these estates, as appraised, was \$160,869.65, and timate value of property not appraised, was \$91,182.50, and in 5 cases alue was not given. In 19 cases attorneys represented the executor or aistrator, and in 18 cases the heirs or devisees. In 24 cases the report ot show that an attorney appeared for anyone. Fees amounting to .18 were allowed for executors or administrators, and \$2,150 for attorneys. cases the estates paid claims in full, and in 5 cases the estates did not laims in full.

ates of 92 deceased persons were pending July 1, 1936. In these 52 have been pending less than 1 year, 15 cases from 1 to 2 years, 7 cases 2 to 3 years, 9 cases from 3 to 4 years, 3 cases from 4 to 5 years, 5 cases 5 to 10 years, and 1 case longer than 10 years. In 51 cases there was a nd in 41 cases the deceased was intestate. In 67 cases bond was required e executor or administrator and 63 bonds were kept good. In 25 cases nd was required. In 58 cases the inventory was filed within 60 days, cases after 60 days, and in 13 cases no inventory was filed. The ap- d value of these estates is \$607,275.95, and the estimated value of prop- ot appraised is \$241,247.95. In 33 cases first annual reports have been and in 59 cases such reports have not been filed. An attorney repre-

sented the executor or administrator in 37 cases, and the heirs or devisees in 33 cases. In 53 cases the report does not show that an attorney appeared for anyone.

The report does not show any guardianship estates of minors, or incompetents either pending or closed.

#### OSAGE COUNTY

Area, 720 square miles; population, 16,812; assessed value, \$23,193.

Report made by Hon. George E. Ramskill, probate judge for 1936. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed regularly, but special probation officers are employed for each case. Nine juvenile cases were closed within the year. There were no habeas corpus cases, 1 order was granted in district court case, and there were no proceedings in aid of execution within the year.

The estates of 35 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration were issued, 18 cases had been pending from 1 to 2 years, 5 cases from 2 to 3 years, 2 cases from 3 to 4 years, 3 cases from 4 to 5 years, 3 cases from 5 to 10 years, and 1 case longer than 10 years. In 17 cases there was a will, and in 18 cases decedent was intestate. In 29 cases bond was required of the executor or administrator and all bonds have been kept good. In 6 cases no bond was required. The inventory was filed within 60 days in 12 cases and after 60 days in 9 cases. In these cases 12 first annual reports have been filed. The aggregate value of these estates as appraised was \$154,348.75, the estimated value of property not appraised was \$110,742.91. In 22 cases attorneys represented the executors or administrators, but in no case did the heirs or devisees represented by attorneys. In 22 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,234.00 were allowed for executors or administrators, and \$278.40 for attorneys. In 33 cases the estates paid claims in full, and in 2 cases the estates have not yet paid claims in full.

The estates of 121 deceased persons were pending July 1, 1936. Of these cases 51 had been pending less than 1 year, 25 cases from 1 to 2 years, 14 cases from 2 to 3 years, 11 cases from 3 to 4 years, 6 cases from 4 to 5 years, 14 cases from 5 to 10 years, and 4 cases longer than 10 years. In 39 cases there was a will, and in 39 cases the deceased was intestate. In 79 cases bond was required of the executor or administrator and 79 bonds were kept good. In 41 cases no bond was required. In 94 cases the inventory was filed within 60 days, in 19 cases after 60 days and in 8 cases no inventory was filed. The appraised value of these estates, as reported is \$473,158.06, and the estimated value of property not appraised, is \$439,873.75. In 49 cases first annual reports have been filed and in 72 cases such reports have not been filed. In 49 cases an attorney represented the executor or administrator in 49 cases, and the heirs or devisees in 5 cases. In 71 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates closed within the year. In 2 cases the final report was filed within 1 year after letters of guardianship were issued. 1 case had been pending from 1 to 2 years, 1 case from 2 to 3 years, and 1 case from 5 to 10 years. One estate was that of a minor and 4 were

sane persons. In all cases a guardian was also appointed for the person of the ward. The value of these estates as reported is \$7,731.72. Four guardians were required to give bond, and all bonds were kept good. In 1 case no bond was required. The inventory was filed within 30 days in 2 cases, in 3 cases no inventory was filed. In these cases 6 annual reports have been filed. In all cases the investment of funds of the wards' has been supervised by the court. In 3 cases an attorney appeared for the guardian, in 3 cases for the ward. Fees amounting to \$143.50 were allowed for guardians, and \$30 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 54 guardianship estate cases pending July 1, 1936. Of these cases had been pending less than 1 year, 8 cases from 1 to 2 years, 10 cases from 2 to 3 years, 4 cases from 3 to 4 years, 4 cases from 4 to 5 years, 17 cases from 5 to 10 years, and 2 cases longer than 10 years. These were estates of minors, 13 insane persons and 7 other incompetents. In all cases a guardian was also appointed for the person of the ward. The value of these estates as reported, is \$121,321.68. In 53 cases bond was required of the guardian and all bonds have been kept good. In 1 case no bond was required. The inventory was filed within 30 days in 25 cases, after 30 days in 17 cases, in 12 cases no inventory had been filed. In these cases 139 annual reports have been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 14 cases and for the ward in 30 cases. The report does not show that an attorney appeared for anyone. Fees amounting to \$2,424.70 have been allowed for guardians and \$555 for attorneys. The wards' funds have been properly accounted for and cared for in all cases.

#### OTTAWA COUNTY

Area, 720 square miles; population, 10,016; assessed value, \$20,768,491. Report made by Hon. G. R. King, probate judge for 3½ years. There have been no defalcations by guardians, executors or administrators within the year. Juvenile officers are employed, part time as needed, and 1 juvenile case has been heard within the year. There were no habeas corpus cases, 2 orders were granted in district court cases, and there were no proceedings in aid of execution within the year. Two adoption proceedings were had, and 4 insanity cases have been heard within the year.

The estates of 29 deceased persons were closed within the year. In these cases 18 had been pending from 1 to 2 years, 4 cases from 2 to 3 years, 2 cases from 3 to 4 years, 4 cases from 5 to 10 years, and 1 case longer than 10 years. In 12 cases there was a will and in 17 cases decedent was intestate. In all cases bond was required of the executor or administrator and all bonds have been kept good. In 8 cases no bond was required. The inventory was filed within 30 days in 24 cases, and after 60 days in 5 cases. The aggregate value of these estates, as appraised, was \$307,687.01. In these cases 29 first annual reports have been filed. In 20 cases attorneys represented the executors or administrators, and in 3 cases the heirs or devisees, and in 7 cases the report does not show an attorney appeared for anyone. Fees amounting to \$4,232.81 have been allowed for executors or administrators, and \$2,903.90 for attorneys. In all cases the estate paid claims in full, and in 1 case the estate did not pay claims in full.

The estates of 59 deceased persons were pending July 1, 1936. In 1 cases 25 have been pending less than 1 year, 8 from 1 to 2 years, 6 to 3 years, 6 from 3 to 4 years, 5 from 4 to 5 years, 6 from 5 to 10 years, 3 longer than 10 years. In 26 of these there was a will, and in 33 cases deceased was intestate. In 53 cases bond was required of the executor or administrator, and 50 bonds have been kept good. In 6 cases no bond was required. In 50 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 2 cases no inventory was filed. The appraised value of the estates as reported, is \$567,012.62. In 30 cases first annual reports have been filed; in 29 cases no such reports have been filed. An attorney represented the executor or administrator in 25 cases, and the heirs or legatees in 1 case. In 34 cases the report does not show an attorney appeared for anyone.

There were 8 guardianship estates of minors closed within the year. In these cases 1 had been pending from 4 to 5 years, 3 cases from 5 to 10 years, and 4 cases longer than 10 years. In all cases a guardian was appointed for the person of the ward. The value of these estates as reported, is \$20,900. In all cases guardians were required to give bond, and all bonds were kept good. In 1 case inventory was filed after 30 days in 1 case and in 7 cases no inventory was filed. In these cases 34 annual reports have been filed. In 5 cases the investment of funds of the ward was supervised by the court, in 1 case there are no funds, and in 2 cases there are no records to show whether or not the ward's investments are supervised by the court. No fees have been allowed for the guardians. In 1 case a fee of \$25 was allowed for attorney. In all cases the wards' funds were properly accounted for and disbursed.

There were 36 guardianship estate cases pending July 1, 1936. In 4 cases 4 had been pending less than 1 year, 5 from 1 to 2 years, 5 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, 12 from 5 to 10 years, 1 longer than 10 years. These were the estates of 25 minors, 6 insane persons, and 5 other incompetents. A guardian was also appointed for the person of the ward in 34 cases. The value of these estates as reported, is \$56,900. In 34 cases bond was required of the guardian and 33 bonds have been kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 8 cases, after 30 days in 4 cases, and in 24 cases no inventory was filed. In these cases 103 annual reports have been filed. The investment of funds of the ward is supervised by the court in 20 cases, in 6 cases there are no funds, and in some cases the estate consists of real estate. An attorney appeared for the guardian in 3 cases, but in no case was the ward represented by an attorney. In 33 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,003.60 were allowed for guardians, and in 1 case fee amounting to \$5 was allowed for the attorney. The wards' funds have been properly preserved and cared for in 18 cases.

#### RENO COUNTY

Area, 1,260 square miles; population, 54,437; assessed value, \$86,870.

Report made by Hon. A. B. Leigh, probate judge for 3 years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 41 juvenile cases were heard within the year, and 2 of this number were pending. There were no habeas corpus cases, 3 orders were made in district court cases, and there was 1 prayer for aid of execution within the year. Twelve adoption proceedings were heard within the year and 13 insanity cases were heard within the year.

the estates of 84 deceased persons were closed within the year. When 63 cases had been pending from 1 to 2 years, 10 cases from 2 to 3 years, 6 cases from 3 to 4 years, 6 cases from 4 to 5 years, and 1 case from 5 to 10 years.

In 41 cases there was a will and in 43 cases decedent was intestate. In all cases bond was required of the executor or administrator and all bonds were kept good. In 32 cases no bond was required. The inventory was filed within 60 days in 44 cases, after 60 days in 39 cases, and in 1 case no inventory was filed. In 83 cases first annual reports were filed. The aggregate value of these estates, as appraised, was \$1,411,568.50. In 83 cases attorneys represented the executor or administrator, and in 1 case the heirs or devisees were represented. Fees amounting to \$8,890 were allowed for executors or administrators, and \$13,010 for attorneys. In all cases the estates paid claims in full.

Of the estates of 222 deceased persons were pending July 1, 1936. In these 176 have been pending less than 1 year, 24 cases from 1 to 2 years, 14 cases from 2 to 3 years, 19 cases from 3 to 4 years, 9 cases from 4 to 5 years, 10 cases from 5 to 10 years, and 33 cases longer than 10 years. In 107 of these cases there was a will and in 115 cases the deceased was intestate. In 138 cases bond was required of the executor or administrator; in 87 cases bonds were kept good, and in 51 cases there is no record to show whether or not bonds were kept good. In 84 cases no bond was required. In 102 cases the inventory was filed within 60 days, in 66 cases after 60 days, and in 54 cases no inventory has been filed. The appraised value of 187 of these estates is \$1,349.29, and the estimated value of property not appraised, is \$1,500. In 33 cases the value is not stated. In 29 cases first annual reports have been filed; in 193 cases such reports have not been filed. In 211 cases an attorney represented the executor or administrator. The report does not show whether the heirs or devisees were represented in any case.

There were 6 guardianship estates of minors and other incompetents closed during the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, 2 cases had been pending from 1 to 2 years, 1 case from 2 to 3 years, 1 case from 3 to 4 years, and 1 case from 5 to 10 years.

Of these estates, 3 were of minors and 3 of insane persons. In all cases a guardian was also appointed for the person of the ward. The value of 3 of these estates as reported is \$18,250. In all cases guardians were required to post bond and all bonds were kept good. The inventory was filed within 60 days in 1 case, and in 5 cases no inventory was filed. Seven annual reports have been filed. Investment of the funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in all cases, but in 1 case for the ward. Fees amounting to \$85 were allowed guardians, and \$100 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 353 guardianship estate cases pending July 1, 1936. Of these 176 had been pending less than 1 year, 31 from 1 to 2 years, 16 from 2 to 3 years, 18 from 3 to 4 years, 14 from 4 to 5 years, 108 from 5 to 10 years, and 10 cases longer than 10 years. These were the estates of 306 minors, 27 insane persons, and 20 other incompetents. A guardian was also appointed for the person of the ward in 350 cases. The value of these estates, as reported, is \$317,750. In 335 cases bond was required of the guardian and the report shows that all bonds were kept good. In 17 cases no bond was required. An inventory

was filed within 30 days in 54 cases, and after 30 days in 35 cases. In 143 cases no inventory was filed. In these cases 547 annual reports have been filed. The investment of funds of the ward is supervised by the court in 238 cases, and in 238 cases the report does not show that they are being supervised by the court. An attorney appeared for the guardian in 287 cases, and the report does not show that an attorney appeared for the ward in 143 cases. Fees amounting to \$3,236 were allowed for guardians, and \$1,601.80 for attorneys. The wards' funds have been properly preserved and care taken in 143 cases.

#### REPUBLIC COUNTY

Area, 720 square miles; population, 15,057; assessed value, \$28,860.

Report made by Hon. Henry Van Natta, probate judge for 17 years. There had been no defalcations by guardians, executors or administrators during the year. One juvenile officer is employed part time as needed, 6 cases were heard within the year, and 3 were pending. There were no corpus cases, 8 orders were made in district court cases, and there were proceedings in aid of execution within the year. One adoption proceeding was had and 5 insanity cases heard within the year.

The estates of 9 deceased persons were closed within the year. In 3 cases the final report was filed within 1 year after letters of administration were issued, and 3 cases were of foreign estates. In 4 cases there was a will, and in 5 cases decedent was intestate. In 6 cases bond was required of the executor or administrator, and all bonds were kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 6 cases and in 3 cases no inventory was filed. No first annual reports have been filed. The appraised value of 6 of these estates as appraised was \$108,089.45. In 3 cases an attorney represented the executor or administrator, but in no cases were the heirs or devisees represented by attorneys. In 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,041.07 were allowed for executors or administrators, and \$675 for attorneys. In 5 cases estates paid claims in full.

The estates of 59 deceased persons were pending July 1, 1936. All cases had been pending less than 1 year. In 28 cases there was a will, these being foreign wills filed to make title. In 31 cases the decedent was intestate. In 42 cases bond was required of the executor or administrator, and all bonds were kept good. In 17 cases no bond was required. In 6 cases the inventory was filed within 60 days, in 6 cases after 60 days, and in 3 cases no inventory was filed. The appraised value of 51 of these estates was \$442,196.59. No first annual reports have been filed. An attorney represented the executor or administrator in 13 cases, and the heirs or devisees in 13 cases. In 45 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents within the year.

There were 12 guardianship estate cases pending July 1, 1936. Of these 11 had been pending less than 1 year, and 1 from 1 to 2 years. There were estates of 5 minors, 4 insane persons and 3 other incompetents. A guardian was also appointed for the person of the ward in 8 cases. The appraised value of these estates as appraised is \$20,220.50. In all cases bond was required of the guardian and all bonds were kept good. An inventory was filed



ys in 5 cases, after 30 days in 2 cases and in 5 cases no inventory was  
One annual report has been filed. The investment of the funds of the  
is supervised in all cases where there are funds in the estate. An at-  
appeared for the guardian in 4 cases, but in no case for the ward. In  
s the report does not show that an attorney appeared for anyone. In  
fees amounting to \$35 were allowed for guardian, and \$50 for attorney.  
cases the wards' funds have been properly preserved and cared for. In  
cases there are no funds.

### RICE COUNTY

a, 720 square miles; population, 16,441; assessed value, \$40,208,527.

ort made by Hon. Calvin G. Cook, probate judge for 11 years. There  
een no defalcations by guardians, executors or administrators within the  
One juvenile officer is employed, 2 juvenile cases were heard within the  
and 1 was pending. There were no habeas corpus cases, 2 orders were  
in district court cases, and there were no proceedings in aid of execu-  
within the year. No adoption proceedings were had, and 5 insanity cases  
heard within the year.

estates of 34 deceased persons were closed within the year. When  
24 cases had been pending from 1 to 2 years, 5 cases from 2 to 3 years,  
from 3 to 4 years, 1 case from 4 to 5 years, 2 cases from 5 to 10 years,  
case longer than 10 years. In 21 cases there was a will, and in 13 cases  
nt was intestate. In 21 cases bond was required of the executor or  
istrator, and all bonds were kept good. In 13 cases no bond was re-

The inventory was filed within 60 days in 18 cases, after 60 days in 5  
and in 11 cases no inventory was filed. In 2 cases first annual reports  
een filed. The aggregate value of 23 of these estates as appraised was  
8, and the estimated value of property not appraised was \$198,925.  
cases an attorney appeared for the executor or administrator, and in 3  
or the heirs or devisees, and in 14 cases the report does not show an at-  
appeared for anyone. Fees amounting to \$3,689 were allowed for  
ors or administrators, and \$1,978.50 for attorneys. In 32 cases the estates  
aims in full, and in 2 cases the estates did not pay claims in full.

estates of 88 deceased persons were pending July 1, 1936. In these  
30 had been pending less than 1 year, 19 from 1 to 2 years, 11 from 2  
ears, 10 from 3 to 4 years, 5 from 4 to 5 years, and 13 from 5 to 10

In 53 cases there was a will, and in 32 cases decedent was intestate.  
cases bond was required of the executor or administrator, and 45 bonds  
ept good. In 42 cases no bond was required. The inventory was filed  
60 days in 25 cases, after 60 days in 13 cases, and in 50 cases no in-  
y was filed. The appraised value of these estates is \$278,968, and the  
ed value of the property not appraised is \$23,700. In 2 cases first an-  
ports have been filed, and in 86 cases such reports have not been filed.  
orney represented the executor or administrator in 16 cases and the  
r devisees in 3 cases; in 72 cases the report does not show that an at-  
appeared for anyone.

re were 5 guardianship estates of minors closed within the year. In  
ases, 1 had been pending from 1 to 2 years, 2 cases from 5 to 10 years,  
cases longer than 10 years: In all cases a guardian was appointed for  
erson of the ward. The value of these estates as reported is \$29,484. In

all cases guardians were required to give bond, and all have kept the bond good. The inventory was filed within 30 days in 2 cases, and in 3 cases no inventory has been filed. In these cases 29 annual reports have been filed. Investment of the funds of the ward was supervised by the court in 2 cases. An attorney appeared for the guardian in 2 cases, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,200 were allowed for guardians, and \$250 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 82 guardianship estate cases pending July 1, 1936. 11 cases had been pending less than 1 year, 6 cases from 1 to 2 years, 4 cases from 2 to 3 years, 4 cases from 3 to 4 years, 10 cases from 4 to 5 years, 1 case from 5 to 10 years, and 12 cases longer than 10 years. These were 67 minors and 7 other incompetents. In all cases a guardian was appointed for the person of the ward. The value of 59 of these estates appraised was \$122,117, in some cases the estate consisted of real estate appraised, and in 19 cases there was no property of value. In 74 cases no bond was required of the guardian and 73 bonds were kept good. In 8 cases no bond was required. An inventory was filed after 30 days in 3 cases, and in 79 cases no inventory had been filed. In these cases 62 annual reports have been filed. In all cases where there are funds, the investment of these funds was supervised by the court. An attorney appeared for the guardian in 5 cases, and in no case for the ward. In 77 cases the report does not show that an attorney appeared for anyone. Fees of \$1,550 have been allowed for guardians, and in 19 cases, but report does not show any fees allowed for attorneys. The funds have been properly cared for in all cases where there are funds.

#### RUSH COUNTY

Area, 720 square miles; population, 9,080; assessed value, \$14,756.

Report made by Hon. J. W. Seuser, probate judge for six years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, and 1 juvenile case was heard within the year. There were no habeas corpus cases, no orders made in execution of court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had, and 3 insanity cases were heard within the year.

The estates of 24 deceased persons were closed within the year. 19 cases had been pending from 1 to 2 years, 2 cases from 2 to 3 years, and 1 case longer than 10 years. In 15 cases there was a will and in 9 cases the decedent was intestate. In 17 cases bond was required of the executor or administrator and all bonds were kept good. In 7 cases no bond was required. The inventory was filed within 60 days in 14 cases, after 60 days in 7 cases, and in 3 cases no inventory was filed. No first annual reports have been filed in these cases. The aggregate value of 21 of these estates, as appraised, was \$200,488.03. In 4 cases an attorney represented the executor or administrator, and in 1 case an attorney represented the heirs or devisees, and in 20 cases the report does not show that an attorney appeared for anyone. In 22 cases claims were paid in full, and in 2 cases the report does not show that claims were paid in full. Fees amounting to \$884.75 were allowed for executors or administrators and \$425 for attorneys.

estates of 76 deceased persons were pending July 1, 1936. In these have been pending less than 1 year, 9 cases from 1 to 2 years, 4 cases to 3 years, 6 cases from 3 to 4 years, 6 cases from 4 to 5 years, 5 from 5 to 10 years, and 42 cases longer than 10 years. In 20 cases there will and in 56 cases the deceased was intestate. In 54 cases bond was of the executor or administrator, and 39 bonds were kept good. In cases no bond was required. The inventory was filed within 60 days in 40 after 60 days in 12 cases, and in 22 cases no inventory was filed. The value of 54 of these estates is \$481,110.13. In 22 cases the value of estates was not given. In 15 cases first annual reports have been filed; in 13 cases such reports have not been filed. In 1 case an attorney represented the executor or administrator, and in 1 case the heirs or devisees were represented by attorneys; in 75 cases the report does not show an attorney appearing for anyone.

The report does not show any guardianship estates of minors or other incompetents closed within the year.

There were 124 guardianship estate cases pending July 1, 1936. Of these had been pending less than 1 year, 13 cases from 1 to 2 years, 9 cases from 2 to 3 years, 8 cases from 3 to 4 years, 2 cases from 4 to 5 years, 23 from 5 to 10 years, and 65 cases longer than 10 years. These were the estates of 116 minors, 4 insane persons and 4 other incompetents. A guardian was appointed for the person of the ward in 117 cases, and in 7 cases no guardian was appointed for the person of the ward. The value of 49 of these estates as appraised, is \$52,646.90; in 73 cases the value is not given; in 37 cases the estate consists of real estate; in 4 cases the estate consists of bonds and securities, and in 14 cases the report shows there is nothing of value. In 10 cases bond was required of the guardian and 100 bonds were kept good. In 14 cases no bond was required. The inventory was filed within 30 days in 106 cases, after 30 days in 2 cases, and in 106 cases no inventory was filed. In 98 cases annual reports have been filed. The investment of funds of the ward is not supervised by the court in any case. The report does not show an attorney appearing for anyone in any case. The report does not show that wards' funds have been preserved and cared for in any case.

#### RUSSELL COUNTY

Area, 900 square miles; population, 11,850; assessed value, \$25,537,226. Report made by Hon. J. D. Steinle, probate judge for 3½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, and 5 juvenile cases were heard within the year. There were no habeas corpus cases, there were 6 orders made in the court cases, and no proceedings in aid of execution within the year. Adoption proceedings were had, and 10 insanity cases were heard within the year.

Estates of 25 deceased persons were closed within the year. In 4 cases an annual report was filed within 1 year after letters of administration were granted. 19 cases had been pending from 1 to 2 years, 1 case from 2 to 3 years, and 1 case from 4 to 5 years. In 13 cases there was a will and in 12 cases the decedent was intestate. In 16 cases bond was required of the executor and 11 bonds were kept good. In 9 cases no bond was required. An inven-

tory was filed within 60 days in 21 cases, after 60 days in 2 cases, cases no inventory was filed. Three first annual reports were filed. The aggregate value of 25 of these estates as appraised, is \$225,083.36. The estimated value of property not appraised was \$215,521. In 18 cases represented the executor or administrator and in 5 cases the heirs or next of kin and in 7 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,761.57 were allowed for executors or administrators and \$1,815 for attorneys. In 24 cases the estates paid claims and in 1 case the estate did not pay claims in full.

The estates of 85 deceased persons were pending July 1, 1936. In 34 cases had been pending less than 1 year, 19 cases from 1 to 2 years, 7 cases from 2 to 3 years, 7 cases from 3 to 4 years, 9 cases from 4 to 5 years and 8 cases from 5 to 10 years. In 47 cases there was a will and in 38 cases the deceased was intestate. In 63 cases bond was required of the executor or administrator and all bonds have been kept good. In 22 cases no bond was required. In 53 cases the inventory was filed within 60 days, in 10 cases after 60 days and in 10 cases no inventory was filed. The appraised value of these estates as reported, is \$891,582.22, and the estimated value of property not appraised, is \$840,832.37. In 10 cases first annual reports have been filed, and in 75 cases such reports have not been filed. An attorney represented the executor or administrator in 73 cases and the heirs or next of kin in 27 cases. In 12 cases the report does not show an attorney appeared for anyone.

There were 6 guardianship estates of minors closed within the year. In 1 case the final report was filed within 1 year after letter of guardianship was issued, 1 case had been pending from 1 to 2 years, 1 case from 3 to 4 years, 1 case from 5 to 10 years, and 2 cases longer than 10 years. In all cases a guardian was appointed for the person of the ward. The value of the estates as reported is \$14,000. In all cases guardians were required to post bond and all bonds were kept good. An inventory was filed within 30 days in 1 case, after 30 days in 1 case, and in 4 cases no inventory was filed. In these cases 31 annual reports have been filed. In all cases the investment of funds of the ward was supervised by the court. An attorney appeared for the guardian in 2 cases but in no case for the ward. In 4 cases the report does not show that an attorney appeared for anyone. In 1 case fees amounting to \$10 were allowed for the guardian, and in 1 case \$40 was allowed for an attorney. In all cases the funds of the ward were properly accounted for and disbursed.

There were 143 guardianship estate cases pending July 1, 1936. In 26 cases had been pending less than 1 year, 15 from 1 to 2 years, 11 from 2 to 3 years, 11 from 3 to 4 years, 7 from 4 to 5 years, 37 from 5 to 10 years and 36 longer than 10 years. These were estates of 102 minors and 41 persons. A guardian was also appointed for the person of the ward in all cases. The value of these estates as reported, is \$268,939.12. In 127 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 11 cases and in 99 cases no inventory was filed. In 394 cases annual reports have been filed. The investment of funds of the ward is supervised by the court in 123 cases, and in 20 cases it is not.

by the court. An attorney appeared for the guardian in 52 cases, and fees for the ward. In 91 cases the report does not show that an attorney appeared for anyone. Fees of \$10,931.62 were allowed for guardians and fees for attorneys. The wards' funds have been properly preserved and accounted for in 126 cases.

#### SALINE COUNTY

Area, 720 square miles; population, 28,012; assessed value, \$50,964,802. Report made by Hon. Will F. Miller, probate judge for 12 years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, and 25 juvenile cases were heard during the year. There were no habeas corpus cases, 15 orders were made in probate court cases, and there were no proceedings in aid of execution within the year. Twenty-seven adoption proceedings were had and 24 insanity cases were closed within the year.

The estates of 61 deceased persons were closed within the year. In 4 cases the final report was filed within 1 year after letters of administration were issued, 54 cases were pending from 1 to 2 years, 2 cases from 2 to 3 years, 1 case from 5 to 10 years. In 28 cases there was a will and in 33 cases the decedent was intestate. In 45 cases bond was required of the executor or administrator, and all bonds were kept good. In 16 cases no bond was required. Inventory was filed within 60 days in 45 cases and after 60 days in 15 cases and in 1 case no inventory was filed. In all cases first annual reports have been filed. The aggregate value of these estates, as appraised was \$674,315. The estimated value of property not appraised, was \$10,500. In 43 cases the heirs represented the executor or administrator; in 4 cases the heirs or executors, and in 18 cases the report does not show an attorney appeared for anyone. Fees amounting to \$5,300 were allowed for executors or administrators, and \$9,850 for attorneys. In 58 cases the estate paid claims in full, and in 3 cases the estates did not pay claims in full.

The estates of 147 deceased persons were pending July 1, 1936. In these cases 97 have been pending less than 1 year, 38 cases from 1 to 2 years, 4 cases from 2 to 3 years, 2 cases from 3 to 4 years, 3 cases from 4 to 5 years, and 10 cases from 5 to 10 years. In 70 cases there was a will, and in 77 cases the decedent was intestate. In 93 cases bond was required of the executor or administrator, and 53 bonds were kept good. In 54 cases no bond was required. In 100 cases the inventory was filed within 60 days, in 34 cases after 60 days, and in 13 cases no inventory was filed. The appraised value of 135 cases is \$2,257,893, and the estimated value of property not appraised, is \$12,000. In these cases 33 first annual reports have been filed. In 10 cases it is too soon to file such reports. An attorney represented the executor or administrator in 93 cases, the heirs or devisees in 17 cases, and in 37 cases the report does not show an attorney appeared for anyone. There were 11 guardianship estates of minors or other incompetents closed during the year. In 4 cases the final report was filed within 1 year after letters of guardianship were issued, 2 cases had been pending from 1 to 2 years, 2 cases from 5 to 10 years, and 3 cases longer than 10 years. Of these estates 10 were of minors, 2 of insane persons, and 4 of other incompetent persons. In 10 cases a guardian was also appointed for the person of the ward. The value of these estates, as reported, is \$55,820. All guardians were required to

give bond, and all have kept their bonds good. The inventory was filed within 30 days in 6 cases, after 30 days in 4 cases, and in 1 case no inventory was filed. In these cases 77 annual reports have been filed. Investment of the ward was supervised by the court in 10 cases, and in 1 case there were no funds. An attorney appeared for the guardian in 9 cases, and for the ward in 3 cases. In 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,800 were allowed for guardians, and \$1,800 for attorneys. In 9 cases the funds of the ward were properly accounted for and disbursed.

There were 82 guardianship estate cases pending July 1, 1936. Of these 21 cases had been pending less than 1 year, 13 cases from 1 to 2 years, 8 cases from 2 to 3 years, 8 cases from 3 to 4 years, 4 cases from 4 to 5 years, and 15 cases longer than 10 years. These were 66 minors, 6 insane persons, and 10 other incompetents. A guardian was appointed for the person of the ward in 17 cases, and in 65 cases no guardian was appointed for the person of the ward. The value of these estates reported is \$375,995. In 81 cases bond was required of the guardian, and in all cases all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 43 cases, after 30 days in 21 cases, and in 1 case no inventory was filed. In these cases 194 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 10 cases. In some cases funds are being used for support of ward, and in 17 cases there are no funds. An attorney appeared for the guardian in 9 cases, but in no case for the ward. In 36 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,450 have been allowed for guardians, and \$5,405 for attorneys. The wards' funds have been properly accounted for and cared for in 52 cases.

#### SHAWNEE COUNTY

Area, 558 square miles; population, 92,517; assessed value, \$115,042,200.

Report made by Hon. Roy N. McCue, probate judge for 1½ years. There had been 1 defalcation by a guardian, executor or administrator within the year, amounting to \$3,500. The report shows that bonding company has the hands of a receiver, and does not show that any part of this amount has been recovered. Three juvenile officers are employed and 99 juvenile cases have been heard within the year. In addition to the figure above which shows the cases that were actually heard, some 450 investigations were made and reported by the probation officers. 1 was pending. In addition to the cases set for hearing, 90 cases involving boys and girls were being checked by the officers responsible to the officers of the juvenile court. There were no corpus cases, no orders made in district court cases, and no proceedings of execution within the year. Seventy adoption proceedings were heard and 99 insanity cases were heard within the year.

The estates of 105 deceased persons were closed within the year. In 10 cases the final report was filed within 1 year after letters of administration were issued, in 68 cases from 1 to 2 years, in 14 cases from 2 to 3 years, in 4 cases from 3 to 4 years, in 4 cases from 4 to 5 years, in 3 cases from 5 to 10 years, and in 2 cases after 10 years. In 53 cases there was a will, and in 52 cases decedent was intestate. In 77 cases bond was required of the

administrator, and in 62 cases bonds were kept good. In 28 cases no bond required. The inventory was filed within 60 days in 57 cases, after 60 in 45 cases, and in 3 cases no inventory was filed. In these cases 103 annual reports were filed. The aggregate value of 97 of these estates, as appraised, was \$3,127,711.97. The estimated value of property not appraised, was \$1,674.48, and in 2 cases there was no property of any value. In 42 cases attorneys represented the executor or administrator, in 6 cases the heirs represented the estate, and in 62 cases the report does not show an attorney appeared for the estate. Fees amounting to \$59,666.03 were allowed for executors or administrators and \$16,579.24 for attorneys. In 101 cases the estates paid claims in full, 1 was prorated, and in 3 cases the estates did not pay claims in full.

There were 460 deceased persons were pending July 1, 1936. In these cases 141 were pending less than 1 year, 60 from 1 to 2 years, 50 from 2 to 3 years, 37 from 3 to 4 years, 44 from 4 to 5 years, 75 from 5 to 10 years, and 53 longer than 10 years. In 244 of these there was a will, and in 216 cases the decedent was intestate. In 301 cases bond was required of the executor or administrator; in 49 cases the report shows bond was kept good, and in 252 cases the report does not show whether or not bonds were kept good. In 159 cases bond was not required. In 94 cases the inventory was filed within 60 days, in 101 cases after 60 days, and in 101 cases no inventory has been filed. The aggregate value of these estates, as reported, is \$5,598,129.75, and there is some estate reported on which the value is not given. In 163 cases first annual reports have been filed, and in 299 cases such reports have not been filed. The report does not show whether or not attorneys represented administrators, executors or heirs in any case.

There were 23 guardianship estates of minors or other incompetents closed during the year. In 5 cases the final report was filed within 1 year after the termination of guardianship were issued, 1 case was pending from 1 to 2 years, 2 from 2 to 3 years, 1 case from 3 to 4 years, 4 cases from 4 to 5 years, 2 from 5 to 10 years, and 8 cases longer than 10 years. Of these estates, 15 of minors, 7 of insane persons, and 1 of an incompetent person. In 21 cases a guardian was also appointed for the person of the ward. The value of these estates as reported, is \$54,938.23. In all cases guardians were required to give bonds, and all bonds have been kept good. In 6 cases the inventory was filed within 30 days, in 16 cases after 30 days, and in 1 case no inventory was filed. In these cases 127 annual reports have been filed. In all cases the investment of the funds of the ward was supervised and approved by the court. An attorney appeared for the guardian in 8 cases and in 1 case for the ward. In 19 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,692.56 were allowed for guardians, and \$245.50 for attorneys. In 22 cases the report shows that the funds of the ward were properly accounted for and disbursed.

There were 514 guardianship estate cases pending July 1, 1936. Of these cases 1 had been pending less than 1 year, 45 from 1 to 2 years, 63 from 2 to 3 years, 43 from 3 to 4 years, 28 from 4 to 5 years, 162 from 5 to 10 years, and 179 longer than 10 years. These were the estates of 335 minors and 179 incompetent persons. In all cases a guardian was also appointed for the person of the ward. The value of these estates as reported is \$520,121.14, and there was also some real estate that had not been appraised. In 397 cases bond was

required of the guardian, and 279 bonds were reported kept good. In 268 cases no bond was required. The inventory was filed within 60 days in 268 cases, after 60 days in 268 cases, and in 89 cases no inventory was filed. In these cases 1,534 annual reports have been filed. In 263 cases the inventory of funds of the ward is being supervised by the court, and in 251 cases the report does not show that investments are being supervised by the court. An attorney appeared for the guardian in 141 cases and in 7 cases for the ward. In 373 cases the report does not show an attorney appeared for anyone. Amounting to \$30,722.47 were allowed for guardians, and \$7,859.66 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### SMITH COUNTY

Area, 900 square miles; population, 11,993; assessed value, \$20,000,000.

Report made by Hon. Charles Buell, probate judge for 3½ years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed. Three juvenile cases were heard during the year. There were no habeas corpus cases, there were 4 orders of the district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had, and 6 insanity cases were heard during the year.

The estates of 43 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letter of administration was issued, 23 cases had been pending from 1 to 2 years, 8 cases from 2 to 3 years, 1 case from 3 to 4 years, 1 case from 4 to 5 years, 6 cases from 5 to 10 years, and 3 cases longer than 10 years. In 16 cases there was a will, and in 27 cases the decedent was intestate. In 33 cases bond was required of the executor or administrator, and all bonds were kept good. In 10 cases no bond was required. The inventory was filed within 60 days in 31 cases, after 60 days in 10 cases, and in 2 cases no inventory was filed. The aggregate value of these estates appraised is \$68,964.08, and the estimated value of property not appraised is \$289,120. In 4 cases attorneys represented the executor or administrator. In 39 cases the report does not show that anyone was represented by an attorney. Fees amounting to \$265.50 were allowed for executors or administrators and \$40 for attorneys. In 42 cases the estates paid claims in full.

The estates of 38 deceased persons were pending July 1, 1936. In 29 cases 29 had been pending less than 1 year, 6 cases from 1 to 2 years, and 3 cases from 2 to 3 years. In 10 cases there was a will and in 28 cases the decedent was intestate. In 33 cases bond was required of the executor or administrator and all bonds were kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 20 cases, after 60 days in 10 cases and in 2 cases no inventory was filed. The appraised value of these estates is \$113,007.54 and the estimated value of property not appraised is \$133,250. In 14 cases first annual reports have been filed, and in 24 cases reports have not been filed. The report does not show that an attorney represented anyone in any case.

There were 13 estates of minors or other incompetents closed within the year. In 6 cases the final report was filed within 1 year after letter of guardianship was issued, 3 cases had been pending from 1 to 2 years, 1 case from 2 to 3 years, and 3 cases from 3 to 4 years. Of these estates 5 were closed



insane persons and 1 of an incompetent person. In all cases a guardian also appointed for the person of the ward. The value of these estates assessed is \$3,169. All guardians were required to give bond, and all bonds been kept good. In 7 cases the inventory was filed within 30 days, in 3 after 30 days and in 3 cases no inventory was filed. In these cases 21 reports have been filed. In all cases the funds of the ward were properly accounted for and disbursed, and the investment of funds of the wards has been supervised by the court in all cases. An attorney appeared for the ward in 1 case and for the ward in 1 case. In 12 cases the report does not show that an attorney appeared for anyone in any case. Fees amounting to \$100 were allowed for guardians but the report does not show any fees allowed for attorneys.

The report does not show any guardianship estate cases pending July 1, 1936.

#### STANTON COUNTY

Area, 672 square miles; population, 1,647; assessed value, \$4,604,213.

Report made by Hon. W. J. Gaskill, probate judge for 1½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed, no juvenile cases were heard during the year and none were pending. There were no habeas corpus cases, no appeals made in district court cases, and no proceedings in aid of execution during the year. Two adoption cases were had and 1 insanity case was closed within the year.

Estates of 2 deceased persons were closed within the year. Both cases had been pending from 1 to 2 years, and in both cases decedent was intestate. Bond was required of the executor or administrator in both cases and both bonds were kept good. In both cases the inventory was filed within 60 days. Most annual reports have been filed. The aggregate value of these estates, as appraised, was \$3,749.67. In both cases an attorney represented the executor or administrator, but in neither case the heirs or devisees. Fees amounting to \$200 were allowed for executors or administrators, and \$100 for attorneys. In 1 case the estate paid claims in full, and in 1 case estate did not pay claims in full.

Estates of 5 deceased persons were pending July 1, 1936. Three had been pending less than 1 year and 2 from 1 to 2 years. In 2 of these there was a bond and in 3 the deceased was intestate. In 4 cases bond was required of the executor or administrator and all bonds were kept good. In 1 case no bond was required. In all cases the inventory was filed within 60 days. The appraised value of these estates is \$12,657.20, and the estimated value of property not appraised is \$30,575. The report does not show that any annual reports were filed in these cases. In all cases attorneys appeared for both the executors or administrators and the heirs or devisees.

The report does not show any guardianship estate cases of minors or other incompetents closed within the year.

There were 3 guardianship estate cases pending July 1, 1936. Of these, 1 had been pending less than 1 year, 1 case from 4 to 5 years, and 1 case from 5 to 10 years. These were estates of 3 minors. A guardian was also appointed for the person of the ward in each case. The value of these estates as reported is \$5,750. In all cases bond was required of the guardian and all

bonds have been kept good. An inventory was filed within 30 days in 1 case and after 30 days in 1 case. In these cases 6 annual reports have been filed. An attorney appeared for the guardian in each case, but in no case for the ward. The wards' funds have been properly cared for in all cases.

#### SUMNER COUNTY

Area, 1,188 square miles; population, 27,308; assessed value, \$50,220.

Report made by Hon. Charles P. Hangen, probate judge for 1936. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, and 18 juvenile cases were heard within the year. There were no habeas corpus cases, no orders of commitment, no district court cases and no proceedings in aid of execution within the year. Two adoption proceedings were had and 12 insanity cases were heard within the year.

The estates of 49 deceased persons were closed within the year. In 1935 the final report was filed within one year after letters of administration were filed, 31 cases had been pending from 1 to 2 years, 6 cases from 2 to 3 years, 3 cases from 3 to 4 years, 2 cases from 4 to 5 years, 2 cases from 5 to 6 years and 2 cases longer than 10 years. In 30 cases there was a will and in 19 cases the decedent was intestate. In 34 cases bond was required of the executor or administrator and all bonds were kept good. In 15 cases no bond was required. The inventory was filed within 60 days in 17 cases, after 60 days in 17 cases and in 1 case no inventory was filed. In these cases 3 first annual reports have been filed. The aggregate value of these estates as appraised was \$677,111.11. In all cases attorneys represented the executor or administrator, but in 1 case or devisees were not represented in any case. Fees amounting to \$5,000 were allowed for executors or administrators, and \$4,775 for attorneys. In 1 case the estate paid claims in full.

The estates of 214 deceased persons were pending July 1, 1936. In 1935 cases 81 had been pending less than 1 year, 35 from 1 to 2 years, 23 from 2 to 3 years, 18 from 3 to 4 years, 18 from 4 to 5 years, 33 from 5 to 10 years and 1 case longer than 10 years. In 129 cases there was a will and in 85 cases the decedent was intestate. In 136 cases bond was required of the executor or administrator, and all bonds were kept good. In 78 cases no bond was required. In 84 cases the inventory was filed within 60 days, in 76 cases after 60 days and in 54 cases no inventory was filed. The appraised value of these estates is \$1,799,873.15, and the estimated value of property not appraised is \$802,768.76. In 52 cases first annual reports have been filed; in 162 cases first annual reports have not been filed. An attorney represented the executor or administrator in 108 cases and the heirs or devisees in 1 case. In 106 cases the report does not show that an attorney appeared for anyone.

There were 10 guardianship estates closed within the year. In 1935 there had been pending from 1 to 2 years, 3 from 3 to 4 years, 1 from 5 to 6 years and 4 cases longer than 10 years. Of these estates 5 were of minors and 5 of other incompetents. In all cases a guardian was also appointed for the person of the ward. The value of these estates as reported, is \$93,206.11. In all cases guardians were required to give bond, and all bonds were kept good. The inventory was filed within 30 days in 1 case, after 30 days in 1 case, and in 8 cases no inventory was filed. In these cases 17 annual reports have been filed.

investment of funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in 9 cases, but in no case for the ward. In no case no one was represented by an attorney. Fees amounting to \$608 were allowed for guardians, and \$500 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 115 guardianship estate cases pending July 1, 1936. Of these 1 had been pending less than 1 year, 9 from 1 to 2 years, 13 from 2 to 3 years, 11 from 3 to 4 years, 11 from 4 to 5 years, 28 from 5 to 10 years, and 17 longer than 10 years. These were the estates of 89 minors, 15 insane persons and 11 incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates is \$367,783.96. In 111 cases bond was required of the guardian and all bonds were kept good. In 4 cases no bond was required. An inventory was filed within 30 days in 10 cases, after 30 to 60 days in 7 cases, and in 98 cases no inventory was filed. In these cases 202 annual reports have been filed. The investment of the funds of the ward is supervised by the court in 104 cases, and in 11 cases investment of wards' funds is not supervised by the court. An attorney appeared for the guardian in 9 cases, but in no case was the ward represented by an attorney. In 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$598.54 were allowed for guardians and \$6,072.46 for attorneys. In all cases the wards' funds have been properly preserved and cared for.

#### THOMAS COUNTY

Area, 1080 square miles; population, 7,319; assessed value, \$9,954,215. The report made by Hon. C. A. Snell, probate judge for 4 years. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed, and 1 juvenile case was heard within the year. There were no habeas corpus cases, 1 order was made in a district court case, and there were no proceedings in aid of execution within the year. No adoption proceedings were had, and 3 insanity cases were heard within the year.

The estates of 24 deceased persons were closed within the year. In 2 cases an annual report was filed within 1 year after letter of administration was granted.

Fourteen cases had been pending from 1 to 2 years, 4 cases from 2 to 3 years, 2 cases from 3 to 4 years, 1 case from 5 to 10 years, and 1 case longer than 10 years. In 9 cases there was a will, and in 15 cases decedent was intestate. In 19 cases bond was required of the executor or administrator, and all bonds were kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 20 cases, after 60 days in 3 cases, and in 1 case no inventory was filed. In these cases 21 first annual reports have been filed. The aggregate value of these estates, as appraised, was \$444,201.08. In 19 cases an attorney represented the executor or administrator, but in no case were the heirs or devisees represented by attorneys. Fees amounting to \$10.00 were allowed for executors or administrators, and \$1,115.00 for attorneys. In 21 cases the estates paid claims in full, and in 3 cases estates did not pay claims in full.

The estates of 58 deceased persons were pending July 1, 1936. In these 28 have been pending less than 1 year, 12 cases from 1 to 2 years, 5 cases from 2 to 3 years, 4 cases from 3 to 4 years, 5 cases from 4 to 5 years,

3 cases from 5 to 10 years, and 1 case longer than 10 years. In 38 cases there was a will and in 38 cases the deceased was intestate. In 49 cases a bond was required of the executor or administrator, and all bonds were kept. In 9 cases no bond was required. In 55 cases the inventory was filed within 30 days, in 2 cases after 60 days, and in 1 case no inventory was filed. The appraised value of these estates is \$513,715.82, and the estimated value of property not appraised is \$7,600. In these cases 21 first annual reports were filed and in 37 cases such reports have not been filed. An attorney represented the executor or administrator in 47 cases, and the heirs or devisees in 11 cases. In 11 cases the report does not show that an attorney appeared for the estate.

The report does not show that any guardianship estates of minors or incompetents were closed within the year.

There were 32 guardianship estate cases pending July 1, 1936. 3 had been pending less than 1 year, 6 from 1 to 2 years, 3 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, 11 from 5 to 10 years, and 1 longer than 10 years. These were the estates of 29 minors, 2 insane persons, and 1 other incompetent. A guardian was also appointed for the ward in 27 cases. The value of these estates, as reported, is \$1,000,000. In 32 cases bond was required of the guardian and all bonds were kept. An inventory was filed within 30 days in 27 cases and after 30 days in 5 cases. In these cases 92 annual reports have been filed. The investments of the funds are being supervised by the court in 21 cases, and in 11 cases no supervision is required. An attorney appeared for the guardian in 30 cases, but in no case for the ward. In 2 cases the report does not show an attorney appeared for the estate. The report does not show that any fees have been allowed in any of the cases either guardians or attorneys.

## SUMMARY FOR THE STATE AS A WHOLE

From the reports sent to us by the probate judges of the state of Georgia, (Lyon county, from which we have no report) of the business transacted in those courts within the year ending June 30, 1936, and pending there at June 30, 1936, we have prepared the following summary for the state as a whole.

Reports from 103 counties (Lyon, Miami and Nemaha not reporting) show 8 defalcations by guardians, executors or administrators within the year, amounting in the aggregate to \$17,931.91; that full-time and 17 part-time juvenile officers are employed, and in some instances juvenile officers are called only when needed; that 2,149 juvenile cases and 21 habeas corpus cases were heard, 237 orders were made in cases pending in the district court, 1,026 proceedings in aid of execution, 481 adoption proceedings, and 1,026 hearings were had within the year.

*Estates of deceased persons closed within the year ending June 30, 1936.* Reports from 101 counties (Cherokee, Grant, Greeley and Lyon not reporting) show that 3,549 estates of deceased persons were closed within the year. In 401 cases the final report was filed within 1 year after letters of administration were issued, in 2,158 cases from 1 to 2 years, in 440 cases from 2 to 3 years, in 163 cases from 3 to 4 years, in 108 cases from 4 to 5 years, in 11 cases from 5 to 10 years, and in 112 cases longer than 10 years. In 1

decendent left a will and in 1,672 cases decendent died intestate. Bond required of the executor or administrator in 2,346 cases, and of these 2,201 reported as having been kept good. Bond was not required in 1,203 cases. In 4 cases the inventory was filed within 60 days after letters of administration were issued, in 914 cases after 60 days, and in 221 cases no inventory was filed. The aggregate appraised value of the property of these estates was \$187,34, and the estimated value of the estates not appraised was \$4,474,-. In 1,328 cases first annual reports were filed. In 1,773 cases an attorney was retained for the executor or administrator, and in 228 cases an attorney represented the heirs or devisees, and in 1,451 cases no attorney is shown as having been retained any party in the case. In 2,896 of the estates the claims filed were not in full, and in 311 cases the property in the estate was insufficient to pay claims in full. The report shows fees aggregating \$374,594.50 paid to executor or administrator, and \$171,273.01 to attorneys representing executors, administrators, heirs or devisees.

*Estates of deceased persons pending July 1, 1936.* Reports from 99 counties show that in 1936, Leavenworth, Lyon, Miami, Montgomery and Nemaha not reported on estates of 8,625 deceased persons pending on July 1, 1936. Of these had been pending less than one year, 1,453 from 1 to 2 years, 743 from 2 to 3 years, 532 from 3 to 4 years, 465 from 4 to 5 years, 941 from 5 to 10 years, 505 longer than 10 years, and several of the probate judges reported to them that there were a number of old cases in their respective courts which had been closed and in which no orders had been made for many years. In 1,870 of the cases reported as pending the decendent had left a will, and in 6,756 cases the decendent had died intestate. In 5,736 cases the executor or administrator had posted bond, 5,193 of which were reported as having been kept good, and in 6,756 cases no bond had been required. In 5,226 of these cases the inventory was filed within 60 days after letters of administration were issued, and in 1,870 cases later than 60 days, and in 1,529 cases no inventory has been filed. The appraised value of these estates as shown by the appraisement is \$79,395,148.77, and the estimated value of property of the estates not appraised is \$9,415,-.

In 1,743 cases first annual reports had been filed, and in 6,702 cases first annual reports had not been filed. In 4,041 cases an attorney represented the executor or administrator, and in 472 cases an attorney represented heirs or devisees, and in 3,950 cases no attorney is shown as representing any party in the case.

*Guardianship estates closed within the year ending June 30, 1936.* Reports from 3 counties show that 524 guardianship estates (of minors, insane, or incompetent persons) were closed within the year ending June 30, 1936. Reports received from 32 counties either report nothing on such estates, or make a partial report that no such estates had been closed within the year. (See Table IV for counties which reported or did not report such estates as closed.) In 1936 estates reported as closed within the year, 75 of them had been pending less than one year, 76 from 1 to 2 years, 47 from 2 to 3 years, 37 from 3 to 4 years, 126 from 4 to 5 years, 126 from 5 to 10 years, and 137 longer than 10 years. Of these estates 366 were of minors, 89 of insane persons, and 69 of incompetent persons. In 358 cases the guardian was appointed for the person and as well as for the estate, and in 166 cases the guardian was not appointed for the person. The aggregate value of these estates is reported as

\$3,826,305.96. In 489 cases bond was required of the guardian, and in 35 cases the bond was reported as having been kept good, and in 35 cases no bond was required. In 137 of these cases an inventory was filed within 30 days, 107 cases after 30 days, and in 280 cases no bond was reported as having been filed. In 349 cases the investments of the ward by the guardian are reported as having been supervised by the court. In 214 cases an attorney is shown as representing the guardian, and in 82 cases as representing the ward. The fees allowed guardians is reported as \$20,280.34, and allowed attorneys \$18,926.87. In 391 cases the ward's funds were reported as having been kept intact and accounted for and disbursed.

*Guardianship estate cases pending July 1, 1936.* From reports submitted from all of the probate judges in the state (except the counties of Gov. Leavenworth, Lyon, Miami, Nemaha, and Neosho) there were 6,381 guardianship estates of minors, insane and other incompetent persons pending on July 1, 1936. Of these 1,015 had been pending less than 1 year, 700 from 1 to 2 years, 555 from 2 to 3 years, 395 from 3 to 4 years, 387 from 4 to 5 years, 1,871 from 5 to 10 years, and 1,451 more than 10 years. These were 4,818 minors, 885 insane persons and 678 of other incompetent persons. A guardian was also appointed for the person of the ward in 4,827 cases. The aggregate value of the property of these estates was reported as \$10,000,000. The reports showed that the guardian gave bond in 5,610 cases and that the bonds had been kept good in 5,000 cases. No bond had been required in 600 cases. An inventory had been filed in 1,618 cases within 30 days of the appointment of the guardian and in 1,074 cases more than 30 days after appointment, no inventory had been filed in 3,689 cases. In the 11,176 annual reports have been filed. The reports show that the investments of the guardians for the ward are supervised by the court in 3,161 cases. An attorney is shown as representing the guardian in 2,057 cases and as representing the ward in 220 cases. In 3,735 cases no attorney is shown as representing any of the parties. Aggregate fees amounting to \$168,144.73 have been paid to guardians and \$54,228.97 to attorneys. In 3,512 cases the reports show that the ward's funds have been kept intact and properly accounted for.









Sec. 562  
U. S.

**P**  
Topek  
Permi

---

PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1936  
16-5985

# KANSAS JUDICIAL COUNCIL BULLETIN

1937

PART 1—ELEVENTH ANNUAL REPORT

## TABLE OF CONTENTS

New Members—Portraits .....	3
Ord .....	3
Resolution—Judicial Districts .....	4
Statutes Relating to Courts and Procedure:	
Appeals in Criminal Actions .....	6
Appeals in Civil Actions .....	8
Probate Law and Procedure (two statutes).....	9
Reports to Judicial Council .....	12
Punishment in Murder Cases .....	13
Miscellaneous Statutes:	
Interstate Extradition .....	15
Rest on Fresh Pursuit .....	20
Pertaining to Probate Courts.....	22



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1937  
16-7300

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
KIRKE W. DALE.....	Arkansas
Chairman Senate Judiciary Committee.	
HARRY W. FISHER.....	Fort Sec
Chairman House judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS.....	Indepen

### COÖPERATING WITH THE—

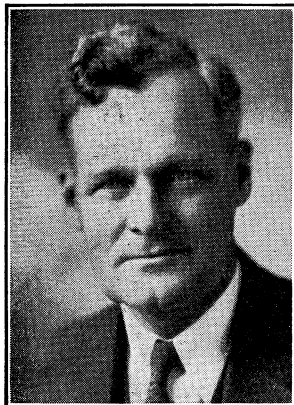
KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally through  
state.

For the improvement of our Judicial System and  
efficient functioning.



SEN. KIRKE W. DALE

**Our  
New  
Members**



HON. HARRY W. FISHER

**FOREWORD**

Welcome to our work on the Judicial Council two new members. Senator W. Dale, of Arkansas City, chairman of the judiciary committee of the Senate, succeeded Senator E. H. Rees, of Emporia, who has become a member of Congress. Senator Dale is an experienced lawyer, a member of the Arkansas Bar, of Faulconer, Dale and Swarts, of Arkansas City, and a member of the Judicial Council. He is serving his second term as senator and is recognized as one of the leaders of that body. Hon. Harry Fisher, of Fort Scott, succeeded Hon. O. P. May, of Atchison, as chairman of the judiciary committee of the House. He is an experienced lawyer, a member of the Arkansas Bar, and is serving his third term as a member of the House of Representatives and is one of the leaders of that body. Both Senator Dale and Hon. Fisher gave proper attention to the recommendations of the Judicial Council.

Their ability and legislative experience made it possible for some of the principal recommendations to be enacted into law.

The legislature of 1937 gave more intelligent attention to bills recommended by the Judicial Council than any previous legislature has done. Six measures recommended by the Council were enacted into law, and four of these are of great importance. We are setting these out in this BULLETIN, with a brief description of the purposes of each.

In addition to that the legislature enacted other statutes pertaining to the judicial system and procedure therein, some of which had been suggested in our previous BULLETIN, although formal bills pertaining to them had not been presented. Mention will be made of some of these in this BULLETIN. One of the most important measures recommended by the Judicial Council and which we hoped would be enacted into law failed to pass. That was the measure relating to the probate and county court bill. However, it received much more support than at any previous time when it had been suggested. It was amended in the Senate with some amendments which did not seriously impair its purpose. It was amended in the House committee in two respects which

were not especially helpful, but, even then, it was a desirable publication. The consideration of it by the legislature and its several amendments consumed time, with the result that it came before the House on a very hectic day of its session. Perhaps all interested in the measure lessened the thing by the various suggestions made in the consideration of it and the proposed amendments. This will aid us in further consideration of it and in improving our judicial system, particularly in the probate and local courts.

When we collected data last year from the probate courts, so many of the reports reached us so late that we were unable to have tables compiled from them until in December. At that time the state printer was out of the office for time because of numerous biennial reports he was called upon to compile with the result that in order to get our December BULLETIN out before the legislature met we had to omit from it the tables compiled from the probate court reports. We are printing them in this issue. We invite the attention of each person who receives this BULLETIN, especially the judges, to apply to his local probate court. The tables show more forcefully the importance of these courts to the people of the respective counties, and in many instances show the need of improvement in the method of handling business therein.

The legislature gave us an increased appropriation which will enable us to make a more comprehensive study of the law of procedure in our probate courts. We have given this enough to know that this is a task which could not be done without thorough work which, so far, the members of the Council have not been able to vote to it. We think now that we will be able to have that done and to go about that as soon as funds are available and the work can be properly outlined. The result of our work on this matter will be published in our bulletins from time to time. In the completion of this work we will have the assistance of the state and local bar associations, and especially those attorneys throughout the state who specialize in this branch of the law.

This summer we plan to collect data both from the clerks of the district courts and from probate courts respecting the business transacted in the district courts for the year ending June 30, 1937, and pending on July 1, 1937. The legislature followed our recommendations to make it possible for the judges as well as for clerks of the district courts to be compensated for the work necessary to compile these reports, and in a way not to make it upon general taxation. We regard these reports as necessary for a study of the functioning of our judicial system; indeed, the very fact that we ask for them and that they are made up tends to stimulate efficient functioning of the court.

Following is a resolution adopted by the legislature:

#### HOUSE RESOLUTION No. 35

A RESOLUTION requesting the judicial council to make a survey and report relating to the redistricting of judicial districts in this state.

WHEREAS, There is reason to believe that a redistricting of the judicial districts of this state would more evenly distribute the judicial work of the various district courts; and

WHEREAS, The legislature at the present time is without sufficient information to adequately and intelligently enact a judicial apportionment bill; Now, therefore,

*resolved by the House of Representatives of the State of Kansas:* To respectfully request the Judicial Council of this state to make or to cause to be made, a survey concerning the business and amount of work in the various judicial districts of this state, and based upon such survey to make a plan for reorganizing the judicial districts of the entire state.

*further resolved:* That the Judicial Council be requested to report to the 1939 House of Representatives, the survey so made and a plan of reorganizing the judicial districts of this state.

*further resolved:* That the chief clerk of the House of Representatives be directed to transmit a copy of this resolution to the chairman of the Judicial Council.

Adopted March 8, 1937.

H. S. BUZICK, JR., *Speaker of the House.*

W. S. BISHOP, *Chief Clerk of the House.*

Therefore it has not been regarded as a function of the Judicial Council to make recommendations respecting changes in the judicial districts of the state. This resolution, however, cannot be ignored. Complying with it, we intend to proceed to collect data and to obtain information from all available sources respecting the desirability and prudence of changing our judicial districts. Naturally we want all the help on this matter we can get, and this may be best expressed as an open letter to district judges, other court officials, attorneys, and the public generally, asking that cognizance be taken of this resolution and of our duty under it, and requesting advice and recommendations concerning conditions in the several parts of the state. We now have 15 judicial districts in the state, with 45 district judges. For several years persons who have given attention to it have thought there might be a reformation of the boundaries of the judicial districts, reducing their number and also reducing the number of judges. In the fall of 1932 this was discussed so much that we set out in our December, 1932, BULLETIN a summary of the work of district courts by counties and separately by judicial districts. At that time we expressed the tentative view that if the judicial districts in the state might be rearranged so as to reduce the number of district judges without impairing the efficiency of our district courts and effect a saving to the state in the salaries of judges and court officers. In the 1933 session of the legislature a bill was introduced in the House for the reorganization of judicial districts, but obviously it had been introduced without the careful consideration of the work of the district courts in the several counties, with the result that it got nowhere, and nothing was accomplished concerning the matter. We fully realize the personal and political pressure likely to be brought to bear against any change that may be suggested. The question that should be approached with as little regard for such interests as possible, but with the primary purpose of the greatest efficiency in the judicial system consistent with economy of its operation. We invite a serious study of the problem on this basis.

## APPEALS IN CRIMINAL ACTIONS

On the recommendation of the Judicial Council, the legislature passed House bill No. 415, effective July 1, 1937, which amends several provisions of our statute relating to appeals in criminal actions. This amended act takes away from the defendant his right to appeal from any judgment rendered against him, nor does it take away from the state its right to appeal on questions of law served. The purpose of this new statute is to require either the defendant or the state taking an appeal in a criminal action to proceed promptly from the judgment appealed from to see that the appeal is lodged in the supreme court. There has been much just criticism in the past because of the unnecessary delay on the part of the appellant in a criminal action, in which is permitted to elapse between the date of the judgment appealed from and the submission of the case to the supreme court. The courts have many times been criticized for such unreasonable delay when it was not the fault of either of the trial court or of the supreme court, but which resulted from the provisions of our statutes with respect to such appeals. If the appeal is lodged promptly in the supreme court these unreasonable delays are avoided. The supreme court, of course, can and will give the appellant a reasonable time to prepare his appeal, and if, because the record is large or because of poverty or illness of appellant, more than the ordinary time is required for presenting such appeal, the court may grant such additional time as is necessary. The statute will be a great aid in the prompt disposition of appealed criminal cases.

It reads as follows:

### HOUSE BILL No. 415

AN ACT relating to appeals in criminal actions, and repealing sections 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713, 62-1714 of the Statutes of Kansas of 1935.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. In any criminal action in which defendant pleads guilty or is found guilty by a jury, or by the court if the trial is to the court, and defendant is not then in custody of the sheriff, he shall be taken into custody once; and unless he announces that he desires to file a motion for a new trial, he shall be sentenced either on that date or at a fixed time within five days.

SEC. 2. If at the time the plea, verdict, or finding of guilty is rendered, defendant announces that he desires to file a motion for a new trial, he shall fix a time, not exceeding five days, in which to file the motion for a new trial, and such motion shall be heard and determined as expeditiously as possible and in no event later than thirty days after it is filed. If the filing and hearing of the motion for a new trial, if defendant is not to be at liberty on bond, and the offense is bailable after conviction, the court shall fix the amount of the bond, which bond shall be approved by the court, or, if the court so direct, by the clerk of the court. If the motion for a new trial is overruled, sentence shall be imposed within five days. If defendant desires to appeal promptly, and has given bond pending the hearing of the motion for a new trial, the court may order the bond to be in force for the application to the supreme court for bond.

SEC. 3. *Proceeding on appeal.* (a) If defendant does not seek execution of his sentence stayed, or release from custody on bond,



appeal, he may appeal at any time within six months from the date of sentence by serving notice of appeal on the county attorney of the county in which he was tried and filing the same with the clerk of the district court; the clerk, within ten days after such notice is filed with him, shall send a certified copy of such notice with proof of service and a certified copy of the journal entry of defendant's conviction to the clerk of the supreme court. Defendant shall then prepare and present his appeal in accordance with the statutes and rules of court applicable thereto. (b) If defendant seeks a stay of execution of the sentence, or release from custody, or both, pending his appeal, he shall serve notice of his intention to appeal on the county attorney in the same manner with the clerk of the court, order a transcript of so much of the testimony as is needed to present his case on appeal, see that the journal entry of trial and sentence is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry to be filed with the clerk of the supreme court within ten days after sentence. On application of defendant to the supreme court, or any justice thereof, shall execution of the sentence be stayed, and if the offense is bailable after conviction shall fix the amount of the bond and direct that it be approved by the supreme court, or any justice thereof, or its clerk, or by the trial court clerk. Defendant shall thereafter prepare and present his appeal in accordance with statutes and rules of the court applicable thereto: *Provided*, that the offense of which defendant was convicted was a misdemeanor, and the fact duly certified as required by section 62-1706 of the General Statutes of Kansas of 1935, no further bond shall be required.

4. If the state desires to appeal in any case mentioned in section 62-1704 of the General Statutes of 1935, the county attorney, within ten days after the ruling complained of, shall serve notice of appeal upon the defendant by his attorney of record, and file the same with the clerk of the court, and a transcript of so much of the testimony as is needed to present the case on appeal, see that the journal entry of the ruling complained of is filed, and cause copies of such notice of appeal, with proof of service, order for transcript and journal entry, to be filed with the clerk of the supreme court. This appeal by the state in no case stays or affects the operation of the ruling or judgment appealed from until the ruling or judgment is reversed. The defendant shall thereafter prepare and present its appeal in accordance with statutes and rules of the court applicable thereto.

5. The supreme court shall have authority to make such additional rules not repugnant to statute, as it may deem necessary or proper in order to facilitate the prompt and orderly preparation and presentation of the appeal and to carry into effect the final order of the court in such appealed cases.

6. Sections 62-1702, 62-1704, 62-1709, 62-1710, 62-1711, 62-1712, 62-1713 and 62-1714 of the General Statutes of Kansas of 1935 are hereby repealed: *Provided*, That appeals in criminal actions in which the verdict of guilty was returned before the effective date of this act may be appealed and the appeal heard under the statutes in force at the time the verdict was returned.

7. This act shall take effect and be in force from and after July 1, 1936, and its publication in the statute book.

## APPEALS IN CIVIL ACTIONS

On the recommendation of the Judicial Council the legislature passed an act relating to civil procedure and pertaining to appeals in civil actions. It is designed to prevent unreasonable delays in such appeals by arranging specifically to have clerks of the trial courts send to the supreme court promptly notice of appeal and journal entry, and to require appeal to be perfected within two months from the date of the judgment or order from which the appeal is taken, instead of six months, as is now the law. It clarifies the statute with respect to the preparation of abstracts, requires one taking a cross appeal to give notice thereof, and provides for considering errors in the record when the appeal is taken after final judgment.

The statute reads as follows:

### HOUSE BILL No. 421

AN ACT relating to civil procedure, amending sections 60-3307, 60-3309 and 60-3312 of the General Statutes of Kansas of 1935, and repealing original sections, and also repealing section 60-3313 of the General Statutes of Kansas of 1935.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 60-3307 of the General Statutes of Kansas be amended so as to read: Sec. 60-3307. When the appeal is perfected by proof of service of notice of the appeal, or the affidavit provided for in the preceding section showing inability to make service on a nonresident defendant, filed with the clerk of the trial court, he shall forthwith make a certified copy of such notice and proof of service or affidavit and transmit the same to the clerk of the supreme court, together with a certified copy of the journal entry of the judgment or order from which the appeal is taken. The failure of the clerk of the trial court without just cause to make such copies and transmit them to the clerk of the supreme court within ten days after the appeal or affidavit above mentioned is filed with him, shall be ground for removal from office.

SEC. 2. That section 60-3309 of the General Statutes of Kansas be amended so as to read: Sec. 60-3309. The appeal shall be perfected within two months from the date of the judgment or order from which the appeal is taken: *Provided:* That appeals from judgments and appealable orders may be perfected within four months immediately prior to the taking effect of the judgment or order, or within two months after the effective date of this act.

SEC. 3. That section 60-3312 of the General Statutes of Kansas be amended so as to read: Sec. 60-3312. In all cases in which a transcript of the evidence is not necessary in order to review the questions presented on appeal, the abstract of appellant shall be served on the opposing party or his counsel, and filed in the supreme court within forty days after the appeal is filed with the clerk of the trial court, and in all cases in which a transcript of the testimony is necessary to present the question presented on appeal the abstract of appellant shall be so served and filed within forty days after the notice of appeal is filed with the clerk of the trial court. The abstract of the appellant shall contain a synopsis of so much of the pleadings, record, evidence and proceedings in the case as appear necessary for the consideration of the court. If the appellee deems the abstract of appellant to be insufficient to present the questions for review, he may, within thirty days after the service upon him of appellant's abstract, serve upon appellant, or his counsel, and file with the clerk of the trial court a counter abstract. Abstracts not challenged shall be deemed sufficient and sufficiently complete to present the questions sought to be reviewed.

ent the accuracy of any abstract is challenged, the court shall make an order as the nature of the case and justice warrant. Abstracts shall not be set aside unless, on application therefor and for good cause shown, the court shall find that they be presented otherwise. The abstract may be bound separately or with the brief, as the party presenting the same desires.

4. That section 60-3314 of the General Statutes of Kansas of 1935 be and is hereby repealed so as to read: Sec. 60-3314. When notice of appeal has been served on the appellant and the appellee desires to have a review of rulings and decisions of the court, he shall, within twenty days after the notice of appeal is filed with the clerk of the trial court, give notice to the adverse party, or to the attorney of record, of his cross-appeal and file the same with the clerk of the trial court, who shall forthwith forward a duly attested copy of it to the clerk of the supreme court.

5. When a party appeals, after a final judgment against him, the fact that the ruling of which he complains was made more than two months after the judgment perfected his appeal shall not prevent a review of the ruling.

6. That sections 60-3307, 60-3309, 60-3312, 60-3313 and 60-3314 of the General Statutes of Kansas of 1935 be and the same are hereby repealed.

7. This act shall take effect and be in force from and after its publication in the statute book.

## PROBATE LAW AND PROCEDURE

By the recommendation of the Judicial Council the legislature enacted statutes pertaining to decedents' estates and procedure relating to the administration thereof. These are important statutes which make substantial changes in the existing law relating to those matters. Their general purpose is to make it possible to administer upon all of the property of a decedent, in such a way as to be more beneficial not only to creditors but to heirs and other distributees of the estate.

Attorneys and courts, particularly probate courts, should examine them carefully, become familiar with them, and see to their proper application. They are as follows:

### HOUSE BILL NO. 108

Act relating to decedents' estates, providing what property of deceased persons shall be chargeable with payment of debts and costs of administration, and for the possession, management, control, and disposition of such property, and the rents, issues, and profits thereof, by executors and administrators.

*Enacted by the Legislature of the State of Kansas:*

SECTION 1. The property owned by a deceased person at the time of his death, except such as is specifically exempt therefrom, shall be chargeable with the payment of his debts and the costs of administration, and shall be applied to such purposes in the following order: *First*, the personal property; *second*, the rents, issues and profits of the real property, whether accrued before or after the death of decedent, including income by whatever name derived from oil, gas, or mining leases on such property; *third*, the real property, including any share, interest, estate, right of redemption, or other right which decedent had in or to such property, or which his heirs, devisees or assigns had therein by reason of his death. If a debt proved, or provable, against the estate is secured by specific real or personal property, the property securing such debt shall be used to pay or apply upon the debt before any other property of decedent is used for that purpose, unless the court, for good cause shown, make an order to the contrary.

SEC. 2. The administrator or executor (unless other provision is a will) shall have the right to possession of all the personal property of the decedent chargeable with the payment of debts; he shall also have the right to the possession of all the real property of decedent chargeable with the payment of debts if and when an order of the court is made giving him the right of possession; but such an order shall be made only upon application therefor and a hearing upon notice as provided by law for the hearing of a petition for the sale of real property, and a finding by the court that an order is necessary for the protection of the rights of creditors, or for the protection of the rights of the distributees. The administrator or executor shall control and manage the property in his possession under the directions and orders of the court. When directed or ordered to do so by the court the administrator or executor may lease the real property under his control, or any part thereof, for a term not exceeding one year, and shall receive the rents and profits therefrom, and by like direction or order may keep up the repairs, insurance and taxes, on the real property. The administrator or executor may join with the heirs or devisees of any real property under his control in executing an oil, gas, or mining lease on such property, the proceeds therefrom by whatever name called to be paid to such administrator or executor and to be chargeable with debts of decedent and costs as a lien on the rents, issues and profits of real property, but this is not intended to amend sections 22-6a01 to 22-6a07 of the General Statutes of 1935, but is intended to provide an additional method by which such oil, gas, or mining lease may be executed.

SEC. 3. If in the judgment of the court it will promote the interests of the estate, and not be prejudicial to creditors, the court shall have power to order the administrator or executor to pay interest or installments of principal on any mortgage or other lien on any real or personal property charged with payments of debts of the deceased, or to entirely discharge or satisfy any such liens, or to redeem, for the benefit of the estate, any real estate sold at execution or judicial sale either before or after the death of the deceased out of the personal assets of the estate in the hands of the administrator or executor, or to order the sale of any of the nonexempt assets of the estate to provide funds for any of the purposes mentioned in this act. *Provided*, This act shall not be construed so as to take away or diminish the right of the heirs or devisees of the deceased to redeem, for their own benefit, pledged personal property, or to redeem, for their own benefit, real estate sold at execution or judicial sale, in the event that the executor or administrator does not elect to redeem for the benefit of the estate any such personal property or real estate, and upon the application of any of the heirs or devisees, interested in such pledged personal property, or real estate subject to redemption, the court, if such redemption appears to be to the interest of the estate and the creditors, shall make an order directing the executor or administrator to redeem such property for the benefit of the estate, but if the court shall find that such redemption will not be to the interest of the estate or creditors the court shall order such redemption to be surrendered and the property turned over to the heirs or devisees.

SEC. 4. Whenever the court shall be satisfied that any real estate should not be sold or leased for the payment of debts of the estate, legacies, or costs of administration, the executor or administrator may be ordered to deliver possession of the same to those entitled to it as heirs or devisees.

SEC. 5. Upon final settlement and distribution of the estate all real estate not sold for the payment of debts, legacies, or costs of administration, remaining in the possession of the administrator or executor, shall be turned over to the heirs or devisees entitled to the same.

SEC. 6. All acts and parts of acts in conflict herewith are hereby repealed.

SEC. 7. This act shall take effect and be in force from and after its passage and publication in the statute book.

## HOUSE BILL No. 109

ACT relating to decedent's estates, amending sections 22-504, 22-507, 22-601, 22-702 and 22-729 of the General Statutes of 1935, and repealing said original sections.

*enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 22-504 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 22-504. The personal estate and effects, together with the real estate chargeable with the payment of debts, comprised in the inventory, shall be appraised by three disinterested householders of the county, who shall be appointed by the court.

SECTION 2. That section 22-507 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 22-507. The appraisers shall proceed to appraise and appraise the personal property, together with the real estate, or interest in real estate, chargeable with the payment of debts, and each article or item of personal property and each tract of real estate shall be set down separately, with the value thereof in dollars and cents, distinctly in figures, and attribute to the articles or items of personal property, or tracts of real estate, respectively.

SECTION 3. That section 22-601 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 22-601. The executor or administrator shall, at such time as the court may order, sell the whole of the personal property belonging to the estate: *Provided*, That such personal property as is actually bequeathed shall not be sold until the court by its orders, shall have determined the residue of the personal estate, subject to the payment of debts to be insufficient for the payment of debts of the estate and costs of administration, and direct the personal property specifically bequeathed to be sold. *And provided further*, That whenever the court shall find that the sale of such personal property, or any part thereof, is not necessary for the payment of debts, legacies, or costs of administration, it may, in its discretion, order such property not sold.

SECTION 4. That section 22-702 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 22-702. All demands against an estate, whether due or to become due, whether absolute or contingent, not exhibited or required by statute within one year after the date of the administration bond, shall be forever barred, including any demand arising from or out of the statutory liability of decedent or on account of or arising from any liability of decedent as surety, guarantor or indemnitor, saving to infants, persons of unsound mind, imprisoned or absent from the United States, one year after the removal of their disabilities, from payment by an administrator or executor unless a provision of a will requires payment of a demand filed by the executor or administrator. No creditor shall have any claim against or lien upon the real property of the decedent, other than a lien of record prior to death of decedent, until an executor or administrator has been appointed and he shall have one year after his claim in the probate court within one year after the death of decedent.

SECTION 5. That section 22-729 of the General Statutes of 1935 is hereby amended to read as follows: Sec. 22-729. Any creditor of the deceased whose demand of action shall not accrue within the said one year after the date of the administration bond, must nevertheless present his demands within that time, and on examination thereof it shall appear to the court that the same is due from the estate, it may by consent of that creditor and the executor or administrator, order the same to be discharged in like manner as if the same were due from the estate, or the court may order the executor or administrator to retain in his hands sufficient to satisfy the demand; or if any of the heirs of the deceased, or devisees, or others interested in the estate, shall offer to give bond to the alleged creditor with sufficient surety or sureties, for the payment of the demand in case the same shall be proved to be due from the estate, the court may, if it thinks proper,

order such bond to be taken instead of ordering the claim to be dismissed as aforesaid, and instead of requiring the executor or administrator to pay the assets as aforesaid.

SEC. 6. Contingent claims or demands against an estate shall be allowed and determined by the court in accord with the rights of the parties in settling such claims and in such a way as not to delay the closing of the estate if that can be done with justice to the parties.

SEC. 7. That sections 22-504, 22-507, 22-601, 22-702 and 22-729 of the General Statutes of 1935 be and the same are hereby repealed.

SEC. 8. This act shall take effect and be in force from and after its publication in the statute book.

## REPORTS TO THE JUDICIAL COUNCIL

On the recommendation of the Judicial Council the legislature passed House bill No. 505, amending the statute pertaining to compensation of clerks of the district courts for making reports to the Judicial Council and taxing fees to be collected in payment therefor. The act included a provision relating to compensation to probate judges for making such reports. It became effective on publication in the official state paper April 7, 1936.

It reads as follows:

### HOUSE BILL NO. 505

AN ACT relating to salaries of clerks of the district court and of judges of the probate court in all counties, providing for extra compensation in payment of material for the judicial council, as required by law, providing for the collection of fees to pay the same, amending section 28-117c of the General Statutes of 1935, and repealing said original section.

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. Section 28-117c is hereby amended to read as follows: 28-117c. That when the Judicial Council requests clerks of the district courts to furnish complete and accurate detailed information with respect to cases disposed of or pending in their respective courts, and such clerks do so, the chairman of the Judicial Council shall certify that fact to the board of county commissioners of the county from which the report is made, together with the number of cases so reported, and the board of county commissioners shall allow and pay to the clerk of the court a sum equal to a fee of ten cents for each case so reported, the sum so paid to be in addition to the salary of the clerk of the court as *otherwise* provided by law. The clerk of the court shall tax a fee of *fifteen* cents as costs in each case *for each time such case is so reported as pending or closed*, which fee shall be collected as other fees are collected by the clerk of the court, and when collected shall be paid by him into the county treasury.

SEC. 2. That when the Judicial Council requests judges of the probate courts to furnish complete and accurate detailed information with respect to cases disposed of or pending in their respective courts, and such judges do so, the chairman of the Judicial Council shall certify that fact to the board of county commissioners of the county from which the report is made, together with the number of cases so reported, and the board of county commissioners shall allow and pay to the probate judge a sum equal to a fee of ten cents for each case so reported, the sum so paid to be in addition to the salary of the probate judge as otherwise provided by law. The probate judge shall tax a fee of fifteen cents as costs in each case or proceeding for each time the case is so reported as closed or pending, which fee shall be collected as other fees are collected by the probate judge, and when collected shall be paid by him into the county treasury.

- c. 3. That section 28-117c of the General Statutes of 1935 is hereby re-  
d.  
c. 4. This act shall take effect and be in force from and after its publi-  
n in the official state paper.

---

## PUNISHMENT IN MURDER CASES

der our present statute, section 21-403 of the General Statutes of 1935,  
was uncertainty as to the procedure which should be followed in the  
one charged with murder in the first degree should enter a plea of  
r. To avoid that confusion, a committee of the State Bar Association  
the Judicial Council recommended a measure which was enacted into  
which reads as follows:

### SENATE BILL No. 146

Act relating to crimes and punishments, prescribing the penalties for  
murder in the first and second degrees, validating certain sentences im-  
posed by district courts or the judges thereof, amending section 21-403 of  
the General Statutes of 1935, and repealing said original section.

*enacted by the Legislature of the State of Kansas:*

SECTION 1. That section 21-403 of the General Statutes of 1935 is hereby  
ded to read as follows: Sec. 21-403. Every person convicted of mur-  
der in the first degree shall be punished by death, or by confinement and  
hard labor in the penitentiary of the state of Kansas for life. If there is a  
trial the jury shall determine which punishment shall be inflicted. If  
there is a plea of guilty the court shall determine which punishment shall be  
inflicted, and in doing so shall hear evidence: *Provided*, That the death  
penalty shall not be inflicted, either by the jury or by the court, upon any  
person who was under the age of eighteen years at the time the crime was  
committed. Those convicted of murder in the second degree shall be pun-  
ished by confinement and hard labor for not less than ten years.

- c. 2. That section 21-403 of the General Statutes of 1935 is hereby re-  
d.  
c. 3. This act shall take effect and be in force from and after its pub-  
lication in the official state paper.  
published in the official state paper March 25, 1937.

---

## MISCELLANEOUS STATUTES

The recent legislature passed several other statutes relating to courts, or  
procedure therein, which may be summarized as follows:

House bill No. 22 provides that no garnishment process shall be issued out  
of any court on any judgment or in any action pending to enforce the collec-  
tion of the judgment or claim against salary or wages of any person who has  
been dropped from regular emergency relief work by obtaining regular em-  
ployment, until after the expiration of sixty days from the time of his leaving  
regular relief work. The act expires by its own terms January 1, 1939.

House bill No. 31 validates official instruments defective because the seal  
of the clerk of the district court was used thereon instead of the seal of the  
district court, and repeals section 20-304 of the General Statutes of 1935.

House bill No. 121 amends section 22-1101 of the General Statutes relating to appeals from the probate court, so as to authorize an appeal from the first clause on demand against an estate exceeding fifty dollars or twenty dollars, and in the ninth clause by authorizing appeal on revoking or refusing to revoke letters testamentary or of administration.

By House bill No. 154, where by the judgment of the district court a permanent injunction was granted against certain real property under sections 21-2131 and no further orders have been made therein for five years, and costs are paid, the court is authorized to set aside the injunction showing that the property is no longer used in violation of the statute. The owner or anyone having an interest, upon notice to the county attorney, may move to have the injunction discharged.

House bills Nos. 378, 379 and 388, amended sections 26-102, 26-202 and 26-205, of the General Statutes of 1935, relating to eminent domain. As stated, the changes made in the sections are, that one holding a lien on real property sought to be taken by condemnation proceedings shall have notice thereof, the same as the owner, and he is also given a right to appeal from the award.

House bill No. 472 changes the dates for the beginning of the term of court in the several counties comprising the 13th judicial district. As stated, this does not change the dates set for "motion days" for the year 1937 for various counties in the district.

House bill No. 491 authorizes the use of injunction or quo warranto by the state to enjoin or oust from the unlawful practice of medicine and surgery one not duly licensed therefor; these remedies being in addition to, but in lieu of, authority to prosecute criminally one so engaged.

Senate bill No. 65 amends section 60-3504 as to the property exempt from seizure of the head of a family from seizure and sale upon attachment, execution or other process, by adding in the first line of the *fifth* clause, "100 chickens or other domestic fowls."

Senate bill No. 172 authorizes the judge of the district court, or any clerk thereof, when trying a criminal case which he is unable to complete at the end of the then term of court, to declare an emergency and continue the trial into the next term of court.

By Senate bill No. 300, when the state has a judgment lien upon real property, an action may be brought against the state, in the district court, the same as against a private person to determine the respective rights of the state and others respecting title to or liens upon the property.

Senate bill No. 333, while general in its terms, perhaps applies to Sedgwick county, authorizes the district judges to appoint a parole officer to assist them in having provisions of paroles complied with. This is a needed provision, especially in the larger counties, where many paroles are granted by the judges of the district court.

Perhaps there are some other new statutes relating to courts or procedure therein which we have overlooked.

Two other new laws (House bills Nos. 268 and 270) pertaining to criminal procedure, deserve more than passing notice. Originally from the Interstate Crimes Commission as some of several proposed uniform



and to aid in the apprehension and prosecution of those who commit in one state and flee to another, they were examined jointly by the Judicial Council and a committee of the State Bar Association on Criminal Procedure, of which the attorney general, Clarence V. Beck, is chairman. These two bills were published for further study in our April, 1936, BULLETIN. With amendments, these two have been enacted into law. Perhaps the amendments make them directly effective in this state, rather than to be effective only with such other states as should pass identical statutes and then after compacts were entered into between designated agents of respective states making them effective. This process was thought to be cumbersome. That has been demonstrated by attempts to make such compacts authorized under chapter 165, Laws of 1935. One of these new statutes rewrites one law relating to interstate extradition, the other relates to the pursuit into this state of one charged with crime in another state. The bill reads as follows:

#### HOUSE BILL No. 268

to make uniform the procedure of interstate extradition, repealing article 7 of chapter 62 of the General Statutes of 1935.

*Enacted by the Legislature of the State of Kansas:*

**SECTION 1. Definitions.** Where appearing in this act, the term "governor" means any person performing the functions of governor by authority of the executive authority of this state. The term "executive authority" includes the governor or any person performing the functions of governor in a state other than this state. The term "state," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

**2. Fugitives from justice; duty of governor.** Subject to the provisions of this act, the provisions of the constitution of the United States concerning, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person found in that state with treason, felony, or other crime, who has fled from that state and is found in this state.

**3. Form of demand.** No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless the person is writing alleging, except in cases arising under section 6, that the person was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by probable cause in the state having jurisdiction of the crime or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, or judgment of conviction or sentence must be authenticated by the executive authority making the demand.

**4. Governor may investigate case.** When a demand shall be made for the extradition of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investi-

gate or assist in investigating the demand, and to report to him the circumstances of the person so demanded, and whether he has surrendered.

SEC. 5. *Extradition of persons imprisoned or awaiting trial in another state or who have left the demanding state under compulsion.* When it is determined that a person charged in this state with a crime and such person is imprisoned or is held under criminal proceedings in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated. The governor of this state may also surrender on demand the executive authority of any other state any person in this state who is charged with a crime in the manner provided in section 23 of this act with having violated the laws of the state whose executive authority is making the demand, although such person left the demanding state involuntarily.

SEC. 6. *Extradition of persons not present in demanding state at the time of commission of crime.* The governor of this state may also surrender on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 of this act with committing an act in this state, or in a third state, intentionally resulting in the commission of a crime in the state whose executive authority is making the demand, if the provisions of this act not otherwise inconsistent, shall apply to such person, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

SEC. 7. *Issue of governor's warrant of arrest; its recitals.* If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to a peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to establish the validity of its issuance.

SEC. 8. *Manner and place of execution.* Such warrant shall authorize any peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the authorized agent of the demanding state.

SEC. 9. *Authority of arresting officer.* Every such peace officer or other person empowered to make the arrest, shall have the same authority as a peace officer in arresting the accused, to command assistance therein, as peace officers are authorized by law in the execution of any criminal process directed to them, with the exception of liabilities against those who refuse their assistance.

SEC. 10. *Rights of accused person; application for writ of habeas corpus.* No person arrested upon such a warrant shall be delivered over to the custody of the executive authority demanding him shall have appointed counsel to receive him unless he shall first be taken forthwith before a judge of the supreme court of record in this state, who shall inform him of the demand made, and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made, and to the agent of the demanding state, and to the said agent of the demanding state.

SEC. 11. *Penalty for noncompliance with preceding section.* Any person who shall deliver to the agent for extradition of the demanding state

custody under the governor's warrant, in willful disobedience to the last, shall be guilty of a misdemeanor and, on conviction, shall be fined more than \$1,000 or be imprisoned not more than six months, or both.

12. *Confinement in jail when necessary.* The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, take the prisoner in the jail of any county or city through which he may pass, and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his errand. Such officer or person being chargeable with the expense of keeping the prisoner. The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his errand. Such officer or agent, however, being chargeable with the expense of keeping the prisoner. *Provided, however,* That such officer or agent shall produce and deliver to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a waiver of extradition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

13. *Arrest prior to requisition.* Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state, and, except in cases arising under section 6 with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, no complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that the crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint on the affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

14. *Arrest without a warrant.* The arrest of a person may be lawfully made also by any peace officer or private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him on oath setting forth the ground for the arrest as in the preceding section; and hereafter his answer shall be heard as if he had been arrested on a warrant.

15. *Commitment to await requisition; bail.* If from the examination by the judge or magistrate it appears that the person held is the person named with having committed the crime alleged and, except in cases arising under section 6, that he has fled from justice, the judge or magistrate must, on a warrant reciting the accusation, commit him to the county jail for such term not exceeding thirty days and specified in the warrant, as will enable

the arrest of the accused to be made under a warrant of the governor requisition of the executive authority of the state having jurisdiction of the offense, unless the accused shall give bail as provided in the next section until he shall be legally discharged.

SEC. 16. *Bail; in what cases; conditions of bond.* Unless the offense for which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail on bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and on his surrender, to be arrested upon the warrant of the governor of this state.

SEC. 17. *Extension of time of commitment, adjournment.* If the prisoner is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge the prisoner, or may recommit him for a further period not to exceed sixty days, or a judge or magistrate may again take bail for his appearance and surrender as provided in section 16, but within a period not to exceed sixty days from the date of such new bond.

SEC. 18. *Forfeiture of bail.* If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, a judge or magistrate by proper order, shall declare the bond forfeited and the person who gave the bond shall be liable to his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

SEC. 19. *Persons under criminal prosecution in this state at time of arrest.* If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, may surrender him on demand of the executive authority of another state, and hold him until he has been tried and discharged or convicted and released in this state.

SEC. 20. *Guilt or innocence of accused, when inquired into.* The governor may inquire into the innocence of the accused as to the crime of which he is charged, and may inquire into by the governor or in any proceeding after the demand of the governor, tradition accompanied by a charge of crime in legal form as above provided, shall have been presented to the governor, except as it may be in any case identifying the person held as the person charged with the crime.

SEC. 21. *Governor may recall warrant or issue alias.* The governor may recall his warrant of arrest or may issue another warrant whenever he deems it proper.

SEC. 22. *Fugitives from this state, duty of governors.* Whenever a person of this state shall demand a person charged with crime or with a crime committed from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from a justice or an associate justice of the supreme court of the District of Columbia, authorized to receive such demand under the laws of the United States, the governor shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

SEC. 23. *Application for issuance of requisition; by whom made; contents.* (1) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his application for a requisition for the return of the person charged, and in such application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the place of the crime therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the return of the accused to this state for trial and that the proceeding

to enforce a private claim. (2) When the return to this state is of a person who has been convicted of a crime in this state and has from confinement or broken the terms of his bail, probation or parole, prosecuting attorney of the county in which the offense was committed, parole board, or the warden of the institution or the sheriff of the county, in which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made. (3) The application shall be verified by affidavit, shall be executed by a judge or magistrate and shall be accompanied by two certified copies of the indictment, or of information and affidavit filed, or of the complaint made by a judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be included with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or if the accused is not of conviction or of the sentence shall be filed in the office of the attorney general of the state to remain of record in that office. The copies of all papers shall be forwarded with the governor's requisition.

24. *Costs and expenses.* The expenses which may accrue under the provisions of this section shall be paid by the county where the offense was committed, except in capital cases which in the opinion of the governor demand immediate action; and when a delay in procuring the necessary funds from the county attorney, as heretofore provided, would operate to the apprehension of the criminal, then in such cases the expenses shall be paid by the state.

25. *Immunity from service of process in certain civil actions.* A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

26. *Written waiver of extradition proceedings.* Any person arrested in this state charged with having committed any crime in another state or who has escaped from confinement or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant prior to the proceedings in sections 7 and 8 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to the issuance and service of the warrant. *Provided, however,* That before such waiver is executed or subscribed by such person it shall be the duty of such person to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided in section 10. If and when such consent has been duly executed it shall be forwarded to the office of the governor of this state and filed in the office of the attorney general. The judge shall direct the officer having such person in custody to deliver him forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent: *Provided, however,* That nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver be deemed to be an exclusive procedure or to limit the powers, duties or responsibilities of the officers of the demanding state or of this state.



6. The term "fresh pursuit" as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but shall include pursuit without unreasonable delay.

7. Upon the passage and approval by the governor of this act it shall be the duty of the secretary of state to certify a copy of this act to the department of each of the states of the United States.

8. This act may be cited as the uniform act on fresh pursuit.

9. This act shall take effect and be in force from and after its publication in the official state paper.

Printed in the official state paper March 29, 1937.

TABLE 1.—Miscellaneous information, year ending June 30, 1936

COUNTRY.	Judge.	Time judge has served.		Defalcations since July 1, 1935, by guardian, executor or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus since July 1, 1935.	Orders made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity proceedings.
		Yrs.	Mos.	No.	Amount.	Full time.	Part time.						
Allen.....	Travis Morse.....	8	6	0	.....	2	0	16	1	0	0	4	4
Anderson.....	L. H. Spohn.....	8	6	0	.....	1	0	6	0	6	0	0	8
Atchison.....	F. P. Vertz.....	3	6	0	.....	1	0	27	0	5	0	7	20
Barber.....	S. P. Garrison.....	29	6	0	.....	0	0	2	1	5	0	2	4
Barton.....	H. A. Hall.....	15	6	0	.....	0	1	0	0	5	0	3	6
Bourbon.....	C. E. Hulett.....	3	6	3	\$1,281.91	0	0	10	0	0	0	2	13
Brown.....	I. M. Johnson.....	7	6	0	.....	1	0	24	0	2	0	5	13
Buier.....	W. N. Calkins.....	2	6	0	.....	1	0	16	0	0	0	7	13
Chase.....	A. E. Johnson.....	1	6	0	.....	1	0	1	0	0	0	1	5
Chautauqua.....	W. H. Helmick.....	4	6	0	.....	1	0	3	0	2	0	2	9
Cherokee.....	Walter Lergen.....	3	6	0	.....	3	0	15	0	0	0	6	11
Cheyenne.....	Florence Curry.....	3	2	0	.....	0	0	4	0	0	0	4	3
Clark.....	O. T. Ammon.....	1	6	0	.....	1	0	2	0	1	1	4	2
Clay.....	Frank M. Meek.....	3	6	1	7,000.00	1	0	2	0	12	3	7	10
Cloud.....	E. W. Thompson.....	3	6	0	.....	2	0	6	0	2	0	0	6
Coffey.....	I. W. Whitney.....	3	6	0	.....	0	0	5	0	4	0	0	7
Comanche.....	M. M. Cosby.....	18	6	0	.....	0	0	1	0	2	0	1	2
Cowley.....	Ellis Fink.....	12	6	0	.....	2	0	70	0	2	0	12	10
Crawford.....	Robt. W. Colburn.....	15	6	1	4,500.00	0	1	10	1	2	2	5	23
Decatur.....	Ralph McLaughlin.....	1	6	0	.....	0	0	1	0	2	0	0	3
Dickinson.....	D. W. Nickles.....	3	6	0	.....	1	0	24	0	7	0	3	15
Doniphan.....	John R. Bell.....	4	6	0	.....	1	0	40	0	2	2	2	14
Douglas.....	L. H. Wenger.....	15	6	1	No report	1	0	7	0	0	0	0	8
Edwards.....	W. V. P.....	10	6	0	.....	0	0	2	0	0	0	0	3



TABLE I.—CONTINUED. Miscellaneous information, year ending June 30, 1936

COUNTY.	Judge.	Time judge has served.		Defalcations since July 1, 1935, by guardian, executor or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus cases since July 1, 1935.	Orders made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity hearings.
		Yrs. Mos.		No.	Amount.	Full time.	Part time.						
Ellis.....	Peter Holzmeister.....	3	6	0	.....	1	0	3	1	1	0	2	2
Ellsworth.....	Frank Vitek.....	7	6	0	.....	0	0	9	0	1	0	4	5
Finney.....	Edgar Foster.....	5	6	0	.....	0	1	0	3	7	0	2	6
Ford.....	Richard W. Evans.....	8	6	0	.....	0	0	15	0	12	0	10	10
Franklin.....	Clive H. Owen.....	6	6	0	.....	0	0	2	0	5	0	4	11
Geary.....	Wm. W. Pease.....	4	6	0	.....	1	0	0	0	6	0	5	6
Gove.....	Geo. F. Turner.....	10	6	0	.....	0	0	0	0	0	0	0	2
Graham.....	E. L. McClure.....	11	6	0	.....	1	0	0	0	0	0	0	6
Grant.....	Dorothy Brown.....	2	6	0	.....	0	0	0	0	0	0	0	0
Gray.....	Edith M. Johnston.....	5	6	0	.....	0	0	5	0	1	0	2	12
Greeley.....	J. G. Riddle.....	3	6	0	.....	0	0	0	0	0	0	0	0
Greenwood.....	Roy L. Hamlin.....	6	6	0	.....	2	0	19	0	7	0	2	11
Hamilton.....	D. P. Hutton.....	1	6	0	.....	0	0	0	0	0	0	0	2
Harper.....	D. C. Hawk.....	26	6	0	.....	2	0	13	0	6	0	0	4
Harvey.....	Grant Mitchell.....	5	6	0	.....	0	0	59	0	0	0	4	7
Haskell.....	Laurence G. Meairs.....	14	6	0	.....	0	0	0	0	0	0	0	2
Hodgeman.....	Jacob Soren.....	3	6	0	.....	0	0	0	1	0	1	1	0
Jackson.....	Arthur P. Hoagland.....	3	6	0	.....	0	0	19	0	4	0	2	10
Jefferson.....	Arthur Ferris.....	1	6	0	.....	0	0	1	0	3	0	0	7
Jewell.....	Frank Kissinger.....	5	6	0	.....	1	0	13	0	1	0	2	5
Johnson.....	Bert Rogers.....	1	6	0	.....	1	0	10	0	10	0	5	16
Kearny.....	Alice L. Geer.....	2	6	0	.....	0	0	0	0	0	0	0	2
Kingman.....	L. W. Kabler.....	9	6	0	.....	0	1	8	0	0	0	2	3
Kiowa.....	Harry Paxton.....	1	6	0	.....	0	0	0	0	0	0	0	1
Labette.....	C. S. Carlton.....	13	6	0	.....	2	0	20	0	2	0	4	25

TABLE I.—CONTINUED. Miscellaneous information, year ending June 30, 1936

COUNTY.	Judge.	Time judge has served.	Defalcations since July 1, 1935, by guardian, executor or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus cases since July 1, 1935.	Orders made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity hearings.
			Yrs. Mos.	No.	Amount.	Full time.						
Lane.....	J. A. Radford.....	5 6	0		0	0	0	0	0	0	3	4
Leavenworth.....	Sam Parise.....	1 6	0		1	0	242	8	0	0	17	19
Lincoln.....	A. Artman.....	33 6	0		1	0	5	0	2	0	2	1
Linn.....	Owen E. Rost.....	3 6	0		0	1	14	1	3	0	3	10
Logan.....	Winnie Seitz.....	7 6	0		1	0	0	0	0	0	1	0
Lyon.....	R. H. Hudkins.....		0		0	0	0	0	0	0	0	0
Marion.....	Jay E. Hargett.....	8 6	0		1	0	1	0	0	0	6	4
Marshall.....	P. R. Pullene.....	3 6	1	\$1,650.00	0	0	16	0	0	0	4	14
McPherson.....	J. J. Heidebrecht.....	11 6	0		1	0	7	0	9	0	6	1
Meade.....	Florilla DeCov.....	11 6	0		0	1	0	0	0	0	2	0
Miami.....	C. E. Rossman.....		0		0	0	0	0	0	0	0	0
Mitchell.....	J. M. Rodgers.....	5 6	0		2	0	3	0	7	24	1	5
Montgomery.....	Earl L. Bailey.....	1 6	0		0	3	251	0	0	0	13	37
Morris.....	W. T. Williams.....	6 6	0		0	0	2	0	5	0	6	4
Morton.....	Jennie M. Smallwood.....	6 6	0		0	0	0	0	1	0	0	1
Nemaha.....	L. S. Slocum.....		0		0	0	0	0	0	0	0	0
Neosho.....	C. C. Yockey.....	5 6	0		0	1	10	0	10	0	5	13
Ness.....	J. C. M. Anderson.....	3 6	0		1	0	3	0	0	0	2	4
Norton.....	W. A. Hendrickson.....	3 6	0		1	0	3	0	3	0	2	4
Osage.....	Geo. E. Ramskill.....	1 6	0		0	1	9	0	1	0	1	11
Osborne.....	James W. Bell.....	4 6	0		1	0	1	0	0	4	2	7
Ottawa.....	G. R. King.....	3 6	0		0	0	3	0	2	0	2	4
Pawnee.....	W. H. Goddard.....	1 6	0		0	0	2	0	0	0	3	26
Phillips.....	Fred Kelly.....	3 6	0		1	0	15	0	0	0	5	7

County.	Judge.	Judge has served.	July 1, 1930, by guardian, executor or administrator.		Juvenile officers.		Number juvenile cases.	corpus since July 1, 1935.	made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity hearings.
			No.	Amount.	Full time.	Part time.						
Pratt.....	E. R. Barnes.....	10 6	0	.....	0	2	6	0	3	0	7	7
Rawlins.....	M. H. Bird.....	3 6	0	.....	0	0	0	0	0	0	2	3
Reno.....	A. B. Leigh.....	3 6	0	.....	1	0	41	0	3	1	12	13
Republic.....	Henry H. VanNatta.....	17 6	0	.....	0	1	6	0	8	0	1	5
Rice.....	Calvin G. Cook.....	11 6	0	.....	1	0	2	0	2	0	0	5
Riley.....	Chas. F. Johnson.....	7 6	0	.....	2	0	50	1	6	1	12	6
Rock.....	H. E. Lenhard.....	1 6	0	.....	1	0	4	0	0	0	2	4
Rush.....	J. W. Seuser.....	6 6	0	.....	1	0	1	0	0	0	1	3
Russell.....	J. D. Steale.....	3 6	0	.....	1	0	5	0	6	0	0	10
Saline.....	Will F. Miller.....	12 6	0	.....	1	0	25	0	15	0	27	24
Scott.....	James H. Force.....	3 6	0	.....	0	0	1	0	2	0	0	0
Sedwick.....	Clyde M. Hudson.....	3 6	0	.....	3	0	426	0	0	0	48	145
Seward.....	L. A. Etzold.....	8 6	0	.....	2	0	25	0	0	0	4	4
Shawnee.....	Roy N. McCue.....	1 6	1	\$3,500.00	3	0	99	0	0	0	70	93
Sheridan.....	N. F. McWilliams.....	4 6	0	.....	1	0	1	0	0	0	0	3
Sherman.....	Bryan Braderstadt.....	3 6	0	.....	1	0	26	1	1	0	0	4
Smith.....	Chas. Buell.....	3 6	0	.....	0	0	3	0	4	0	0	6
Stafford.....	F. R. Seely.....	1 6	0	.....	0	0	0	0	0	0	2	7
Stanton.....	W. J. Gaskell.....	1 6	0	.....	0	0	0	0	0	0	2	1
Stevens.....	John A. Cole.....	4 6	0	.....	0	0	3	1	1	0	0	2
Sunner.....	Chas. P. Hangen.....	14 6	0	.....	1	0	18	0	0	0	2	12
Thomas.....	C. A. Shell.....	4 6	0	.....	0	0	1	0	1	0	0	3
Trego.....	Walter F. Swiggett.....	4 6	0	.....	0	0	12	0	1	0	1	3
Wabauensee.....	H. R. Williams.....	3 6	0	.....	0	1	4	0	0	0	2	9
Wallace.....	L. V. Thomas.....	5 6	0	.....	1	0	0	0	0	0	0	1
Washington.....	R. L. Rust.....	5 6	0	.....	1	0	0	0	0	0	1	5
Wichita.....	Maggie Gilmore.....	1 6	0	.....	0	0	0	0	0	0	0	0
Wilson.....	D. J. Sheedy.....	17 6	0	.....	1	0	24	0	1	0	3	11
Woodson.....	D. S. Bell.....	1 6	0	.....	1	0	7	0	0	0	6	5
Wyandotte.....	Henry Meade.....	10 6	0	.....	3	0	278	1	0	0	59	64
Totals.....	.....	.....	8	\$17,931.91	71	17	2,149	21	237	40	481	1,086

TABLE II.—Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1936

COUNTIES.	Number of cases.....	Final report filed within 1 year after letters of administration issued..	Pending 1 to 2 years.....	Pending 2 to 3 years.....	Pending 3 to 4 years.....	Pending 4 to 5 years.....	Pending 5 to 10 years.....	Pending longer than 10 years.....	Number of cases with wills.....	Number of cases without wills.....	Number of bonds filed...	Number of bonds kept good.....	No bonds filed.....	Inventory in 60 days.....	Inventory after 60 days..	No inventory.....
Allen.....	15	0	8	2	1	2	0	0	3	12	13	13	2	10	5	0
Anderson.....	23	4	9	0	2	0	0	1	10	13	16	16	7	10	4	0
Atchison.....	59	8	31	0	2	0	0	2	37	22	28	28	31	10	14	9
Barber.....	15	3	9	0	2	2	0	0	8	7	7	7	8	35	4	10
Barton.....	44	1	26	8	3	0	2	4	31	13	25	24	19	32	11	1
Bourbon.....	44	7	25	3	0	1	1	3	31	13	27	28	17	30	9	5
Brown.....	32	0	32	0	4	0	0	0	15	17	24	24	8	19	4	9
Butler.....	38	1	24	0	0	1	0	1	17	21	30	30	8	12	4	9
Chase.....	12	0	8	2	0	1	1	1	7	5	7	7	5	8	2	7
Chautauqua.....	8	4	2	2	0	0	0	0	4	4	4	4	4	3	3	2
Cherokee*.....	14	3	7	0	1	0	1	2	4	10	9	9	5	7	0	7
Cheyenne.....	5	1	4	0	0	0	0	0	3	2	3	3	2	1	3	1
Clark.....	39	19	15	3	0	0	0	0	19	20	28	28	11	30	8	1
Clay.....	52	16	19	7	2	0	7	1	33	19	32	32	20	42	8	2
Cloud.....																
Coffey.....	41	13	18	4	5	0	1	0	19	22	26	26	15	39	2	0
Comanche.....	4	0	3	1	0	0	0	0	4	0	2	2	2	3	1	0
Cowley.....	44	9	32	2	1	0	0	0	27	17	29	28	15	16	27	3
Crawford.....	70	24	34	6	2	0	2	0	41	29	44	44	26	59	10	1
Decatur.....	16	0	9	0	2	0	3	2	7	9	14	14	2	13	2	1
Dickinson.....	58	0	47	4	2	0	3	0	38	20	39	39	19	48	10	0
Doniphan.....	49	0	27	10	5	3	1	3	26	23	32	32	17	46	3	0

COUNTIES.	Number of cases . . . . .	Final report filed within 1 year after letters of administration issued . .	Pending 1 to 2 years . . . .	Pending 2 to 3 years . . . .	Pending 3 to 4 years . . . .	Pending 4 to 5 years . . . .	Pending 5 to 10 years . . . .	Pending longer than 10 years . . . . .	Number of cases with wills . . . . .	Number of cases without wills . . . . .	Number of bonds filed . . .	Number of bonds kept good . . . . .	No bonds filed . . . . .	Inventory in 60 days . . . .	Inventory after 60 days . . .	No inventory . . . . .
Ellis . . . . .	33	4	20	3	2	1	3	0	23	10	14	0	19	24	9	0
Elsworth . . . . .	26	4	21	0	1	0	0	0	16	10	13	13	13	21	4	1
Funev . . . . .	11	0	0	0	0	0	0	1	0	2	12	7	4	17	3	1
Ford . . . . .	30	2	20	6	2	0	0	0	17	13	24	24	6	17	13	0
Franklin . . . . .	60	11	35	4	2	3	1	4	34	26	38	38	22	50	10	0
Geary . . . . .	28	2	19	5	0	1	0	1	9	19	18	18	10	19	9	0
Gove . . . . .	9	3	2	1	2	0	1	0	5	4	6	6	3	2	0	0
Graham . . . . .	4	0	0	0	0	1	0	1	1	3	4	4	0	7	0	1
Grant . . . . .																
Gray . . . . .	11	0	10	1	0	0	0	0	5	6	9	9	2	9	2	0
Greedy* . . . . .																
Greenwood . . . . .	49	7	20	9	4	5	2	2	23	26	37	37	12	35	13	1
Hamilton . . . . .	21	0	6	13	0	0	2	0	14	7	11	8	10	10	4	7
Harper . . . . .	40	2	31	3	1	1	1	1	23	17	28	28	12	14	6	0
Harvey . . . . .	40	2	30	6	1	0	1	0	20	20	26	25	14	13	19	8
Haskell . . . . .	2	0	1	1	0	0	0	0	1	1	1	1	1	2	0	0
Hodgeman . . . . .	9	0	8	0	1	0	0	0	6	3	4	4	5	6	3	0
Jackson . . . . .	48	3	27	6	1	4	7	0	24	24	34	34	14	29	16	3
Jefferson . . . . .	37	3	23	3	0	3	9	0	16	21	25	25	12	27	10	0
Jewell . . . . .	45	2	24	5	3	2	8	1	22	23	37	36	8	34	10	1
Johnson . . . . .	60	3	37	7	3	2	3	5	48	12	30	30	30	40	16	4
Kearny . . . . .	3	1	2	0	0	0	0	0	1	2	3	3	0	1	2	0
Kinsman . . . . .	28	5	15	2	2	2	1	1	16	12	18	18	10	23	5	0
Kiowa . . . . .	15	4	5	2	1	0	0	0	3	12	14	1	1	12	3	0
Kobbe . . . . .	48	7	30	6	1	3	0	1	28	20	21	0	2	26	14	8

TABLE II.—CONTINUED.. Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1936

COUNTIES.	Number of cases.....	Final report filed within 1 year after letters of administration issued..	Pending 1 to 2 years....	Pending 2 to 3 years....	Pending 3 to 4 years....	Pending 4 to 5 years....	Pending 5 to 10 years....	Pending longer than 10 years.....	Number of cases with wills.....	Number of cases without wills.....	Number of bonds filed...	Number of bonds kept good.....	No bonds filed.....	Inventory in 60 days.....	Inventory after 60 days..	No inventory.....
Lane.....	6	0	6	0	0	0	0	0	2	4	4	4	2	2	1	3
Leavenworth.....	90	27	58	1	0	1	2	0	58	32	35	34	55	28	38	24
Lincoln.....	52	5	15	9	0	2	2	19	22	30	39	39	13	43	7	2
Linn.....	27	8	9	3	1	3	2	1	13	14	18	18	9	26	0	1
Logan.....	1	1	0	0	0	0	0	1	1	0	1	1	0	1	0	0
Lyon*.....																
Marion.....	53	0	42	7	3	1	0	0	29	24	38	36	15	47	5	1
Marshall.....	72	2	40	9	6	5	4	5	40	32	48	48	24	53	18	1
McPherson.....	78	2	49	11	2	2	5	3	35	43	63	63	15	56	20	2
Meade.....	6	0	5	1	0	0	0	1	1	5	6	6	0	2	4	0
Miami.....	47	10	21	6	3	2	5	0	25	22	34	28	13	31	5	11
Mitchell.....	37	3	30	3	0	0	1	0	15	22	28	28	9	33	3	1
Montgomery.....	93	8	63	10	3	0	9	0	46	47	62	62	31	62	29	2
Morton.....	3	1	2	0	0	0	0	0	2	1	2	2	1	1	2	0
Morris.....	34	5	23	4	0	1	1	0	16	18	24	24	10	33	1	0
Nemaha.....	49	2	27	6	7	1	5	1	23	26	31	31	18	38	9	2
Neosho.....	43	1	34	3	1	2	0	2	21	22	31	30	12	26	10	7
Ness.....	23	2	14	2	1	1	2	0	12	11	17	1	6	21	2	0
Norton.....	24	4	16	3	0	0	0	0	15	9	15	15	9	19	5	0
Osage.....	35	3	18	5	2	3	3	1	17	18	29	29	6	26	9	0
Osborne.....	58	2	34	8	2	1	6	5	23	35	40	10	18	47	7	4
Ottawa.....	29	0	18	4	2	0	4	1	12	17	21	21	8	24	5	0
Pawnee.....	23	0	21	2	0	0	0	0	13	10	10	10	13	22	1	0
Phillips.....	34	4	21	2	1	1	2	1	19	15	25	25	9	25	8	1
Pottawatomie.....	51	12	23	4	2	4	6	0	24	27	40	40	11	45	5	1

COUNTIES.	Number of cases.....	Final report filed within 1 year after letters of administration issued..	Ending 1 to 2 years.....	Ending 2 to 3 years.....	Ending 3 to 4 years.....	Ending 4 to 5 years.....	Ending 5 to 10 years....	Ending longer than 10 years.....	Number of cases with wills.....	Number of cases without wills.....	Number of bonds filed...	Number of bonds kept good.....	Number of bonds filed.....	Inventory in 60 days.....	Inventory after 60 days..	Inventory.....
Piley.....	56	3	35	7	3	5	3	0	32	24	34	34	34	48	8	0
Books.....	26	2	16	4	1	0	0	3	18	8	18	18	18	21	4	1
Rush.....	24	0	21	2	0	0	0	1	15	9	17	17	17	13	8	3
Russell.....	25	4	19	1	0	0	0	0	13	12	16	16	16	21	2	2
Saline.....	61	4	54	2	0	0	1	0	28	33	45	45	45	45	15	1
Scott.....	8	3	2	0	0	0	2	1	3	5	6	6	6	5	2	1
Sedgwick.....	168	24	97	16	16	7	5	1	120	48	74	73	73	63	103	2
Seward.....	13	2	7	1	2	0	0	1	3	10	11	11	11	9	3	1
Shawnee.....	105	12	68	14	2	4	3	2	53	52	77	37	28	57	45	3
Sheridan.....	12	0	10	1	1	0	0	0	4	8	8	8	8	11	1	0
Sherman.....	10	1	7	0	1	0	0	1	4	6	7	7	7	9	0	1
Smith.....	43	1	23	8	1	1	6	3	16	27	33	33	33	31	10	2
Stafford.....	31	8	17	6	0	0	0	0	14	17	19	1	2	25	5	1
Stanton.....	2	0	2	0	0	0	0	0	0	2	2	2	2	0	0	0
Stevens.....	5	0	5	0	0	0	0	0	3	2	3	3	3	4	1	0
Sunner.....	49	3	31	6	3	2	2	2	30	19	34	34	34	17	31	1
Thomas.....	24	2	14	4	2	0	1	1	9	15	19	19	19	20	3	1
Trego.....	10	0	8	1	0	0	1	0	5	5	7	7	7	9	1	0
Wabunsee.....	41	5	29	3	0	0	2	2	16	25	30	30	30	31	7	3
Wallace.....	1	0	1	0	0	0	0	0	0	1	1	1	1	1	0	0
Washington.....	36	8	21	4	3	0	0	0	17	19	30	30	30	30	5	1
Wichita.....	4	1	2	0	0	1	0	0	1	3	4	4	4	2	2	0
Wilson.....	26	1	19	2	1	0	1	2	16	10	21	21	21	25	1	0
Woodson.....	14	1	10	2	0	0	0	1	9	5	8	8	8	8	6	0
Wyandotte.....	183	35	101	27	7	2	2	9	74	109	143	143	143	122	51	10
Totals.....	3,549	420	2,168	416	158	108	167	112	1,877	1,672	2,346	2,201	1,203	2,414	914	221

\* No report. † Three foreign estates.

TABLE II.—CONTINUED. Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1936

COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator.	Attorney represented heirs or devisees.....	No attorney.....	Estates paid claims in full.....	Estates did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Allen.....	\$114,364.00	.....	5	12	0	3	12	3	\$380.00	\$312.00
Anderson.....	41,645.23	\$73,210.45	4	5	1	18	*	0	757.97	75.00
Atchison.....	277,147.57	261,767.60	4	27	27	32	55	4	9,629.15	4,699.15
Barber.....	105,535.00	10,400.00	0	12	0	3	13	2	1,275.00	2,850.00
Barton.....	1,526,741.09	.....	41	16	0	28	40	4	12,231.72	16,617.64
Bourbon.....	74,498.91	208,964.93	8	21	6	20	43	1	4,573.02	1,460.00
Brown.....	156,308.15	166,367.39	30	4	0	28	30	2	607.73	225.00
Butler.....	294,266.00	.....	24	38	0	0	37	1	3,618.00	4,300.00
Chase.....	177,850.42	10,649.85	3	1	1	11	12	0	477.13	550.00
Chautauqua.....	9,454.42	12,826.74	6	6	0	2	8	0	325.00	451.50
Cherokee*.....	115,115.05	.....	2	5	1	9	9	5	535.00	65.00
Cheyenne.....	137,674.52	2,648.35	0	5	0	0	3	2	884.82	1,150.00
Clark.....	245,494.67	16,870.00	7	14	0	25	38	1	3,288.60	1,199.37
Cloud.....	654,974.79	16,542.50	17	12	3	40	48	4	2,097.40	1,014.99
Coffey.....	94,899.86	801.00	4	33	1	8	39	2	2,370.13	1,917.72
Comanche.....	122,437.31	.....	4	4	0	0	4	0	650.00	1,750.00
Cowley.....	653,852.00	.....	44	41	23	2	37	7	5,598.00	5,570.00
Crawford.....	31,190.71	2,927.00	70	31	3	39	66	4	5,254.47	4,862.00
Decatur.....	133,102.00	41,000.00	2	14	3	2	15	1	2,585.00	1,560.00
Dickinson.....	633,715.29	.....	58	22	4	36	55	3	6,649.38	1,597.85
Doniphan.....	705,235.30	5,465.00	49	20	12	29	43	6	4,655.00	2,300.00
Douglas.....	603,413.81	.....	8	0	0	51	*	*	15,865.00	.....



COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator	Attorney represented heirs or devisees.....	No attorney.....	Estates paid claims in full.....	Estates did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Ellis.....	\$654,604.90	\$2,309.70	0	14	0	19	*	*	\$5,906.50	\$4,920.00
Ellsworth.....	240,340.00	.....	0	25	3	1	23	3	1,120.00	1,996.00
Finney.....	89,038.97	.....	0	11	0	0	11	0	407.52	505.78
Ford.....	332,041.62	.....	30	25	1	4	26	4	3,854.24	1,265.00
Franklin.....	555,191.38	118,422.30	4	23	0	37	55	5	8,020.85	3,735.00
Geary.....	541,161.66	.....	0	28	0	0	26	2	.....	.....
Gove.....	162,488.00	.....	3	4	0	5	8	1	2,150.00	100.00
Graham.....	14,620.00	8,000.00	0	0	0	4	4	0	56.50	.....
Grant*.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Gray.....	183,975.57	100.00	0	11	0	0	11	0	1,283.87	1,272.00
Greeley*.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Greenwood.....	431,249.30	11,786.58	60	9	5	38	46	3	5,955.16	1,451.05
Hamilton.....	38,298.73	409.00	0	9	0	12	6	15	2,353.79	589.09
Harper.....	418,132.76	.....	40	31	0	9	40	0	5,182.26	3,880.00
Harvey.....	641,086.00	105,074.00	1	23	7	17	34	6	4,437.09	3,982.08
Hastell.....	33,940.75	.....	2	2	0	0	2	0	120.00	200.00
Hodgeman.....	67,135.61	.....	1	9	0	0	9	0	1,013.19	1,114.04
Jackson.....	287,402.74	6,050.00	10	30	18	18	48	0	1,738.90	932.50
Jefferson.....	514,428.73	.....	37	20	6	17	35	2	3,220.61	1,920.00
Jewell.....	140,416.58	287,173.66	1	21	0	24	44	1	3,567.67	1,178.84
Johnson.....	876,097.00	.....	28	58	10	2	16	44	13,872.00	1,880.00
Kearny.....	12,389.03	.....	0	3	2	0	3	0	.....	50.00
Kirman.....	290,370.43	.....	28	17	1	11	28	0	3,956.76	1,900.00
Kiowa.....	181,760.39	125.00	6	14	1	1	11	4	1,444.50	1,180.00
Labette.....	172,411.25	.....	0	11	0	37	19	29	2,970.36	1,511.48

TABLE II.—CONTINUED. Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1936

COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator.	Attorney represented heirs or devisees.....	No attorney.....	Estates paid claims in full.....	Estates did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Lane.....	\$14,715.00	\$4,533.00	0	1	0	5	6	0	\$425.00	\$100.00
Leavenworth.....	190,008.03	.....	0	0	0	0	0	*	.....	.....
Lincoln.....	433,214.73	1,303.12	40	11	1	41	29	23	2,351.02	132.00
Linn.....	104,081.74	4,250.00	26	4	0	23	25	2	2,247.50	255.00
Logan.....	1,070.00	.....	0	1	0	0	1	0	.....	50.00
Lyon*.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Marion.....	517,081.32	.....	12	20	3	33	52	1	3,723.81	2,305.05
Marshall.....	825,445.00	49,373.00	21	32	2	40	67	5	3,816.00	1,460.00
McPherson.....	1,271,369.64	2,500.00	8	51	6	26	72	6	10,771.31	12,142.15
Meade.....	25,167.00	.....	1	6	1	0	4	2	357.00	66.00
Miami.....	827,824.72	79,391.13	13	11	2	34	45	2	6,349.45	1,034.75
Mitchell.....	357,030.55	.....	0	2	2	35	35	2	874.50	175.00
Montgomery.....	395,922.74	332,569.54	2	61	6	32	88	5	10,304.73	4,634.01
Morton.....	1,468.11	6,000.00	0	2	0	1	2	1	84.81	75.00
Morris.....	164,643.00	.....	0	19	4	14	29	5	1,614.09	485.00
Nemaha.....	188,289.92	201,799.83	17	26	6	23	47	2	2,567.65	1,355.25
Neosho.....	160,869.65	91,182.50	40	19	18	24	38	5	4,227.18	2,150.00
Ness.....	77,142.91	.....	23	9	0	14	18	5	1,235.00	570.00
Norton.....	100,192.51	.....	0	24	2	0	19	3	1,037.50	1,529.88
Osage.....	154,345.23	110,742.91	12	13	0	22	33	2	.....	.....
Osborne.....	293,091.56	20,660.00	3	13	0	45	52	6	2,547.59	845.28
Ottawa.....	307,687.01	.....	29	20	3	7	28	1	4,232.81	2,903.90
Pawnee.....	320,517.68	1,490.00	3	20	0	3	23	0	2,166.41	2,370.00
Phillips.....	293,369.13	650.00	2	23	0	11	31	3	1,438.47	1,486.00
Pottawatomie.....	359,063.32	.....	37	37	0	14	47	4	5,875.58	1,019.50

COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Corney represented executor or administrator.	Corney represented heirs or devisees.....	Attorney.....	States paid claims in full.....	States did not pay claims in full.....	Costs allowed for executors or administrators.....	Costs allowed for attorneys.....
Riley.....	\$755,830.87	\$6,787.00	21	15	8	41	56	0	\$4,876.93	\$1,042.07
Rooks.....	403,083.84	750.00	26	20	2	6	26	0	2,138.09	3,575.00
Rush.....	207,488.03	.....	0	4	1	20	22	2	2,884.75	4,425.00
Russell.....	225,083.36	215,531.00	3	18	5	7	24	1	218,282.57	1,815.00
Saline.....	674,315.00	10,500.00	61	43	4	18	58	3	5,300.00	9,850.00
Scott.....	45,920.54	7,700.00	3	8	8	0	8	0	1,500.00	170.00
Sedgwick.....	2,981,421.26	829,153.74	22	193	1	5	148	20	54,725.21	72,613.86
Seward.....	62,472.44	117.00	5	11	0	2	13	0	54,373.07	739.98
Shawnee.....	3,127,711.07	31,674.48	103	42	6	62	101	4	59,666.03	16,579.24
Sheridan.....	73,034.62	50,685.00	1	10	0	2	12	0	585.00	263.00
Sherman.....	74,089.14	300.00	0	10	0	0	8	2	772.45	750.00
Smith.....	68,064.08	289,120.00	0	4	0	39	42	1	265.50	40.00
Stafford.....	209,025.00	.....	3	19	1	11	28	3	2,315.00	4,770.00
Stanton.....	3,742.67	.....	0	2	0	1	1	1	200.00	100.00
Stevens.....	29,995.90	.....	5	2	1	3	4	1	190.00	359.03
Sumner.....	677,113.83	.....	3	56	0	0	49	4	5,375.00	4,775.00
Thomas.....	444,201.08	.....	21	21	0	3	21	3	440.00	1,115.00
Trego.....	183,000.00	.....	0	3	1	7	9	1	450.00	500.00
Wabausee.....	214,882.58	5,540.00	4	2	1	39	41	0	737.55	.....
Wallace.....	13,100.00	.....	0	1	0	0	0	1	.....	.....
Washington.....	238,705.46	119,027.00	2	15	0	21	36	0	2,126.59	768.52
Wichita.....	1,050.00	.....	1	2	0	0	4	0	2,150.00	270.00
Wilson.....	182,911.39	.....	5	7	0	0	26	0	2,275.16	645.00
Woodson.....	66,438.57	71,797.00	14	7	0	17	14	0	408.00	115.00
Wyandotte.....	816,915.00	.....	20	110	0	73	183	0	10,116.00	10,802.00
Totals.....	\$36,809,187.34	\$4,474,021.30	1,328	1,860	228	1,496	2,986	327	\$374,594.50	\$171,273.01
								*236		

\* No report. † Three foreign estates.

TABLE III.—Summary, probate courts. Estates of deceased persons pending July 1, 1936

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Over 10 years.	Was there a will?		Number that gave bond.	Has bond been kept good.	No bond.
									Yes.	No.			
Allen.....	141	46	22	17	15	11	22	8	78	63	103	84	38
Anderson.....	142	45	25	16	7	8	30	11	60	82	76	51	66
Atchison.....	96	66	30	0	0	0	0	0	58	38	47	47	49
Barber.....	27	27	0	0	0	0	0	0	17	10	14	14	13
Barton.....	157	52	27	11	14	11	26	16	99	58	96	93	61
Bourbon.....	39	39	0	0	0	0	0	0	26	13	25	25	14
Brown.....	115	68	41	6	0	0	0	0	40	55	70	69	45
Butler.....	109	54	16	8	9	7	11	4	54	55	69	67	40
Chase.....	23	9	5	4	1	2	2	0	15	8	16	13	7
Chautauqua.....	48	27	13	8	1	0	0	0	15	33	36	36	12
Cherokee.....	123	63	30	13	6	5	6	0	56	67	74	72	49
Cheyenne.....	25	10	6	3	1	0	5	0	10	15	16	16	9
Clark.....	23	9	4	2	0	0	7	1	13	10	15	15	8
Clay.....	85	51	14	7	5	4	4	0	42	43	60	60	25
Cloud.....	175	55	25	17	4	12	37	25	114	61	113	113	62
Coffey.....	66	26	11	3	3	6	11	6	29	37	41	41	25
Comanche.....	23	18	5	0	0	0	0	0	15	8	12	12	11
Cowley.....	44	28	9	4	2	1	0	0	30	14	26	26	18
Crawford.....	232	91	35	12	16	14	39	25	115	117	167	167	65
Decatur.....													
Dickinson.....	133	62	29	12	9	8	11	2	100	33	83	82	50
Doniphan.....	110	45	21	15	10	8	10	1	63	47	67	67	43
Douglas.....	175	22	21	13	8	11	26	74	116	59	82	82	93
Edwards.....	35	18	8	3	1	3	0	2	24	11	26	26	9
Elk.....	56	29	7	2	5	2	5	6	25	30	30	30	26
Ellis.....	42	0	42	0	0	0	0	0	17	25	9	3	33
Ellsworth.....	59	32	11	12	2	1	1	0	41	18	32	32	27
Finney.....	50	29	17	12	4	3	1	0					

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Over 10 years.	Was there a will?		Number that have given bond.	Has bond been kept good.	No. bond.
									Yes.	No.			
Geary.....	33	33	0	0	0	0	0	0	14	19	16	16	17
Gove.....	32	16	6	1	2	0	6	0	8	24	28	28	4
Graham.....	27	13	0	3	0	0	1	0	17	16	16	16	11
Grant.....	4	4	0	0	0	0	0	0	1	3	3	3	3
Gray.....	33	16	7	4	1	1	0	1	15	18	22	22	11
Greeley.....	9	3	3	2	0	0	1	0	5	4	2	2	7
Greenwood.....	153	48	17	16	9	9	24	23	73	80	113	113	40
Hamilton.....	51	12	4	2	3	3	16	15	27	27	28	23	23
Harper.....	31	19	7	2	0	0	8	10	26	22	30	30	21
Harvey.....	225	84	27	16	18	36	36	18	127	98	147	139	78
Haskell.....	12	6	4	2	0	0	0	0	5	7	8	8	4
Hodgeman.....	23	13	4	1	0	0	3	0	8	15	22	21	1
Hodgson.....	58	58	0	0	0	0	0	0	27	31	43	43	15
Jackson.....	27	27	14	12	5	12	18	9	49	48	68	64	29
Jefferson.....	97	37	15	5	5	19	19	13	57	44	79	78	22
Jewell.....	101												
Johnson.....	96	86	5	2	3	0	0	0	49	47	62	62	34
Kearny.....	14	8	3	1	1	1	0	0	9	5	9	9	5
Kingman.....	62	44	9	3	3	3	0	0	35	27	29	29	33
Kiowa.....	29	12	10	2	3	3	0	0	8	21	24	24	5
Labette.....	117	54	14	5	2	9	27	0	2	115	108	108	5
Lane.....	18	8	3	2	2	1	2	0	13	5	11	11	7
Leavenworth.....													
Lincoln.....	100	33	24	6	9	9	9	10	48	52	71	71	29
Linn.....	86	32	13	12	6	6	8	9	52	34	62	62	24
Logan.....	9	8	1	0	0	0	0	0	5	4	3	3	6
Lyons.....													
Marion.....	144	52	24	18	13	16	16	5	76	71	110	110	34
Marshall.....	203	96	26	13	11	12	38	7	126	77	120	119	83
McPherson.....	195	59	30	21	12	11	32	30	111	84	134	133	17
Meade.....	37	9	9	6	1	5	6	1	26	11	20	20	17

TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1936

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Over 10 years.	Was there a will?		Number that gave bond.	Has bond been kept good.	No bond.
									Yes.	No.			
Miami.	104	57	23	14	10	0	0	0	39	65	68	67	36
Mitchell.	12	7	2	3	0	0	0	0	7	5	8	8	4
Montgomery.	65	41	13	6	2	2	0	0	32	33	46	46	19
Morris.	139	63	22	5	15	8	23	3	84	55	83	83	56
Nemaha.	92	52	15	7	9	3	5	1	51	41	67	63	25
Neosho.	52	18	11	7	5	3	2	6	21	31	45	45	7
Ness.	59	21	16	11	6	1	3	1	31	28	43	43	16
Norton.	121	51	25	10	11	6	14	4	82	39	80	79	41
Osage.	71	37	18	8	4	0	3	1	23	48	56	55	15
Osborne.	59	25	8	6	6	5	6	3	26	33	53	50	6
Ottawa.	23	15	6	2	0	0	0	0	16	7	7	7	16
Pawnee.	96	57	27	9	3	0	0	0	37	59	74	74	22
Phillips.	42	42	0	0	0	0	0	0	17	25	28	28	14
Pottawatomie.	79	28	16	5	7	6	17	0	53	26	38	37	41
Pratt.	85	35	14	8	5	4	19	0	17	68	40	2	45
Rawlins.	222	76	24	14	19	9	47	33	107	115	138	87	84
Reno.	59	59	0	0	0	0	0	0	28	31	42	42	17
Republic.	88	30	19	11	10	5	13	0	53	35	46	45	42
Rice.	160	52	36	13	18	9	28	4	77	83	122	122	38
Riley.	100	30	17	16	8	6	16	7	56	44	59	59	41
Rooks.	76	4	9	4	6	6	5	42	20	56	54	39	22
Rush.	85	34	19	8	7	9	8	0	47	38	63	63	22
Russell.	147	97	38	4	2	3	3	0	70	77	93	53	54
Saline.	21	7	6	1	1	2	4	0	7	14	18	18	3
Scott.	21	7	6	1	1	2	4	0	7	14	18	18	3

TABLE III.—CONCLUDED. Summary, probate courts. Estates of deceased persons pending July 1, 1936

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Was there a will?		Number that gave bond.	Has bond been kept good.	No bond.
								Yes.	No.			
Sherman.....	21	20	1	0	0	0	0	5	16	16	16	5
Smith.....	38	29	6	3	0	0	0	10	28	33	33	5
Stafford.....	50	27	13	8	0	0	2	31	19	21	4	29
Stanton.....	5	3	2	0	0	0	0	2	3	4	4	1
Stevens.....	25	6	2	3	7	3	4	7	18	22	22	3
Sumner.....	214	81	35	23	18	18	33	129	85	136	136	78
Thomas.....	58	28	12	5	4	5	3	20	38	49	49	9
Trego.....	49	12	9	3	2	4	17	17	32	39	14	10
Wabunsee.....	142	49	25	18	7	7	22	76	66	101	95	41
Wallace.....	9	5	4	0	0	0	0	3	6	7	7	2
Washington.....	44	28	6	2	0	0	5	27	17	32	32	12
Wichita.....	8	6	1	0	0	1	0	2	6	7	7	1
Wilson.....	47	34	9	2	1	1	0	27	20	36	36	11
Woodson.....	47	29	9	2	2	2	1	26	21	30	29	17
Wyandotte.....	523	242	103	50	47	39	42	261	262	392	392	131
Totals.....	8,764	4,049	1,475	748	547	473	964	4,563	4,201	5,819	5,276	2,945

† Not reported.

TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1936

COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Estimated value of estates not appraised.	Number first annual reports.	None filed.	Did attorney represent:		No attorney.
								Executor or admin.?	Heirs or devisees?	
Allen.....	58	59	24	\$1,103,015.00	\$84,113.00	46	95	69	3	72
Anderson.....	58	13	71	210,074.31	391,962.64	8	134	7	4	135
Atchison.....	53	9	34	251,102.13	420,165.00	1	95	15	19	75
Barber.....	9	5	13	141,839.02	36,675.00	0	27	25	2	2
Barton.....	105	17	35	3,404,282.35	.....	27	130	38	5	116
Bourbon.....	26	2	11	86,391.98	98,876.50	0	39	21	11	15
Brown.....	50	14	51	508,733.17	144,402.72	8	107	3	2	111
Butler.....	36	25	48	1,639,698.00	607,120.00	9	100	109	0	0
Chase.....	14	2	7	495,171.12	93,998.40	8	15	7	2	15
Chautauqua.....	18	12	18	74,755.34	25,619.00	4	44	38	2	10
Cherokee.....	86	16	21	488,259.25	50.00	1	122	5	0	118
Cheyenne.....	11	4	10	142,406.46	625.00	5	20	14	0	9
Clark.....	8	7	8	137,573.28	546.15	2	21	20	0	3
Clay.....	71	10	4	732,812.68	17,210.55	16	69	30	1	53
Cloud.....	131	37	7	2,307,028.11	306,841.99	60	115	25	5	148
Coffey.....	57	5	4	140,256.73	.....	12	54	35	0	31
Comanche.....	16	2	5	223,314.15	23,250.00	2	21	20	0	3
Cowley.....	16	28	0	1,279,098.00	53,500.00	9	35	36	24	8
Crawford.....	175	31	26	984,882.57	64,200.00	46	186	122	15	109
Decatur.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dickinson.....	92	32	9	507,999.30	577,080.92	64	69	39	13	94
Doniphan.....	104	6	0	1,411,273.33	6,450.00	58	52	56	31	54
Douglas.....	101	46	28	1,170,968.30	.....	0	175	0	0	0
Edwards.....	27	7	1	211,162.16	460,798.00	6	26	35	18	0
Elk.....	51	3	2	653,851.43	11,030.50	9	50	30	2	26
Ellis.....	23	8	11	584,336.35	.....	24	18	18	2	24



COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Estimated value of estates not appraised.	Number first annual reports.	None filed.	Did attorney represent:		No attorney.
								Executor or admin.?	Heirs or devisees:	
Geary.....	19	7	7	\$300,754.62	.....	0	33	33	0	0
Gove.....	19	12	1	68,101.53	\$232,850.00	8	24	11	3	20
Graham.....	19	1	7	158,563.95	7,700.00	3	24	7	0	20
Grant.....	4	0	0	41,046.64	.....	0	4	4	0	0
Gray.....	16	13	4	418,156.61	.....	4	29	32	1	1
Greeley.....	2	2	5	9,324.60	7,800.00	2	7	7	1	2
Greenwood.....	69	60	24	1,911,974.98	14,275.02	30	123	41	9	111
Hamilton.....	26	9	16	70,513.50	129,392.00	9	42	4	0	47
Harper.....	42	9	0	928,975.66	.....	18	33	43	0	9
Harvey.....	107	50	68	2,404,355.00	458,450.00	51	174	125	8	99
Haskell.....	5	5	2	49,603.65	39,070.00	1	11	8	0	4
Hodgeman.....	13	4	6	177,314.17	.....	1	22	23	0	0
Jackson.....	42	14	2	414,720.83	.....	0	58	58	58	0
Jefferson.....	69	24	4	1,197,026.06	.....	61	36	51	16	46
Jewell.....	66	27	8	472,178.67	607,098.25	35	66	36	4	65
Johnson.....	60	17	19	1,380,768.00	.....	7	89	56	3	40
Kearny.....	9	2	3	181,574.59	.....	2	12	12	1	2
Kingman.....	40	18	4	697,704.84	.....	9	53	44	0	18
Kiowa.....	26	2	1	499,866.07	.....	11	18	28	0	1
Labette.....	39	21	57	183,811.67	.....	0	117	43	0	74
Lane.....	12	3	3	87,895.96	144,755.00	6	12	2	1	16
Leavenworth.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lincoln.....	79	17	4	1,558,360.76	1,400.00	39	61	22	4	78
Linn.....	76	6	4	692,240.20	62,710.00	39	47	26	10	60
Logan.....	5	2	2	28,725.00	.....	1	8	9	0	0
Lyont.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Marion.....	99	31	14	1,990,622.39	.....	63	81	50	9	94
Marshall.....	172	22	9	3,354,431.53	16,017.00	45	158	80	0	123
McPherson.....	140	38	17	3,587,412.65	82,900.00	25	170	137	15	58
Meade.....	26	8	3	1,038,029.65	.....	15	22	32	6	31

TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1936

COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Estimated value of estates not appraised.	Number first annual reports.	None filed.	Did attorney represent:		No attorney.
								Executor or admin.?	Heirs or devisees?	
Miami.	72	17	15	\$883,658.83	\$15,450.00	4	100	6	5	98
Mitchell.										
Montgomery.	8	3	1	79,051.97	50.00	1	11	8	1	3
Morton.	51	9	5	577,509.00		3	62	42	4	21
Morris.										
Nemaha.	112	19	8	2,421,669.00	75,803.00	49	90	79	17	60
Neosho.	58	21	13	607,275.95	241,247.95	33	59	37	33	53
Ness.	46	2	4	329,690.00	4,550.00	7	45	17	0	35
Norton.	44	8	7	460,497.97	33,348.30	2	57	59	0	0
Osage.	94	19	8	473,158.06	439,873.75	49	72	49	5	71
Osborne.	62	8	1	355,897.62		3	68	4	0	67
Ottawa.	50	7	2	567,012.62		30	29	25	1	34
Pawnee.	15	5	3	302,029.91		1	22	20	0	3
Phillips.	79	7	10	461,571.35		12	84	82	1	95
Pottawatomie.	37	4	1	345,172.19	800.00	1	41	33	0	9
Pratt.										
Rawlins.	17	29	33	1,498,957.98	8,000.00	9	70	79	5	0
Reno.	33	8	44	117,491.46	201,645.00	6	79	34	0	51
Reno.	102	66	54	2,213,349.29	1,500.00	29	193	211	0	11
Republic.	44	6	9	442,196.59		0	59	13	5	45
Rice.	25	13	50	278,968.00	23,700.00	2	86	16	3	72
Riley.										
Rooks.	112	30	18	845,612.04	5,808.00	76	84	19	4	141
Rooks.	75	17	8	1,071,206.53	7,690.00	43	57	68	0	32
Rush.	40	12	24	481,110.13		15	61	1	1	75
Russell.	53	22	10	891,582.22	840,832.37	10	75	73	27	12
Saline.	100	34	13	2,257,893.00	12,000.00	33	114	93	17	54
Scott.										
Scott.	18	1	2	81,313.00	80,140.00	14	7	18	18	3
Scott.	148	65	87	1,992,559.39	536,338.20	6	294	275	0	25

TABLE III.—CONCLUDED. Summary, probate courts. Estates of deceased persons pending July 1, 1936

COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Estimated value of estates not appraised.	Number first annual reports.	None filed.	Did attorney represent:			No attorney.
								Executor or admin.?	Heirs or devisees?		
Sherman.....	15	2	4	\$98,528.42	\$5,400.00	0	21	21	0	0	0
Smith.....	20	16	2	113,007.54	133,250.00	14	24	0	0	0	38
Stafford.....	37	12	1	943,530.00	.....	17	33	29	0	0	21
Stanton.....	5	0	0	12,657.20	30,575.00	0	5	5	5	0	0
Stevens.....	17	5	3	31,905.00	69,546.20	8	17	1	1	1	24
Sumner.....	84	76	54	1,799,873.15	802,768.76	52	162	108	1	1	28
Thomas.....	55	2	1	513,715.82	7,600.00	21	37	47	2	2	11
Trego.....	42	4	3	38,300.00	.....	16	33	6	3	3	43
Wabunsee.....	105	17	20	1,920,430.96	61,730.00	29	113	8	5	5	134
Wallace.....	6	0	3	16,093.00	7,200.00	0	9	8	0	0	1
Washington.....	38	6	0	391,294.74	99,070.00	10	34	8	0	0	36
Wichita.....	4	0	4	13,650.00	.....	0	8	8	1	1	0
Wilson.....	44	2	1	1,035,732.27	27,800.00	6	41	20	5	5	27
Woodson.....	25	14	8	94,289.40	169,598.00	5	42	29	0	0	18
Wyandotte.....	285	144	94	2,795,971.00	.....	41	482	342	0	0	181
Totals.....	5,338	1,889	1,537	\$80,816,817.77	\$9,491,608.24	1,792	6,972	4,120	489		4,010

† Not reported.

TABLE IV.—Guardianship estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1936

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane, or other incompetent person?			Was guardian appointed for person of the ward?		Value of guardianship estates.
									Minor.	Insane.	Incompet.	Yes.	No.	
Allen.....	7	0	4	0	0	0	2	1	3	1	3	6	1	\$31,471.00
Anderson.....	2	0	1	0	0	0	1	0	2	0	0	2	0	565.00
Atchison.....	5	2	0	0	1	2	0	0	5	0	0	5	0	5,634.55
Barber*.....	8	0	0	2	0	0	3	3	6	2	0	3	5	18,509.63
Barton.....	9	0	1	0	0	2	4	2	6	3	0	1	8	16,320.25
Brown.....	1	0	1	0	0	0	0	0	0	0	1	1	0	10,500.00
Butler*.....	7	6	1	0	0	0	0	0	6	0	1	0	7	10,144.00
Chase.....	2	0	2	0	0	0	0	0	6	2	0	0	2	.....
Chautauqua.....														
Cherokee*.....	1	0	1	0	0	0	0	0	1	0	0	0	1	2,774.43
Cheyenne.....	1	0	0	0	0	0	1	0	1	0	0	0	1	1,500.00
Clark.....	1	0	0	0	0	0	0	1	1	0	0	1	0	1,200.00
Clay.....	10	0	2	2	1	0	1	4	8	1	1	10	0	39,452.95
Cloud.....														
Coffey.....	3	1	0	0	0	0	2	0	2	1	0	3	0	15,756.61
Comanche*.....														
Cowley*.....	16	2	2	0	1	0	7	4	11	4	1	10	6	31,190.71
Crawford.....														
Decatur*.....														
Dickinson.....	18	2	2	1	1	0	3	9	13	0	5	13	5	158,925.17
Doniphan.....	7	1	1	2	0	0	3	0	4	3	0	5	2	6,100.00
Douglas.....	14	3	3	0	1	1	3	3	9	5	0	8	6	4,586.75
Edwards*.....														
Elk.....	3	1	0	0	0	0	0	2	2	0	1	3	0	4,203.00
Ellis.....	2	1	0	0	1	0	0	0	2	0	0	2	0	859.84

[illegible]

TABLE IV.—CONTINUED. Guardianship estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1936

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane, or other incompetent person?			Was guardian appointed for person of the ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Miami.....	11	0	3	1	0	0	5	2	10	1	0	7	4	\$38,397.46
Mitchell.....	3	1	0	0	1	0	1	0	2	0	1	2	1	6,906.35
Montgomery*.....														
Morris*.....														
Morton*.....														
Nemaha*.....														
Neosho*.....	5	2	1	0	1	0	0	1	3	0	2	5	0	9,557.00
Ness.....	3	1	1	0	0	0	0	1	0	0	3	2	1	1,431.85
Norton.....	5	2	1	1	0	0	1	0	1	4	0	5	0	7,731.72
Osage.....														
Osborne.....	6	1	0	0	0	0	0	5	5	1	0	6	0	3,298.69
Ottawa.....	8	0	0	0	0	1	3	4	8	0	0	8	0	20,970.00
Pawnee.....	3	0	0	1	1	0	0	1	2	0	1	2	1	2,706.00
Phillips.....	2	0	0	0	0	0	0	0	0	0	2	0	2	2,334.41
Pottawatomie.....	8	0	1	1	2	1	3	0	5	3	0	8	0	4,032.52
Pratt.....	3	0	0	0	0	0	3	0	3	0	0	3	0	250.00
Rawlins.....	4	2	0	0	1	0	1	0	3	1	0	2	2	37,265.00
Reno.....	6	1	2	1	1	0	1	0	3	3	0	6	0	18,250.00
Republic*.....														
Rice.....	5	0	1	0	0	0	2	2	5	0	0	5	0	29,484.00
Riley.....														
Rooks.....	6	0	1	1	2	0	1	1	5	1	0	5	1	13,892.27
Rush*.....	8	1	0	0	2	0	4	1	6	0	2	7	1	13,105.00
Russell.....	6	1	1	0	1	0	1	2	6	0	0	6	0	14,000.00
Saline.....	11	4	2	0	0	0	2	3	5	2	4	11	0	55,820.00
Scott*.....														
Sedgwick.....	45	9	11	4	1	3	8	9	27	7	11	8	37	159,925.90

TABLE IV.—CONCLUDED. Guardianship estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1936

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane, or other incompetent person?			Was guardian appointed for person of the ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Sherman.....	1	0	0	1	0	0	0	0	0	1	0	1	0	\$300.00
Smith*.....														
Stafford*.....														
Stanton*.....														
Stevens*.....														
Sumner.....	10	0	2	0	3	0	1	4	5	0	5	10	0	93,206.82
Thomas*.....														
Trego*.....														
Wabunsee.....	8	1	0	4	0	1	1	1	6	0	2	0	8	26,615.92
Wallace*.....														
Washington.....	5	0	1	0	0	0	3	1	4	1	0	2	3	16,299.48
Wichita*.....	3	0	0	0	0	1	1	1	3	0	0	2	1	4,500.00
Wilson.....														
Woodson*.....	62	7	19	6	4	3	10	13	48	9	5	61	1	76,699.00
Wyandotte.....														
Totals.....	524	75	76	47	37	26	126	137	366	89	69	358	166	\$3,826,305.96

\* No cases closed.

TABLE IV.—CONTINUED. Guardianship estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1936

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?			
Allen.....	7	7	0	3	1	3	26	2	6	0	\$185.00	\$97.00	6
Anderson.....	2	2	0	0	1	2	2	0	0	0	42.25		1
Atchison.....	5	5	0	1	0	4	3	3	4	4		112.50	0
Barber*.....													
Barton.....	8	8	0	2	0	6	49	7	2	0	620.00	87.75	8
Bourbon.....	8	8	1	1	1	7	20	9	2	0			9
Brown.....	1	1	0	0	0	1	2	0	0	0	40.00		1
Budler*.....													
Chase.....	7	7	0	0	3	4	10	6	2	1		45.00	6
Chautauqua.....	0	0	2	0	0	2	0	0	0	0			0
Cherokee*.....													
Cheyenne.....	1	1	0	0	1	0	9	1	0	0	100.00	50.00	1
Clark.....	1	1	0	1	0	0	7	1	1	0		75.00	1
Clay.....	1	1	0	0	0	1	13	1	0	0	125.00		1
Cloud.....	10	10	0	6	4	0	55	10	3	0	760.00	38.65	10
Coffey.....	3	3	0	1	1	1	17	3	0	0	107.00	10.00	3
Comanche*.....													
Cowley.....													
Crawford.....	16	16	0	1	0	15	5	16	4	0	413.00	162.50	16
Decatur*.....													
Dickinson.....	18	18	0	5	7	6	96	16	10	2	1,184.26	114.60	0
Doniphan.....	7	7	0	2	0	5	23	7	1	1	1,215.00		0
Douglas.....	11	11	3	6	5	3	38	0	0	0			0



COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guard-ian?	Ward?			
Ellis.....	2	2	0	0	0	2	2	2	0	2	\$150.00	\$75.00	2
Ellsworth.....	3	3	1	2	0	2	10	0	3	0			4
Finney.....	1	0	0	0	0	1	0	0	0	0			1
Ford.....	7	7	0	0	2	5	21	7	0	0	165.62		7
Franklin.....	12	12	0	8	4	0	34	12	0	0	690.00		12
Geary.....	2	2	0	1	0	1	18	2	2	0	610.00		2
Gove*.....													
Graham.....	1	1	0	0	0	1	6	1	0	0			1
Grant*.....													
Gray.....	1	1	0	1	0	0	3	1	1	0			0
Greeley*.....													
Greenwood.....	11	11	0	1	0	10	13	5	2	1		50.00	9
Hamilton.....	1	0	0	0	0	1	0	0	0	0			0
Harper.....	6	6	0	3	2	1	20	6	1	0	320.00	25.00	0
Harvey.....	4	3	0	1	0	3	11	0	2	1			1
Haskell*.....													
Hodgeman*.....													
Jackson.....	0	0	3	0	0	3	0	0	0	3			0
Jefferson*.....													
Jewell.....	2	2	0	0	0	2	5	2	1	1	75.00	310.00	2
Johnson.....	10	10	0	4	2	4	38	10	1	0	1,085.00	2,565.00	8
Kearny*.....													
Kingman.....	6	6	0	3	1	2	27	6	5	0	40.50	38.00	6
Kiowa.....	1	1	0	0	1	0	3	1	1	0		50.00	1
Labette.....	17	17	1	1	0	17	56	1	1	0	284.00	134.50	18

TABLE IV.—CONTINUED. Guardianship estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1936

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where invest-ment of ward's funds super-vised by court.	Did attorney represent		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guard-ian?	Ward?			
Lane.....	1	0	0	0	1	0	2	0	0	0			0
Leavenworth.....	4	4	17	0	0	21	20	21	3	0			21
Lincoln.....	1	1	0	1	0	0	1	1	1	1		\$5.00	1
Linn.....	6	6	1	2	1	4	41	4	2	1	\$183.00	25.00	7
Logan*.....													
Lyon*.....													
Marion.....	8	8	0	2	0	6	62	8	1	0	193.08	50.00	8
Marshall.....	7	7	0	0	0	7	20	4	3	1	205.00	150.00	7
McPherson.....	9	9	0	2	3	4	29	8	5	0	390.00	9,713.00	9
Meade*.....													
Miami.....	11	11	0	3	0	8	48	10	1	0	1,350.00	48.65	10
Mitchell.....	3	3	0	1	0	2	6	3	0	0	10.00		3
Montgomery*.....													
Morris*.....													
Morton*.....													
Nemaha*.....													
Neosho*.....	5	3	0	2	3	0	12	5	2	1	12.50		5
Ness.....	3	3	0	2	0	1	6	3	3	0	20.51		3
Norton.....	4	4	1	2	0	3	6	5	3	3	143.50	30.00	5
Osage.....													
Osborne.....	6	6	0	1	0	5	8	5	3	3	100.00	25.00	5
Ottawa.....	8	8	0	0	1	7	34	0	2	0		25.00	8
Paynee.....	3	3	0	1	0	2	19	3	1	1		75.00	3
Phillips.....	2	2	0	0	0	2	3	1	2	0			2

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	cases where investment of ward's funds supervised by court.	attorney represent—		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guard-ian?	Ward?			
Riley.....	5	5	1	2	3	1	14	5	1	2	\$155.20	\$25.00	5
Rooks.....	8	8	0	4	4	0	18	8	3	2	640.00	218.00	8
Rush*.....	6	6	0	1	1	4	31	6	2	0	10.00	40.00	6
Russell.....	11	11	0	6	4	1	77	10	9	3	1,800.00	1,360.00	9
Saline.....													
Scott*.....	43	43	2	8	15	22	113	45	41	42	2,392.49	595.00	45
Sedgwick.....	2	2	0	1	0	1	7	2	1	1	25.00		2
Seward.....	23	23	0	6	16	1	127	23	8	1	1,692.56	245.50	22
Shawnee.....	1	1	0	1	0	0	0	1	0	0	15.00		1
Sheridan.....													
Sherman.....	1	1	0	0	0	1	0	1	1	1		15.00	1
Smith*.....													
Stafford*.....													
Stanton*.....													
Stevens*.....													
Sumner.....	10	10	0	1	1	8	17	10	9	0	608.00	500.00	10
Thomas*.....													
Trego*.....	8	8	0	6	2	0	19	8	0	0	50.00		8
Wabunsee.....													
Wallace*.....													
Washington.....	5	5	0	2	1	2	12	5	1	0	50.00	200.00	5
Wichita*.....	3	3	0	0	0	3	8	3	1	0	65.00		3
Wilson.....													
Woodson*.....	62	62	0	18	15	29	186	0	36	0	1,135.00	920.00	0
Wyandotte.....													
Totals.....	489	485	35	137	107	280	1,453	349	214	82	\$20,280.34	\$18,926.87	391

\* No cases closed.

TABLE V—Guardianship estates of minors, insane and incompetent persons pending July 1, 1936

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?	Value of guardianship estates.
									Minor.	Insane.	Incompt.		
Allen.....	73	11	10	14	8	4	19	7	60	5	8	66	\$97,057.00
Anderson.....	34	6	7	4	2	2	10	3	23	8	3	31	78,760.45
Archibson.....	21	14	7	0	0	0	0	0	8	4	9	21	41,500.00
Barber.....	8	4	1	0	0	0	2	1	7	1	0	6	2,130.00
Barton.....	107	11	9	12	7	10	39	19	98	7	2	59	228,434.30
Bourbon.....	12	7	2	1	0	0	2	0	8	1	3	3	17,296.40
Brown.....	9	9	9	0	0	0	0	0	9	0	0	3	2,950.00
Butler.....	37	31	6	0	0	0	0	0	26	5	6	37	33,272.00
Chase.....	31	5	6	6	1	2	5	6	27	2	2	5	74,417.00
Chautauqua.....	43	14	12	17	0	0	0	0	10	20	13	43	4,040.00
Cherokee.....	150	24	19	10	6	7	38	46	105	30	15	116	17,475.00
Cheyenne.....	11	1	8	1	0	1	1	5	9	2	0	0	18,688.51
Clark.....	31	3	1	6	2	2	12	5	25	1	5	16	59,976.43
Clay.....	72	15	3	6	4	1	19	24	49	18	5	72	203,808.37
Cloud.....	118	8	10	11	7	5	42	35	82	19	*3/14	115	228,931.36
Coffee.....	63	8	6	6	2	1	16	24	44	12	7	63	99,385.51
Comanche.....	11	2	0	2	1	6	0	0	7	2	2	11	34,997.82
Cowley.....	27	9	5	6	0	0	5	5	17	4	6	27	163,105.00
Crawford.....	124	20	13	9	6	7	39	30	93	22	9	98	172,075.58
Decatur.....	40	8	7	2	1	1	11	10	28	6	6	40	80,950.00
Dickinson.....	198	10	15	15	15	11	71	60	148	25	25	91	821,757.03
Doniphan.....	49	11	6	7	3	1	15	6	26	20	3	34	54,625.00
Douglas.....	164	11	14	6	17	8	50	58	128	31	5	160	157,393.96
Edwards.....	13	0	0	0	0	0	9	4	10	3	0	11	33,846.50
Elk.....	22	8	2	1	3	0	5	3	18	4	0	18	25,343.76
Ellis.....	22	21	0	0	0	0	1	0	15	0	7	22	11,043.00
Ellsworth.....	37	5	9	4	2	2	11	4	29	0	8	0	44,906.55
Finev.....	14	3	9	4	0	0	0	0	15	0	0	0	0

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompet.	Yes.	No.	
Geary.....	19	4	8	3	0	0	3	1	19	0	0	19	0	\$18,852.00
Gove.....	3	0	0	0	0	0	1	2	0	2	1	0	3	5,260.00
Graham.....	25	11	5	2	1	1	5	0	12	6	7	25	0	74,304.91
Gray.....	2	0	1	0	0	0	1	0	2	0	0	0	2	5,200.00
Greeley.....	217	15	10	4	5	6	60	117	186	24	7	189	28	196,021.20
Greenwood.....	9	1	3	0	0	0	4	1	9	0	0	9	0	10,402.00
Hamilton.....	46	7	4	3	1	6	10	15	33	10	3	27	19	95,805.04
Harper.....	171	11	16	12	9	15	74	34	120	34	17	30	141	355,592.53
Harvey.....	14	2	2	1	2	2	4	4	9	4	1	13	1	39,033.02
Haskell.....	23	17	1	0	1	1	17	1	17	6	0	23	0	23,565.50
Hodgeman.....	17	9	0	0	0	0	0	0	8	6	3	13	4	53,368.52
Jackson.....	70	9	11	5	4	1	20	20	46	20	4	67	3	150,044.85
Jefferson.....	71	9	5	11	5	2	26	13	48	17	6	71	0	100,901.95
Jewell.....	50	20	14	2	2	1	7	4	40	8	2	38	12	1,101,437.00
Johnson.....	6	0	2	1	0	0	2	1	4	2	0	6	0	1,425.00
Kearny.....	29	9	3	6	9	0	1	1	24	5	0	29	0	29,105.41
Kingman.....	14	4	1	1	0	1	5	2	14	0	0	14	0	37,764.04
Kiowa.....	220	0	30	30	21	29	110	0	154	44	22	0	0	69,864.63
Labette.....	3	0	1	0	0	1	0	1	2	1	0	1	2	3,339.50
Lane.....	68	4	12	6	5	3	21	17	46	18	4	36	32	233,295.12
Leavenworth.....	41	9	5	2	1	3	16	5	23	11	7	39	2	96,378.69
Lincoln.....	2	2	0	0	0	0	c	0	2	0	0	2	0	725.00
Linn.....														
Logan.....														
Lyon.....														
Marion.....	163	24	16	7	9	9	58	40	141	9	13	156	7	195,239.58
Marshall.....	137	10	13	7	11	6	50	40	98	27	12	28	109	222,090.55
McPherson.....	120	9	11	8	5	6	46	35	96	18	6	115	5	442,845.52
Meade.....	20	3	1	2	0	3	8	3	14	4	2	9	11	42,086.38

TABLE V—CONTINUED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1936

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Miami.....	37	8	8	13	7	1	0	0	27	5	5	36	1	\$82,389.68
Mitchell.....	345	0	0	0	12	18	106	209	304	32	3	156	189	33,750.84
Montgomery.....	56	6	10	4	5	5	9	17	42	3	3	50	6	27,083.00
Morris.....	6	1	2	1	0	2	0	0	5	0	1	4	2	16,498.63
Morton.....														
Nemaha.....														
Neosho.....	36	8	9	1	1	1	14	2	30	2	3	34	2	29,413.50
Ness.....	52	16	10	3	2	2	8	8	44	3	3	27	15	53,736.26
Norton.....	54	9	8	10	4	4	17	2	34	13	7	54	0	121,321.68
Osage.....														
Osborne.....	46	8	3	3	6	1	14	11	25	18	2	42	4	48,325.00
Ottawa.....	36	4	5	5	1	2	12	7	25	6	3	34	2	56,906.38
Pawnee.....	13	0	1	0	0	3	5	4	11	0	2	13	0	47,286.70
Phillips.....	19	8	6	0	2	0	0	0	10	9	0	9	10	31,645.53
Pottawatomie.....	3	3	0	0	0	0	0	0	3	0	0	3	0	500.00
Pratt.....	37	8	7	6	1	3	12	0	30	6	1	37	0	109,312.36
Rawlins.....	61	10	14	12	4	7	14	0	51	6	4	51	10	98,500.92
Reno.....	353	25	31	16	18	14	108	141	303	27	23	350	3	317,204.27
Republic.....	12	11	1	0	0	0	0	0	75	4	3	8	4	20,220.50
Rice.....	82	11	6	9	4	10	30	12	75	0	7	82	0	122,117.00
Riley.....	139	12	19	8	5	16	60	19	109	20	10	134	5	322,391.08
Rooks.....	63	14	11	7	4	8	17	8	55	2	6	54	9	53,821.03
Rush.....	124	4	13	9	2	2	23	65	116	4	4	117	7	52,646.90
Russell.....	143	26	15	11	11	7	37	36	102	41	0	127	16	208,939.12
Saline.....	82	21	13	4	8	4	17	15	66	1	10	17	65	375,995.00
Scott.....	8	0	2	1	1	0	3	1	6	1	1	0	0	447.00

TABLE V—CONTINUED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1936

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Sherman.....	23	0	0	2	1	3	16	1	18	4	1	22	1	\$29,169.76
Smith.....	13	7	1	1	1	0	2	1	7	2	4	12	1	48,243.93
Stafford.....	8	1	0	0	0	1	1	0	3	0	0	3	0	5,750.00
Stanton.....	10	2	2	2	0	0	4	0	9	0	1	8	2	18,241.00
Stevens.....														
Sumner.....	115	23	9	13	14	11	28	17	89	15	11	115	0	367,783.96
Thomas.....	32	3	6	3	2	1	11	6	29	2	1	27	5	101,480.73
Trego.....	14	3	1	0	0	1	5	4	10	3	1	1	7	38,300.00
Wauna.....	52	16	7	7	3	1	7	11	34	13	5	25	27	54,940.78
Waukegan.....	2	2	0	0	0	0	0	0	1	1	0	0	2	80.00
Wallace.....														
Washington.....	37	1	1	1	3	3	11	17	15	18	4	19	18	64,025.08
Wichita.....	3	3	0	0	0	0	0	0	3	0	0	0	3	390.00
Wilcox.....	63	12	5	7	2	4	25	8	56	5	2	10	53	100,142.53
Wilson.....	41	11	3	3	6	1	12	5	24	9	8	39	2	33,684.10
Woodson.....	212	46	38	33	19	32	44	0	170	23	19	212	0	253,582.00
Wyandotte.....														
Totals.....	6,381	1,015	707	555	395	387	1,871	1,451	4,818	885	678	4,827 <sup>+365</sup>	1,289	\$10,003,827.30

\* No report.

TABLE V—CONTINUED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1936

COUNTIES.	Number of cases bond given.	Was bond kept good?	No. bond filed.	Inven-tory filed within 30 days.	Inven-tory filed after 30 days.	No. inven-tory filed.	No. annual report filed.	Number of cases invest-ment of ward's funds super-vised by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorney.	Number cases ward's funds properly accounted for and disbursed.
									Guard-ian?	Ward?				
Allen.....	72	63	1	15	24	34	66	30	18	0	55	\$1,783.00	\$1,175.50	52
Anderson.....	28	28	6	11	0	23	43	10	4	1	29	805.00	170.00	11
Atchison.....	15	12	6	4	1	16	1	11	2	2	19	.....	.....	13
Barber.....	7	7	1	0	1	7	1	8	6	0	2	260.00	270.00	8
Barton.....	107	107	0	9	2	96	261	47	10	1	97	510.00	875.00	102
Bourbon.....	12	12	0	1	2	9	3	12	7	0	5	.....	.....	12
Brown.....	8	8	1	0	0	9	1	9	3	0	6	100.00	.....	0
Butler.....	37	37	0	2	1	34	1	37	37	0	0	.....	.....	37
Chase.....	23	18	8	7	4	4	59	11	1	0	30	.....	.....	10
Chautauqua.....	15	15	28	12	2	29	9	14	11	32	5	150.00	285.00	15
Cherokee.....	118	103	32	5	1	144	34	21	5	0	145	900.00	.....	1
Cheyenne.....	9	7	2	2	3	6	12	1	7	1	4	.....	.....	0
Clark.....	28	18	3	8	5	18	54	9	18	0	13	3,721.00	69.00	11
Clay.....	71	71	1	7	5	60	324	51	18	0	54	2,121.68	151.00	56
Cloud.....	116	113	2	43	24	51	79	90	24	17	94	3,906.80	416.91	113
Coffee.....	62	62	1	25	12	26	221	47	18	6	45	1,251.72	133.50	30
Comanche.....	11	11	0	2	2	7	45	7	5	0	6	.....	.....	11
Cowley.....	27	27	0	13	6	8	105	26	7	2	5	315.00	1,045.00	22
Crawford.....	124	124	0	0	0	124	372	108	28	2	96	6,565.00	3,790.00	39
Decatur.....	38	38	2	10	3	27	106	5	12	0	28	980.00	.....	39
Dickinson.....	198	198	0	89	71	38	130	153	58	1	140	12,050.57	1,624.78	156
Doniphan.....	47	47	2	4	1	44	119	47	5	5	44	600.00	150.00	36
Douglas.....	155	154	9	67	54	43	470	157	0	0	0	.....	.....	159
Edwards.....	13	13	0	10	2	1	90	13	8	0	5	680.00	697.50	13
Elk.....	22	22	0	14	5	3	41	22	3	0	19	359.00	60.00	22



COUNTIES.	Number of cases bond given.	Was bond kept good?	No. bond filed.	tory filed within 30 days.	tory filed after 30 days.	No inventory filed.	No annual report filed.	invest-ment of ward's funds supervised by court.	No attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorney.	cases ward's funds properly accounted for and disbursed.
									Guard-ian?	Ward?				
Geary.....	17	17	2	3	4	12	14	3	19	0	0			19
Gove.....	3	3	0	1	0	2	22	2	1	0	2	\$200.00	\$200.00	2
Graham.....	25	25	0	20	4	1	38	17	12	0	13	2,927.41	207.50	17
Gray.....	2	2	0	0	2	0	5	2	0	0	2			2
Greeley.....	212	155	5	34	7	176	229	116	35	17	182	2,599.55	952.55	102
Hamilton.....	7	7	2	1	2	6	10	39	2	0	7			8
Harper.....	46	46	0	28	12	6	160	39	23	0	23	2,295.00	280.00	46
Harvey.....	169	168	2	26	24	121	382	14	32	27	132	6,016.00	3,862.50	54
Haskell.....	13	13	1	11	3	0	27	13	5	0	9	441.36	117.50	13
Hodgeman.....	22	20	3	6	3	14	23	9	11	0	0	200.00	117.50	8
Jackson.....	12	12	5	9	4	7	0	15	13	5	4	12.00	20.00	15
Jefferson.....	67	59	3	45	18	7	252	14	17	8	52	3,045.00	225.75	29
Jewell.....	70	68	1	17	6	48	128	19	9	1	62	1,678.10	479.00	0
Johnson.....	50	50	0	26	11	13	83	50	7	2	43	1,535.00	820.00	5
Kearny.....	5	5	1	1	1	4	5	0	3	1	3	131.50	20.00	0
Kingman.....	28	28	1	13	4	12	19	0	15	4	14		22.50	29
Kiowa.....	14	14	0	1	5	8	35	10	11	0	3	370.00	165.00	10
Labette.....	181	0	39	0	0	*220	120	21	0	0	0			111
Lane.....	3	3	0	1	2	0	2	2	0	0	3			3
Leavenworth.....	65	64	3	22	13	33	121	38	12	13	55	2,201.89	590.00	38
Lincoln.....	41	41	0	31	8	2	105	38	6	9	32	4,130.00	1,340.00	0
Logan.....	2	2	0	1	1	0	0	1	2	0	0			2
Lyon.....	161	161	2	20	9	134	401	0	20	0	143	2,123.50	644.75	163
Marion.....	130	117	7	25	20	92	188	52	17	12	106	6,627.00	235.00	65
Marshall.....	119	116	1	23	8	89	208	75	54	3	66	3,098.91	2,169.15	81
McPherson.....	20	18	0	16	3	1	59	13	20	0	0	130.00	305.00	15

\* No report.

TABLE V—CONTINUED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1936

COUNTIES.	Number of cases bond given.	Was bond kept good?	No. bond filed.	Inven- tory filed within 30 days.	Inven- tory filed after 30 days.	No inven- tory filed.	No annual report filed.	Number of cases in ven- ment of ward's funds suppor- ted by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorney.	Number cases ward's funds properly accounted for and disbursed.
									Guard- ian?	Ward?				
Miami.....	34	34	3	8	1	28	19	35	0	0	37	\$50.00		35
Mitchell.....	12	11	333	35	53	257	426	12	103	2	242	77.00	\$756.25	11
Montgomery....	50	50	6	30	11	15	75	39	7	4	49	4,588.00	550.00	0
Morton.....	6	6	0	0	1	5	8	1	1	0	5			2
Nemaha.....														
Nesho.....	36	36	0	16	13	7	56	35	1	1	35	155.17	106.00	35
Ness.....	51	51	1	14	9	29	88	52	52	0	0	298.49	195.72	52
Osgo.....	53	53	1	25	17	12	139	54	14	12	30	2,424.70	555.00	54
Osborne.....	45	41	1	2	2	42	73	29	2	0	44	100.00	25.00	26
Ottawa.....	34	33	2	8	24	24	103	20	3	0	33	1,003.60	5.00	18
Patrice.....	10	10	3	2	6	5	65	13	3	1	10	430.00	100.00	13
Phillips.....	19	19	0	7	3	9	9	19	16	0	3	116.00	55.00	19
Pottawatomie..	3	3	0	1	2	0	0	3	1	0	2			3
Pratt.....	36	36	1	7	2	28	25	34	36	1	1			31
Rawlins.....	55	53	6	22	10	29	29	4	29	0	32	40.00	175.00	143
Reno.....	335	196	18	54	35	264	547	115	287	0	66	3,236.00	1,601.80	0
Republic.....	9	9	3	5	2	5	1	0	4	0	8	35.00	50.00	0
Rice.....	74	73	8	0	3	79	62	0	5	0	77	1,550.00		0
Riley.....	133	132	6	41	27	71	304	135	18	13	117	3,507.82	380.00	135
Roofs.....	59	59	4	43	15	5	85	57	40	3	23	1,610.00	1,240.00	57
Rush.....	104	100	20	16	2	106	98	0	1	0	123			0
Russell.....	127	127	16	33	11	99	394	123	52	2	91	10,931.62	756.44	126
Saline.....	81	80	1	43	21	18	194	54	46	0	36	2,450.00	5,405.00	52
														9

TABLE V—CONCLUDED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1936

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory filed within 30 days.	Inventory filed after 30 days.	No inventory filed.	No annual report filed.	Number of cases investment of ward's funds supervised by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorney.	Number cases ward's funds properly accounted for and disbursed.
									Guard? ian.	Ward?				
Sherman.....	22	22	1	5	4	14	84	9	6	0	17	\$1,171.45	\$330.00	22
Smith.....	13	13	0	10	3	0	23	11	5	0	8	6,300.00	140.00	12
Stafford.....	3	3	0	2	1	0	6	0	3	0	0			3
Stanton.....	9	9	1	4	3	3	4	9	1	1	9	100.00		10
Stevens.....														
Sumner.....	111	111	4	10	7	98	202	104	111	0	4	3,598.54	6,072.46	115
Thomas.....	32	32	0	27	5	9	92	21	30	0	2			0
Trego.....	13	13	1	2	3	0	28	9	0	0	14	30.00		6
Webb.....	51	48	1	33	4	15	83	45	3	0	49			6
Wallace.....	2	2	0	2	0	0	0	2	2	0	0		5.00	2
Washington.....	37	37	0	13	10	14	193	37	12	0	25	1,930.65	770.75	37
Wichita.....	3	3	0	0	0	3	0	0	3	0	0			3
Wilson.....	63	63	0	6	1	56	105	50	10	0	53	965.00	265.00	52
Woodson.....	32	25	9	3	7	31	87	9	7	0	34	595.00	217.00	3
Wyandotte.....	212	212	0	80	48	84	237	0	147	0	65	2,510.00	1,065.00	0
Totals.....	5,610	5,000	771	1,618	1,074	3,469	11,176	3,161	2,057	220	3,735	\$168,144.73	\$54,228.97	3,512















Sec. 562

U. S.

**P**

Topek

Permi

---

PRINTED BY KANSAS STATE PRINTING PLANT

W. C. AUSTIN, STATE PRINTER

TOPEKA 1937

16-7300

# KANSAS JUDICIAL COUNCIL BULLETIN

1937

PART 2—ELEVENTH ANNUAL REPORT



JOHN S. DAWSON  
Chief Justice, Supreme Court of Kansas

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
KIRKE W. DALE .....	Arkansas
Chairman Senate Judiciary Committee.	
HARRY W. FISHER.....	Fort Scott
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita
CHESTER STEVENS .....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout  
state.

For the improvement of our Judicial System and  
efficient functioning.

## TABLE OF CONTENTS

---

FOREWORD .....	
ADMINISTRATIVE GOVERNMENT. By John S. Dawson.....	
CIVIL APPEALS. By Kirke W. Dale.....	
SALE OF MINERAL RIGHTS UNDER DIRECTION OF THE PROBATE COURT	
Ray H. Beals .....	
JUDICIAL APPORTIONMENT. By J. C. Ruppenthal.....	
REPORT OF JUDICIAL COUNCIL. By W. W. Harvey.....	

## FOREWORD

---

the frontispiece of this issue we have the portrait of JOHN S. DAWSON, the justice of our supreme court. We are favored, also, with an article by on the growingly important subject of "Administrative Government." persons are better qualified than he to write upon that subject. Born, l, and in part educated in Scotland, and having much first-hand knowl- of its laws and traditions, he has continued his interest and study of the and government not only of England, but of other European nations. a young man he came to western Kansas, renounced his allegiance to English sovereign and became a citizen of the United States and of Kan- took up land, farmed and taught school, and became one of the com- y of industrious, home-making people. He has never lost interest in people; his spare time is spent among them, and such money as he has able to save is invested there. This was his background when he took up study of law. Before he became a member of the court his services in such ons as a clerk in the state treasurer's office, secretary to a governor, ey for the state board of railroad commissioners, assistant in the office o attorneys general and as the head of that office, constituted for him a for the study of our laws, especially as they apply to the structure of ate and its various subdivisions and the duties of their respective officials, s they apply to the normal enterprises and activities of our people. ally, he has observed the growth in the past forty years, and the more growth in more recent years, of the creation by our state or federal gov- nt of boards or commissions of one type or another for the exercise of particular governmental or semigovernmental function, and has given nt to their utility to our people and to how they fit into the plan of our mental structure. The article is a timely one. We feel confident it will d with interest.

ATOR KIRKE W. DALE, a member of the Council, has contributed an on "Civil Appeals," which we publish in this issue. It deals with appeals the district court to the supreme court in civil actions, and specifically the recent act of the legislature, House bill No. 421, now chapter 268, 1937. Attorneys appealing civil cases to the supreme court should ex- this statute with care and follow it. This article gives us the purpose of w statutes and should prove of practical value to the profession.

GE BEALS, a member of the Council, encountered a problem in the trial ase which caused him to write an article on "Sale of Mineral Rights Direction of the Probate Court." In view of the many mineral deeds state, particularly in that large part of it where there are oil develop- and the many questions arising with respect to the rights of the parties such instrument, this article should be timely and helpful.

GE RUPPENTHAL, a member of the Council, with a bent for historical as compiled our constitutional and statutory provisions relating to

judicial districts, with the changes made in the statutes from time to time, and embodied these in an article entitled "Judicial Apportionment," which will be printed in this issue. In view of the resolution passed by the House of Representatives at our last legislative session, in which the Judicial Council was requested to make a survey of the work of the district courts of the state, "to report to the 1939 House of Representatives the survey so made and the results of redistricting the judicial districts of the state," this article should be of more than ordinary interest.

In order that it may be distributed to the about 3,500 people in the state who receive this BULLETIN, we print herein the "Report of Judicial Council," made by its chairman to the State Bar Association at its meeting in May 28, 1937. This gives a general idea of the work of the Council since its creation ten years ago; also of its purposes and of its plans for the near future.

We are now collecting detailed reports from clerks of the district courts and probate judges throughout the state respecting the business transacted in their respective courts within the year ending June 30, 1937; also of the business pending July 1, 1937. These reports are being sent to us more abundantly than ever before, for which we are all thankful. We plan to publish in our October BULLETIN summaries and tables compiled in our office from the reports of the clerks of the district court, and in our December BULLETIN summaries and tables compiled from reports of the probate judges. We are now outlining our plan of study for compiling a probate code, with such changes in our law of estates as may be necessary to accomplish that purpose. It is thus outlined quite a task, but it is an interesting work; we hope it will be worth while.

## ADMINISTRATIVE GOVERNMENT

JOHN S. DAWSON

oted French philosopher, Baron Montesquieu, who flourished in the  
lf of the eighteenth century (1689-1755), devoted much of his life to a  
ative study of systems of government. During his lifetime most gov-  
ts were depraved and tyrannical. That of England, in Montesquieu's  
, was so much less vicious than its contemporaries that the learned  
omended it in various essays which he later incorporated in his great  
The Spirit of the Laws." Montesquieu discovered seeming excellencies  
English system of government of which Englishmen themselves were  
e—particularly its supposed arrangement into three coördinate depart-  
legislative, executive and judicial.

ne restless years which preceded the American War of Independence,  
quieu's essays, like Blackstone's Commentaries, were widely read on  
e of the Atlantic. Those works formed the basis of the legal and po-  
ducation of our Patrick Henrys, the Adamsses, and the other revolu-  
lawyers whose names are enrolled in the pantheon of American his-  
the teachings of Montesquieu and Blackstone supplied the legal argu-  
o justify the War of Independence.

ther or not the English governmental system then or later could be  
ized into three coördinate departments, it is certain that the constitu-  
the United States is fundamentally constructed on that theory. So, too,  
constitutions of most of the states; and in none of them is this idea  
tesquieu more clearly discernible than in the constitution of Kansas.

nt years, however, have seen the creation of many official boards and  
sions, both national and state, clothed with broad powers, the nature  
h does not precisely fall into either of the three coördinate departments  
rnment so greatly admired by Baron Montesquieu. The judicial de-  
nt, which of necessity has always been dominated by law-trained men,  
asurably held fast to the Montesquieu idea—that its exclusive function  
terpret and apply the law, not to make it. But in this iconoclastic era  
s not have to look far into current political literature to discover that  
ders of public opinion do not appreciate the self-restraint of the courts  
within the limits of their constitutional competence.

Kansas supreme court has steadfastly held to the principle that a  
tribunal cannot be endowed with legislative or executive attributes;  
supreme court of the United States has declared that if the people of  
see fit to vest both legislative and judicial power in one department  
state government, no principle of the federal constitution is thereby

l.  
Most every session of the Kansas legislature some new official board  
ed to serve a more or less urgent need for regulating the commerce and  
y of this state. And nothing is more common than the vesting of addi-  
powers in boards and commissions which already have a long official

Nobody is to blame for this. Every year modern business becomes  
atricate, more a matter of public interest and less a matter of purely

private concern. It is this fact which prompts our lawmakers, in no manner of meddlesomeness, to subject so-called private business to government regulation.

In this state the courts have not been inclined to draw critical lines between the vesting of legislative and executive (administrative) power in the same body. When the legislature vested the state board of agriculture with power to supervise and regulate the business of commission merchants of farm produce, many and various were the objections raised against the act, but the court said the act—

“ . . . Merely confers administrative power such as has become common in this state. The state charter board is given similar power to grant or withhold a charter for a bank. The insurance commissioner is authorized to withhold and revoke licenses to transact insurance business in Kansas. The public utilities commission is authorized to grant or deny permits to operate a public-service business. The state board of medical registration and examination is authorized to grant, deny or revoke licenses to practice medicine . . .”

The Kansas supreme court has repeatedly sought to calm the fears of thoughtful men at the growth of government by administrative boards. In a notable case of that sort, it said:

“We recognize that officers of public service corporations have viewed with great misgiving the extension of governmental power over their business. It has come about in recent years. But this extension of governmental power, and this public supervision by state and interstate commissions, has probably done more to stay. Public service companies will have to reorder their affairs accordingly. These official commissions have entered a new field of governmental activity. With time and experience they will take a broad and rational view of their duties and responsibilities. In time the public service companies will learn to trust these commissions as fully as they do the courts. Indeed, these commissions are equipped for the expeditious dispatch of business in a manner which will be of great service to the public utility companies, and will supply a need which courts never were designed to fill.” (*State, ex rel., v. Postal Telegraph Co.*, 96 Kan. 298, 306-307.)

In another case where regulation of rural telephone lines was the subject of judicial review, the court said:

“Moreover, in passing under the jurisdiction of the state commission, the defendants are not going to be subjected to some malignant influence. The commission may require some more formality in the conduct of their business, but there are compensations. It will be defendants' duty to give service at reasonable rates, but in return their business will be protected from wasteful and ruinous duplication and competition.” (*State, ex rel., v. Rural Telephone Co.*, 112 Kan. 701, 705.)

It is no part of the writer's present purpose to write a brief on the history of the Kansas legislature to create official boards, nor to review the manner in which the supreme court has considered and commonly upheld the validity of the laws which created them. During the last thirty years the decisions of the supreme court have built up a considerable body of administrative law. In the same interval a slowly increasing number of Kansas lawyers have accepted the existence of these statutory tribunals in good faith—greatly to their advantage and with satisfactory compensation to themselves. And the perplexed business man, in his efforts to conduct his business in conformity with the regulations promulgated from time to time by these various boards, is not looking for a lawsuit to challenge the validity of the



But he will often need a lawyer to interpret them for him. Frequently the official board which promulgated those regulations which can say with certainty how they are to be applied to individual instances. The regulations may need to be modified to fit unforeseen situations. Nothing remarkable about that. Our unrivaled heritage of the common law is the net result of centuries of judicial exposition and adaptation to innumerable individual cases. It has been amplified, qualified, modified, and occasionally its rules have been changed, to serve the needs of justice down through the ages.

This season of the year, when great numbers of young men and women graduate before the supreme court armed with diplomas from the law schools, how are they to be admitted to the practice of law, we oldsters are prone to ask, are all these competent young people to find a field for their talents? It is not to be that the vast growth of these novel administrative boards and commissions furnishes a situation as if made to order to enlist the talents and energies of a considerable quota of the choicest of these recruits of the profession? Certain it is that these administrative boards and commissions must be staffed with law-trained men and women if they are to give the public the sort of service intended in their creation. And there will be a need not only as officers and employees of these boards and commissions, but also of well-trained, well-informed lawyers to practice before those boards, and members of them, to present the cases and the perplexities of clients who come for advice, not litigation.

The Kansas supreme court in recent years has had to deal with intricate questions involving utility rates, insurance rates, income and inheritance taxes, and the like, where capable general practitioners of the law have been of little use to the court. But the court listens with pleasure and profit to those who can analyze a balance sheet, to whom the words "capital account," "depreciation and depreciation," "treasury stock," "preferred stock," "non-par," "transfer of securities," "distributive shares," "allocable income," etc., are the weird terms of a foreign language. Lawyers equipped to handle such questions before the various administrative boards authorized to deal with them will not wait long for clients. And they will be able to render such competent service that their clients will usually get justice at the hands of the administrative actionaries, and thus the expense and delay attendant upon appeals to the courts will be avoided. Most of this sort of legal work will be blazing a new trail in the law. There will not be many precedents; but there are principles of justice to be invoked and applied to the new problems; and there will be the satisfactions which result from doing good work, and in helping to blaze new precedents in a new field to guide the course of those who will come after.

## CIVIL APPEALS

KIRKE W. DALE

Since the adoption of the present code in 1909 there have been few changes in appellate procedure in civil actions—that is, until 1937. House bill 421 was passed and signed by the governor.

Kansas for years has led the march in a simple, but effective, method of appeal. Long ago this state discarded the lengthy and laborious procedure required in some of the other jurisdictions to have a civil cause reviewed by a court of last resort. As a result, appeals have been expeditiously disposed of in this state.

The 1937 act will further step up the disposition of cases appealed from the trial court. The new legislation will in a large measure prevent unreasonable delays. The new statutes are clarified and, when once in operation, the new statutory provisions should prove very beneficial to litigants and attorneys.

The new act makes no change in the appellate jurisdiction of the supreme court, in the definition of a final order, in the amount in controversy, or in the appeals to the supreme court or the exceptions thereto. All these remain the same.

The method of taking and perfecting an appeal, by proper notice to the clerk of the trial court, is unchanged, and likewise the manner of filing the notice upon adverse parties sought to be affected.

Under the existing statutes and under the new act it is the duty of the clerk of the trial court, when the appeal is perfected and proof of service by affidavit is filed, to forthwith make a certified copy of the notice of appeal, a certified copy of proof of service or affidavit and forward same to the clerk of the supreme court, together with a certified copy of the journal entry of judgment appealed from.

Under the present procedure no penalty is attached if the clerk of the trial court fails to obey the statute. In some few cases an attempt has been made to dismiss an appeal when the clerk of the trial court failed literally to follow the wording of the statute. The supreme court has, however, refused to do so or punish the appellant for any procrastinating custom displayed by the clerk. It has held that where the appellant has complied with all that the statute requires of him in order to perfect an appeal, his rights cannot be prejudiced and the jurisdiction of that court be defeated by a failure of the clerk of the trial court to perform a duty which the statute imposes upon him.

The new act carries a penalty which is applicable to the clerk of the trial court. In the future a failure of such clerk without just cause to transmit the required and specified copies to the clerk of the supreme court within ten days after the appeal is perfected, will be grounds for his removal from office. Thus the clerk will no doubt perform these duties quite promptly.

By reason of the penalty placed upon the clerks of trial courts it will be necessary for attorneys to be reasonably prompt in preparing and filing journal entries and judgments or orders from which appeals are contemplated. If attorneys are not prompt in this the clerks may of necessity be required to prepare same as best they can and some attorney may become sorely embarrassed and out of sorts.

It might be said that in addition to the transmittal of the certified copy of the judgment or order appealed from by the trial clerk, it was further necessary for appellant to comply with the rule of the supreme court with reference to security for costs before

ould be completed in that court. Such a situation is implied by G. S. 60-3307. It seems improbable, however, that the giving of security for would raise a jurisdictional question. The new act omits any specific nce to security for costs before a case is docketed in the supreme court, rtainly, under the inherent power of the supreme court, that matter can ill be adjusted by proper rule.

ificulties may arise by reason of one change. Some attorney undoubtedly ace a rude awakening. For years we have been given six months from ondition of the judgment or order within which to perfect an appeal. No ime limit will prevail under the new law. After this act becomes effective wo months will be allowed. The act does contain a saving clause in that ovides that appeals from judgments and appealable orders of a date four months prior to the taking effect of the act may be perfected within onths after the effective date of the act.

ostantial changes will probably be necessitated in relation to abstracts on appeals. Under the present practice the abstract of record is due at forty days before the case is set for argument. It shall contain and be an ct of so much and such parts of the pleadings, record, evidence and pro- gs as the appellant deems necessary. The appellee may within thirty hereafter serve a counter abstract containing any other matter deemed ial. The appellee may also challenge the correctness of any matter con- in appellant's abstract. If such challenge is made the court or any jus- ay direct that any or all of the record be sent by the clerk to the trial to the clerk of the supreme court and the costs incident to the deter- tion of any question as to the correctness of the abstract shall be taxed t the party in the wrong. The abstract must be printed unless other- rdered by the court or any justice. It may be bound separately or with ief. The court or any justice may by order allow a typewritten abstract served and filed, may direct the number of copies to be furnished the may dispense with the making of the abstract and require the entire or any part thereof to be furnished.

much for the present practice. Now note carefully the changes provided e new law. In all cases in which a transcript of the evidence is not neces- n order to review the questions presented on appeal, the abstract of appel- must be served and filed in the supreme court within forty days after the of appeal is filed with the clerk of the trial court. When a transcript is ary the abstract must be served and filed within four months after the is filed with the clerk of the trial court.

e abstract of the appellant "shall contain a synopsis of so much and of parts of the pleadings, record, evidence and proceedings in the case as ant deems necessary for the consideration of the court."

at is the significance of the use of the word "synopsis" in the new act? the act really contemplate what the word indicates? Does it mean that the new act it will be improper to set out pleadings, orders, judgments, s, etc., in full in the abstract? Does it mean that it will be improper te evidence or parts thereof verbatim?

erence to Webster's great work indicates that by using the word "synop- would be necessary for the abstract to give a general view of the whole, eral survey or a sketch or outline of the case. The supreme court may ually, by rule or otherwise, be forced to give attorneys a course of in-

structions in the method of properly preparing an abstract under the new act. No doubt the language used was for the purpose of condensing and clarifying the abstracts filed, and the word in question was not used literally. The guide post. However, this remains to be determined.

Under the new act the appellee, if the abstract is deemed insufficient, may file a counter abstract within thirty days after service upon him of a copy of the abstract. The counter abstract must be filed with the clerk of the court and served within this thirty-day period.

If appellant's abstract is not challenged by the appellee it is deemed sufficient. In the event a challenge is made the court is permitted to make an order as the nature of the case and justice warrant.

The abstracts must be printed separately or with the brief, unless the application and good cause shown the court orders that they be presented otherwise.

At the present time it is not necessary for the appellee, in order to obtain a review of rulings and decisions of which he complains, to give notice of cross-appeal. The appellee may, at any time before the case is decided, serve upon the appellant a notice stating in what respect he asks a correction and review of any part of the judgment or of any order, and a review may be had. Such notice and proof of notice must be served and filed with the clerk of the supreme court.

Watch out if you, as appellee, want a cross-appeal under the new act. In the event you desire a review of any rulings and decisions, you must file your notice of cross-appeal twenty days after the appellant's notice of appeal is filed with the clerk of the trial court, give notice of your cross-appeal and file the same with the clerk of the trial court, who shall forthwith forward a duly attested copy to the clerk of the supreme court. Service of the notice of a cross-appeal is just as necessary as the service of the notice of appeal.

The new act liberalizes the scope of appeal in one noteworthy respect. Under the adoption of the present code our supreme court has consistently refused to review a trial court's ruling on a pleading or any intermediate appealable order, subject to review unless an appeal is taken therefrom within six months. This attempted review from many rulings has been thwarted by the application of this rule. The correctness of the rule is not open to question, but many appointments have been occasioned thereby.

The new act is quite specific on this point. It provides that when an appeal is taken, after a final judgment against him, the fact that some ruling of which he complains was made more than two months before he perfected his appeal shall not prevent a review of that ruling. Thus, when an appeal is taken, every appealable order or ruling throughout the proceedings will be subject to review, and intermediate appeals will not be an absolute necessity. This should lighten the work of the supreme court and members of the bar, and will also expedite the final disposition of many cases.

The above is a hasty review of the new law relating to civil appeals. It is a somewhat cursory comparison of the provisions of the new act with the present one.

The new act becomes effective upon its publication in the statutes of the 1937 Session Laws. If you should have an appeal governed by the provisions of the new act, it would be advisable for you to consult the statute book and rely upon the statements made in this article.

## OF MINERAL RIGHTS UNDER DIRECTION OF THE PROBATE COURT

RAY H. BEALS

in the probate court, in settling an estate, direct a sale of the mineral, or part of the mineral rights in land, separate from the sale of the fee, the payment of debts, if in the opinion of the court the same would be advantageous to the estate?

There is no statute specifically authorizing an executor to sell either a mineral interest or royalty interest owned by a decedent, either for the payment of debts or other purposes. G. S. 1935, 22-6a01, *et seq.*, authorizes an executor to lease for oil and gas. This section, however, is not sufficient to authorize a sale of the minerals. G. S. 1935, 72-801, is authority for the executor or administrator to sell the real estate of the deceased, or any interest he may have in any real estate situated within this state, and G. S. 1935, 72-807 and 22-808, authorize an order of the court to sell real estate or any part thereof. In my judgment, the executor, if he has authority to sell the mineral rights for the payment of debts, should proceed in the same way as if he were selling the land. G. S. 1935, 79-420, recognizes a divided ownership of surface and mineral rights for the purpose of taxation. All gas and other mineral rights in and under the real property are part of the real estate. The first paragraph of the syllabus in the case of *Zinc Co. v. Freeman*, 68 Kan. 691, is as follows:

"Petroleum and gas are minerals. As long as they remain in the ground they are part of the realty. They belong to the owner of the land, and are a part of it as long as they are on it, or in it, or subject to his control."

In the cases of *Belpont v. Harrison*, 123 Kan. 310, and *Burden v. Gypsy Oil Company*, 141 Kan. 147, and cases there cited, show that oil and gas in the ground constitute an interest in real estate, and in my judgment, the mineral rights in land constitute sufficient interest in real estate to authorize the sale thereof by an executor for the payment of debts of the deceased. So far as I have been able to ascertain, the supreme court of Kansas has never passed upon this question. However, in the case of *Newell v. McMillan*, 139 Kan. 94, the Kansas court cites the case of *Wilson v. Yost*, 43 W. Va. 826, 39 L. R. A. 292, which apparently holds that a guardian may sell the oil underlying a tract of land. Cases relative to guardians, and the statutory authorizations relative to sale of real property, are analogous to sales by an executor. In the case of *Webb v. Webb's Guardian*, (Ky.) 198 S. W. 736, the court approved the sale by a guardian of the mineral, leaving to the infant the surface of the land. In the case of *Hays v. Tucker*, (Ky.) 171 S. W. 447, the court held that the probate court could authorize the guardian to sell coal without selling the surface. In the case of *Haddock v. Haddock*, (Okla.) 271 Pac. 652, the court held that a guardian's sale of an undivided interest in the land was valid. There are several cases where guardians have sold mineral interests upon application to the proper court, and such sales were conceded to be valid. (*Apple v. Given*, (Okla.) 235 Pac. 867; *News v. Myers*, (Tex.) 42 S. W. 2d 1099.) The probate court has the power to order sale of the minor's fractional interest or future interests. (28 C. J., 291, p. 1171.) Also, in 24 C. J., 562 and 563, par. 1469, it provides that the

court may, in settling an estate, direct a sale of a mineral leasehold from a sale of the fee, if that course would be more advantageous to the estate. See, citing, *Baker v. Royal Lead Co.*, 107 S. W. 704, 707; 32 Ky. L., 982. See also, case of *Ames v. Ames*, 160 Ill. 600, 43 N. E. 583.

There is authority to the contrary, however. In *Oberstein v. Osborn*, 10 Mich. 254, 10 N. W. 360, the executor had sold an undivided one-half interest in a piece of land owned by deceased. In its opinion the court said:

"In our opinion, the statute providing for a settlement of the estate of deceased persons and a sale of the real estate thereof by virtue of an order of the probate court for the payment of the debts of the deceased, does not authorize a sale of an undivided interest, or the interest of some of the heirs. . . . The statute authorizes the sale of the whole, or of such part of the real estate as may be judged necessary. . . . These provisions do not authorize or contemplate the sale of an undivided interest in the estate, and it is unnecessary to sell the whole. Whatever part or parcel of the estate is to be sold, it must be the entire interest which the deceased had therein. . . . The interest of the estate as a whole, that must be sold. . . . These statutes do not contemplate a carving up of estates and sales of undivided interests less than the whole title thereon, and the machinery of the probate court, although it is, is not adequate to the settlement of equities among heirs, and forcing contribution between them in this way."

Again in *Daley's Appeal*, 47 Mich. 443, 11 N. W. 262, the same court said:

"The executor 'made it impossible to sell the whole interest of which the decedent died seized, and we held in (case cited above) that the statute did not authorize the sale of a different interest. We came to the conclusion that if the decedent at his death was seized of the entire interest it would be competent to license his representative under the statute to sell an interest of a smaller quantity.'"

In *LeBoeuf v. Webre*, 40 La. Ann. 380, 4 So. 223, the administrator sold an undivided one-half interest in the land left by deceased to be sold for sale. In its opinion the court says:

"Obviously, if the whole of this real estate belongs to the succession of the decedent, the sale of an undivided half of it would be both improper and illegal."

*Hewitt v. Durant*, 78 Mich. 186, 44 N. W. 318, follows the rule laid down by the Michigan court in the cases cited above. See, also, 24 C. J. 570, par. 1484.

In the case of *Jones v. Stevens*, 76 A. L. R. 591, the fourth division of the syllabus reads:

"A grant of right of way over remaining lands to a parcel conveyed in excess of the powers conferred by a license to an executor to sell and convey so much of the decedent's real estate as will produce a stated sum."

On page 595 of the opinion it is stated:

"It is contended by the petitioner that the grant of a right of way over the lands of the executor of Samuel Tucker was in excess of his powers. The license was given in general terms 'to sell and convey so much of the real estate of the said decedent as will produce said sum (\$79.38) with incidental charges.' The sale made under the license was valid, R. S. 1826, C. 71 *Yeomans v. Brown*, 101 Mass. 51, 58, *Norton v. Norton*, 5 Cush. 524, and the conveyance of lot C with a right of way was not broader than the powers conferred by the license. In *Willard v. Willard*, 171 Mass. 220, 50 N. E. 620, 40 L. R. A. 754, 68 Am. St. R. 101, the license empowered the executor to sell only a specific parcel of real

Church on New Probate Law and Practice, vol. one, p. 893, you will find following:

(1) Sales of mines and mining interests. No sale of a decedent's estate authorized, except when it is necessary: (1) To pay family allowance; (2) of the decedent; (3) Expenses of administration; or (4) Legacies. But and mining interests belonging to estates of decedents are an exception to the rule. Such interests may be sold when it is expedient to do so, for the benefit of the estate, although the proceeds are not needed to pay debts, expenses, etc.; and where it is sought to sell mining property for the benefit of the estate, it is not required that the petition shall set forth the condition of the property except that which is to be sold. The manifest reason of this is, the expediency of such sales is in no wise dependent upon the condition of other portions of the estate: *Smith v. Biscailuz*, 83 Cal. 344, 349; 21 Pac. 55; 23 Pac. 314.

(2) Sale of property subject to lease. The executor may sell property held under a lease, where there is no provision in the lease itself prohibiting a sale of the property during its term, and where the sale is made subject to such conditions: *Estate of Brannan*, (Cal.) 51 Pac. Rep. 320."

Referring to G. S. 1935, 22-819, where it says that the deed shall convey to the purchaser all the right, title and interest of the deceased in the premises sold, the words, "premises sold" in the case of the selling of an undivided interest in oil, gas and mineral rights, would be the undivided interest in the oil, gas and other minerals, which the administrator or executor sold. The statute provides that the administrator shall convey the right, title and interest of the deceased in the premises sold, and this wording of the statute is evidence on the theory that the administrator does not warrant, and cannot warrant any title, because he has nothing to back up the warranty. Therefore, as in a quitclaim deed, he simply sells all the right, title and interest which the deceased had. The rule of caveat emptor applies to all judicial sales, and the purchaser gets what the deceased owned, without any warranty from the administrator, and buys at his own risk. There probably is no difference in principle between selling oil and gas in place, or coal in place.

It is my opinion that the probate court has ample jurisdiction to authorize the executor to sell mineral interests, or any part thereof, of any land owned by the deceased for the payment of debts, no question of homestead rights being involved.

## JUDICIAL APPORTIONMENT

J. C. RUPPENTHAL

In the legislature of Kansas for 1937, on March 8, the House of Representatives adopted H. R. No. 35, "A resolution requesting the Judicial Council make a survey and report relating to the redistricting of judicial districts in this state." It follows:

"WHEREAS, There is reason to believe that a redistricting of the judicial districts of this state would more evenly distribute the judicial work of the various district courts; and

"WHEREAS, The legislature at the present time is without sufficient information to adequately and intelligently enact a judicial apportionment law; Now, therefore,

*"Be it resolved by the House of Representatives of the State of Kansas, That we respectfully request the Judicial Council of this state to make a survey, have made, a survey concerning the business and amount of work in the various judicial districts of this state, and based upon such survey to make a report recommending the redistricting of the entire state."*

*"Be it further resolved: That the Judicial Council be requested to report to the 1939 House of Representatives, the survey so made, and a plan of redistricting the judicial districts of this state."*

*"Be it further resolved: That the chief clerk of the House of Representatives be directed to transmit a copy of this resolution to the chairman of the State Judicial Council."*

At least once before, a problem, persistent and recurring for seventy years past, has been approached somewhat similarly. Thus House concurrent resolution No. 9 was approved January 27, 1920, at the special session of the legislature:

"WHEREAS, There has been for several years a demand for the redistricting of the state for judicial purposes; and

"WHEREAS, It is difficult for the legislature, during a session, to secure the necessary information for a reapportionment of the judicial districts of the state fairly and equitably: Therefore, be it

*"Resolved by the House of Representatives, the Senate concurring therewith, That a committee of three be appointed, consisting of one member to be appointed from the Senate by its president, and one member to be appointed from the House of Representatives by the speaker, and the third, who shall act as chairman, to be appointed by the governor, to serve without compensation, whose duty it shall be, between now and the next regular session of the legislature, to procure all the data and information available, and make a report to the next session of the legislature as to what changes can be made in the present reapportionment which might justly be affected, of the judicial districts of the state. Laws, Spec. Sess. 1920, ch. 76."*

An examination of the history of judicial apportionment will disclose the various features of the problem, the persistent recurrence of the need, the views of the judiciary, executives, and of bar committees, and the manner of meeting the situation by various parts of the legislature, and also the extent, effectiveness and permanence of the statutory provisions.

The Organic Act of Congress, March 30, 1854, establishing the Territories of Kansas and Nebraska, provided:

"SEC. 27. The judicial power of said territory (Kansas) shall be vested in a supreme court, district courts, probate courts and justices of the peace. The said territory shall be divided into three judicial districts . . .



c. 35. Until otherwise provided by law, the governor of said territory may divide the judicial districts of said territory and assign the judges who may be appointed for said territory to the several districts . . . but the legislative assembly, at their first or any subsequent session may organize the judges, . . ."

The first legislature of the territory of Kansas, assembled at Shawnee Mission, passed acts effective at the end of the session, August 30, 1855, by chapter 91, which redivided the territory (Gen Stat. 1855, Ty. Kan., ch. 91):

SECTION 1. The counties of Doniphan, Atchison, Jefferson, Calhoun, Douglas and Leavenworth shall compose the first judicial district. . . .

c. 2. The counties of Johnson, Lykins, Linn, Bourbon, Allen, Anderson, Franklin, and Shawnee shall compose the second judicial district. . . .

c. 3. The counties of Nemaha, Marshall, Riley, Breckenridge and Madison shall compose the third judicial district. . . ."

An act of February 11, 1857, recast boundaries as follows:

First district: Counties of Leavenworth, Jefferson, Riley, Marshall, Nebraska, Brown, Doniphan, Atchison and Arapahoe, and all that portion of territory lying between the counties of Marshall, Riley, Davis, Wise, Butler, Hunter, and the said county of Arapahoe.

Second district: Counties of Johnson, Douglas, Shawnee, Calhoun, Richmond, Davis, Wise, Breckenridge, Weller, Franklin and Lykins.

Third district: Counties of Linn, Bourbon, McGee, Dorn, Allen, Anderson, Coffey, Woodson, Wilson, Godfrey, Greenwood, Madison, Butler and Franklin. (Laws 1857, p. 71, being the 35th chapter, but not numbered.)

Laws 1858, chapter 40, made slight changes in part by inclusion of new counties:

First district: Leavenworth, Jefferson, Atchison, Doniphan, Brown, Nebraska, Marshall, Calhoun and Washington.

Second district: Douglas, Shawnee, Weller, Madison, Breckenridge, Richmond, Pottawatomie, Riley, Clay, Chase, Coffey, Dickinson, Davis, Wise, Hunter, Godfrey and Greenwood.

Third district: Wyandotte, Johnson, Lykins, Linn, Bourbon, McGee, Dorn, Anderson, Franklin, Woodson and Wilson.

This delimitation was further defined by General Laws 1860, ch. 77, that:

"The whole territory within the respective boundaries of the Ottawa, Chippewa and Fox reserves in said territory, and all Indian reservations, and so much of the land as lies within the defined limits of Jefferson county, and also all that portion of the Pottawatomie and other Indian reservations within the defined limits of Jackson county are attached to the second judicial district."

At a fourth time, the entire territory of Kansas was redistricted. This was done by General Laws 1860, chapter 78:

SECTION 1. The counties of Leavenworth, Atchison, Doniphan, Jefferson, Wyandotte and Arapahoe shall constitute the first judicial district.

c. 2. Douglas, Shawnee, Osage, Coffey, Woodson, Greenwood, Wilson, Breckenridge, Madison, Butler, Hunter, Otoe, Marion, Chase, Morris, Lincoln, Saline, Davis, Dickinson, Clay, Riley, Pottawatomie, Wabaunsee, Nemaha, Brown, Marshall, Washington and Jackson shall constitute the second judicial district.

c. 3. Johnson, Lykins, Linn, Bourbon, Cherokee, Dorn, Allen, Anderson and Franklin shall constitute the third judicial district.

c. 10. The whole of the Delaware Indian reservation is attached to the first district as well as all Indian Territory within the county of Arapahoe.

"SEC. 11. The Pottawatomie, Kaw, Otoe, Chippewa, Ottawa, Sac and Kickapoo Indian reservations are attached to the second judicial district."

"SEC. 12. The New York Indian reservation is attached to the third district."

The act of Congress, January 29, 1861, admitting Kansas as a state Union, under the Wyandotte constitution of 1859 and the schedule attached to the latter, made no mention of districts. But the constitution, by several provisions of article III, judicial, established present boundaries of judicial districts and left to the legislature future demarkation.

"SEC. 5. The state will be divided into five judicial districts. . . ."

"SEC. 14. Provision may be made by law for increase of the number of judicial districts whenever two thirds of the members of each house shall so cur. Such districts shall be formed of compact territory and bounded by county lines. . . ."

"SEC. 18. Until otherwise provided by law, the first district shall consist of the counties of Wyandotte, Leavenworth, Jefferson and Jackson. The second district shall consist of the counties of Atchison, Doniphan, Brown, Marshall and Washington. The third district shall consist of the counties of Pottawatomie, Riley, Clay, Dickinson, Davis, Wabaunsee and Shawnee. The fourth district shall consist of the counties of Douglas, Johnson, Franklin, Anderson, Linn, Bourbon and Allen. The fifth district shall consist of the counties of Osage, Coffey, Woodson, Greenwood, Madison, LeFlore, Morris, Chase Butler and Hunter.

"SEC. 19. New or unorganized counties shall, by law, be attached to judicial purposes, to the most convenient judicial district."

The United States census of 1860 showed a population of 143,644 in Kansas Territory, including 34,242 in the Pike's Peak region. With territory cut off at the 102d meridian upon admission to statehood, the state census of 1865 showed 140,179 inhabitants in 38 counties, there having been 40 counties named in the state constitution. The progress of population after is not readily traced, but the federal census of 1870 gave 362,307 inhabitants in upwards of sixty counties.

Meantime the legislature had more than doubled the number of counties, each with a single judge. Four districts were created in 1867 (Laws 1867, ch. 53): The sixth of the counties of Miami, Linn, Bourbon, Crawford and Cherokee; the seventh of the counties of Anderson, Allen, Neosho, Labette, Franklin and Wilson; the eighth of the counties of Riley, Davis, Clay, Dickinson, Saline and Ottawa; the ninth of the counties of Chase, Butler, Howard, Cowley, McPherson, Sedgwick, Sumner, Rice, Reno and Stafford, Pratt and Barber. The tenth district was created in 1869 of Wyandotte, Johnson and Miami counties (Laws 1869, ch. 34). The eleventh district was created in 1870 of Crawford, Cherokee, Labette, Montgomery and Howard counties (Laws 1870, ch. 69.)

The act of 1869, besides creating the tenth district, defined new county boundaries as: Sixth district, Linn, Bourbon, Crawford and Cherokee counties; seventh district, Allen, Neosho, Labette, Woodson and Wilson counties; eighth district, Douglas, Franklin and Anderson counties; tenth district, Wyandotte, Johnson, and Miami counties. (Laws 1869, ch. 34.)

In 1871 the twelfth district was created, of the counties of Marshall, Vernon, Republic, Jewell, Mitchell, Cloud, Clay, Smith and Osborne. (Laws 1871, ch. 67.) The same legislature detached Cowley and Sumner counties

th district and made them part of the eleventh district, which had been d of five counties in 1870.

this time, if not earlier, judicial apportionment had attracted serious on. Gov. J. M. Harvey, in his message to the legislature at its opening in 1872, said:

think that most of the district judges need more work, as well as more consequently I recommend that, instead of augmenting the number of s as the population of the state increases and spreads over new territory, opt the policy of redistricting the state, so as to make an equitable divi of the business between the existing number of judges, and increase their s sufficient to justify them in holding court throughout the year." e Journal, 1872, p.—.)

the governor's message did not meet the judicial needs, nor satisfy nic wants or official ambitions. Eight bills relating to judicial appor- ment were introduced in the House, and two of them reached the stage approval by the governor, creating the thirteenth and fourteenth judicial ts, and two others changed boundaries. These bills, with their objectives ource, were: House bill No. 77, to amend an act to create the twelfth l district, recommended for passage 69 to 2, but indefinitely postponed Senate; House bill No. 155, to create the thirteenth district, recommended , approved by the governor; House bill No. 195, to create the fourteenth t, recommended 67 to 4, amended by the Senate, approved in confer- and signed by the governor; House bill No. 358, to create the thirteenth efine the eighth district, referred to committee; House bill No. 363, to Crawford and Cherokee counties to the sixth judicial district, in- ely postponed; House bill No. 393, to create the — judicial district, d to Committee on Judiciary; House bill No. 459, to attach certain es to the ninth district, passed 71 to 0, approved; House bill No. 520, to the eighth judicial district, passed 59 to 0, approved.

measures enacted in 1872 are: The eight district shall consist of the coun- Riley, Davis, Dickinson, Ottawa and Morris (Laws 1872, ch. 120); the es of Rice, Reno and Harvey are made part of the ninth and Butler y is made part of the thirteenth district (Laws 1872, ch. 118); the thir- district was created of the counties of Howard, Greenwood, Cowley, er, Reno and Sedgwick (Laws 1872, ch. 112), and within a day or two Butler was added as above set out (Laws 1872, ch. 118); the fourteenth t was created of the counties of Saline, McPherson, Lincoln, Ellsworth, Russell, Wallace, Trego, Ness, Rush, Barton and Pawnee (Laws 1872, ch.

the legislature of 1873 had two bills to create the fifteenth district. Senate o. 22 was replaced by substitute, recommended in committee of the and then rejected, but House bill No. 36 became a law, making the es of Mitchell, Jewell, Osborne, Smith, Phillips, Norton, Rooks and m, and the undefined territory of the state lying west of Graham and n, the fifteenth judicial district. (Laws 1873, ch. 76.)

the same session, in three acts, altered district boundaries. The twelfth t was declared to consist of the counties of Marshall, Washington, Re- , Cloud and Clay (Laws 1873, ch. 78); the ninth district was to consist counties of Chase, Marion, Harvey, Reno, Rice, Barton, Pawnee, Ford, eman, Kingman, Harper, Barber, Comanche, Kiowa, Clark, Pratt and

Stafford, and all that portion of the state lying south of the fourth parallel and west of the counties of Hodgeman, Ford and Clark (Laws 1873, ch. 79); Greenwood county was detached from the thirteenth district and attached to the fifth district (Laws 1873, ch. 81).

In 1874 Linn county was detached from the sixth and made part of the tenth district (Laws 1874, ch. 65), and Harper, Barber and Comanche counties were included in the ninth district (Laws 1874, ch. 66).

Wallace county was placed in the fourteenth district in 1875 (Laws 1875, ch. 87). In 1876 Linn county was detached from the tenth and added to the fourteenth district (Laws 1876, ch. 68).

After eight years of abstention, the creation of new judicial districts was resumed again in 1881 and was continued in five successive sessions, each session adding from one to six new districts.

In 1881 the sixteenth and seventeenth districts were created; in 1882 the eighteenth, nineteenth and twentieth; in 1885 the twenty-first; in 1886 the twenty-second, twenty-third and twenty-fourth; in 1887 the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth and twenty-ninth; in 1888 the thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth and thirty-fifth. In 1895 there was a recession in which six districts were wiped out. By Laws 1895, ch. 100 the thirty-sixth was created; in 1901 a new fourteenth; in 1903 the fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, thirty-third, thirty-fourth, thirty-fifth, thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, seventy-fourth, seventy-fifth, seventy-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eightieth, eighty-first, eighty-second, eighty-third, eighty-fourth, eighty-fifth, eighty-sixth, eighty-seventh, eighty-eighth, eighty-ninth, ninetieth, ninety-first, ninety-second, ninety-third, ninety-fourth, ninety-fifth, ninety-sixth, ninety-seventh, ninety-eighth, ninety-ninth, one hundredth. There was a respite until 1925, when the thirty-ninth was created, and in 1927 the fortieth, forty-first, forty-second, forty-third, forty-fourth, forty-fifth, forty-sixth, forty-seventh, forty-eighth, forty-ninth, fiftieth, fifty-first, fifty-second, fifty-third, fifty-fourth, fifty-fifth, fifty-sixth, fifty-seventh, fifty-eighth, fifty-ninth, sixtieth, sixty-first, sixty-second, sixty-third, sixty-fourth, sixty-fifth, sixty-sixth, sixty-seventh, sixty-eighth, sixty-ninth, seventieth, seventy-first, seventy-second, seventy-third, seventy-fourth, seventy-fifth, seventy-sixth, seventy-seventh, seventy-eighth, seventy-ninth, eightieth, eighty-first, eighty-second, eighty-third, eighty-fourth, eighty-fifth, eighty-sixth, eighty-seventh, eighty-eighth, eighty-ninth, ninetieth, ninety-first, ninety-second, ninety-third, ninety-fourth, ninety-fifth, ninety-sixth, ninety-seventh, ninety-eighth, ninety-ninth, one hundredth. For ten years thereafter, to date, no new district has been created and no bounds changed.

In 1881 Jefferson and Jackson counties were taken from the thirteenth district and added to the first, which also had Leavenworth county. Riley county was taken from the eighth, and it was enacted that Shawnee, Pottawatomie, Riley and Wabaunsee should compose the third. Davis, Morris, Dickinson, Ottawa constituted the eighth. (Laws 1881, ch. 91.) Trego was included in the fourteenth. (Laws 1881, ch. 98.)

The sixteenth district was created from the counties of Barton, Pratt, Barber, Comanche, Edwards, Pawnee, Rush, Ness, Hodgeman, Ford, Clark, Meade, Foote, Buffalo, Lane, Scott, Sequoyah, Arapahoe, Cheyenne, Stevens, Grant, Kearny, Wichita, Greeley, Hamilton, Stanton and Lincoln (Laws 1881, ch. 99.)

The seventeenth was created from the organized counties of Phillips, Ellis, Trego, Graham, Norton, Decatur and Sheridan and the unorganized counties of Gove, Wallace, Thomas, Sherman, Rawlins and Cheyenne (Laws 1881, ch. 100.)

In 1883 the eighteenth district was created from the counties of Sedgewick, Kingman, Harper and Barber (Laws 1883, ch. 102).

In 1885 Sumner, Harper, Barber and Comanche counties were included in the nineteenth district (Laws 1885, ch. 137); Rice, Barton, Stafford and Lincoln counties became the twentieth district (Laws 1885, ch. 138); Pottawatomie, Riley, Wabaunsee and Osage became the twenty-first district (Laws 1885, ch. 139).

The special session of 1886 created three districts—Doniphan, Brown, Nemaha counties as the twenty-second (Laws 1886, ch. 118); Rush, Ellis, Trego and the unorganized counties of Gove, St. John, Walla

Wichita and Greeley as the twenty-third (Laws 1886, ch. 120); and Comanche, Clark, Meade and the unorganized county of Kiowa as the twenty-fourth (Laws 1886, ch. 121).

In 1887 the boundaries of the fifth district were defined anew to embrace the counties of Lyon and Coffey (Laws 1887, ch. 147, sec. 1). The twenty-fifth district was created of McPherson, Marion and Chase counties (Laws 1887, ch. 147, sec. 3); the twenty-sixth of counties of Butler and Greenwood (Laws 1887, ch. 147, sec. 5); the twenty-seventh of counties of Finney, Hamilton, Morton, Scott, Wichita and the unorganized county of Greeley (Laws 1887, ch. 147, sec. 7); the twenty-eighth of counties Kingman, Pratt and Seward (Laws 1887, ch. 147, sec. 9); the twenty-ninth of Wyandotte county (Laws 1887, ch. 147, sec. 11).

In 1889 twelve existing districts took on new form, and six new districts were created. The sixth district was constituted of Linn, Bourbon and Crawford counties; the eighth district of Davis, Dickinson and Morris counties; the ninth district of Cherokee, Labette and Montgomery counties, the tenth of Cloud, Republic and Washington counties; the fourteenth of Lincoln, Russell and Ellsworth counties; the sixteenth of Pawnee, Edwards, Logan and Garfield counties; the seventeenth of Phillips, Norton, DeSoto, Rawlins and Cheyenne counties; the nineteenth of Sumner; the twentieth of Marshall, Riley and Clay; the twenty-third of Ellis, Trego, Logan and Wallace; the twenty-fourth of Harper and Barber; the twenty-fifth of Ford, Gray, Finney, Kearny and Hamilton; the thirtieth of Kiowa and Saline; the thirty-first of Comanche, Clark and Meade; the thirty-second of Seward, Stevens, Morton, Haskell, Grant and Stanton; the thirty-third of Rush, Ness, Lane, Scott, Wichita and Greeley; the thirty-fourth of Rooks, Graham, Sheridan, Thomas and Sherman; the thirty-fifth of Pawnee, Wabawsee and Osage. The last six districts, thirtieth to thirty-fifth, inclusive, were created in 1889. (Laws 1889, ch. 118.)

This was very time the boom of the '80's was breaking. The cycle of drought was returning. Harvests declined; prices of farm products fell. Mortgages came due, and most court dockets were choked with actions in foreclosure. This passed in a few years, so that counties where 250 to 300 foreclosures had been on the docket in a single term, there were now perhaps only a few filed in an entire year. No change of districts was made for several years. It was not until 1895 official deflation—the only instance in 75 years of Kansas—began. As a consequence of legislation, but with no direct mention of abolition of districts (though inferentially recognized in section 18 of the constitution), six were eliminated, leaving 31 in existence. (Laws 1895, ch. 106.)

The legislature of 1895 declared the sixteenth district to be constituted of counties of Edwards, Pawnee, Rush, Hodgeman, Ness, Lane, Scott, Wichita and Greeley. (Laws 1895, ch. 98.) The twenty-third district was enlarged by addition of Russell to Ellis, Trego, Gove, Logan and Wallace. (Laws 1895, ch. 99.) The grouping of counties for eight districts was rearranged.

Lyon and Chase counties composed the fifth district; Geary, Dickinson, Morris and Marion the eighth; Reno, Harvey and McPherson the ninth; Quindaro, Elk, Greenwood and Butler the thirteenth; Sumner and Cowley the fourteenth; Harper, Barber, Kingman and Pratt the twenty-fourth; Cheyenne, Clark, Meade, Gray, Ford and Kiowa the thirty-first; Seward,

Stevens, Morton, Haskell, Grant, Stanton, Finney, Kearny and Hamilton thirty-second.

By these several groupings, aided by chapter 119, Laws 1899, the tenth, sixteenth, twenty-fifth, twenty-sixth, twenty-seventh and twenty-eighth districts went out of existence. Lincoln and Ellsworth of the fourteenth went into the thirtieth; Russell of the fourteenth went into the twenty-ninth from the dismembered twenty-fifth, Chase went to the fifth, Marietta to the eighth and McPherson to the ninth; the twenty-sixth, Greenwood and Hamilton went bodily into the thirteenth; of the twenty-seventh, Gray and Hamilton were placed in the thirty-first, Finney, Kearny and Hamilton in the thirty-second, the twenty-eighth was distributed Kingman and Pratt to the twenty-ninth and Kiowa to the thirty-second. (Laws 1895, ch. 98.) In 1897, the twenty-ninth of Edwards, Pawnee, Rush, Hodgeman, Ness, Lane, Scott, Williams and Greeley were constituted the thirty-third district. (Laws 1897, ch. 11.)

Four years after the judicial purge of 1895, the thirty-sixth district was created of Jefferson and Jackson counties. (Laws 1899, ch. 123.)

In 1901 the eleventh district was reformed to contain Cherokee and Johnston only. The same act created Labette and Montgomery counties and the fourteenth district, 150 miles distant from the nearest point of the fourteenth. (Laws 1901, ch. 157.)

In 1903 Allen and Woodson were created as the thirty-seventh, but detached from the seventh, while Neosho and Wilson remained as the seventeenth. (Laws 1903, ch. 209.)

In 1905 Crawford county was taken from the sixth and erected to form the thirty-eighth district. Bourbon and Linn were made to comprise the thirty-ninth. (Laws 1905, ch. 199.) In 1907 the new fourteenth was halved, Montgomery remaining the fourteenth, and Labette being the new sixteenth, far from the former sixteenth. (Laws 1907, ch. 171.)

In 1923 lines were reformed to have Wabaunsee and Osage counties to compose the thirty-fifth, and Jefferson, Jackson and Pottawatomie counties to compose the thirty-sixth district. (Laws 1923, ch. 130.) In 1925 the thirty-ninth district was created out of Haskell, Grant, Stanton, Seward, Stevens and Shaw counties that had been in the thirty-second district. Lane, Scott, Seward and Greeley were transferred from the thirty-third to the thirty-second district. The diminished thirty-third continued to have Finney, Kearny and Hamilton. The diminished thirty-fourth continued with the counties of Rush, Ness, Pawnee, Hodgeman and Edwards. Thus eighteen counties of the southwest quarter of the state were strung out in two districts, were more compactly arranged in three. (Laws 1925, ch. 152.) The new twenty-fifth district was created in Sumner county, while Cowley was left to constitute the nineteenth district from which Sumner was then detached. This was a hundred miles from the district originally numbered 25.

Through the years while the legislature was usually creating districts and offices, and once remade the judicial map so that six judges ceased to exercise territorial jurisdiction, other civic agencies, such as executives and legislatures, were neither idle nor silent. Governor Harvey's advice in 1883 has been noted. In 1883 Gov. Geo. W. Glick, himself already for more than twenty years a member of the bar of the supreme court, in his message to the legislature, said:

commend that the legislature redistrict or remodel the judicial districts so that the work in each may be equalized, that business of the courts may be conducted with less delay than at present . . . the only sure and practical remedy . . . is the creation of at least three more judicial districts, in order to equalizing the territory and business of present ones." (Senate Journal 1883, p. —.)

The only legislative response, if it were such, was the creation of the twelfth district. Four years later, Gov. J. A. Martin in his message of 1887,

two years ago, I called the attention of the legislature to the necessity of an equal division of the state into judicial districts. We now have twenty-two judicial judges, and if their labors were fairly apportioned, not one of them would be overburdened, and all the legal business of the state could be handled easily and fairly dispatched. But as the judicial districts are now formed, some of the judges have abundant leisure, while others, holding courts every month, are unable to keep their dockets clear. A general redistricting of the state would avoid the necessity of creating new districts, and thus prevent an increase of judicial expenditures. Such redistricting is advisable for many other reasons, equally apparent and urgent." (House Journal 1887, p. 42.)

Under this solemn admonition the legislature considered House bill No. 2 to create the eighteenth district, House bills Nos. 86, 330 and 337 to create the twenty-fifth district, House bill No. 260 to create a twenty-sixth, and House bill No. 446 as substitute, created districts twenty-five, twenty-six and twenty-seven. In 1889, in the House alone, ten bills to create new districts were presented. (House Journal 1889, House bills Nos. 18, 127, 129, 133, 156, 179, 191, 300 and 523.)

On the part of the legal profession John Guthrie, chairman of the judiciary committee, reported to the Bar Association of Kansas, at Topeka, January 1907:

"The state is now divided into judicial districts, the work is unequally distributed. In some of the courts the dockets are overburdened, while in others the judicial work is light, and this must continue so long as we have our present system. . . ." (Proceedings 1888, p. 9.)

And, in 1907, the judiciary committee of the state bar, on January 30, reported by its chairman, C. A. Smart:

"The recent bill before the legislature to increase the salaries of judicial officers of this state brought prominently before our minds that which we have often thought of many times before; that in many counties of this state the judicial work is extremely light. One or two days will suffice to try out a case in some counties of this state while in other counties the dockets are crowded and the judges are worked ten or eleven months out of the year and are overworked. To make the districts in the sparsely settled communities larger would be impractical because of the great distances judges would have to travel in order to go from one county to another. . . . What sufficient reason can be given why a judge in one portion of this state, having considerable idle time on his hands may not be asked by the chief justice of the supreme court to hold court in another district where the judge is overworked, and there hold court and relieve the congested condition of the docket in such district? That two courts of equal jurisdiction may be held in the same county at the same time is illustrated in Wyandotte county. We believe that this method could be adopted, the work could be more equally distributed among the judges of the state, and more work could be accomplished with the same expense." (Proceedings, Bar Association of Kansas, 1907, page 16.)

At the annual meeting of the State Bar January 30, 1917, the chair of the judiciary committee, B. S. Gaitskill, called a conference of the chair, one associate justice, two district judges and one practicing attorney that had been drawn and presented to them as to complete redistricting. The state was discussed. After debate on the floor of the association, 500 copies of the bill were ordered printed and distributed among the members by the judiciary committee, which was ordered to report at the meeting of the Proceedings Bar Association of Kansas 1917, p. 39.)

The bill was entitled: "An Act concerning district courts, and dividing the state into judicial districts." (Proceedings 1918, pp. 13-15.) In substance it provides:

SECTION 1. The state shall be divided into five judicial districts about equal in size (constitution, art. 3, sec. 5) of contiguous counties and compact territory (constitution, art. 3, sec. 14) by consolidating the several present districts.

Sections 2 to 6 name the existing districts and the counties comprising them. Section 2 combines nine existing districts with their 22 counties, being 1, 2, 8, 12, 15, 21, 22, 29 and 36, with an area of 15,790 square miles, being one-fifth of the state.

Section 3 consolidates thirteen districts, with their 26 counties, and 14,594 square miles, being districts 3, 4, 5, 6, 7, 10, 11, 13, 14, 16, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

Section 4 unites five districts of sixteen counties covering 14,915 square miles, being districts 9, 18, 19, 24 and 31.

Section 5 merges three districts of twenty-one counties, with an area of 16,446 square miles, being districts 20, 32 and 33.

Section 6 combines four districts of twenty counties, with 17,446 square miles, being districts 17, 23, 30 and 34.

The territory of the former districts is made into "divisions" of the new districts, respectively. The incumbent judges are continued in the new districts as divisions of the new district. The senior judge in point of age is the presiding judge of the judicial conference to be called from time to time in each district.

The presiding judge, at first at his discretion, and later under rules of the judges' conference of his district, assigns judges from less congested divisions to more congested dockets of the district until a balance is restored.

Automatic increase and decrease of judges with the fluctuations of cases is provided. Section 14 adds another judge whenever in one calendar year more than one thousand more cases are filed in the entire district than were filed in the preceding year. Such judge shall then be elected. If the total of cases filed drops off more than one thousand in a year, one judge fewer shall be elected at the next election—the division with the smallest number of cases ceasing to exist.

Nominations for judge are limited to the area of the division, but the judges of the district votes on such divisional nominations. Judges may sit *in banc* at the judicial conference deems such for the best. (Proceedings 1918, p. 13.)

Upon meeting January 30, 1918, the judiciary committee reported the bill. It took the bill under consideration. J. D. Houston, chairman, said:

"It is quite apparent that a radical change of the present judicial system of Kansas, and of the Kansas judicial system, is provided for and contained in the proposed bill. The members of this committee do not feel justified in recommending the bill for endorsement, or in attempting to draft a substitute therefor at this time." (Proceedings, Bar Association of 1918, p. 12.)

A change in committee system abolished the judiciary committee. It had no successor, but before this, at Salina, November 27, 1922, at the annual meeting of the State Bar, the judiciary committee of the association recommended the bill. Judge Thomas E. Elcock, approved a law by which the supreme court may assign district judges to do work in other districts of the state.



case of congestion of work in such other districts. (Proceedings, Bar Association of Kansas, 1922, p. 89.)

Factors for working out the problem of judicial apportionment have been constant. Besides those already indicated, there have always been others. The hundreds of justices of the peace courts, two in each civil township, have varied and may vary the litigation of district courts by reason of concurrent jurisdiction. A number of auxiliary courts to help in district court congestion have been organized from time to time, and have lasted from one or two up to twenty years or more. The first of these was the criminal court of Leavenworth county, established in 1862, with criminal jurisdiction concurrent with the district court, and having the district clerk as criminal clerk ex officio. (Laws 1862, ch. 25.) This court was abolished in 1875. (Laws 1875, ch. 25.) Next came the superior court of Shawnee county, expressly limited in its jurisdiction to two years ending April, 1887, and having concurrent civil jurisdiction with the district court. (Laws 1885, ch. 140.) The constitutionality of such concurrent jurisdiction was upheld. (*A. T. & S. F. R. R. Co. v. Rice*, 36 Kan. 593.) Similar relief was sought by the court of common pleas of Sedgwick county, concurrent jurisdiction with the district court and expressly limited so as to terminate December 31, 1891. (Laws 1889, ch. 117.)

Such expedients were sought in 1891. The circuit court of Shawnee county, with a term of four years only, was created, with concurrent civil jurisdiction. (Laws 1891, ch. 83.) This was held constitutional. (*Morris v. State*, 58 Kan. 210.) The court of common pleas of Wyandotte county, with concurrent civil jurisdiction, and with provisions that the crime cases for one half of each year should also be tried therein, was created with its jurisdiction set to last only to December 31, 1903. (Laws 1891, ch. 92.) This persisted until it merged into division three of the twenty-ninth district court.

In 1898 a common pleas court for Crawford and Cherokee counties, with concurrent jurisdiction, was created, subject to referendum in 1899 of the voters of the two counties. (Laws 1898, Sp. Sess., ch. 16.) It appears to have had a short active existence for about three months. (Laws 1903, ch. 9.) A circuit court of Wyandotte county, making a third court of concurrent jurisdiction, was created by Laws 1908, special session, chapter 52. Out of this effort to obtain ample court facilities grew the system of divisions of district court.

The divisional system which has since been applied to five districts, but first tried in one of them, began in 1909, by a general statute providing for the organization of a second division in counties above 100,000 population, and a third division after the termination of the court of common pleas of Wyandotte county which was to continue to January, 1913. (Laws 1909, ch. 2.) This approach to the problem of court organization was sustained by the constitution. (*State, ex rel., v. Meek*, 86 Kan. 576.)

Under this act, after the common pleas court became, in 1913, the third division, a fourth division was added in 1925 for Wyandotte county. Sedgwick county made a second division in 1911, a third in 1920 and a fourth in 1925. Cherokee county added a second division in 1911, and a third in 1925. The legislature of 1920 had authorized three divisions in counties of 80,000 to 100,000 population. (Laws 1920, Sp. Sess., ch. 31.) Crawford county made a second division in 1921. (Laws 1911, ch. 151.) After one ineffectual effort by

the legislature, it successfully abolished the second division, effective 1934. (Laws 1933, ch. 169.)

In 1923, by general law, the organization of county courts at the board of county commissioners, was authorized. Slowly these courts come into being, until there are now perhaps thirty counties with tribunals. As far as do justice of the peace courts, the county courts currently with the district courts, and in addition have civil jurisdiction controversies of \$1,000. (Laws 1923, ch. 131.)

There have been approximate data of population from the beginning of settlement in the territory of Kansas. Considerable divergence has been between the federal decennial census and annual state enumeration figures serve for rough estimates of needs of court service. But not the Judicial Council of Kansas, immediately after its organization, in June had there been anywhere a semblance of data on actual litigation in the courts of the state. Seven times since then reports have been obtained from the 105 counties, and published as to actual numbers of cases in the district courts.

## REPORT OF JUDICIAL COUNCIL

t made by Chairman W. W. Harvey to the State Bar Association, at its meeting in Topeka, May 28, 1937.)

### *President and Members of the State Bar Association:*

the 11th of next month the Judicial Council will have been in existence years. It was created, you will recall, by the activities of this association in 1926 passed a resolution favoring the organization of such a body, appointed a committee which framed the bill creating the Judicial Council and outlining its duties, and piloted the passage of the bill through the legislature (Chapter 187, Laws of 1927). This action was prompted by the fact that our judicial system was not as efficient as it might be, and that there was at times unnecessary delay in the dispatch of judicial business. By statute it was made the continual duty of the Judicial Council to study the judiciary department of the state, the volume and condition of business in the courts, the methods and rules of procedure therein, the time elapsing between the initiation and conclusion of litigation, and the condition of dockets and unfinished business. It was directed to collect data from court officials, to receive and consider suggestions from jurists, lawyers and laymen concerning faults in the administration of justice, to outline methods of simplifying and expediting the transaction of judicial business, and to recommend changes to the legislature changes deemed beneficial in judicial procedure, and to make an annual report to the governor.

The legislature made a small appropriation to pay for secretarial work and the expenses of members attending meetings (Chapter 85, Laws of 1927). The members receive no pay for their time. The statute requires them to meet semiannually, or oftener. They have met oftener. In the ten years they have held fifty-eight meetings of one or two days each.

There have been three deaths in its membership, Hon. Arthur C. Scates, former chairman of the House judiciary committee; Senator John W. Davis, former chairman of the Senate judiciary committee; and Judge Roscoe H. Conkling. One member, C. W. Burch, resigned after about four years of service because of his desire to reduce his duties and to be out of the state much of the time. Other changes in membership were those made necessary by changes in the chairmen of the judiciary committees of the legislature.

During the first five years annual reports were printed. Since then we have printed our reports in the form of quarterly bulletins. We find the more frequent bulletins keep us in closer touch with the judges, court officials and lawyers throughout the state, and at times enable us to treat some specific subjects more fully than could be done in an annual report. One of our bulletins consists of the compilation and classification of our statutes and decisions relating to the law of eminent domain, compiled by Franklin Corrick, Attorney General of Statutes. Another contains a similar treatise on the Kansas law of homesteads, compiled by James W. Taylor, under the direction of the Council. We have had many calls for these bulletins. Others contain specially prepared articles by the chief justices of our supreme court, by presidents of the association, or by attorneys who had made special study of subjects under consideration by the Council. They have also contained summaries and tables

compiled in our office from data collected, discussions of problems considered and measures recommended, and special articles by its members pertaining to specific features of its work. Four thousand copies of the bulletin are printed. They are sent to all judges, attorneys, members of the legislature, and to most court officials and newspapers of the state, and to others who have evinced an interest in our work. Our out-of-state mail exceeds three hundred, and a few go to foreign countries.

This set-up discloses that the Judicial Council is not a legislative or judicial body. It makes no laws; it decides no controversies. It is a clearing house of ideas. Its function is the collection of data and the consideration of ideas and suggestions pertaining to the judiciary, and making recommendations to the judicial, legislative and executive departments of the state for proper for the prompt and efficient administration of justice. The members of the Judicial Council are not "reformers," as that word sometimes implies; neither do they entertain individual ideas which dogmatically they force upon others. They endeavor to approach the consideration of subjects with faults in the operation of our judicial machinery with an open mind. They determine, first, whether the fault really exists; if so, what measures will remedy or improve it, and how that can be put into operation. Our recommendations and conclusions are published in our BULLETIN. Criticisms are invited. They are discussed with judges, lawyers, and at bar meetings, and considered at several of our meetings before a specific measure designed to improve the condition is definitely formed and specifically recommended.

It is necessary, of course, for us to have in mind something of the nature of an appropriate judicial system for our state and a proper procedure for. We take it our views as to those matters do not differ materially from the views of others who have given them thought and they may be summarized broadly thus: Our government, as we have organized and endeavor to maintain it, is designed to be of benefit to our people; our judicial system is a branch of our government; therefore it should be so constructed and operated as to be as beneficial to our people as it is reasonably possible to make it. Every controverted question of consequence arising among our people in carrying out their domestic relations, their relations with other people and with government and its several subdivisions, with respect to their contracts, business transactions, their ownership, use, disposition of property, inheritance, devolution, eventually find their way into the courts. An adequate judicial system requires a system of courts consisting of one or more trial courts in each county, open and available to the people at all times, presided over by a competent jurist, with adequate quarters and equipped with court facilities appropriate to enable it to transact the business presented to it with reasonable promptness. If there is more than one class of local courts the jurisdiction and functions should be clearly defined. The chief appellate function of a supreme court is to construe and interpret the law so that it may be interpreted differently in different parts of the state, to see that trials have been conducted in harmony with established rules of procedure, and that correct principles of law are applied to the facts found by the triers of fact. All controversies presented to courts should have some substantial basis in their existence. No state is under the duty, nor should it be asked, to maintain courts to determine false controversies—those involving false oaths.

cases and supported by false testimony. Courts should not be regarded as means for the display of chicanery. It never should be said of any of our courts that dishonesty prevails therein over fair dealing and truth.

At the beginning of our work we considered what was being done by the Judicial Councils of other states, two of which—those in Massachusetts and Pennsylvania—appeared to be functioning in a manner worth while. We found that the improvements sought to be brought about in those states had been accomplished by the law of this state for several years. Others appeared to have applied the law of the state, while others had a broader aspect suitable for consideration by us. We began our work by preparing a letter, of which about 100 copies were sent out, to judges, attorneys, court officials, legislators, farmers, and leaders of farm, labor, business and financial groups, in which we requested the recipients to write us frankly what in their view were the faults, generally or specifically, with the judicial machinery and its operation in this state. We received many replies. Numerous suggestions were made, a few of which we found to be worthy of careful attention.

On consideration we found three methods by which our recommendations might be put into effect: *First*, by rules promulgated by the supreme court applicable to the procedure in that court or in courts inferior to it; *second*, by legislative enactment; and *third*, by calling to the attention of judges, attorneys and court officials, omissions or derelictions in conforming to existing procedural provisions, where such omissions or derelictions existed.

*With respect to rules of court.* At that time, and shortly before, much was said in bar associations, law magazines, and elsewhere, to the effect that formulating rules of procedure is a judicial rather than a legislative function, and that the courts have inherent power to formulate and promulgate such rules irrespective of what the legislature may have done concerning the matter. We found this view to be prevalent, though not unanimous, in this state. A practical difficulty of applying it fully in this state arose from the fact that as early as 1859 our territorial legislature enacted a code of civil procedure and a code of criminal procedure for district courts (Chapter 25, Laws Kan. Ter. 1859) and in 1860 (Chapter 87, Laws Kan. Ter. 1860), a code of civil procedure for justice of the peace courts; that these were retained by the state on its admission into the Union, and later reenacted, modified or changed by our state legislature from time to time, and in that way have been in effect throughout our entire state history; and the authority of the legislature to enact statutes containing such procedural provisions frequently has been recognized and upheld by the decisions of our supreme court. We declined to urge the supreme court to brush all that aside and to assert and exercise its authority to make such procedural rules. Such action would have been regarded by many persons as a usurpation of authority by the supreme court. Neither the Judicial Council nor the court desired to subject itself to such a charge, even though it might be said with reason that the charge was ill-founded. We found, however, in each of the existing codes enacted by the legislature one or more provisions to the effect that the supreme court might amend the legislative codes of procedure by rules of court. There existed, therefore, a clear, though narrow, field in which our supreme court has unquestioned authority to promulgate rules of procedure applicable to inferior courts.

When this conclusion was reached we sought to determine what rules

supplementing the codes of procedure might be promulgated with benefit. The supreme court might change its own rules to advantage, and recommend changes which it put into effect. These have resulted advantageously in several respects and have actually effected a financial saving to the state in excess of fifty percent of the sum appropriated by the legislature for the expenses of the Judicial Council. After much consideration we have from time to time, and there have been promulgated by the supreme court at our suggestions, thirteen specific rules pertaining to practices or procedure in the district courts. I shall not discuss these *seriatim*. They have been set out, discussed, and reasons for them given in our reports and bulletins from time to time. They are also printed, with their history and effect, in the General Statutes of 1935 under section 60-3827. After these rules were promulgated experience disclosed that the wording of a few of them should be modified in certain respects, whereupon those rules were amended by the supreme court. The facility with which desirable changes can be made in procedure promulgated by the court demonstrates the superiority of this method of prescribing procedural rules over having them prescribed by the legislature. We feel confident in asserting that greater improvement in the functioning of our district courts has resulted from these few rules promulgated by the supreme court than has resulted from all the changes made in procedure by the legislature in many years.

*Legislative action.* The legislature has enacted into law twelve measures specifically prepared and recommended by the Judicial Council. I will not discuss these in detail here, since they have been printed in our bulletins (April, 1935; April, 1937) and their purposes outlined. It is sufficient to say that each of them has made a substantial change in the functioning of our judicial system, with a result beneficial to our people. In addition to these a score or more of measures have been enacted into law, which, while not formulated by the Judicial Council, either were suggested by some member, had been published in our bulletins, or which the Council, or some member, assisted to prepare. Some measures proposed by us were not enacted into law for one reason or another, which need not be stated here. Doubtless many of them eventually will be so enacted, for we are confident they have merit. Two of these are of more than ordinary importance. One is our proposed redraft of the judicial article of our constitution. This was not submitted at the recent session of the legislature for the reason, among others, that there was a disposition throughout the session not to submit any constitutional amendment. It has been discussed heretofore in our bulletin and will be given further consideration. The other is our proposed probate and county court bill. It is designed to reorganize the structure and functioning of the courts of this state inferior to the district court. There has been a constant expression of sentiment in favor of this measure since it was first suggested a few years ago. It makes quite a change in the present set-up, a fact which necessarily requires and justifies time for its consideration. Two years ago the judiciary committee considered it at length and recommended its passage late in the session. This year, after extended consideration, it was passed by the Senate, together with its companion bill creating magistrate courts. Both were recommended for passage by the House judiciary committee, but were held into a legislative jam late in the session and were stricken from the calendar.

be presented again if sentiment favorable to it continues, as now seems

his field lies the principal work of the Judicial Council planned for the near future. We have been urged repeatedly to prepare a code of procedure. To do this we find it necessary to rewrite the law of estates, for no other reason than to take procedural provisions out of the provisions with substantive law. This is a task which cannot be done in a few days or a few days. The members of the Council are busy men. Three of them are members of active courts; the others are busy lawyers. They have it impossible to take time to do the detailed work necessary in such a task. The legislature was good enough to increase our appropriation, available July 1st, so we might employ for a time someone capable of doing this work under our direction. We plan to go forward with this work so we can have it completed and in shape for the next legislative session. Tentative plans of it will be published in our BULLETIN as soon as possible. We shall welcome and hope to receive criticism, whether favorable or adverse, from jurists and members of the bar throughout the state. We much prefer to have discussed our proposal pointed out before rather than after they have been submitted to the legislature. We want to work with the lawyers of the state and those who may take an interest in the matter, so that the final product of our work really may be beneficial.

*personal element.* The functions of courts, like those of all departments of our government, must be performed by individuals possessing human characteristics. They do not function with mathematical precision. It is possible to have a suitable court structure and an ideal court procedure prescribed by acts of court or legislative enactment, and yet not have as good results as could be attained because of indifference or lack of care of those who perform the functions of the court. Perhaps it is too much to expect of any of us to do our best. But lack of care, indifference and favoritism in performing judicial duties impair the efficiency of courts. These should be guarded against as much as possible, for it is rare that such conduct affects the actor. It usually operates to the detriment of some other party concerned in the proceeding. There is more of this in some localities of the state than in others. Much depends on the attitude of the presiding judge. Much has been done to correct these faults by associations such as this, and by county and local bar associations throughout the state, and by the editors of the judicial journal, and by individual jurists and lawyers. Constant attention to the culture and coöperation among jurists, lawyers and court officials will aid in overcoming defects from this source.

A substantial part of the work of the Judicial Council is collecting data from the courts in order that we and members of the bar and legislators may have definite information on which to act. Each year we have collected data from the supreme court with respect to cases disposed of and pending therein, from the compiled summaries showing the length of time cases pending in this court, and other pertinent facts. So far as we know, similar reports have been compiled with respect to the supreme court of any other state. We have collected similar data from the clerks of the district courts on different occasions and from probate courts on three occasions, and have collected and published summaries and tables from such reports. This year

we are collecting data from all of these courts, summaries and tables which will be published in our bulletins. We find that the very reports are asked for is itself a stimulant to good work in the courts.

This résumé of our ten years' work, while longer than I would like to have made it, omits many important details. Perhaps it demonstrates that our work is worthwhile. As the years pass we find more active, earnest coöperation which we hope will continue. At least four committees of this association have spent time with us at our meetings on some of the problems considered, and the association itself has been helpful in many respects. Assistance has been given by district and local bar associations and individual attorneys. The press has been free to note and commend our work and while achievements. We hope our work may merit continued coöperation and encouragement.





Sec. 56  
U. S.  
**P**  
Tope  
Perm

---

PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1937

# KANSAS JUDICIAL COUNCIL BULLETIN

ER, 1937

PART 3—ELEVENTH ANNUAL REPORT

## TABLE OF CONTENTS

	PAGE
FOREWORD .....	99
DEFINITE AND INDEFINITE FAILURE OF ISSUE.....	101
A LETTER FROM DEAN BURCH.....	
SUMMARY OF WORK OF SUPREME COURT.....	103
TEN-YEAR SUMMARY TABULATED .....	105
TABULATED SUMMARY, COUNTY COURTS.....	107
SUMMARY BY DISTRICTS OF WORK OF DISTRICT COURTS.....	109
THE STATE AS A WHOLE.....	157
TABLE BY COUNTIES, OF WORK OF THE DISTRICT COURTS.....	160



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1937  
17-1390

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>SECRETARY</i> .....	Russell.
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas Ci
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John.
Judge Twentieth Judicial District.	
KIRKE W. DALE.....	Arkansas C
Chairman Senate Judiciary Committee.	
HARRY W. FISHER.....	Fort Scott
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS .....	Independe

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATIONS OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally through  
state.

For the improvement of our Judicial System and its  
efficient functioning.

## FOREWORD

We appreciate receiving and print herein a communication from R. A. [redacted], dean of Washburn College School of Law, pertaining to the subject of definite and indefinite failure of issue. The article is a timely one, dealing with important property rights, and written by one thoroughly competent to write in the manner in which the subject has been treated in the opinions of the supreme court. It suggests that an appropriate statute enacted by the legislature is advisable to avoid confusion on the subject. We invite suggestions from jurists and attorneys throughout the state on the question. We endeavor to prepare such a statute, either by itself or as a part of a property subject, for presentation to the next legislature.

---

In connection with the above article and suggestions, our attention has been called to a suggested statute being framed by the American Law Institute in coöperation with the Commission on Uniform Laws and designated as a property act. The primary function of the American Law Institute is to restate the common law. Some of the rules of the common law respecting property have been deemed not suitable to the wants and needs of the people of our state and others, with the result that in some states there have been statutes doing away with certain of those rules in those particular states, and in many instances the courts, as they are authorized to do, have held certain rules of the common law pertaining to property not to be suitable to the wants and needs of the people of the state. The result is, that taking our various states, there is great lack of uniformity with respect to whether the common-law rules are in force. In many instances there is confusion as to whether any of them is in force in a certain state. There is some lack of clarity on this point in this state. For example, the rule in Shelley's case has been stated as to wills but not as to deeds; we have had some confusion over the rule of survivorship of joint tenants; the common-law rules pertaining to estates tail are held a part of our law, with much doubt among many of our people as to whether they are suitable. These and others, as well as the question respecting definite and indefinite failure of issue, could best be settled by statutes. The proposed property act being formulated by the American Law Institute and the Commission on Uniform Law is designed to accomplish this purpose.

---

We print herein a summary of the work of the supreme court for the year ending June 30, 1937, and the condition of business pending in the court on that date. This is the tenth consecutive year we have compiled and published such a summary. Tables are also set out showing a comparison of the business of the court for these years.

---

We print herein, also, a table giving a general summary of the work of our county courts. They are now organized in thirty counties, but since it is not effective in one of them on July 1, 1937, the reports are from twenty-two counties. This table shows the number of the different classes of cases

handled in each of those courts. There is a total of 2,262 cases, on which were tried to juries, the others being tried to the court, and in cases where there were appeals. The table also shows the expense of those cases to the counties and the financial returns received by the counties. Courts are not maintained for the purpose of making money, but rather for the acting of judicial business; yet, on the whole, this report shows that courts are not a drain upon the finances of the counties. Many of them show an actual profit to the county. Some others do not. Whether the profit or loss depends, of course, upon the amount of business in them; and the business within the jurisdiction of such courts is taken to them by attorneys and litigants, or to some other court of similar jurisdiction, ordinarily upon the capability of the presiding judge of the county court. In those counties where the court is equipped with a personnel competent to transact the business efficiently, the courts are regarded as exceptionally efficient parts of our judicial system, and the people like them.

---

We are printing herein summaries of the reports made to us by the district courts concerning the business transacted in those courts during the year ending June 30, 1937, and pending on July 1 of that year, by the district courts, and also tables compiled from such reports, by counties. We also print a summary for the state as a whole. We want to commend the district courts throughout the state for their promptness in sending us these reports. This is the earliest we have ever been able to compile and publish these summaries. We also commend them on the evident care they have taken to have these reports accurate and complete. Upon the whole, it is the best set of reports we have received. As these summaries were compiled from the respective counties' copies were sent both to the clerk of the district court and to the trial judge. In a few instances corrections may be made, either in the report sent in or in our summary as we compile it. The clerks and the judges have coöperated with us in an effort to have our summaries correct.

---

We are glad to note some definite progress toward the preparation of a probate code. The need for this is quite generally recognized, and has been talked about it heretofore. One of our difficulties in drafting it has been that in our present statutes many sections contain what is properly classified as substantive law, as well as procedural provisions, in the same section. In order to write a probate code we found it necessary to rewrite many of the sections dealing with the estates of decedents, minors and other incompetent persons, for no other reason than to take the procedural provisions out of them so that the probate code could then be written. This is quite a task in itself, and none of the members of the Council found time to do it. We have asked Mr. Samuel E. Bartlett, of Ellsworth, to assist us in this work. He has prepared a draft of our law of estates, omitting procedural provisions, and a tentative probate code. In doing this he found it possible to combine provisions in places where our statutes had been enacted at different times, dealing with different phases of a particular subject, and eliminate s

with the result that what is now contained in 456 sections of our statutes is rewritten so as to make but 255 sections. In rewriting this Mr. Bartlett has made no attempt to change the law of estates. He has attempted to write the law as it is now as to existing sections of our statutes, as some of them have been classified by the decisions of our supreme court. This segregation of these statutes, and draft of the probate code, while not designed to be final and complete, constitute an excellent basis for the more careful study of the subject. Our Council plans to give careful study to these drafts. In doing this we shall call to our assistance several of the attorneys in the state who are especially qualified from their experience and practice to be of aid to us in this work. Our present plan is to have our studies made so that they may be published, with appropriate explanatory notes, in April, 1938, copy of our BULLETIN. This will make the result of our work available to all the lawyers and judges of the state, and with their help we feel quite confident that this matter can be presented to the next regular session of our legislature.

## DEFINITE AND INDEFINITE FAILURE OF ISSUE

(A LETTER FROM DEAN BURCH)

W. W. Harvey, Chairman Judicial Council, Topeka, Kan.:

DEAR SIR—I desire to direct the attention of the Judicial Council to a subject respecting which I deem legislation of a specific type to be important. The subject is known in property law as that of definite failure of issue and indefinite failure of issue. In the interpretation of deeds and wills, questions arise as to whether definite or indefinite failure is indicated. The subject breeds confusion in the interpretation of conveyances concerning land. In this state land is a staple commodity of transference by deed and will, and a simple, rational system of law governing the matter is greatly to be desired.

In the common law, if *A* made a deed or will to *B* and his heirs, but the instrument provided if *B* "dies without issue" the land should go to *C* and his heirs, the quoted words presumably meant indefinite failure of issue and an entail was created in *B*. *C* or his heirs would take only after *B*'s line of descendants, if he had issue, became extinct. The entail could be barred and *C* or his heirs might never take.

In the common-law rule was always one of interpretation, and not one of legislative law, such as the rule in *Shelley's case*. Context might indicate definite failure of issue was meant. (*Pells v. Brown*, Cro. Jac. 590, decided in the year 1620; and see *Cress v. Hamnett*, 144 Kan. 128, decided in 1936.)

Rules of interpretation are designed to elucidate meaning, but they tend to stiffen and harden, and those adopted for one age sometimes thwart meaning according to the approved usage of language if applied in a later stage of civilization. Even at the time it became settled in England, the interpretation was that "die without issue" meant indefinite failure of issue, produced undesirable results (*Kale's Future Interests*, 2d Ed. § 544), and the centuries of legal history behind the phrase "distort its modern English meaning." (See, e.g., *Case Book, Future Interests*, p. 501.)

The introduction to the Restatement of the Law of Future Interests by the American Law Institute appears the following:

"For the past three centuries the English law has afforded an ever accumulating of rules, waiting to be borrowed for the elaboration of the law of a new country. The social conditions of the New World were widely from those environmental factors which had shaped the English law. Nevertheless the borrowing has been made, frequently without consideration of the underlying differences of situation. Sometimes a keen opinion pointed out that the English common law is adopted as our law on the extent that its rules are compatible with the circumstances and in the west of the Atlantic. To the extent that this sound attitude has prevailed, the adaptation of English law to American problems has injected differences. These differences become more important as the passage of time reveals the environmental differences on the two sides of the Atlantic." (Resolutions of the Law of Property, vol. 2, p. 512.)

Since what Professor Simes calls "a surprising number" of American courts followed the common-law interpretation (2 Simes, *Future Interests* [1936]), the American Law Institute was obliged to state the common-law rule (§ 61) just as the Institute was obliged to state that words of inheritance are necessary in a deed in order to create a fee simple (§ 27). The Institute, however, preserved the rule that whether definite or indefinite failure of issue is meant is a problem of construction of the instrument. (§ 61, comment g.)

In a few states "keen opinions" rejected the common-law interpretation, and Professor Warren, of Harvard, regrets that all American judges have not seen fit to hold our social structure justified a departure from the common-law of England (39 *Yale L. J.*, 346).

Legislation abrogating the common-law rule commenced in this country in Virginia in 1819. North Carolina followed in 1827, and New York in 1828. But in 1936 there were still twenty-one states, including Kansas, with no legislation on the subject.

At the annual meeting in May, 1937, the American Law Institute met in conjunction with the Commissioners on Uniform State Laws, recommending for adoption a statute abrogating the common-law rule. Such a statute has been enacted in Kansas, but my insistence is that care should be taken in enacting the abrogating statute so that no implication or inference of previous error in Kansas of the common-law interpretation may follow from the enactment.

In the opinion formulated by Mr. Justice Mason, in the case of *McIntosh v. Gilbert*, 90 Kan. 545 (1913), the state of the law in this country at that time, to definite and indefinite failure of issue was exhibited. The rule that the failure of issue in a will, in the absence of any other indication, is to be construed as a definite failure of issue, was applied at the end of the first paragraph on page 554. But, in fact, that, a careful reading of the opinion (pp. 553 and 554) will disclose that the court distinctly refrained from acknowledging that the indefinite failure of issue doctrine was ever a part of the common law of this state. No acknowledgment to that effect has since been made by the court in any case in which such an acknowledgment was necessary to the decision. The common-law to which the common law remains in force in this state is fixed by the *Restatement* (G. S. 1935, 77-109), and the way is still open for the court to reject the anachronistic indefinite failure-of-issue doctrine.

R. A. BURCH

Dean, Washburn College School of Law



## Summary of the Work of the Supreme Court

The following is a summary of the work of the supreme court for the year ending June 30, 1937, and of cases pending on July 1, 1937.

There were 397 appealed civil cases disposed of within the year ending June 1937. Of this number 103 were dismissed without having been presented on the merits and 294 were submitted on the merits and written opinions therein. Of these 194 were affirmed, 88 reversed, and in 12 the judgment of the trial court was modified.

The court also disposed of 56 appealed criminal cases. Of this number 27 were dismissed without having been presented on the merits and 29 were submitted on the merits and written opinions filed. Of this number 24 were affirmed, 3 reversed and 2 modified.

The court also disposed of 33 original cases. Of this number 9 were dismissed before having been presented on the merits; 24 were submitted on the merits and written opinions filed, resulting in judgment for plaintiff in 8 cases, for defendant in 15 cases, and judgment as per stipulation in 1 case.

This makes a total of 486 cases disposed of by the supreme court, of which 103 were dismissed without having been presented on the merits, and 347 were submitted on the merits and written opinions filed.

The cases pending July 1, 1937, were as follows: 174 appealed civil cases, 103 appealed criminal cases, and 16 original cases, making a total of 210 cases.

Of the 347 cases submitted to the supreme court on their merits and in which written opinions were filed, in 31 cases the opinions were filed before the first regular opinion day, in 284 cases on the first regular opinion day, in 15 cases on the second opinion day, and in 7 cases on the third opinion day. The first regular opinion day ordinarily is a month after the case is submitted; and, more accurately, it is the Saturday of the week hearings are had the next week after the case is submitted.

Of the appealed civil cases disposed of within the year ending June 30, 1937, pending on that date, the time between the date of judgment appealed from and the date notice of appeal was filed in the trial court is as follows: Within 10 days, 98 cases; in 10 to 30 days, 125 cases; in 1 to 2 months, 94 cases; in 2 to 3 months, 62 cases; in 3 to 4 months, 42 cases; in 4 to 5 months, 25 cases; in 5 to 6 months, 79 cases; over 6 months, 20 cases; time not stated, 15 cases.

Of the appealed civil cases disposed of within the year ending June 30, 1937, pending on that date, the time between the date notice of appeal was filed in the trial court and the date notice of appeal was filed in the supreme court is as follows: Within 5 days, 223 cases; within 5 to 10 days, 80 cases; in 10 to 20 days, 105 cases; within 20 to 30 days, 60 cases; within 1 to 2 months, 54 cases; within 2 to 3 months, 12 cases; within 3 to 4 months, 9 cases; in 4 to 5 months, 6 cases; over 5 months, 7 cases; time not stated, 15 cases.

Of the appealed civil cases disposed of within the year ending June 30, 1937, pending on that date, the time between the date notice of appeal was filed in the supreme court and the date deposit for costs was made is as follows: Within 5 days, 157 cases; in 5 to 15 days, 108 cases; in 15 to 30 days, 121 cases; in 1 to 2 months, 50 cases; in 2 to 3 months, 7 cases; over 3 months, 9 cases; time not stated, 119 cases.

In the appealed civil cases in which opinions were filed within the year ending June 30, 1937, the time between the date notice of appeal was filed in this court and the date the case was submitted on its merits is as follows: Within 3 months, 12 cases; in 3 to 4 months, 28 cases; in 4 to 5 months, 32 cases; in 5 to 6 months, 45 cases; in 6 to 7 months, 60 cases; in 7 to 8 months, 32 cases; in 8 to 9 months, 16 cases; in 9 to 12 months, 44 cases; in 12 to 15 months, 16 cases; later than 15 months, 7 cases.

In the appealed criminal cases disposed of within the year ending June 30, 1937, and pending on that date, the time between the date of judgment in the trial court and the date the notice of appeal was filed in the trial court is as follows: On the same day, 16 cases; not the same day but within 5 days, 10 cases; from 5 to 10 days, 10 cases; from 10 to 20 days, 6 cases; from 20 to 30 days, 8 cases; from 1 to 2 months, 10 cases; from 2 to 3 months, 2 cases; from 3 to 4 months, 1 case; from 4 to 5 months, 3 cases; from 5 to 6 months, 1 case; from 6 to 12 months, 1 case; from 1 to 2 years, 1 case; time not stated, 2 cases.

In the appealed criminal cases disposed of by the supreme court within the year ending June 30, 1937, and pending on that date, the time between the date the notice of appeal was filed in the trial court and the date the notice of appeal was filed in the supreme court is as follows: Within 5 days, 21 cases; in 5 to 10 days, 16 cases; in 10 to 20 days, 17 cases; in 20 to 30 days, 6 cases; in 30 to 60 days, 6 cases; in 2 to 3 months, 2 cases; in 3 to 4 months, 3 cases; in 4 to 6 months, 3 cases; and in 2 cases the time was not given.

In the appealed criminal cases disposed of within the year ending June 30, 1937, and pending on that date, the time between the date the notice of appeal was filed in the supreme court and the date the deposit for costs was made is as follows: Within 5 days, 10 cases; in 5 to 15 days, 8 cases; in 15 to 30 days, 25 cases; in 1 to 2 months, 5 cases; in 2 to 3 months, 2 cases; over 3 months, 3 cases; time not stated, 23 cases.

In the appealed criminal cases in which opinions were filed within the year ending June 30, 1937, the time between the date the notice of appeal was filed in the supreme court and the date the case was submitted on its merits, is as follows: Within 3 months, 1 case; in 3 to 4 months, 3 cases; in 4 to 5 months, 2 cases; in 5 to 6 months, 3 cases; in 6 to 7 months, 7 cases; in 7 to 9 months, 3 cases; in 9 to 12 months, 5 cases; in 12 to 15 months, 5 cases.

In the appealed civil cases disposed of within the year ending June 30, 1937, the costs in 388 cases reported on is as follows: Minimum amount, \$3.05; maximum, \$48; aggregate, \$5,175.43; average, \$13.34.

In the appealed criminal cases disposed of within the year ending June 30, 1937, the costs in 53 cases reported on is as follows: Minimum amount, \$38.14; maximum, \$23.60; aggregate, \$685.90; average, \$12.94.

In the original cases disposed of within the year ending June 30, 1937, the costs in 23 cases reported on is as follows: Minimum, \$4.55; maximum, \$38.14; aggregate, \$284.34; average, \$12.36.

In the year ending June 30, 1937, the court disposed of 745 motions, of which 11 were withdrawn or not presented, 509 were allowed, and 225 were denied. There were 17 motions pending on July 1, 1937.

There were pending in the supreme court July 1, 1937, a total of 210 cases compared with 268 on the same date in 1936, 291 in 1935, 366 in 1934, 366 in 1933, 357 in 1932, 393 in 1931, 397 in 1930, 376 in 1929, and 341 in 1928.

## Supreme Court: Ten-Year Summary

the ten years the clerk of the supreme court has furnished us detailed  
 nation of the work of that court it has disposed of 5,832 cases, of which  
 were dismissed before final submission, and 3,964 were submitted on the  
 s and written opinions filed.

### TEN-YEAR SUMMARY, KANSAS SUPREME COURT

ENDING JUNE 30.	Cases.	Disposed of.	Dismissed.	Submitted.
	Appealed, civil.....	529	143	386
	Appealed, criminal.....	101	44	57
	Original.....	43	13	33
	Totals.....	673	200	473
	Appealed, civil.....	475	128	347
	Appealed, criminal.....	72	29	43
	Original.....	36	18	18
	Totals.....	583	175	408
	Appealed, civil.....	504	143	351
	Appealed, criminal.....	77	37	40
	Original.....	52	16	36
	Totals.....	633	196	437
	Appealed, civil.....	490	131	359
	Appealed, criminal.....	63	29	34
	Original.....	38	13	25
	Totals.....	591	173	418
	Appealed, civil.....	522	159	363
	Appealed, criminal.....	74	45	29
	Original.....	32	6	26
	Totals.....	628	210	418
	Appealed, civil.....	459	135	324
	Appealed, criminal.....	66	35	31
	Original.....	23	5	18
	Totals.....	548	175	373
	Appealed, civil.....	427	149	278
	Appealed, criminal.....	52	30	22
	Original.....	42	11	31
	Totals.....	521	190	331
	Appealed, civil.....	506	167	339
	Appealed, criminal.....	58	26	32
	Original.....	25	11	14
	Totals.....	589	204	385
	Appealed, civil.....	475	156	319
	Appealed, criminal.....	66	31	35
	Original.....	39	19	20
	Totals.....	580	206	374
	Appealed, civil.....	397	103	294
	Appealed, criminal.....	56	27	29
	Original.....	33	9	24
	Totals.....	486	139	347
	Grand totals.....	5,832	1,868	3,964

## DISPOSITION OF APPEALED CASES BY WRITTEN OPINIONS

YEAR ENDING JUNE 30.	Cases.	Affirmed.	Percent.	Reversed.	Percent.	Modified.	Percent.	Total.
1928.....	Appealed, civil.....	261	68	104	27	21	5	386
	Appealed, criminal.....	52	91	5	9	0	0	57
1929.....	Appealed, civil.....	238	69	94	27	15	4	347
	Appealed, criminal.....	39	91	4	9	0	0	43
1930.....	Appealed, civil.....	258	72	92	25	11	3	361
	Appealed, criminal.....	31	78	9	22	0	0	40
1931.....	Appealed, civil.....	2,258	72	73	20	28	5	359
	Appealed, criminal.....	28	82	6	18	0	0	34
1932.....	Appealed, civil.....	267	74	80	22	16	4	363
	Appealed, criminal.....	24	83	5	17	0	0	29
1933.....	Appealed, civil.....	215	66	87	27	22	7	324
	Appealed, criminal.....	26	84	5	16	0	0	31
1934.....	Appealed, civil.....	169	61	91	33	18	6	278
	Appealed, criminal.....	19	86	3	14	0	0	22
1935.....	Appealed, civil.....	211	62	116	34	12	6	339
	Appealed, criminal.....	26	81	6	19	0	0	32
1936.....	Appealed, civil.....	168	53	130	40	21	7	319
	Appealed, criminal.....	25	72	10	28	0	0	35
1937.....	Appealed, civil.....	194	75	88	22	12	3	294
	Appealed, criminal.....	24	83	3	10	2	7	29
Totals.....	Appealed, civil.....	2,239	66	955	29	176	5	3,370
	Appealed, criminal.....	294	84	56	16	2	0	352
Grand totals.....	.....	2,533	.....	1,011	.....	178	.....	3,722

County.	Year court created.	Criminal cases, misdemeanors.			Pre-lim-inary exami-nations.	Civil cases in justice of the peace jurisdiction.			Civil cases above justice of the peace jurisdiction.			Total cases.		
		No.	To jury.			Appeals.	No.	To jury.		Appeals.	No.	To jury.		Appeals.
Allen.....	1935	95	2	16	11	10	0	1	4	0	0	120	2	17
Butler.....	1934	69	0	1	45	69	0	2	12	0	0	195	0	3
Clay.....	1934	89	0	2	46	46	1	1	4	0	0	145	1	3
Cloud.....	1930	57	0	0	19	30	1	1†	2	0	0	108	1	1
Coffey.....	1930	50	0	0	7	13	0	0	2	1	1	72	1	1
Doniphan.....	1937	21	0	0	6	2	0	0	8	0	0	37	0	0
Edwards.....	1926	63	1	0	18	29	0	0	3	0	0	103	1	0
Finney.....	1924	65	1	1	37	37	3	4	4	0	0	124	4	5
Ford.....	1932	52	1	4	25	36	0	1	10	0	1	129	1	6
Greenwood.....	1926	53	0	0	19	69	0	3	1	0	0	142	0	3
Hodgeman.....	1928	18	0	1	2	0	0	0	2	0	1	22	0	2
Kearny.....	1923	1	0	0	0	1	0	0	0	0	0	2	0	0
Marion.....	1929	77	0	0	15	13	0	0	12	0	1	117	0	1
Marshall.....	1929	106	1	0	17	23	0	0	3	0	0	149	1	0
Mitchell.....	1923	91	0	0	11	46	0	0	5	0	1	153	0	1
Morris.....	1924	104	0	0	15	25	0	1	6	0	0	150	0	1
Osage.....	1929	77	0	1	11	45	1	0	4	0	0	137	1	1
Osborne.....	1924	31	0	0	4	12	0	0	5	0	0	52	0	0
Pawnee.....	1927	5	0	0	2	7	0	0	0	0	0	14	0	0
Phillips.....	1925	66	0	2	9	18	0	0	17	0	1	110	0	3
Rawlins.....	1929	12	0	1	0	2	0	0	7	0	0	21	0	1
Republic (July 1.).....	1937	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Rush.....	1924	89	2	0	7	38	0	0	5	0	0	139	2	0
Russell.....	1937	1	0	0	0	19	0	1	7	0	0	27	0	1
Stevens.....	1930	56	0	3	8	0	0	0	0	0	0	64	0	3
Thomas.....	1928	53	0	0	6	13	0	0	13	0	0	85	0	0
Trego.....	1925	37	0	0	1	20	1	1	4	1	1	62	2	2
Wallace.....	1923	1	0	0	0	0	0	0	1	0	0	2	0	0
Washington.....	1935	92	0	0	1	38	0	0	5	0	0	136	0	0
Woodson.....	1934	13	0	0	7	22	1	1	3	1	1	45	2	1
Totals.....	.....	1,544	8	32	280	683	8	17	155	3	7	2,662	19	56

† Appeal dismissed.



## SUMMARY OF THE WORK OF THE DISTRICT COURTS

## FIRST DISTRICT

HON. J. H. WENDORFF, of Leavenworth, Judge  
HOWARD OLIVER, Clerk

County: Leavenworth. Area, 440 square miles; population, 35,054; assessed value, \$32,912,644.

**CIVIL CASES (OTHER THAN DIVORCES)—FORMS 1 AND 2.** There were 168 cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 28 were dismissed before trial on the merits, and 140 were tried to the court. In 103 cases no answers were filed. In 65 cases answers were filed within 30 days after the petitions were filed, in 30 cases from 30 to 60 days, in 7 cases from 60 days to 6 months, and in 4 cases after 6 months. There were 95 cases tried on the merits within 3 months after the time the petitions were filed, 25 from 3 to 6 months, in 10 from 6 to 12 months and in 10 after 1 year. In 136 cases journal entries were filed the day of trial and in 32 cases no journal entries had yet been filed. Court costs amounting to \$3,092.25 were reported in 168 cases, showing a minimum of \$2.35, a maximum of \$162.05, and an average of \$18.41. There were 77 civil cases other than divorce pending July 1, 1937. Of this number, 32 had been pending less than 3 months, 18 from 3 to 6 months, and 27 from 6 to 12 months.

**DIVORCE CASES—FORMS 3 AND 4.** There were 113 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 10 were dismissed before trial. In 65 cases the divorces were granted to the wives and in 34 cases to the husbands. In 4 cases divorces were denied and 5 were contested. The custody of 38 minor children was awarded to the wives and in 6 cases to the husbands. There were 6 cases tried within 60 days after the petitions were filed, 79 from 60 days to 6 months, and 18 after 6 months. The grounds for divorce were: Gross neglect, 79 cases; extreme cruelty, 8 cases; abandonment 12 cases. Court costs amounting to \$903.15 were reported in 113 cases, showing a minimum of \$2.35, a maximum of \$46.80, and an average of \$7.99. There were 119 divorce cases pending July 1, 1937, of which 31 had been pending less than 3 months, 41 from 3 to 6 months, and 47 from 6 months to 1 year.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 38 criminal cases disposed of within the year ending June 30, 1937. Of this number 8 were dismissed before trial on the merits. In 14 cases the defendants entered pleas of guilty. In 16 cases were tried to the jury, resulting in 15 verdicts of guilty and 1 verdict of not guilty. Trial was had within 10 days after information was filed in 1 case, within 10 to 30 days in 8 cases, within 30 days to 3 months in 3 cases, and in 3 to 6 months in 1 case. Court costs amounting to \$1,985.53 were reported in 38 cases, showing a minimum of \$2.60, a maximum of \$125.65, and an average of \$52.25. The date information was filed was not reported in 1 case. There were 12 paroles granted. There were 41 criminal cases pending July 1, 1937. Of this number 13 had been pending less than 3 months, 3

from 3 to 6 months, and 25 cases from 6 months to 1 year. The formation was filed was not reported in 21 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all cases which were during the year ending June 30, 1937, or which were pending July 1, motions or demurrers were reported. Of this number 69 were withdrawn presented. Of the number disposed of 75 were presented within 10 days they were filed, 21 from 10 to 30 days, and 1 after 30 days. There motions or demurrers decided the day presented, 3 within 10 days, 1 to 30 days and 1 after 30 days. Of the 97 ruled upon 87 were allowed 10 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases the merits prior to July 1, 1936, there were 16 motions reported. Of the 2 were presented within 10 days after they were filed, 1 from 10 to 30 days and 13 after 30 days. There were 15 motions decided on the day presented, 1 after 30 days. Six motions were allowed and 10 denied.

## SECOND DISTRICT

HON. LAWRENCE F. DAY, of Atchison, Judge  
HAL WAISNER, Clerk

One county: Atchison. Area, 412 square miles; population, 23,000. Assessed value, \$32,668,784.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 114 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 34 were dismissed before trial on the merits, 114 were tried to the court, and 1 to the jury. In 120 cases no answers were filed. In 13 cases answers were filed within 30 days after the petitions were filed, in 10 within 30 to 60 days, in 4 within 60 days to 6 months, and in 2 after 6 months. There were 83 cases tried on the merits within 30 days of the time the petitions were filed, 21 within 3 to 6 months, 8 within 6 to 12 months, and 3 after 1 year. In 76 cases journal entries were filed on the day of trial, in 23 not the same day but within 10 days, in 2 within 10 to 30 days, in 6 after 30 days, and in 42 cases no journal entries were filed. Court costs, amounting to \$2,725.78, were reported in 140 cases, showing a minimum of \$3.50, a maximum of \$52.04, and an average of \$19.47. There were 114 actions other than divorce pending July 1, 1937. Of this number 24 had been pending less than 3 months, 12 from 3 to 6 months, 10 from 6 to 12 months, 29 from 1 to 2 years, 16 from 2 to 3 years, 8 from 3 to 4 years, 11 from 4 to 5 years, and 7 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 59 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 34 were dismissed before trial. In 34 cases the divorces were granted to the wives and in 11 cases to the husbands. The custody of 21 minor children was awarded to the wives and 2 to the husbands. There was 1 case tried 60 days after the petition was filed, 42 within 60 days to 6 months, and 16 within 6 to 12 months. The grounds for divorce were: Gross neglect, 38 cases; cruelty, 4 cases; abandonment, 2 cases; and conviction of a felony, 1 case. Court costs, amounting to \$568.60, were reported in 58 cases, showing a minimum of \$3.20, a maximum of \$28.40, and an average of \$9.80. The



orce cases pending July 1, 1937, of which, 5 had been pending less than 3 months, 17 from 3 to 6 months, 16 from 6 months to 1 year, 18 from 1 to 2 years, 13 from 2 to 3 years, 8 from 3 to 4 years, 8 from 4 to 5 years, and 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 35 criminal cases disposed of during the year ending June 30, 1937. Of this number 21 were dismissed before trial on the merits. In 12 cases the defendants entered pleas of guilty. There were 2 cases tried to the jury. In both cases sentence was deferred. Judgment was had within 10 days after the information was filed in both cases. Late information was filed was not reported in 7 cases. There were 2 appeals granted. Court costs, amounting to \$339.35, were reported in 35 cases, showing a minimum of \$2.90, a maximum of \$17.60, and an average of \$5.13. There were 9 criminal cases pending July 1, 1937. Of this number 1 were pending less than 3 months, 3 from 3 to 6 months, 2 from 6 months to 1 year, and 3 from 1 to 2 years. The date information was filed was not reported in 7 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 359 motions or demurrers were reported. Of this number 54 were withdrawn or not presented and 12 were still pending July 1, 1937. Of the remainder disposed of 176 were presented within 10 days after they were filed, 10 within 10 to 30 days, and 68 after 30 days. There were 114 motions or demurrers decided the day presented, 119 not the same day but within 10 days, 38 within 10 to 30 days, and 22 after 30 days. Of the 293 ruled upon 159 were allowed, 62 denied, and 8 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 18 motions reported. Of this number 2 were withdrawn or not presented. Sixteen cases were presented within 10 days after they were filed. There were 15 motions decided on the day presented and 1 not the same day but within 10 days. Of the 16 ruled upon 15 were allowed and 1 denied.

### THIRD DISTRICT

HON. GEO. A. KLINE, of Topeka, Judge, First Division  
HON. PAUL H. HEINZ, of Topeka, Judge, Second Division  
HON. OTIS E. HUNGATE, of Topeka, Judge, Third Division  
MRS. LEAH B. WILLCUTS, Clerk

County: Shawnee. Area, 544 square miles; population, 94,427; assessed value, \$118,381,348.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 636 cases other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 188 were dismissed before trial on the merits, 425 were tried to the court, and 23 to the jury. In 424 cases no answers were filed. In 88 cases answers were filed within 30 days after the petitions were filed, in 55 from 30 to 60 days, in 48 from 60 days to 6 months, and in 11 after 6 months. There were 312 cases tried on the merits within 3 months after the time the petitions were filed, 78 from 3 to 6 months, 47 from 6 to 12 months, and 11 after 1 year. In 585 cases journal entries were filed the day after trial, in 33 not the same day but within 10 days, in 10 from 10 to 30 days, and 1 after 30 days. Court costs, amounting to \$12,369.02, were reported in

636 cases, showing a minimum of \$1.55, a maximum of \$2,002.77, average of \$19.45. There were 196 civil actions other than divorce July 1, 1937. Of this number 97 had been pending less than 3 months, 25 from 3 to 6 months, 15 from 6 to 12 months, 15 from 1 to 2 years, 8 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 664 divorce cases tried on merits or dismissed within the year ending June 30, 1937. Of this number 327 were dismissed before trial. In 327 cases the divorces were granted to the wives and in 71 cases to the husbands. In 11 cases divorces were contested. Thirty-six cases were contested. The custody of 223 minor children was awarded to the wives, 20 to the husbands, and 1 to a grandmother. There were 49 cases tried within 60 days after the petitions were filed, 325 from 60 days to 6 months, and 35 after 6 months. The grounds for divorce were: Gross neglect, 270 cases; extreme cruelty, 74 cases; abandonment, 4 cases; habitual drunkenness, 1 case; conviction of a felony, 4 cases; and adultery, 1 case. Court costs, amounting to \$11,286.31, were reported in 327 cases, showing a minimum of \$3.05, a maximum of \$189.50, and an average of \$16.96. There were 120 divorce cases pending July 1, 1937, of which 65 had been pending less than 3 months, 23 from 3 to 6 months, 4 from 6 months to 1 year, and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 322 criminal cases tried on merits or dismissed within the year ending June 30, 1937. Of this number, 186 were disposed of before trial on the merits. In 118 cases the defendants entered pleas of guilty. There were 18 cases tried to the jury, resulting in 12 verdicts of guilty and 6 cases of not guilty. Trial was had within 10 days in 1 case after the petition was filed, in 3 from 10 to 30 days, in 7 from 30 days to 3 months, in 3 from 3 to 6 months, and in 3 from 6 months to 1 year. The date information was filed was not reported in 29 cases. There were 53 paroles granted within the year, amounting to \$8,520.79, were reported in 322 cases, showing a minimum of \$4.05, a maximum of \$192.45, and an average of \$26.46. There were 322 criminal cases pending July 1, 1937. Of this number 37 had been pending less than 3 months, 9 from 3 to 6 months, 20 from 6 months to 1 year, 9 from 1 to 2 years, 6 from 2 to 3 years, 2 from 3 to 4 years, and 2 over 5 years. Date information was filed was not reported in 4 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 1,178 motions or demurrers were reported. Of this number 1,158 were granted, 20 were withdrawn or not presented and 20 were pending. Of the number disposed of 509 were presented within 10 days after they were filed, 309 from 10 to 30 days, and 199 after 30 days. There were 854 motions or demurrers decided the same day presented, 65 not the same day but within 10 days, 54 from 10 to 30 days, and 44 after 30 days. Of the 1,017 ruled upon 740 were allowed, 266 were partially allowed and denied, and 1 modified.

## FOURTH DISTRICT

HON. HUGH MEANS, of Lawrence, Judge  
ERMA MILLER, Clerk, Anderson County  
JOHN CALLAHAN, Clerk, Douglas County  
ANN M. SHIRAS, Clerk, Franklin County

three counties: Anderson, Douglas, and Franklin. Area, 1,540 square miles; population, 59,262; assessed value, \$90,169,265.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 368 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 71 were dismissed before trial on the merits, 266 were tried to the court, 27 to the jury, and 4 were removed to the United States district court. In 238 cases no answers were filed. In 55 cases answers were filed within 30 days after the petitions were filed, in 32 within 30 to 60 days, in 32 within 60 days to 6 months, and in 11 after 6 months. There were 14 cases tried on the merits within 3 months of the time the petitions were filed, 59 within 3 to 6 months, 25 within 6 to 12 months, and 19 after 1 year. In 4 cases journal entries were filed the day of trial, in 43 not the same day, in 10 within 10 days, in 20 within 10 to 30 days, in 24 after 30 days, and in 37 no journal entries had yet been filed. Court costs, amounting to \$11,000, were reported in 368 cases, showing a minimum of \$2.85, a maximum of \$100, and an average of \$32.88. There were 152 civil actions other than divorces pending July 1, 1937. Of this number 73 had been pending less than 3 months, 27 from 3 to 6 months, 19 from 6 to 12 months, 20 from 1 to 2 years, 10 from 2 to 3 years, 6 from 3 to 4 years, 1 from 4 to 5 years, and 2 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 162 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 31 were dismissed before trial. In 98 cases the divorces were granted to the wives, 43 to the husbands, and 2 cases were denied. Ten cases were contested. Custody of 59 minor children was awarded to the wives and 14 to the husbands. There were 2 cases tried within 60 days after the petitions were filed, 18 within 60 days to 6 months, and 18 after 6 months. The grounds for divorces were: Gross neglect, 60 cases; extreme cruelty, 25 cases; abandonment, 10 cases; habitual drunkenness, 3 cases; conviction of a felony, 1 case; and miscellaneous, 1 case. Court costs, amounting to \$1,088.31, were reported in 162 cases, showing a minimum of \$2.30, a maximum of \$56.85, and an average of \$6.72. There were 62 divorce cases pending July 1, 1937, of which 33 had been pending less than 3 months, 11 from 3 to 6 months, 8 from 6 months to 1 year, 5 from 1 to 2 years, 5 from 2 to 3 years, and 1 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 92 criminal cases disposed of within the year ending June 30, 1937. Of this number 44 were dismissed before trial on the merits. In 39 cases the defendants entered pleas of guilty. There were 9 cases tried to the jury, resulting in 5 verdicts of guilty and 4 verdicts of not guilty. The trial was had within 10 to 30 days after the information was filed in 4 cases, within 30 days to 3 months in 1 case, in 3 to 6 months in 2 cases, in 6 to 12 months in 1 case, and after 1 year in 1 case. The date information was filed was not reported in 23 cases. There were 7 paroles granted. Court costs, amounting to \$2,321.90, were reported in 90 cases, showing a minimum of \$2.65, a maximum of \$308.10, and an average of \$25.79. There were 14

criminal cases pending July 1, 1937. Of this number 9 had been pending less than 3 months, 2 from 3 to 6 months, 2 from 6 months to 1 year, and 1 to 2 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were pending or disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 303 motions or demurrers were reported. Of this number 19 were drawn or not presented and 11 were still pending July 1, 1937. Of the 284 disposed of 150 were presented within 10 days after they were filed, 81 from 10 to 30 days, and 42 after 30 days. There were 241 motions or demurrers decided the day presented, 10 not the same day but within 10 days, 12 within 10 to 30 days, and 10 after 30 days. Of the 273 ruled upon 194 were allowed, 75 were denied, and 4 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried prior to July 1, 1936, there were 43 motions reported. Of the number 30 of 30 were presented within 10 days after they were filed, 3 from 10 to 30 days, and 10 after 30 days. There were 37 motions decided the day presented, 10 the same day but within 10 days, 1 from 10 to 30 days, and 3 after 30 days. Of the 43 ruled upon, 42 were allowed and 1 was denied.

#### FIFTH DISTRICT

HON. JOS. RALSTON, JR., of Burlington, Judge  
CLINTON W. SCOTT, Clerk, Chase County  
JOHN MEEK, JR., Clerk, Coffey County  
MAUDE EVANS, Clerk, Lyon County

Three counties: Chase, Coffey and Lyon. Area, 2,240 square miles; population, 45,769; assessed value, \$79,946,289.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 266 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 54 were dismissed before trial on the merits, 212 were tried to the court, and 12 to the jury. In 243 cases no answers were filed. In 36 cases answers were filed within 30 days after the petition was filed, in 29 from 30 to 60 days, in 21 from 60 days to 6 months, and 3 after 6 months. There were 178 cases tried on the merits within 3 months of the time the petitions were filed, 48 from 3 to 6 months, 35 from 6 to 12 months, 11 from 12 months to 1 year, and 1 after 1 year. In 267 cases journal entries were filed the day of trial, in 10 the same day but within 10 days, in 4 from 10 to 30 days, in 7 after 30 days, and in 47 cases no journal entries had yet been filed. Court costs, amounting to \$14,877.65, were reported in 332 cases, showing a minimum of 60 cents, a maximum of \$1,342.34, and an average of \$43.36. There were 121 civil cases other than divorce pending July 1, 1937. Of this number 44 had been pending less than 3 months, 21 from 3 to 6 months, 11 from 6 to 12 months, 27 from 12 months to 2 years, 11 from 2 to 3 years, 4 from 3 to 4 years, 2 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 125 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 74 were dismissed before trial. In 74 cases the divorces were granted to the wives, 19 cases to the husbands, and 3 cases were denied. Twenty-three cases were contested. The custody of 71 minor children was awarded to the wives, 19 to the husbands. There were 5 cases tried within 60 days after the petition was filed, 71 from 60 days to 6 months, and 20 after 6 months. The g

orce were: Gross neglect, 12 cases; extreme cruelty, 45 cases; abandon-  
25 cases, adultery, 1 case; and 10 on miscellaneous grounds. Court costs  
ating to \$930.49, were reported in 125 cases, showing a minimum of \$2.20,  
imum of \$19.80, and an average of \$7.44. There were 47 divorce cases  
ng July 1, 1937, of which 16 had been pending less than 3 months, 5 from  
months, 11 from 6 months to 1 year, 11 from 1 to 2 years, and 4 from 2  
ears.

MINAL CASES—FORMS 5 AND 6. There were 51 criminal cases disposed of  
the year ending June 30, 1937. Of this number 21 were dismissed before  
n the merits. In 26 cases the defendants entered pleas of guilty. There  
4 cases tried to the jury, resulting in 3 verdicts of guilty, and in 1 case  
was a hung jury. Trial was had within 10 to 30 days after the information  
led in 1 case, within 3 to 6 months in 1 case, and within 6 months to 1  
n 2 cases. The date information was filed was not reported in 8 cases.  
were 7 paroles granted. Court costs, amounting to \$750.94, were reported  
cases, showing a minimum of \$2.50, a maximum of \$158.77, and an average  
.32. There were 9 criminal cases pending July 1, 1937. Of this number  
been pending less than 3 months, 3 from 3 to 6 months, 3 from 6 months  
ear, and 1 from 1 to 2 years. The date information was filed was not re-  
in 6 cases.

TIONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were  
ed of during the year ending June 30, 1937, or which were pending July  
7, 228 motions or demurrers were reported. Of this number 97 were with-  
or not presented and 4 were still pending July 1, 1937. Of the number  
ed of 107 were presented within 10 days after they were filed, 9 from 10  
days, and 11 after 30 days. There were 106 motions or demurrers de-  
the day presented, 15 not the same day but within 10 days, 1 within 10  
days, and 5 after 60 days. Of the 127 ruled upon 95 were allowed and  
ied.

TIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a. In cases tried  
e merits prior to July 1, 1936, there were 5 motions reported. Of this  
er 1 was withdrawn or not presented. Of the number disposed of 4 were  
ted within 10 days after they were filed. Of the 4 presented all motions  
ecided on the day presented. Of the 4 ruled upon 3 motions were allowed  
denied.

#### SIXTH DISTRICT

HON. W. F. JACKSON, of Fort Scott, Judge  
Geo. T. FARMER, Clerk, Bourbon County  
C. B. PLATT, Clerk, Linn County

o counties: Bourbon and Linn. Area, 1,269 square miles; population,  
; assessed value, \$38,799,478.

IL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 238 ac-  
other than divorce, tried on the merits or dismissed within the year end-  
ne 30, 1937. Of this number 50 were dismissed before trial on the merits  
88 were tried to the court. In 213 cases no answers were filed. In 7  
answers were filed within 30 days after the petitions were filed, in 7 from  
30 days, in 4 from 60 days to 6 months, and in 7 after 6 months. There

were 93 cases tried on the merits within 3 months of the time the were filed, 67 from 3 to 6 months, 10 from 6 to 12 months, and 18 after 12 months. In 55 cases journal entries were filed the day of trial, in 144 not the same day but within 10 days, in 6 from 10 to 30 days, in 3 after 30 days, and in 1 no journal entries had yet been filed. Court costs, amounting to \$5,248.33, were reported in 235 cases, showing a minimum of \$1.50, a maximum of \$100.00, and an average of \$22.33. There were 217 civil actions other than divorces pending July 1, 1937. Of this number, 51 had been pending less than 3 months, 16 from 3 to 6 months, 47 from 6 to 12 months, 56 from 1 to 2 years, 2 to 3 years, 8 from 3 to 4 years, 12 from 4 to 5 years, and 21 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 67 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 10 were dismissed before trial. In 39 cases the divorces were granted to the wives, in 13 cases to the husbands, and 2 cases were denied. Ten cases were continued. The custody of 30 minor children was awarded to the wives and 2 to the husbands. There was 1 case tried within 60 days after the petition was filed, 6 from 60 days to 6 months, and 5 after 6 months. The grounds for divorces were: Gross neglect, 30 cases; extreme cruelty, 4 cases; abandonment, 1 case; conviction of a felony, 1 case; and miscellaneous, 2 cases. Court costs, amounting to \$583.60, were reported in 66 cases, showing a minimum of \$1.50, a maximum of \$55.65, and an average of \$8.84. There were 66 divorces pending July 1, 1937, of which 17 had been pending less than 3 months, 3 to 6 months, 10 from 6 months to 1 year, 12 from 1 to 2 years, 12 from 2 to 3 years, 2 from 3 to 4 years, and 2 from 4 to 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 33 criminal cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 7 were dismissed before trial on the merits. In 22 cases the defendants entered pleas of guilty. There were 4 cases tried to the jury, resulting in 3 verdicts of guilty and 1 case there was a hung jury. Trial was had within 10 to 30 days after the indictment was filed in 1 case, in 1 from 30 days to 3 months, and in 2 from 3 to 6 months. There were 4 paroles granted. Court costs, amounting to \$1,000.00, were reported in 33 cases, showing a minimum of \$8, a maximum of \$100.00, and an average of \$29.55. There were 53 criminal cases pending July 1, 1937. Of this number 6 had been pending less than 3 months, 8 from 3 to 6 months, 12 from 6 months to 1 year, 19 from 1 to 2 years, 7 from 2 to 3 years, and 1 from 3 to 4 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 122 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 3 were still pending July 1, 1937. Of the 109 disposed of 48 were presented within 10 days after they were filed, 10 to 30 days, and 18 after 30 days. There were 79 motions or demurrers decided the day presented, 3 not the same day but within 10 days after the day presented, and 28 after 10 to 30 days. Of the 83 ruled upon 62 were allowed and 21 denied.

## SEVENTH DISTRICT

HON. J. T. COOPER, of Fredonia, Judge  
MARGARET WHITWORTH, Clerk, Neosho County  
LESLIE V. YORK, Clerk, Wilson County

counties: Neosho and Wilson. Area, 1,161 square miles; population, assessed value, \$51,574,337.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 218 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 52 were dismissed before trial on the merits, 162 were tried to the court, and 4 to the jury. In 157 cases no answers were filed. In 32 cases answers were filed within 30 days after the petitions were filed, in 17 within 30 to 60 days, in 8 within 60 days to 6 months, and in 4 more than 6 months. There were 120 cases tried on the merits within 3 months of the time the petitions were filed, 29 from 3 to 6 months, 13 from 6 to 12 months, and 4 after 1 year. In 132 cases journal entries were filed the day of trial, in 12 not the same day but within 10 days, in 14 from 10 to 30 days, in 15 more than 30 days, and in 53 cases no journal entries had yet been filed. Court costs amounting to \$5,888, were reported in 218 cases, showing a minimum of \$0.00, a maximum of \$158.55, and an average of \$27. There were 102 civil cases other than divorce pending July 1, 1937. Of this number 38 had been pending less than 3 months, 19 from 3 to 6 months, 20 from 6 to 12 months, 1 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, and 3 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 134 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 28 were dismissed before trial. In 83 cases the divorces were granted to the wives and in 23 cases to the husbands. Twenty-one cases were contested. The custody of 73 minor children was awarded to the wives and 3 to the husbands. There were 6 cases tried within 60 days after the petitions were filed, 89 from 60 days to 6 months, and 11 after 6 months. The grounds for divorce were: neglect, 37 cases; extreme cruelty, 40 cases; abandonment, 21 cases; non-support, 2 cases; deceit, 5 cases; and conviction of a felony, 1 case. Court costs amounting to \$1,384.86, were reported in 134 cases, showing a minimum of \$0.00, a maximum of \$69.80, and an average of \$10.33. There were 69 divorce cases pending July 1, 1937, of which 18 had been pending less than 3 months, 9 from 3 to 6 months, 16 from 6 months to 1 year, 9 from 1 to 2 years, 2 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, and 7 over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 64 criminal cases disposed of within the year ending June 30, 1937. Of this number 21 were dismissed before trial on the merits. In 40 cases the defendants entered pleas of guilty. There were 3 cases tried to the jury, resulting in 2 verdicts of guilty and 1 of not guilty. The date information was filed was not reported in 12 cases. There were 17 paroles granted. Court costs, amounting to \$1,663.62, were reported in 64 cases, showing a minimum of \$3.40, a maximum of \$242.20, and an average of \$25.99. There were 11 criminal cases pending July 1, 1937. Of this number 7 had been pending less than 3 months, 1 from 3 to 6 months, 1 from 6 months to 1 year, 1 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years. The date information was filed was not reported in 6 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 229 motions or demurrers were reported. Of this number 11 were withdrawn or not presented and 2 were still pending July 1, 1937. Of the number disposed of 154 were presented within 10 days after they were filed, 22 from 10 to 30 days, and 9 after 30 days. There were 157 motions or demurrers decided the day presented, 1 not the same day but within 10 days from 10 to 30 days, and 16 after 30 days. Of the 185 ruled upon 13 were allowed, 21 denied, and 4 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 23 motions reported. Of this number 6 were withdrawn or not presented. Of the number disposed of 17 were presented within 10 days after they were filed, 3 from 10 to 30 days, and 5 after 30 days. There were 17 motions decided the day presented. Of the 17 ruled upon 13 were allowed and 4 denied.

#### EIGHTH DISTRICT

HON. C. M. CLARK, of Peabody, Judge  
 SETH BARTER, JR., Clerk, Dickinson County  
 GEO. J. WEBSTER, Clerk, Geary County  
 PETER P. FLAMING, Clerk, Marion County  
 J. A. BRUTON, Clerk, Morris County

Four counties: Dickinson, Geary, Marion and Morris. Area, 2,899 square miles; population, 68,233; assessed value, \$14,623,821.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 276 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 58 were dismissed before trial. On the merits, 276 were tried to the court, and 6 to the jury. In 265 cases no answers were filed. In 40 cases answers were filed within 30 days, in 25 within 60 days, and in 10 from 60 days to 6 months. There were 190 cases tried on the merits within 3 months of the time the petitions were filed, 71 from 3 to 6 months, 19 from 6 to 12 months, and 2 after 1 year. In 232 cases judgments were filed the day of trial, in 30 not the same day but within 10 days, 24 from 10 to 30 days, in 15 after 30 days, and in 39 cases no judgments had yet been filed. Court costs, amounting to \$13,197.69, were reported in 190 cases, showing a minimum of \$2.85, a maximum of \$1,243.98, and an average of \$38.81. There were 128 civil actions other than divorce pending July 1, 1937. Of this number 67 had been pending less than 3 months, 21 from 3 to 6 months, 29 from 6 to 12 months, 8 from 1 to 2 years, and 3 from 2 to 3 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 98 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 48 were dismissed before trial. In 48 cases the divorces were granted to the wives, in 18 cases to the husbands, and 3 cases were denied. Five cases were tested. The custody of 51 minor children was awarded to the wives and 3 to the husbands. There were 64 cases tried within 60 days to 6 months, 10 the petitions were filed and 5 after 6 months. The grounds for divorce were: Gross neglect, 11 cases; extreme cruelty, 22 cases; abandonment, 2 cases; habitual drunkenness, 2 cases; adultery, 2 cases; conviction of a felony, 1 case; and miscellaneous, 1 case. Court costs, amounting to \$762.31, were reported in 98 cases, showing a minimum of \$2.80, a maximum of \$35.40, and an average of \$7.77.



78. There were 29 divorce cases pending July 1, 1937, of which, 14 had pending less than 3 months, 6 from 3 to 6 months, 5 from 6 months to 1 and 4 from 1 to 2 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 49 criminal cases disposed of in the year ending June 30, 1937. Of this number 12 were dismissed before trial on the merits. In 24 cases the defendants entered pleas of guilty. There were 13 cases tried to the jury, resulting in 9 verdicts of guilty, 3 verdicts of not guilty, and in 1 case there was a hung jury. The trial was had within 10 days after the information was filed in 1 case, in 10 to 30 days in 5 cases, in 30 to 3 months in 6 cases, and after 1 year in 1 case. The date information was filed was not reported in 1 case. Court costs, amounting to \$2,113.92, were reported in 49 cases, showing a minimum of \$2.75, a maximum of \$122.40, and an average of \$22.06. There were 10 criminal cases pending July 1, 1937, of which 3 had been pending less than 3 months, 6 from 3 to 6 months, and 1 from 6 months to 1 year. There were 4 cases in which a transcript but no information was filed.

MOTIONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 296 motions or demurrers were reported. Of this number 75 were withdrawn or not presented and 2 were still pending July 1, 1937. Of the number presented of 123 were presented within 10 days after they were filed, 56 from 10 to 30 days, and 40 after 30 days. There were 213 motions or demurrers decided the day presented and 6 not the same day but within 10 days. Of the 172 ruled upon 172 were allowed, 45 denied, and 2 partially allowed and denied.

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a. In cases tried on the merits prior to July 1, 1936, there were 12 motions reported. Of the number disposed of 10 were presented within 10 days after they were filed and 2 after 30 days. There were 12 motions decided the day presented. Of the 12 ruled upon 11 were allowed and 1 denied.

#### NINTH DISTRICT

HON. J. G. SOMERS, of Newton, Judge.  
LLOYD L. McMULLEN, Clerk, Harvey County  
DONALD S. CLARK, Clerk, McPherson County  
WALTER MEAD, Clerk, Reno County

Three counties: Harvey, McPherson and Reno. Area, 2,682 square miles; population, 103,309; assessed value, \$186,874,332.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 615 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 159 were dismissed before trial on the merits, 438 were tried to the court, and 18 to the jury. In 357 cases no answers were filed. In 129 cases answers were filed within 30 days after the petitions were filed, in 50 from 30 to 60 days, in 58 from 60 days to 6 months, and in 21 after 6 months. There were 294 cases tried on the merits within 3 months of the date the petitions were filed, 74 from 3 to 6 months, 49 from 6 to 12 months, and 39 after 1 year. In 394 cases journal entries were filed the day of trial, in 36 not the same day but within 10 days, in 41 from 10 to 30 days, in 36 after 30 days, and in 72 cases no journal entries had yet been filed. Court costs, amounting to \$18,252.51, were reported in 615 cases, showing a minimum of \$2.75, a maximum of \$809.68, and an average of \$29.67. There were 301 civil

actions other than divorce pending July 1, 1937. Of this number 112 had pending less than 3 months, 47 from 3 to 6 months, 54 from 6 to 12 months, 17 from 1 to 2 years, 17 from 2 to 3 years, 6 from 3 to 4 years, 4 from 4 to 5 years, and 7 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 405 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 181 were dismissed before trial. In 218 cases the divorces were granted to the wives and in 62 cases to the husbands. Fourteen cases were contested for custody of 141 minor children was awarded to the wives, 32 to the husbands and 7 to the grandparents. There were 44 cases tried 60 days after the petitions were filed, 193 from 60 days to 6 months, 43 after 6 months. The grounds for divorce were: Gross neglect, 117 cases; extreme cruelty, 98 cases; abandonment, 55 cases; habitual drunkenness, 4 cases; conviction of a felony, 3 cases; and miscellaneous, 3 cases. Court costs, amounting to \$8,391.35, were reported in 405 cases, showing a minimum of \$2.05, a maximum of \$196.80, and an average of \$20.82. There were 181 divorce cases pending July 1, 1937, of which, 99 had been pending less than 3 months, 30 from 3 to 6 months, 31 from 6 months to 1 year, and 3 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 224 criminal cases disposed of within the year ending June 30, 1937. Of this number, 73 were dismissed before trial on the merits. In 120 cases the defendants entered pleas of guilty. There were 31 cases tried to the jury, resulting in 26 verdicts of guilty, 4 verdicts of not guilty, and in 3 cases there was a hung jury. Trial was had within 10 days after the information was filed in 1 case, in 10 to 30 days in 25 cases, in 3 to 6 months in 3 cases, and in 6 months to 1 year in 2 cases. The date information was filed was not reported in 22 cases. There were 66 paroles granted. Court costs, amounting to \$6,740.29, were reported in 223 cases, showing a minimum of \$3.85, a maximum of \$330.20, and an average of \$30.22. There were 51 criminal cases pending July 1, 1937. Of this number 29 had been pending less than 3 months, 10 from 3 to 6 months, 11 from 6 months to 1 year, and 1 from 1 to 2 years. The date information was filed was not reported in 1 case.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 439 motions or demurrers were reported. Of this number 76 were drawn or not presented and 3 were still pending July 1, 1937. Of the 360 disposed of 220 were presented within 10 days after they were filed, 75 from 10 to 30 days, and 65 after 30 days. There were 351 motions or demurrers decided the day presented, 4 not the same day but within 10 days, 1 from 10 to 30 days, and 4 after 30 days. Of the 360 ruled upon 272 were allowed, 55 were denied, and 6 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 59 motions reported. Of this number 46 were presented within 10 days after they were filed, 7 from 10 to 30 days, and 6 after 30 days. There were 59 motions decided on the day presented, 55 were allowed and 4 denied.

## TENTH DISTRICT

HON. G. A. ROBERTS, of Olathe, Judge  
VIOLET J. PARIS, Clerk, Johnson County  
HUGH W. CAMPBELL, Clerk, Miami County

two counties: Johnson and Miami. Area, 1,088 square miles; population, 138,000; assessed value, \$66,976,548.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 325 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 99 were dismissed before trial on the merits, 222 were tried to the court, and 4 to the jury. In 230 cases no answers were filed. In 38 cases answers were filed within 30 days after the petitions were filed, in 24 from 30 to 60 days, in 24 from 60 days to 6 months, and in 9 after 6 months. There were 156 cases tried on the merits within 3 months of the time the petitions were filed, 33 from 3 to 6 months, 20 from 6 to 12 months, and 17 after 1 year. In 225 cases journal entries were filed the day of trial, in 64 not the same day but within 10 days, in 14 from 10 to 30 days, in 6 after 30 days, and in 16 cases no journal entries had yet been filed. Court costs, amounting to \$12,601.98, were reported in 324 cases, showing a minimum of \$2.85, a maximum of \$999.77, and an average of \$38.89. There were 188 civil actions other than divorce pending July 1, 1937. Of this number 8 had been pending less than 3 months, 36 from 3 to 6 months, 24 from 6 to 12 months, 32 from 1 to 2 years, 10 from 2 to 3 years, 5 from 3 to 4 years, 4 from 4 to 5 years, and 7 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 116 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 21 were dismissed before trial. In 66 cases the divorces were granted to the wives, 49 to the husbands, and 4 cases were denied. Six cases were contested. The custody of 52 minor children was awarded to the wives, 9 to the husbands, 2 to the grandparents, and 3 are still under advisement. There were 11 cases tried within 60 days after the petitions were filed, 77 from 60 days to 6 months, and 7 after 6 months. The grounds for divorce were: Gross neglect, 37 cases; extreme cruelty, 20 cases; abandonment, 26 cases; habitual drunkenness, 2 cases; commission of a felony, 3 cases; and miscellaneous, 3 cases. Court costs, amounting to \$1,254.43, were reported in 101 cases, showing a minimum of \$1.00, a maximum of \$137.10, and an average of \$12.40. There were 53 divorce cases pending July 1, 1937, of which 30 had been pending less than 3 months, 8 from 3 to 6 months, 8 from 6 months to 1 year, 6 from 1 to 2 years, and 1 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 40 criminal cases disposed of within the year ending June 30, 1937. Of this number 11 were dismissed before trial on the merits. In 24 cases the defendants entered pleas of guilty. There were 5 cases tried to the jury, resulting in 4 verdicts of guilty and 1 verdict of not guilty. The trial was had within 10 to 30 days after the information was filed in 2 cases, in 30 days to 3 months in 1 case, in 3 to 6 months in 1 case, and after 1 year in 1 case. The date information was filed was not reported in 6 cases. There were 14 paroles granted. Court costs, amounting to \$462, were reported in 40 cases, showing a minimum of \$3.55, a maximum of \$44.75, and an average of \$40.66. There were 21 criminal cases pending July 1, 1937. Of this number 10 had been pending less than 3 months, 5 from

3 to 6 months, 1 from 6 months to 1 year, 3 from 1 to 2 years, and 2 from 2 to 3 years. The date information was filed was not reported in 8 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 312 motions or demurrers were reported. Of this number 10 were withdrawn or not presented and 3 were still pending July 1, 1937. The number disposed of 135 were presented within 10 days after they were filed, 55 from 10 to 30 days, and 61 after 30 days. There were 235 motions or demurrers decided the day presented, 5 not the same day but within 10 days, 3 within 10 to 30 days, and 8 after 30 days. Of the 251 ruled upon 200 were allowed, 40 denied, and 5 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 52 motions reported. Of this number 27 were presented within 10 days after they were filed, 12 from 10 to 30 days, and 13 after 30 days. There were 48 motions decided on the day presented, 2 not the same day but within 10 days, and 2 after 30 days. Of the 50 ruled upon 47 were allowed and 5 denied.

#### ELEVENTH DISTRICT

HON. V. J. BOWERSOCK, of Columbus, Judge  
EARNEST MILTON, Clerk

One county: Cherokee. Area, 602 square miles; population, 30,409; value, \$23,920,120.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 110 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 52 were dismissed before trial on the merits, 94 were tried to the court, and 4 to the jury. In 110 cases no journal entries had yet been filed. In 15 cases answers were filed within 30 days after the petitions were filed, in 6 from 30 to 60 days, in 11 from 60 days to 6 months, and 18 after 6 months. There were 57 cases tried on the merits within 3 months after the time the petitions were filed, 21 from 3 to 6 months, 11 from 6 to 12 months, and 9 after 1 year. In 118 cases journal entries were filed the day of trial, in 1 not the same day but within 10 days, in 2 after 30 days, and in 1 case no journal entries had yet been filed. Court costs, amounting to \$1,163.27, were reported in 148 cases, showing a minimum of \$4.35, a maximum of \$45.96, and an average of \$45.96. There were 151 civil actions other than divorce pending July 1, 1937. Of this number 43 had been pending less than 3 months, 15 from 3 to 6 months, 20 from 6 to 12 months, 17 from 1 to 2 years, 2 to 3 years, 5 from 3 to 4 years, 10 from 4 to 5 years, and 33 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 111 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 53 were dismissed before trial. In 53 cases the divorces were granted to the wives and in 18 cases to the husbands. One case was contested. The custody of 29 minor children was awarded to the wives, 5 to the husbands, and 19 to the uncle. There were 8 cases tried 60 days after the petitions were filed, 12 from 60 days to 6 months, and 12 after 6 months. The grounds for divorce were: Gross neglect, 15 cases; extreme cruelty, 36 cases; abandonment, 19 cases; conviction of a felony, 1 case. Court costs amounting to \$1,163.27, were

ed in 111 cases, showing a minimum of \$4.05, a maximum of \$50.33, and average of \$10.48. There were 90 divorce cases pending July 1, 1937, of which 23 had been pending less than 3 months, 12 from 3 to 6 months, 11 from 6 months to 1 year, 22 from 1 to 2 years, 15 from 2 to 3 years, 2 from 3 to 4 years, 4 from 4 to 5 years, and 1 over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 39 criminal cases disposed of in the year ending June 30, 1937. Of this number 18 were dismissed before trial on the merits. In 13 cases the defendants entered pleas of guilty. There were 8 cases tried to the jury, resulting in 6 verdicts of guilty and 2 verdicts of not guilty. Trial was had within 10 to 30 days after the information was filed in 2 cases, within 30 days to 3 months in 3 cases, within 3 to 6 months in 1 case, and after 1 year in 2 cases. The date information was filed was not reported in 3 cases. Court costs, amounting to \$1,292.35, were reported in 39 cases, showing a minimum of \$5, a maximum of \$94.95, and an average of \$24.44. There were 16 criminal cases pending July 1, 1937. Of this number 10 had been pending less than 3 months, 3 from 3 to 6 months, 4 from 1 to 2 years, 2 from 2 to 3 years, 4 from 3 to 4 years, and 1 over 5 years. The date information was filed was not reported in 6 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 226 motions or demurrers were reported. Of this number 50 were withdrawn or not presented and 5 were still pending July 1, 1937. Of the number disposed of 137 were presented within 10 days after they were filed, 13 from 10 to 30 days, and 21 after 30 days. There were 169 motions or demurrers decided the day presented 1 not the same day but within 10 days, and 1 within 10 to 30 days. Of the 171 ruled upon 132 were allowed, 37 denied, and 2 partly allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 10 motions reported. Of this number 4 were withdrawn or not presented and 6 were still pending July 1, 1937. 3 cases were presented more than 30 days after they were filed. Two motions were decided within 10 days after they were presented and 1 within 10 to 30 days. Of the 3 ruled upon all motions were allowed.

## TWELFTH DISTRICT

HON. TOM KENNETT, of Concordia, Judge  
LAWRENCE JOHNSON, Clerk, Cloud County  
WM. R. GOODWIN, Clerk, Republic County  
MRS. ALTA HENNON, Clerk, Washington County

three counties: Cloud, Republic and Washington. Area, 2,308 square miles; population, 49,203; assessed value, \$88,564,672.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 241 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 43 were dismissed before trial on the merits, 190 were tried to the court, 7 to the jury, and 1 was removed to federal court. In 185 cases no answers were filed. In 21 cases answers were filed within 10 days after the petitions were filed, in 15 from 30 to 60 days, and in 19 from 60 days to 6 months. There were 156 cases tried on the merits within 3 months of the time the petitions were filed, 20 from 3 to 6 months, 9 from 6 to 12 months, and 12 after 1 year. In 130 cases journal entries were filed the day

of trial, in 34 not the same day but within 10 days, in 30 from 10 to 30 days, in 29 after 30 days, and in 17 cases no journal entries had yet been made. Court costs, amounting to \$10,679.88, were reported in 235 cases, showing a minimum of \$2.10, a maximum of \$451.35, and an average of \$45.44. There were 83 civil actions other than divorce pending July 1, 1937. Of this number 11 had been pending less than 3 months, 24 from 3 to 6 months, 8 from 6 months to 1 year, 11 from 1 to 2 years, 2 from 2 to 3 years, 3 from 3 to 4 years, and 2 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 66 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 11 were dismissed before trial. In 38 cases the divorces were granted to the wives, in 14 cases to the husbands, and 1 case was denied. Nine cases were continued. The custody of 35 minor children was awarded to the wives, 2 to the husbands, and 1 to the grandmother. There were 46 cases tried within 60 days after the petitions were filed and 7 after 6 months. The grounds for divorce were: Gross neglect, 9 cases; extreme cruelty, 27 cases; abandonment, 13 cases; habitual drunkenness, 1 case; and miscellaneous, 2 cases. Court costs, amounting to \$626.91, were reported in 66 cases, showing a minimum of \$1.00, a maximum of \$69.65, and an average of \$9.50. There were 21 divorces pending July 1, 1937. Of this number 11 had been pending less than 3 months, 8 from 3 to 6 months, and 2 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 44 criminal cases disposed of within the year ending June 30, 1937. Of this number 11 were dismissed before trial on the merits. In 26 cases the defendants entered pleas of guilty. Of these were 7 cases tried to the jury, resulting in 5 verdicts of guilty and 2 verdicts of not guilty. Trial was had within 10 days after the information was filed in 11 cases, in 10 to 30 days in 1 case, in 30 days to 3 months in 2 cases, and in 3 to 6 months in 2 cases. The date information was filed was not reported in 1 case. There were 10 paroles granted. Court costs, amounting to \$1,000.00, were reported in 43 cases, showing a minimum of \$3.85, a maximum of \$1,000.00, and an average of \$29.55. There were 10 criminal cases pending July 1, 1937. Of this number 4 had been pending less than 3 months, 3 from 3 to 6 months, 2 from 6 months to 1 year, and 1 from 1 to 2 years. The date information was filed was not reported in 2 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 390 motions or demurrers were reported. Of this number 17 were withdrawn or not presented and 31 were still pending July 1, 1937. Of the number disposed of 258 were presented within 10 days after they were filed, 55 from 10 to 30 days, and 29 after 30 days. There were 329 motions or demurrers decided the day presented, 8 not the same day but within 10 days, 2 within 10 to 30 days, and 3 after 30 days. Of the 342 ruled upon 271 were allowed, 69 denied, and 8 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 18 motions reported. Of these number 1 was withdrawn or not presented. All cases were presented within 10 days after they were filed. All motions were decided on the day presented. Of the 17 motions ruled upon all were allowed.

## THIRTEENTH DISTRICT

HON. A. T. AYRES, of Howard, Judge, First Division

HON. GEO. J. BENSON, of El Dorado, Second Division

CHARLES G. SMITH, Clerk, Butler County

J. B. MCNOWN, Clerk, Chautauqua County

MARY E. JOHNSON, Clerk, Elk County

WARREN R. WILLIS, Clerk, Greenwood County

our counties: Butler, Chautauqua, Elk and Greenwood. Area, 3,896 square  
; population, 65,490; assessed value, \$113,313,374.

ere were 368 actions other than divorce, tried on the merits or dismissed  
n the year ending June 30, 1937. Of this number 87 were dismissed before  
n the merits, 270 were tried to the court, and 11 to the jury. In 348 cases  
swers were filed. In 15 cases answers were filed within 30 days after the  
ons were filed, in 1 from 30 to 60 days, and in 4 from 60 days to 6 months.  
e were 189 cases tried on the merits within 3 months of the time the pe-  
s were filed, 51 from 3 to 6 months, 18 from 6 to 12 months, and 23 after  
r. In 191 cases journal entries were filed the day of trial, in 26 not the  
day but within 10 days, in 13 from 10 to 30 days, in 11 after 30 days, and  
7 cases no journal entries had yet been filed. Court costs, amounting to  
5.39, were reported in 140 cases, showing a minimum of \$2.10, a maximum  
2.80, and an average of \$29.18. There were 282 civil actions, other than  
ce, pending July 1, 1937. Of this number 113 had been pending less than  
aths, 38 from 3 to 6 months, 45 from 6 to 12 months, 33 from 1 to 2 years,  
m 2 to 3 years, 8 from 3 to 4 years, 7 from 4 to 5 years, and 17 over 5

DIVORCE CASES—FORMS 3 AND 4. There were 152 divorce cases tried on the  
s or dismissed within the year ending June 30, 1937. Of this number 32  
dismissed before trial. In 97 cases the divorces were granted to the wives  
n 23 cases to the husbands. There were 13 cases contested. The custody  
minor children was awarded to the wives, 1 to the husband, and 1 to the  
mother. There were 13 cases tried within 60 days after the petitions were  
91 from 60 days to 6 months, and 16 after 6 months. The grounds for  
ce were: Gross neglect, 38 cases; extreme cruelty, 38 cases; abandon-  
, 29 cases; and nonsupport, 15 cases. Court costs, amounting to \$1,214.53,  
reported in 151 cases, showing a minimum of \$2.65, a maximum of \$60.30,  
an average of \$8.04. There were 133 divorce cases pending July 1, 1937, of  
h 37 had been pending less than 3 months, 24 from 3 to 6 months, 26 from  
nths to 1 year, 25 from 1 to 2 years, 11 from 2 to 3 years, 4 from 3 to 4  
, 3 from 4 to 5 years, and 3 over 5 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 90 criminal cases disposed of  
n the year ending June 30, 1937. Of this number 18 were dismissed be-  
trial on the merits. In 60 cases the defendants entered pleas of guilty.  
e were 12 cases tried to the jury, resulting in 8 verdicts of guilty; in 2  
there was a hung jury, in 1 case no verdict was rendered, and in 1 case  
ct was abated. Trial was had within 10 to 30 days after the information  
filed in 1 case, in 7 cases from 30 days to 3 months, and in 4 cases from  
6 months. The date information was filed was not reported in 21 cases.  
e were 4 paroles granted. Court costs, amounting to \$2,538.48, were re-  
ed in 88 cases, showing a minimum of \$4, a maximum of \$139.83, and an  
age of \$28.62. There were 37 criminal cases pending July 1, 1937. Of

this number 16 had been pending less than 3 months, 7 from 3 to 6 months, 4 from 6 months to 1 year, 4 from 1 to 2 years, and 1 from 2 to 3 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 350 motions or demurrers were reported. Of this number 62 were drawn or not presented and 6 were still pending July 1, 1937. Of the 282 disposed of 221 were presented within 10 days after they were filed, 40 from 10 to 30 days, and 20 after 30 days. There were 279 motions or demurrers decided on the day presented, 1 not the same day but within 10 to 30 days, and 2 after 30 days. Of the 282 ruled upon 246 were allowed and 36 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there was 1 motion reported. This was withdrawn or not presented.

#### FOURTEENTH DISTRICT

HON. JOSEPH W. HOLDREN, of Independence, Judge  
CHESTER F. CHRITTON, Clerk

One county: Montgomery. Area, 644 square miles; population, 100,000; assessed value, \$50,998,229.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 149 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 36 were dismissed before trial on the merits, 175 were tried to the court, and 8 to the jury. In 149 cases no answers were filed. In 32 cases answers were filed within 30 days after the petitions were filed, in 15 within 30 to 60 days, in 16 within 60 days to 6 months, and 7 after 6 months. There were 131 cases tried on the merits within 3 months of the time the petitions were filed, 35 from 3 to 6 months, 12 from 6 months to 1 year, and 5 after 1 year. In 172 cases journal entries were filed the day of trial, in 15 not the same day but within 10 days, in 8 within 10 to 30 days, and in 18 cases no journal entries had yet been filed. There were 146 civil actions other than divorce pending July 1, 1937. Of this number 72 had been pending less than 3 months, 14 from 3 to 6 months, 26 from 6 months to 1 year, 12 months, 24 from 1 to 2 years, 5 from 2 to 3 years, 1 from 4 to 5 years, and 4 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 184 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 109 were dismissed before trial. In 109 cases the divorces were granted to the wives, in 37 cases to the husbands, and in 1 case divorce was denied. Custody of 80 minor children was awarded to the wives and 6 to the husbands. There were 28 cases tried 60 days after the petitions were filed, 101 within 60 days to 6 months, and 18 after 6 months. The grounds for divorce were: Gross neglect, 53 cases; extreme cruelty, 48 cases; abandonment, 36 cases; adultery, 1 case; nonsupport, 1 case; habitual drunkenness, 2 cases; conviction of a felony, 2 cases; and miscellaneous, 3 cases. Court costs, amounting to \$1,542.04, were reported in 184 cases, showing a minimum of \$3.20, a maximum of \$27.50, and an average of \$8.33. There were 83 divorce cases pending July 1, 1937, of which 27 had been pending less than 3 months, 13 from 3 months to 1 year, 17 from 6 months to 1 year, 15 from 1 to 2 years, and 11 from 2 to 3 years.



**CRIMINAL CASES—FORMS 5 AND 6.** There were 92 criminal cases disposed of in the year ending June 30, 1937. Of this number 26 were dismissed before trial on the merits. In 54 cases the defendants entered pleas of guilty. There were 12 cases tried to the jury, resulting in 9 verdicts of guilty and 3 verdicts of not guilty. Trial was had within 30 days to 3 months after the information was filed in 6 cases and within 3 to 6 months in 6 cases. The date information was not reported in 10 cases. There were 13 paroles granted. Court costs, amounting to \$3,513.65, were reported in 92 cases, showing a minimum of \$0, a maximum of \$115, and an average of \$38.19. There were 22 criminal cases pending July 1, 1937. Of this number 9 had been pending less than 3 months, 3 from 3 to 6 months, 8 from 6 months to 1 year, 1 from 1 to 2 years, and 1 from 3 to 4 years. The date information was filed was not reported in 10 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 180 motions or demurrers were reported. Of this number 39 were granted or not presented and 8 were still pending July 1, 1937. Of the remainder disposed of 86 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 21 after 30 days. There were 132 motions or demurrers decided the day presented and 1 not the same day but within 10 days. Of the 133 ruled upon 109 were allowed and 24 denied.

#### FIFTEENTH DISTRICT

HON. W. R. MITCHELL, of Smith Center, Judge  
 BERNICE HOWARD, Clerk, Jewell County  
 HERBERT SHAFFER, Clerk, Mitchell County  
 ALVA ANDERSON, Clerk, Osborne County  
 RONALD McCLAIN, Clerk, Smith County

**COUNTY DATA:** Jewell, Mitchell, Osborne and Smith. Area, 3,395 square miles; population, 45,077; assessed value, \$85,749,421.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 359 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 48 were dismissed before trial on the merits, 305 were tried to the court, 5 to the jury, and 1 was removed to federal court. In 266 cases no answers were filed. In 48 cases answers were filed within 30 days after the petitions were filed, in 13 from 30 to 60 days, in 22 from 60 days to 6 months, and in 9 after 6 months. There were 221 cases tried on the merits within 3 months of the time the petitions were filed, 64 from 3 to 6 months, 16 from 6 to 12 months, and 9 after 1 year. In 239 cases no entries were filed the day of trial, in 15 not the same day but within 30 days, in 11 from 10 to 30 days, in 43 after 30 days, and in 50 cases no journal entries had yet been filed. Court costs, amounting to \$15,128.99, were reported in 359 cases, showing a minimum of \$2.45, a maximum of \$713.25, and an average of \$42.14. There were 117 civil actions other than divorce pending July 1, 1937. Of this number 62 had been pending less than 3 months, 28 from 3 to 6 months, 8 from 6 to 12 months, 12 from 1 to 2 years, 4 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 55 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 8 were dismissed before trial. In 36 cases the divorces were granted to the wives

and in 11 cases to the husbands. Three cases were contested. The of 45 minor children was awarded to the wives and 1 to the husband. There were 2 cases tried 60 days after the petitions were filed, 38 from 60 to 90 days, and 7 after 6 months. The grounds for divorce were: Gross neglect, 14 cases; extreme cruelty, 26 cases; and abandonment, 7 cases. Court costs, amounting to \$473.41, were reported in 55 cases, showing a minimum of \$3.35, a maximum of \$30.74, and an average of \$8.60. There were 30 cases pending July 1, 1937, of which 13 had been pending less than 3 months, 5 from 3 to 6 months, 7 from 6 months to 1 year, 3 from 1 to 2 years, 2 from 2 to 3 years, and 1 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 40 criminal cases reported of within the year ending June 30, 1937. Of this number 10 were disposed of before trial on the merits. In 20 cases the defendants entered pleas of guilty. There were 10 cases tried to the jury, resulting in 9 verdicts of guilty and 1 verdict of not guilty. The trial was had within 10 days after the information was filed in 4 cases, in 10 to 30 days in 2 cases, in 3 to 6 months in 2 cases, and in 6 months to 1 year in 2 cases. The date information was filed was reported in 10 cases. There were 30 paroles granted. Court costs, amounting to \$1,027.51, were reported in 47 cases, showing a minimum of \$2.80, a maximum of \$276.70, and an average of \$21.86. There were 17 criminal cases pending July 1, 1937. Of this number 7 had been pending less than 3 months, 3 to 6 months, 5 from 6 months to 1 year, and 2 from 1 to 2 years. The date information was filed was not reported in 4 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 291 motions or demurrers were reported. Of this number 13 were withdrawn or not presented and 5 were still pending July 1, 1937. The number disposed of 140 were presented within 10 days after they were filed, 62 from 10 to 30 days, and 52 after 30 days. There were 254 motions or demurrers decided the day presented. Of the 254 ruled upon 200 were allowed, 50 denied, and 4 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 21 motions reported. Of this number 13 were presented within 10 days after they were filed, 2 from 10 to 30 days, and 6 after 30 days. All motions were decided on the day presented. 21 ruled upon 17 were allowed and 4 denied.

#### SIXTEENTH DISTRICT

HON. L. E. GOODRICH, of Parsons, Judge  
Q. H. JEWETT, Clerk

One county: Labette. Area, 643 square miles; population, 31,058; value, 36,594,766.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 24 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 24 were dismissed before trial on the merits, 69 were tried to the court, 2 to the jury and 2 to federal court. In 3 cases no answers were filed. In 9 cases answers were filed within 10 days after the petitions were filed, in 3 within 30 to 60 days, in 11 from 60 to 90 days, and 1 after 6 months.

months, and in 1 after 6 months. There were 44 cases tried on the same day within 3 months of the time the petitions were filed, 15 from 3 to 6 months, 6 from 6 to 12 months, and 6 after 1 year. In 54 cases journal entries were filed the day of trial, in 11 not the same day but within 10 days, in 11 from 10 to 30 days, in 7 after 30 days, and in 12 cases no journal entries had yet been filed. Court costs, amounting to \$2,948.87, were reported in 96 cases, showing a minimum of \$2.50, a maximum of \$62.35, and an average of \$30.72. There were 54 civil actions other than divorce pending July 1, 1937. Of this number 21 had been pending less than 3 months, 7 from 3 to 6 months, 9 from 6 to 12 months, 12 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, and 1 from 4 to 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 95 divorce cases tried on the same day or dismissed within the year ending June 30, 1937. Of this number 35 were dismissed before trial. In 45 cases the divorces were granted to the wives and in 15 cases to the husbands. Nine cases were contested. The custody of 50 minor children was awarded to the wives and 7 to the husbands. There were 2 cases tried 60 days after the petitions were filed, 51 from 60 to 6 months, and 7 after 6 months. The grounds for divorce were: neglect, 18 cases; extreme cruelty, 22 cases; abandonment, 17 cases; adultery, 1 case; habitual drunkenness, 1 case; and epileptic insanity, 1 case. Court costs, amounting to \$1,026.68, were reported in 95 cases, showing a minimum of \$3.95, a maximum of \$71.10, and an average of \$10.80. There were 19 divorce cases pending July 1, 1937, of which 19 had been pending less than 3 months, 4 from 3 to 6 months, 5 from 6 months to 1 year, and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 33 criminal cases disposed of within the year ending June 30, 1937. Of this number 12 were dismissed before trial on the merits. In 15 cases the defendants entered pleas of guilty. There were 6 cases tried to the jury, resulting in 3 verdicts of guilty and 3 verdicts of not guilty. Trial was had within 10 days after the information was filed in 2 cases, within 10 to 30 days in 1 case, in 30 days to 3 months in 1 case, and in 6 months to 1 year in 1 case. The date information was not reported in 6 cases. There was 1 parole granted. Court costs, amounting to \$642.76, were reported in 33 cases, showing a minimum of \$1.86, a maximum of \$103.75, and an average of \$19.48. There were 6 criminal cases pending July 1, 1937. Of this number 3 had been pending less than 3 months, 3 from 3 to 6 months, and 2 from 6 months to 1 year. The date information was not reported in 1 case.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 219 motions or demurrers were reported. Of this number 48 were withdrawn or not presented and 3 were still pending July 1, 1937. Of the remainder disposed of 115 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 25 after 30 days. There were 165 motions or demurrers decided the day presented, 1 not the same day but within 10 to 30 days, and 2 after 30 days. Of the 168 ruled upon, 127 were allowed, 33 denied, and 8 partially allowed and denied.

MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a. In cases the merits prior to July 1, 1936, there were 6 motions reported. were presented within 10 days after they were filed. All motions decided on the day presented and all motions were allowed.

#### SEVENTEENTH DISTRICT

HON. E. E. KITE, of St. Francis, Judge  
MINNIE A. LAWLESS, Clerk, Cheyenne County  
DOROTHY MCGEE, Clerk, Decatur County  
ETHEL BECHTOLDT, Clerk, Norton County  
L. R. HALBERT, Clerk, Phillips County  
ELIZABETH THOMPSON, Clerk, Rawlins County

Five counties: Cheyenne, Decatur, Norton, Phillips and Rawlins  
4,726 square miles; population, 43,104; assessed value, \$57,404,027.

CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were actions, other than divorce, tried on the merits or dismissed within ending June 30, 1937. Of this number 45 were dismissed before trial on the merits, 224 were tried to the court, 2 to the jury, and 1 to referee. cases no answers were filed. In 23 cases answers were filed within after the petitions were filed, in 34 from 30 to 60 days, in 16 from 60 to 6 months, and 3 after 6 months. There were 141 cases tried on the merits within 3 months of the time the petitions were filed, 61 from 3 to 6 months, 34 from 6 to 12 months, and 9 after 1 year. In 135 cases journal entries were filed the day of trial, in 35 not the same day but within 10 days, in 10 to 30 days, in 44 after 30 days, and in 29 cases no journal entries had been filed. Court costs, amounting to \$9,063.80, were reported in 29 cases, showing a minimum of \$2.50, a maximum of \$284.55, and an average of \$10.95. There were 127 civil actions other than divorce pending July 1, 1937. Of this number 48 had been pending less than 3 months, 20 from 3 to 6 months, 20 from 6 to 12 months, 20 from 1 to 2 years, 6 from 2 to 3 years, 5 from 3 to 4 years, and 2 over 5 years.

DIVORCE CASES—FORMS 3 AND 4. There were 61 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 10 were dismissed before trial. In 41 cases the divorces were granted to the wives, in 9 cases to the husbands, and in 1 case the divorce was denied. 10 cases were contested. The custody of 48 minor children was awarded to the wives and 1 to the husband. There was 1 case tried 60 days after the petition was filed, 44 from 60 days to 6 months, and 6 after 6 months. The grounds for divorce were: Gross neglect, 7 cases; extreme cruelty, 14 cases; abandonment, 25 cases; nonsupport, 2 cases; habitual drunkenness, 1 case; and miscellaneous, 1 case. Court costs, amounting to \$547.09, were reported in 41 cases, showing a minimum of \$2.95, a maximum of \$55.70, and an average of \$9.59. There were 22 divorce cases pending July 1, 1937, of which 16 had been pending less than 3 months, 2 from 3 to 6 months, 3 from 6 months to 1 year, and 1 from 1 to 2 years.

CRIMINAL CASES—FORMS 5 AND 6. There were 41 criminal cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 15 were dismissed before trial on the merits. In 19 cases the defendants entered pleas of guilty. There were 7 cases tried to the jury, resulting in 6 verdicts of guilty and 1 verdict of not guilty. Trial was had within 10 days after the information was filed.

## JUDICIAL COUNCIL BULLETIN

ed in 2 cases, in 10 to 30 days in 3 cases, and in 6 months to 1 year in 1 case. The date information was filed was not reported in 5 cases. There were 15 paroles granted. Court costs, amounting to \$854.75, were reported in 15 cases, showing a minimum of \$2.50, a maximum of \$98.45, and an average of \$22.49. There were 23 criminal cases pending July 1, 1937. Of this number 4 had been pending less than 3 months, 5 from 3 to 6 months, 6 from 6 months to 1 year, 2 months, 4 from 1 to 2 years, 3 from 2 to 3 years, and 1 from 3 to 4 years. The date information was filed was not reported in 1 case.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were tried or decided during the year ending June 30, 1937, or which were pending July 1, 1937, 246 motions or demurrers were reported. Of this number 55 were withdrawn or not presented and 3 were still pending July 1, 1937. Of the number disposed of 152 were presented within 10 days after they were filed, 21 from 10 to 30 days, and 15 after 30 days. There were 185 motions or demurrers decided the day presented, 2 not the same day but within 10 to 30 days, and 1 after 30 days. Of the 188 ruled upon, 158 were allowed, 26 denied, and 4 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 13 motions reported. Of this number 2 were withdrawn or not presented. Of the number disposed of 5 were presented within 10 days after they were filed, 2 from 10 to 30 days, and 1 after 30 days. There were 10 motions decided on the day presented and 1 not the same day but within 10 days. Of the 11 ruled upon 10 were allowed and 1 denied.

### EIGHTEENTH DISTRICT

HON. ROSS McCORMICK, of Wichita, Judge, First Division  
HON. R. L. NESMITH, of Wichita, Judge, Second Division  
HON. GROVER PIERPONT, of Wichita, Judge, Third Division  
HON. I. N. WILLIAMS, of Wichita, Judge, Fourth Division  
A. E. JAKUES, Clerk

County: Sedgwick. Area, 994 square miles; population, 129,609; assessed value, \$193,164,388.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 1,312 cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 416 were dismissed before trial on the merits, 813 were tried to the court, 15 were removed to federal court and 59 were fully tried to the jury, but the jury was called in 48 other cases, of which 10 were partially tried and continued, in 10 demurrers were sustained to the evidence, there was judgment by the court, 11 were dismissed and in 21 no journal entries showing disposition was filed. In 891 cases no answers were filed. In 119 cases answers were filed within 30 days after the petitions were filed, in 98 cases from 30 to 60 days, in 151 cases from 60 days to 6 months, and in 38 cases after 6 months. There were 532 cases tried on the merits within 3 months of the date the petitions were filed, 187 from 3 to 6 months, 108 from 6 to 12 months, and 4 after 1 year. In 918 cases journal entries were filed the day of trial, in 119 the same day but within 10 days, in 2 within 10 to 30 days, in 5 after 30 days, and in 326 cases no journal entries had yet been filed. Court costs, amounting to \$35,067.82, were reported in 1,312 cases, showing a minimum of \$2.50, a maximum of \$1,154.25, and an average of \$26.72. There were 631

civil actions other than divorce pending July 1, 1937. Of this number 111 had been pending less than 3 months, 121 from 3 to 6 months, 111 from 6 to 12 months, 119 from 1 to 2 years, 36 from 2 to 3 years, 6 from 3 to 4 years, 7 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 1,210 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 511 were dismissed before trial. In 570 cases the divorces were granted to the wives and in 129 cases to the husbands. Fifty-nine cases were contested and custody of 365 minor children was awarded to the wives, 43 to the husbands, 1 to an aunt, and 11 to both the husbands and the wives. There were 500 cases tried within 60 days after the petitions were filed, 500 from 60 to 90 days, 89 from 90 to 120 days, 89 after 6 months. The grounds for divorce were neglect, 235 cases; extreme cruelty, 327 cases; abandonment, 118 cases; adultery, 3 cases; habitual drunkenness, 4 cases; conviction of a felony, 1 case; and miscellaneous, 5 cases. Court costs, amounting to \$12,529.68, were reported in 1,210 cases, showing a minimum of \$3.35, a maximum of \$100.00, and an average of \$10.36. There were 455 divorce cases pending July 1, 1937, of which 227 had been pending less than 3 months, 102 from 3 to 6 months, 86 from 6 months to 1 year, 32 from 1 to 2 years, 3 from 2 to 3 years, and 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 533 criminal cases tried on the merits within the year ending June 30, 1937. Of this number 212 were dismissed before trial on the merits. In 289 cases the defendants entered pleas of guilty. There were 32 cases tried to the jury, resulting in 29 verdicts of guilty, 1 case the jury disagreed, and in 2 cases the result is not shown. There were 10 cases had within 10 days after the information was filed in 3 cases, within 10 to 30 days in 2 cases, within 30 days to 3 months in 7 cases, within 3 to 6 months in 10 cases, within 6 months to 1 year in 6 cases, and after 1 year in 1 case. The date information was filed was not reported in 163 cases. There were 152 paroles granted. Court costs, amounting to \$14,236.50, were reported in 528 cases, showing a minimum of \$5.30, a maximum of \$541.09, and an average of \$26.96. There were 182 criminal cases pending July 1, 1937. Of this number 76 had been pending less than 3 months, 43 from 3 to 6 months, 3 from 6 months to 1 year, 29 from 1 to 2 years. The date information was not reported in 27 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 863 motions or demurrers were reported. Of this number 41 were withdrawn or not presented and 41 were still pending July 1, 1937. Of the number disposed of 281 were presented within 10 days after they were reported, 200 within 10 to 30 days, and 62 after 30 days. There were 468 motions or demurrers decided the day presented, 5 not the same day but within 10 days, 36 within 10 to 30 days, and 34 after 30 days. Of the 543 ruled upon 366 were allowed, 114 denied, and 36 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936.—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 146 motions reported. Of this number 4 were withdrawn or not presented, and 5 were still pending July 1, 1937. Of the number disposed of 96 were presented within 10 days, 1

30 days, and 30 after 30 days. There were 135 motions decided the day filed and 2 after 30 days. Of the 137 ruled upon 129 were allowed, 5 denied and 3 partially allowed and denied.

### NINETEENTH DISTRICT

HON. STEWART F. BLOSS, of Winfield, Judge  
MRS. MARIE SNYDER, Clerk

county: Cowley. Area, 1,133 square miles; population, 36,376; assessed value, \$61,880,073.

**OTHER THAN DIVORCE CASES—FORMS 1 AND 2.** There were 244 cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 60 were dismissed before trial on the merits, 168 were tried to the court, and 16 to the jury. In 168 cases no answers were filed. In 25 cases answers were filed within 30 days after the petitions were filed, in 14 within 30 to 60 days, in 30 within 60 days to 6 months, and in 7 after 6 months. There were 105 cases tried on the merits within 3 months of the time the petitions were filed, 54 within 3 to 6 months, 31 within 6 to 12 months, and 10 after 1 year. In 91 cases journal entries were filed the day of trial, in 69 not the same day but within 10 days, in 8 between 10 to 30 days, in 8 after 30 days, and in 68 cases no journal entries had yet been filed. Court costs, amounting to \$7,162.25, were reported in 105 cases, showing a minimum of \$2.75, a maximum of \$763.75, and an average of \$68.35. There were 151 civil actions other than divorce pending July 1, 1937. Of this number 57 had been pending less than 3 months, 22 from 3 to 6 months, 26 from 6 to 12 months, 21 from 1 to 2 years, 6 from 2 to 3 years, 3 from 3 to 4 years, 5 from 4 to 5 years, and 5 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 207 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 65 were dismissed before trial. In 119 cases the divorces were granted to the wives and in 23 cases to the husbands. Two cases were contested. The custody of 65 minor children was awarded to the wives, 3 to the husbands, and 1 to the grandparents. There were 20 cases tried within 60 days after the petitions were filed, 95 within 60 days to 6 months, and 27 after 6 months. The grounds for divorce were: Gross neglect, 50 cases; extreme cruelty, 78 cases; abandonment, 11 cases; habitual drunkenness, 2 cases; and miscellaneous, 1 case. Court costs, amounting to \$1,839.01, were reported in 207 cases, showing a minimum of \$2.50, a maximum of \$72.95, and an average of \$8.89. There were 14 divorce cases pending July 1, 1937, of which 37 had been pending less than 3 months, 8 from 3 to 6 months, 5 from 6 months to 1 year, and 4 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 54 criminal cases disposed of within the year ending June 30, 1937. Of this number 12 were dismissed before trial on the merits. In 36 cases the defendants entered pleas of guilty. In 6 cases trials were tried to the jury, resulting in 1 verdict of guilty, 4 verdicts of not guilty, and in 1 case there was a hung jury. Trial was had within 30 days to 3 months after the information was filed in 4 cases and within 3 to 6 months in 2 cases. The date information was filed was not reported in 9 cases. There were 13 paroles granted. Court costs, amounting to \$2,055.68, were reported in 54 cases, showing a minimum of \$3.75, a maximum of \$227.55,

and an average of \$38.07. There were 15 criminal cases pending July 1, 1937. Of this number 5 had been pending less than 3 months, 2 from 3 to 6 months, 5 from 6 months to 1 year, and 3 from 1 to 2 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 240 motions or demurrers were reported. Of this number 1 was withdrawn or not presented and 26 were still pending July 1, 1937. Of the number disposed of 60 were presented within 10 days after they were filed, 92 within 10 to 30 days, and 51 after 30 days. There were 202 motions or demurrers decided the day presented and 1 not the same day but within 10 days. Of the 203 ruled upon 113 were allowed, 71 denied, and 19 were allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 12 motions reported. Of this number 1 was withdrawn or not presented. Of the number disposed of 10 were presented within 10 to 30 days after it was filed and 10 after 30 days. There were 10 motions decided on the day presented and 1 not the same day but within 10 to 30 days. Of the 11 ruled upon 6 motions were allowed and 5 denied.

#### TWENTIETH DISTRICT

HON. RAY H. BEALS, of St. John, Judge  
JACK MORRISON, JR., Clerk, Barton County  
BERTHA WAHL, Clerk, Rice County  
GERTUDE BARTLE, Clerk, Stafford County

Three counties: Barton, Rice and Stafford. Area, 2,395 square miles. Population, 50,111; assessed value, \$115,634,711.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 209 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 64 were dismissed before trial, 135 on the merits, 231 were tried to the court, and 12 to the jury. In 209 cases no answers were filed. In 33 cases answers were filed within 30 days after the petitions were filed, in 34 from 30 to 60 days, in 29 from 60 days to 6 months, and 12 after 6 months. There were 175 cases tried on the merits within 30 days of the time the petitions were filed, 41 from 3 to 6 months, 20 from 6 months to 1 year, and 7 after 1 year. In 247 cases journal entries were filed of trial, in 4 not the same day but within 10 days, in 3 from 10 to 30 days, and in 11 after 30 days, and in 42 cases no journal entries had yet been filed. Court costs, amounting to \$7,256.23, were reported in 307 cases, showing a minimum of \$2.70, a maximum of \$312.61, and an average of \$23.63. There were 122 civil actions other than divorce pending July 1, 1937. Of this number 62 had been pending less than 3 months, 13 from 3 to 6 months, 28 from 6 months to 12 months, 13 from 1 to 2 years, 4 from 2 to 3 years, 1 from 3 to 4 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 103 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 1 was dismissed before trial. In 61 cases the divorces were granted to the wives, in 23 cases to the husbands, and 1 case was denied. Four cases were contested. The custody of 51 minor children was awarded to the wives, 1 to the husbands, and 1 to grandmother. There were 8 cases tried within 10 days after the petitions were filed, 68 from 10 to 60 days, and 1 from 60 days to 6 months, and 1 from 6 months to 1 year.



ns. The grounds for divorce were: Gross neglect, 19 cases; extreme  
y, 44 cases; desertion, 10 cases; abandonment, 8 cases; and nonsupport,  
s. Court costs, amounting to \$397.27, were reported in 100 cases, show-  
minimum of \$2.35, a maximum of \$132.70, and an average of \$8.47.  
were 54 divorce cases pending July 1, 1937. Of this number 31 had  
pending less than 3 months, 6 from 3 to 6 months, and 17 from 6 months  
ear.

MINAL CASES—FORMS 5 AND 6. There were 67 criminal cases disposed of  
the year ending June 30, 1937. Of this number 12 were dismissed before  
the merits. In 43 cases the defendants entered pleas of guilty. There  
2 cases tried to the jury, resulting in 9 verdicts of guilty and 3 verdicts  
guilty. Trial was had within 10 days after the information was filed in  
s, in 10 to 30 days in 1 case, in 30 days to 3 months in 3 cases, in 3 to  
ths in 3 cases, and in 6 months to 1 year in 2 cases. The date informa-  
was filed was not reported in 9 cases. There were 17 paroles granted.  
costs, amounting to \$2,686.86, were reported in 67 cases, showing a mini-  
of \$4.45, a maximum of \$661.90, and an average of \$40.10. There were  
ninal cases pending July 1, 1937. Of this number 9 had been pending less  
months, 2 from 3 to 6 months, 2 from 6 months to 1 year, 3 from 1 to  
s, and 2 from 2 to 3 years. The date information was filed was not re-  
in 14 cases.

IONS AND DEMURRERS—FORMS 1 TO 6. In all of the cases which were  
ed of during the year ending June 30, 1937, or which were pending July  
7, 284 motions or demurrers were reported. Of this number 71 were  
rawn or not presented and 2 were still pending July 1, 1937. Of the num-  
disposed of 164 were presented within 10 days after they were filed, 15  
10 to 30 days, and 32 after 30 days. There were 202 motions or de-  
ers decided the day presented, 1 not the same day but within 10 days, 1  
0 to 30 days, and 7 after 30 days. Of the 211 ruled upon 163 were al-  
46 denied, and 2 partially allowed and denied.

IONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a. In cases tried on  
erits prior to July 1, 1936, there were 29 motions reported. Of this num-  
were still pending on July 1, 1937. Of the number disposed of 18 cases  
resented within 10 days after they were filed, 6 from 10 to 30 days, and  
30 days. There were 26 cases decided the day presented and 1 not the  
day but within 10 to 30 days. Of the 27 ruled upon 26 motions were al-  
and 1 denied.

## TWENTY-FIRST DISTRICT

HON. EDGAR C. BENNETT, of Marysville, Judge  
HAROLD CRAWFORD, Clerk, Clay County  
WALLACE J. KOPPES, Clerk, Marshall County  
FRANK J. LUND, Clerk, Riley County

ee counties: Clay, Marshall and Riley. Area, 2,147 square miles; popu-  
56,612; assessed value, \$94,379,399.

IL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2. There were 224 civil  
s, other than divorce, tried on the merits or dismissed within the year  
June 30, 1937. Of this number 24 were dismissed before trial on the  
197 were tried to the court, and 3 to the jury. In 177 cases no answers  
iled. In 28 cases answers were filed within 30 days after the petitions

were filed, in 10 from 30 to 60 days, in 8 from 60 days to 6 months, and 1 after 6 months. There were 131 cases tried on the merits within 3 months of the time the petitions were filed, 46 from 3 to 6 months, 9 from 6 to 12 months, and 14 after 1 year. In 162 cases journal entries were filed the day of filing, 15 not the same day but within 10 days, in 9 from 10 to 30 days, in 10 from 30 to 60 days, and in 25 cases no journal entries had yet been filed. Court costs, amounting to \$10,634.33, were reported in 221 cases, showing a minimum of \$3.10, a maximum of \$737.22, and an average of \$48.11. There were 10 actions, other than divorce, pending July 1, 1937. Of this number 48 had been pending less than 3 months, 18 from 3 to 6 months, 14 from 6 to 12 months, 6 from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, and 1 from 4 to 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 81 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 10 were dismissed before trial. In 51 cases the divorces were granted to the wives, and in 13 cases to the husbands. There were 3 cases contested. The custody of 48 minor children was awarded to the wives, 10 to the husbands, and 1 to the grandparents. There were 6 cases tried 60 days after the petition was filed, 53 from 60 days to 6 months, and 5 after 6 months. The grounds for divorce were: Gross neglect, 10 cases; extreme cruelty, 30 cases; abandonment, 21 cases, habitual drunkenness, 1 case; conviction of a felony, 1 case, and miscellaneous, 1 case. Court costs, amounting to \$823.87, were reported in 80 cases, showing a minimum of \$3.70, a maximum of \$96.95, and an average of \$10.29. There were 47 divorce cases pending July 1, 1937, of which 10 had been pending less than 3 months, 8 from 3 to 6 months, 6 from 6 months to 1 year, 7 from 1 to 2 years, 3 from 2 to 3 years, and 2 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 29 criminal cases disposed of within the year ending June 30, 1937. Of this number 8 cases were disposed of before trial on the merits. In 17 cases the defendants entered pleas of guilty. There were 4 cases tried to the jury, resulting in 2 verdicts of guilty and 2 verdicts of not guilty. Trial was had within 10 to 30 days after the indictment was filed in 1 case, in 30 days to 3 months in 2 cases, and in 6 months to 1 year in 1 case. The date information was filed was not reported in 1 case. There were 2 paroles granted. Court costs, amounting to \$1,009.25, were reported in 29 cases, showing a minimum of \$3.05, a maximum of \$145.00, and an average of \$34.80. There were 16 criminal cases pending July 1, 1937, of which this number 6 had been pending less than 3 months, 1 from 3 to 6 months, 1 from 6 months to 1 year, 3 from 1 to 2 years, 1 from 2 to 3 years, and 4 from 4 to 5 years. The date information was filed was not reported in 12 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 294 motions or demurrers were reported. Of this number 53 were drawn or not presented. Of the number disposed of 196 were presented within 10 days after they were filed, 29 from 10 to 30 days, and 16 after 30 days. There were 236 motions or demurrers decided the day presented, 4 the same day but within 10 days, and 1 from 10 to 30 days. Of the 237 upon which a decision was rendered, 216 were allowed, 22 denied, and 3 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 17 motions reported. Of the

4 were presented within 10 days after they were filed, 2 from 10 to 30 days, and 11 after 30 days. There were 13 motions decided on the day presented, 1 not the same day but within 10 to 30 days, and 3 after 30 days. Of 17 ruled upon 14 were allowed and 3 denied.

#### TWENTY-SECOND DISTRICT

HON. C. W. RYAN, of Wathena, Judge  
H. N. ZIMMERMAN, Clerk, Brown County  
SETH BARTER, JR., Clerk, Doniphan County  
ELLA SCHMEIDELER, Clerk, Nemaha County

Three counties: Brown, Doniphan and Nemaha. Area, 1,665 square miles; population, 52,038; assessed value, \$86,027,473.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 374 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 92 were dismissed before trial on the merits, 270 were tried to the court, 11 to the jury, and 1 case was removed to federal court. In 280 cases no answers were filed. In 43 cases answers were filed within 30 days after the petitions were filed, in 23 from 30 to 60 days, in 10 from 60 days to 6 months, and in 10 after 6 months. There were 117 cases tried on the merits within 3 months of the time the petitions were filed, 116 from 3 to 6 months, 34 from 6 to 12 months, and 14 after 1 year. In 29 cases no trial entries were filed the day of trial, in 118 not the same day but within 10 days, in 105 from 10 to 30 days, in 63 after 30 days, and in 58 cases no trial entries had yet been filed. Court costs, amounting to \$14,951.64, were reported in 325 cases, showing a minimum of \$2.85, a maximum of \$493.11, and an average of \$46.00. There were 132 civil actions, other than divorce, pending July 1, 1937. Of this number 55 had been pending less than 3 months, 22 from 3 to 6 months, 23 from 6 to 12 months, 23 from 1 to 2 years, 5 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 78 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 20 were dismissed before trial. In 41 cases the divorces were granted to the wives, in 16 cases to the husbands, and 1 case was denied. Nine cases were contested. The custody of 43 minor children was awarded to the wives, 1 to the husband, and 2 to the grandmother. There were 51 cases tried within 60 days after the petitions were filed and 7 after 6 months. The grounds for divorce were: Gross neglect, 41 cases; extreme cruelty, 5 cases; abandonment, 9 cases; and habitual drunkenness, 2 cases. Court costs, amounting to \$1,068.32, were reported in 74 cases, showing a minimum of \$2.00, a maximum of \$87.45, and an average of \$14.44. There were 27 divorce cases pending July 1, 1937, of which 8 had been pending less than 3 months, 6 from 3 to 6 months, 3 from 6 to 12 months, 6 from 1 to 2 years, 1 from 2 to 3 years, and 3 from 3 to 4 years, and 1 from 4 to 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 51 criminal cases disposed of within the year ending June 30, 1937. Of this number 12 were dismissed before trial on the merits. In 28 cases the defendants entered pleas of guilty. There were 11 cases tried to the jury, resulting in 8 verdicts of guilty and 3 verdicts of not guilty. The trial was had within 10 days after the information was filed in 3 cases, in 10 to 30 days in 4 cases, in 30 days to 3 months

in 1 case, in 6 months to 1 year in 1 case, and after 1 year in 2 cases. The date information was filed was not reported in 2 cases. There were 3 granted. Court costs, amounting to \$1,930.20, were reported in 50 cases, in a minimum of \$3.05, a maximum of \$179.35, and an average of \$3.60. There were 7 criminal cases pending July 1, 1937. Of this number 5 had pending less than 3 months, 1 from 6 to 12 months, and 1 from 1 to 2 years. The date information was filed was not reported in 6 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 487 motions or demurrers were reported. Of this number 41 were withdrawn or not presented and 3 were still pending July 1, 1937. Of the number disposed of 303 were presented within 10 days after they were filed, 81 from 10 to 30 days, and 59 after 30 days. There were 412 motions or demurrers decided the day presented, 16 not the same day but within 10 days, 6 from 10 to 30 days, and 9 after 30 days. Of the 443 ruled upon, 368 were allowed, 73 denied, and 2 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 23 motions reported. Of this number 9 were presented within 10 days after they were filed, 6 within 10 to 30 days, and 8 after 30 days. There were 21 motions decided on the day presented, 1 not the same day but within 10 to 30 days, and 1 after 30 days. Of the 23 ruled upon, 19 were allowed and 4 denied.

#### TWENTY-THIRD DISTRICT

HON. C. A. SPENCER, of Oakley, Judge  
C. J. WERTH, Clerk, Ellis County  
J. B. CHENOWETH, Clerk, Gove County  
A. W. ROGGE, Clerk, Logan County  
GEO. W. BRANDT, Clerk, Russell County  
ELVA BRANDENBURG, Clerk, Trego County  
IDA WARD, Clerk, Wallace County

Six counties: Ellis, Gove, Logan, Russell, Trego and Wallace. Area 1,200 square miles; population, 46,701; assessed value, \$84,796,295.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 411 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 83 were dismissed before trial on the merits, 323 were tried to the court, 2 to the jury, and 5 were removed to federal court. In 368 cases no answers were filed. In 12 cases answers were filed within 30 days after the petitions were filed, in 16 from 30 to 60 days, 16 from 60 days to 6 months, and in 1 after 6 months. There were 143 cases tried on the merits within 3 months of the time the petitions were filed, 10 from 3 to 6 months, 53 from 6 to 12 months, and 26 after 1 year. In 288 cases journal entries were filed the day of trial, in 12 not the same day but within 10 days, in 18 from 10 to 30 days, in 22 after 30 days, and in 76 cases no journal entries had yet been filed. Court costs, amounting to \$15,415.36, were reported in 294 cases, showing a minimum of \$2.10, a maximum of \$980.77, and an average of \$52.46. There were 288 civil actions, other than divorce, pending July 1, 1937. Of this number 102 had been pending less than 3 months, 102 from 3 to 6 months, 97 from 6 to 12 months, 25 from 1 to 2 years, 9 from 2 to 3 years, 9 from 3 to 4 years, 1 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 92 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 9 were dismissed before trial. In 52 cases the divorces were granted to the wives and in 31 cases to the husbands. Three cases were contested. The custody of minor children was awarded to the wives and 8 to the husbands. There were 5 cases tried within 60 days after the petitions were filed, 72 from 60 days to 6 months, and 6 after 6 months. The grounds for divorce were: gross neglect, 30 cases; extreme cruelty, 10 cases; abandonment, 8 cases; conviction of a felony, 1 case; and miscellaneous, 34 cases. Court costs, amounting to \$704.25, were reported in 90 cases, showing a minimum of \$2.05, a maximum of \$47.60, and an average of \$7.82. There were 34 divorce cases pending July 1, 1937, of which 16 had been pending less than 3 months, 5 from 3 to 6 months, 8 from 6 months to 1 year, 3 from 1 to 2 years, 1 from 2 to 3 years, and 1 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 38 criminal cases disposed of within the year ending June 30, 1937. Of this number 18 were dismissed before trial on the merits. In 12 cases the defendants entered pleas of guilty. There were 8 cases tried to the jury, resulting in 7 verdicts of guilty and 1 verdict of not guilty. The trial was had within 10 days after the information was filed in 5 cases, in 2 cases from 30 days to 3 months, and in 1 case over 3 months. The date information was filed was not reported in 8 cases. There were 6 paroles granted. Court costs, amounting to \$1,209.30, were reported in 35 cases, showing a minimum of \$3.90, a maximum of \$316.00, and an average of \$34.55. There were 15 criminal cases pending July 1, 1937. Of this number 1 had been pending less than 3 months, 1 from 3 to 6 months, 3 from 6 months to 1 year, 6 from 1 to 2 years, 1 from 2 to 3 years, and 1 over 5 years. The date information was filed was not reported in 7 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 172 motions or demurrers were reported. Of this number 45 were withdrawn or not presented and 5 were still pending July 1, 1937. Of the 122 disposed of 54 were presented within 10 days after they were filed, 22 from 10 to 30 days, and 46 after 30 days. There were 116 motions or demurrers decided the day presented, 5 not the same day but within 10 days, and 1 within 30 days. Of the 122 ruled upon 62 were allowed, 59 denied, and 1 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 4 motions reported. Of this number 1 was withdrawn or not presented. Of the number disposed of 1 was presented within 10 days after it was filed and 2 after 30 days. All motions were decided on the day presented and all were allowed.

## TWENTY-FOURTH DISTRICT

HON. GEO. L. HAY, of Kingman, Judge  
 EDITH MYERS, Clerk, Barber County  
 JAY B. PEARL, Clerk, Harper County  
 NEIL H. WALTER, Clerk, Kingman County  
 MARY FAIRCHILD, Clerk, Pratt County

Four counties: Barber, Harper, Kingman and Pratt. Area, 3,526 miles; population, 45,547; assessed value, \$93,060,576.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 69 were dismissed before trial on the merits, 184 were tried to the court, 9 to the jury, 1 to a referee, and 2 were removed to federal court. In 159 cases no answers were filed. In 28 answers were filed within 30 days after the petitions were filed, in 28 from 30 to 60 days, in 45 from 60 days to 6 months, and in 6 after 6 months. There were 115 cases tried on the merits within 3 months of the time the petitions were filed, 57 from 3 to 6 months, 16 from 6 to 12 months, and 6 after 12 months. In 143 cases journal entries were filed the day of trial, in 17 not the day but within 10 days, in 21 from 10 to 30 days, in 13 after 30 days, and in 69 cases no journal entries had yet been filed. Court costs, amounting to \$6,491.45, were reported in 245 cases, showing a minimum of \$2.65, a maximum of \$175.75, and an average of \$26.49. There were 130 civil actions, other than divorce, pending July 1, 1937. Of this number 43 had been pending less than 3 months, 19 from 3 to 6 months, 27 from 6 to 12 months, 17 from 12 months to 2 years, 16 from 2 to 3 years, 5 from 3 to 4 years, 2 from 4 to 5 years, and 1 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 85 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 25 were dismissed before trial. In 52 cases the divorces were granted to the wives, in 6 cases to the husbands, and 2 cases were denied. The custody of 72 minor children was awarded to the wives and 2 to the husbands. There was 1 case tried within 60 days after the petition was filed, 54 from 60 days to 6 months, and 5 after 6 months. The grounds for divorce were: Gross neglect, 7 cases; extreme cruelty, 24 cases; abandonment, 23 cases; nonsupport, 1 case; habitual drunkenness, 1 case; and miscellaneous, 2 cases. Court costs, amounting to \$781.98, were reported in 85 cases, showing a minimum of \$2.65, a maximum of \$62.55, and an average of \$9.20. There were 26 divorces pending July 1, 1937, of which 18 had been pending less than 3 months, 3 to 6 months, 4 from 6 months to 1 year, and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 42 criminal cases disposed of within the year ending June 30, 1937. Of this number 26 were dismissed before trial on the merits. In 12 cases the defendants entered pleas of guilty. There were 4 cases tried to the jury, resulting in 3 verdicts of guilty and 1 verdict of not guilty. Trial was had within 10 to 30 days after the information was filed in 1 case, in 30 days to 3 months in 1 case, from 3 to 6 months in 1 case, and from 6 to 12 months in 1 case. The date information was filed was not reported in 14 cases. There were 2 paroles granted. Court costs, amounting to \$1,605.60, were reported in 42 cases, showing a minimum of \$2.05, a maximum of \$240.80, and an average of \$38.22. There were 15 criminal cases

July 1, 1937. Of this number 6 had been pending less than 3 months, 8 from 3 to 6 months, 6 to 12 months, and 1 from 1 to 2 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, 188 motions or demurrers were reported. Of this number 24 were withdrawn or not presented and 164 were still pending July 1, 1937. Of the number disposed of 67 were presented within 10 days after they were filed, 47 from 10 to 30 days, and 49 after 30 days. There were 163 motions or demurrers decided the day presented. Of these 163 ruled upon 105 were allowed, 53 denied, and 5 partially allowed and 4 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 6 motions reported. One case was withdrawn or not presented. Of the number disposed of 1 was presented within 10 days after it was filed, 2 from 10 to 30 days, and 2 after 30 days. There were 5 motions decided on the day presented. Of the 5 ruled upon 4 were allowed and 1 denied.

#### TWENTY-FIFTH DISTRICT

HON. WENDELL READY, of Wellington, Judge  
JESSIE HAVERSTOCK, Clerk

**County:** Sumner. Area, 1,179 square miles; population, 26,678; assessed value, \$50,986,353.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 191 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 45 were dismissed before trial on the merits, 146 were tried to the court, and 5 to the jury. In 122 cases no answers were filed. In 16 cases answers were filed within 30 days after the petitions were filed, in 17 within 30 to 60 days, in 17 within 60 days to 6 months, and in 13 cases after 6 months. There were 91 cases tried on the merits within 3 months of the time the petitions were filed, 21 within 3 to 6 months, 14 within 6 to 12 months, and 20 after 1 year. In 106 cases journal entries were filed the day of trial, in 34 not the same day but within 10 days, in 6 within 10 to 30 days, in 11 after 30 days, and in 34 cases no journal entries had yet been filed. Court costs, amounting to \$5,986.29, were reported in 191 cases, showing a minimum of \$4.50, a maximum of \$262.90, and an average of \$31.34. There were 100 civil actions, other than divorce, pending July 1, 1937. Of this number 22 had been pending less than 3 months, 11 from 3 to 6 months, 11 from 6 to 12 months, 11 from 1 to 2 years, 12 from 2 to 3 years, 4 from 3 to 4 years, 4 from 4 to 5 years, and 24 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 54 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 10 were dismissed before trial. In 33 cases the divorces were granted to the wives and in 11 cases to the husbands. There were 3 cases contested. The custody of 2 minor children was awarded to the wives. There were 3 cases tried 60 days after the petitions were filed, 34 within 60 days to 6 months, and 7 after 6 months. The grounds for divorce were: Gross neglect, 27 cases; extreme cruelty, 11 cases; and abandonment, 6 cases. Court costs, amounting to \$525.35, were reported in 54 cases, showing a minimum of \$4.35, a maximum of \$40.40,

and an average of \$9.73. There were 55 divorce cases pending July 1, which 26 had been pending less than 3 months, 4 from 3 to 6 months, 6 months to 1 year, 6 from 1 to 2 years, 4 from 2 to 3 years, 4 from 3 to 4 years, 2 from 4 to 5 years, and 1 over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 36 criminal cases disposed within the year ending June 30, 1937. Of this number 12 were dismissed before trial on the merits. In 22 cases the defendants entered pleas of guilty. There were 2 cases tried to the jury, resulting in 2 verdicts of guilty. There was had within 10 days after the information was filed in both cases. Date information was filed was not reported in 11 cases. There were 6 cases granted. Court costs, amounting to \$1,004.15, were reported in 36 cases, ranging a minimum of \$7, a maximum of \$159.95, and an average of \$27.89. There were 19 criminal cases pending July 1, 1937. Of this number 6 had been pending less than 3 months, 1 from 3 to 6 months, 4 from 6 months to 1 year, 4 from 1 to 2 years, 2 from 3 to 4 years, and 2 from 4 to 5 years. Date information was filed was not reported in 11 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 297 motions or demurrers were reported. Of this number 7 were withdrawn or not presented and 37 were still pending July 1, 1937. Of the number disposed of 111 were presented within 10 days after they were filed, 27 within 10 to 30 days, and 48 after 30 days. There were 185 motions or demurrers decided the day presented and 1 not the same day but within 10 days. Of the 186 ruled upon 140 were allowed, 43 denied, and 3 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 28 motions reported. Of this number 3 were withdrawn or not presented. Of the number disposed of 11 were presented within 10 days after they were filed, 1 within 10 to 30 days, and 7 after 30 days. There were 23 motions decided on the day presented and 2 not the same day but within 10 days. Of the 25 ruled upon 22 were allowed and 3 denied.

## TWENTY-NINTH DISTRICT

HON. E. L. FISCHER, of Kansas City, Judge, First Division  
HON. WILLARD M. BENTON, of Kansas City, Judge, Second Division  
HON. HARVEY J. EMERSON, of Kansas City, Judge, Third Division  
HON. C. A. MILLER, of Kansas City, Judge, Fourth Division  
Harold H. Harding, Clerk

One county: Wyandotte. Area, 143 square miles; population, 147,000. Assessed value, \$115,187,973.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 300 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 300 were dismissed before trial on the merits, 886 were tried to the court, and 44 to the jury. In 670 cases answers were filed. In 208 cases answers were filed within 30 days after the petitions were filed, in 162 from 30 to 60 days, in 145 from 60 days to 6 months, and 45 after 6 months. There were 507 cases tried on the merits within 6 months of the time the petitions were filed, 176 from 3 to 6 months, 126 from 6 to 12 months, and 125 after 1 year. In 822 cases journal entries were



day of trial, in 87 not the same day but within 10 days, 17 from 10 to 30 days, 4 after 30 days, and in 300 cases no journal entries had yet been filed. Court costs amounting to \$26,011.88 were reported in 1,230 cases, showing a minimum of \$4.85, a maximum of \$2,483.34, and an average of \$21.15. There were 1,894 civil actions, other than divorce, pending July 1, 1937. Of this number 334 had been pending less than 3 months, 152 from 3 to 6 months, 222 from 6 to 12 months, 409 from 1 to 2 years, 198 from 2 to 3 years, 214 from 3 to 4 years, 135 from 4 to 5 years, and 230 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 548 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 56 were dismissed before trial. In 382 cases the divorces were granted to the wives, in 110 to the husbands, and 1 was annulled. Six cases were contested. Custody of 219 minor children was awarded to the wives and 30 to the husbands. There were 25 cases tried within 60 days after the petitions were filed, 361 from 60 days to 6 months, and 106 after 6 months. The grounds for divorce were: Gross neglect, 228 cases; extreme cruelty, 219 cases; abandonment, 91 cases; adultery, 5 cases; habitual drunkenness, 3 cases; and conviction of a felony, 2 cases. Court costs, amounting to \$6,008.62, were reported in 546 cases, showing a minimum of \$5.80, a maximum of \$35.90, and an average of \$11. There were 1,609 divorce cases pending July 1, 1937, of which 108 had been pending less than 3 months, 95 from 3 to 6 months, 258 from 6 months to 1 year, 346 from 1 to 2 years, 268 from 2 to 3 years, 278 from 3 to 4 years, 70 from 4 to 5 years, and 91 over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 170 criminal cases disposed of within the year ending June 30, 1937. Of this number 31 were dismissed before trial on the merits. In 108 cases the defendants entered pleas of guilty. There were 31 cases tried to the jury, resulting in 17 verdicts of guilty, 13 verdicts of not guilty, and 1 mistrial. Trial was had within 10 days after the information was filed in 12 cases, in 10 to 30 days in 5 cases, in 30 days to 3 months in 5 cases, in 3 to 6 months in 5 cases, 6 months to 1 year in 3 cases, and 1 case after 1 year. The date information was filed was not reported in 10 cases. There were 52 paroles granted. Court costs, amounting to \$3,708.90, were reported in 168 cases, showing a minimum of \$7.35, a maximum of \$93.70, and an average of \$22.07. There were 460 criminal cases pending July 1, 1937. Of this number 65 had been pending less than 3 months, 23 from 3 to 6 months, 55 from 6 months to 1 year, 104 from 1 to 2 years, 36 from 2 to 3 years, 28 from 3 to 4 years, 36 from 4 to 5 years, and 113 over 5 years. The date information was filed was not reported in 200 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 1,709 motions or demurrers were reported. Of this number 666 were withdrawn or not presented and 8 were still pending July 1, 1937. Of the remainder disposed of 682 were presented within 10 days after they were filed, 108 from 10 to 30 days, and 110 after 30 days. There were 1,022 motions or demurrers decided the day presented, 4 not the same day but within 10 days, 108 from 10 to 30 days, and 7 after 30 days. Of the 1,035 ruled upon 916 were granted and 119 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 4 motions reported. Of this num-

ber 1 was withdrawn or not presented. Two cases were presented within 30 days after they were filed and 1 after 30 days. All motions were decided on the day presented. Of the 3 ruled upon 2 were allowed and 1 denied.

### THIRTIETH DISTRICT

HON. ROY A. SMITH, of Salina, Judge  
 JAMES A. WILSON, Clerk, Ellsworth County  
 ERNEST D. HARLOW, Clerk, Lincoln County  
 A. H. FINLEY, Clerk, Ottawa County  
 O. HOWARD FORD, Clerk, Saline County

Four counties: Ellsworth, Lincoln, Ottawa and Saline. Area, 2,877 square miles; population, 58,117; assessed value, \$116,610,529.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 315 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 127 were dismissed before trial on the merits, 281 were tried to the court, and 19 to the jury. In 296 cases answers were filed. In 62 cases answers were filed within 30 days after the petitions were filed, in 39 from 30 to 60 days, in 16 from 60 days to 6 months, and in 14 after 6 months. There were 187 cases tried on the merits within 3 months of the time the petitions were filed, 68 from 3 to 6 months, 6 to 12 months, and 18 after 1 year. In 315 cases journal entries were filed the day of trial, in 39 not the same day but within 10 days, in 21 from 10 to 30 days, in 27 after 30 days, and in 25 cases no journal entries had yet been filed. Court costs, amounting to \$11,272.64, were reported in 411 cases, showing a minimum of \$3.05, a maximum of \$245.80, and an average of \$27.40. There were 284 civil actions, other than divorce, pending July 1, 1937. Of this number 65 had been pending less than 3 months, 20 from 3 to 6 months, 10 from 6 to 12 months, 33 from 1 to 2 years, 13 from 2 to 3 years, 24 from 3 to 4 years, 18 from 4 to 5 years, and 41 over five years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 137 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 87 were dismissed before trial. In 87 cases the divorces were granted to the wives, in 25 to the husbands, and in 1 case divorce was denied. Ten cases were tested. The custody of 73 minor children was awarded to the wives and in 1 case to the husbands. There were 6 cases tried within 60 days after the petitions were filed, 82 from 60 days to 6 months, and 25 after 6 months. The grounds for divorce were: Gross neglect, 32 cases; extreme cruelty, 58 cases; abandonment, 18 cases; conviction of a felony, 1 case; adultery, 1 case; and miscellaneous, 2 cases. Court costs, amounting to \$1,289.71, were reported in 137 cases, showing a minimum of \$0.80, a maximum of \$55.60, and an average of \$9.55. There were 165 divorce cases pending July 1, 1937, of which, 10 had been pending less than 3 months, 6 from 3 to 6 months, 29 from 6 months to 1 year, 26 from 1 to 2 years, 22 from 2 to 3 years, 19 from 3 to 4 years, and 14 over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 93 criminal cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 44 were dismissed before trial on the merits. In 39 cases the defendants entered pleas of guilty. There were 10 cases tried to the jury, resulting in 6 verdicts of guilty, 3 verdicts of not guilty, and in 1 case there was a hung jury. The trial was completed within 10 days after the information was filed in 3 cases, from 10 to 30 days in 7 cases, and over 30 days in 3 cases.

cases, from 30 days to 3 months in 3 cases, and from 6 to 12 months in 1 case. The date information was filed was not reported in 13 cases. There were 4 paroles granted. Court costs, amounting to \$3,394.24, were reported in 13 cases, showing a minimum of \$2.95, a maximum of \$184.50, and an average of \$6.49. There were 14 criminal cases pending July 1, 1937. Of this number 1 had been pending less than 3 months, 2 from 3 to 6 months, 3 from 1 to 2 years, 2 from 2 to 3 years, and 1 from 4 to 5 years. The date information was not reported in 6 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 559 motions or demurrers were reported. Of this number 275 were drawn or not presented and 1 was still pending July 1, 1937. Of the number disposed of 146 were presented within 10 days after they were filed, 31 from 10 to 30 days, and 106 after 30 days. There were 281 motions or demurrers decided the day presented and 2 after 30 days. Of the 283 ruled upon 172 were allowed, 72 denied, and 21 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 4 motions reported. Of this number 3 motions were presented within 10 days after they were filed and 1 after 30 days. All motions were decided on the day presented and all were allowed.

### THIRTY-FIRST DISTRICT

HON. KARL MILLER, of Dodge City, Judge  
 HOPE GRIMES, Clerk, Clark County  
 JESSIE CHAMBERS, Clerk, Comanche County  
 SUSAN A. EVANS, Clerk, Ford County  
 MOLLY PARKS, Clerk, Gray County  
 HERBERT MILLER, Clerk, Kiowa County  
 ETHEL COPENHAVER, Clerk, Meade County

**COUNTY CLERKS.** Counties: Clark, Comanche, Ford, Gray, Kiowa and Meade. Area 1,200 square miles; population, 44,998; assessed value, \$2,262,200.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 477 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 73 were dismissed before trial on the merits, 392 were tried to the court, 11 to the jury, and 1 was removed to federal court. In 398 cases no answers were filed. In 36 cases answers were filed within 30 days after the petitions were filed, in 18 from 30 to 60 days, in 22 from 60 days to 6 months, and in 2 after 6 months. There were 204 cases tried on the merits within 3 months of the time the petitions were filed, 131 from 3 months to 6 months, 50 from 6 to 12 months, and 18 after 1 year. In 302 cases journal entries were filed the day of trial, in 66 not the same day but within 10 days, in 15 from 10 to 30 days, in 24 after 30 days, and in 59 cases no journal entries had yet been filed. Court costs, amounting to \$11,678.57, were reported in 472 cases, showing a minimum of \$2.35, a maximum of \$151.98, and an average of \$24.64. There were 244 civil actions, other than divorce, pending July 1, 1937. Of this number 72 had been pending less than 3 months, 51 from 3 to 6 months, 24 from 6 to 12 months, 24 from 1 to 2 years, 16 from 2 to 3 years, 4 from 3 to 4 years, 3 from 4 to 5 years, and 5 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 104 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 15

were dismissed before trial. In 65 cases the divorces were granted to the wives and in 24 cases to the husbands. One case was contested. The custody of minor children was awarded to the wives, 14 to the husbands, and 1 to the aunt. There were 7 cases tried within 60 days after the petitions were filed, 68 from 60 days to 6 months, and 14 after 6 months. The grounds for divorce were: Gross neglect, 23 cases; extreme cruelty, 30 cases; abandonment, 10 cases; adultery, 2 cases; conviction of a felony, 3 cases; and habitual drunkenness, 1 case. Court costs, amounting to \$811.20, were reported in 100 cases, showing a minimum of \$2.85, a maximum of \$40.65, and an average of \$8.11. There were 65 divorce cases pending July 1, 1937, of which 31 had been pending less than 3 months, 13 from 3 to 6 months, 14 from 6 months to 1 year, 1 from 1 to 2 years, and 2 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 67 criminal cases disposed of within the year ending June 30, 1937. Of this number 16 were disposed of before trial on the merits. In 46 cases the defendants entered pleas of guilty. There were 5 cases tried to the jury, resulting in 3 verdicts of guilty, 2 verdicts of not guilty and 1 hung jury. Trial was had within 10 days after the information was filed in 1 case, from 10 to 30 days in 1 case, from 30 to 60 days in 1 case, from 3 to 6 months in 2 cases. The date information was filed was not reported in 14 cases. There were 13 paroles granted. Court costs, amounting to \$1,836.32, were reported in 71 cases, showing a minimum of \$3, a maximum of \$320.50, and an average of \$25.86. There were 26 criminal cases pending July 1, 1937. Of this number 11 had been pending less than 3 months, 6 from 3 to 6 months, 5 from 6 months to 1 year, and 4 from 1 year to 3 years. The date information was filed was not reported in 7 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 283 motions or demurrers were reported. Of this number 2 were withdrawn or not presented and 4 were still pending July 1, 1937. Of the number disposed of 143 were presented within 10 days after they were filed, 19 from 10 to 30 days, and 44 after 30 days. There were 200 motions or demurrers decided on the day presented, 4 not the same day but within 10 days, 1 from 10 to 30 days, and 1 after 30 days. Of the 206 ruled upon 173 were allowed and 33 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 45 motions reported. Of this number 7 were withdrawn or not presented. Of the number disposed of 13 were presented within 10 days after they were filed, 5 from 10 to 30 days, and 3 after 30 days. All motions were decided the day presented. Of the 38 ruled upon 35 were allowed and 3 denied.

## THIRTY-SECOND DISTRICT

HON. FRED J. EVANS, of Garden City, Judge  
MRS. WALTER HARVEY, Clerk, Finney County  
T. P. TUCKER, Clerk, Greeley County  
AMELIA J. MINOR, Clerk, Hamilton County  
PAUL WOOD, Clerk, Kearny County  
Q. H. JEWETT, Clerk, Lane County  
NELLIE SCHEURMAN, Clerk, Scott County  
MRS. KATE ELDER, Clerk, Wichita County

even counties: Finney, Greeley, Hamilton, Kearny, Lane, Scott and  
Wichita. Area, 6,039 square miles; population, 26,557; assessed value, \$51,-  
222.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 438 civil  
actions, other than divorce, tried on the merits or dismissed within the year  
ending June 30, 1937. Of this number 85 were dismissed before trial on the  
pleas, 341 were tried to the court, and 12 to the jury. In 384 cases no  
answers were filed. In 15 cases answers were filed within 30 days after the  
petitions were filed, in 19 from 30 to 60 days, in 16 from 60 days to 6 months,  
in 4 after 6 months. There were 241 cases tried on the merits within 3  
months of the time the petitions were filed, 66 from 3 to 6 months, 24 from 6  
to 12 months, and 22 after 1 year. In 256 cases journal entries were filed the  
day of trial, in 35 not the same day but within 10 days, in 21 from 10 to 30  
days, in 27 after 30 days, and in 99 cases no journal entries had yet been filed.  
Court costs, amounting to \$10,227.10, were reported in 426 cases, showing a  
minimum of \$1.25, a maximum of \$346.65, and an average of \$24.01. There  
were 220 civil actions, other than divorce, pending July 1, 1937. Of this number  
14 had been pending less than 3 months, 46 from 3 to 6 months, 27 from 6 to  
12 months, 25 from 1 to 2 years, 12 from 2 to 3 years, 9 from 3 to 4 years, 8 from  
4 to 5 years, and 8 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 65 divorce cases tried on the  
pleas or dismissed within the year ending June 30, 1937. Of this number 14  
were dismissed before trial. In 42 cases the divorces were granted to the wives  
and in 9 cases to the husbands. Two cases were contested. The custody of  
minor children was awarded to the wives and 11 to the husbands. There  
were 5 cases tried within 60 days after the petitions were filed, 44 from 60 days  
to 12 months, and 2 after 12 months. The grounds for divorce were: Gross  
neglect, 12 cases; extreme cruelty, 15 cases; abandonment, 22 cases; habitual  
drunkenness, 1 case; and conviction of a felony, 1 case. Court costs amount-  
ing to \$497.29, were reported in 65 cases, showing a minimum of \$2.15, a maxi-  
mum of \$71.61, and an average of \$7.89. There were 28 divorce cases pending  
July 1, 1937, of which 12 had been pending less than 3 months, 1 from 3 to  
6 months, 7 from 6 to 12 months, 7 from 1 to 2 years, and 1 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 50 criminal cases disposed of  
within the year ending June 30, 1937. Of this number 25 were dismissed  
before trial on the merits. In 17 cases the defendants entered pleas of guilty.  
There were 8 cases tried to the jury, resulting in 5 verdicts of guilty and 3  
verdicts of not guilty. Trial was had within 10 days after the information was  
filed in 1 case, from 10 to 30 days in 3 cases, from 30 days to 3 months in 2  
cases, from 3 to 6 months in 2 cases. The date information was filed was not  
reported in 29 cases. There were 7 paroles granted. Court costs, amounting  
to \$61.20, were reported in 50 cases, showing a minimum of 95 cents, a maxi-

num of \$119.95, and an average of \$13.22. There were 30 criminal cases pending July 1, 1937. Of this number 9 had been pending less than 3 months, 3 from 3 to 6 months, 3 from 6 to 12 months, 9 from 1 to 2 years, 3 from 2 to 3 years, and 1 from 3 to 4 years. The date information was filed was reported in 4 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 410 motions or demurrers were reported. Of this number 8 were withdrawn or not presented and 1 was still pending July 1, 1937. Of the number disposed of 238 were presented within 10 days after they were filed, 44 from 10 to 30 days, and 38 after 30 days. There were 312 motions or demurrers decided the day presented, 5 not the same day but within 10 days, 2 from 10 to 30 days, and 3 after 30 days. Of the 322 ruled upon 238 were allowed, 63 denied, and 3 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 40 motions reported. Of this number 4 were withdrawn or not presented. Of the number disposed of 36 were presented within 10 days after they were filed, 5 from 10 to 30 days, and 8 after 30 days. There were 35 motions decided on the day presented, 1 not the same day but within 10 to 30 days. Of the 36 ruled upon 32 were allowed, 3 denied, and 1 partially allowed and denied.

### THIRTY-THIRD DISTRICT

HON. LORIN T. PETERS, of Jetmore, Judge  
C. E. BURKE, Clerk, Edwards County  
FRED R. WILSON, Clerk, Hodgeman County  
LAURA M. JACKSON, Clerk, Ness County  
ROSE MASON, Clerk, Pawnee County  
EDWIN POPP, Clerk, Rush County

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 243 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 58 were dismissed before trial on the merits, 225 were tried to the court, and 5 to the jury. In 243 cases no answers were filed. In 19 cases answers were filed within 30 days after the petitions were filed, in 10 from 30 to 60 days, in 14 from 60 days to 6 months, and 5 after 6 months. There were 151 cases tried on the merits within 3 months of the time the petitions were filed, 49 from 3 to 6 months, 22 from 6 to 12 months, and 8 after 1 year. In 220 cases journal entries were filed the day of trial, not the same day but within 10 days, in 8 from 10 to 30 days, in 5 after 30 days, and in 53 cases no journal entries had yet been filed. Court costs, amounting to \$8,659.49, were reported in 285 cases, showing a minimum of \$10.00, a maximum of \$565.94, and an average of \$30.37. There were 118 civil cases other than divorce pending July 1, 1937. Of this number 56 had been pending less than 3 months, 7 from 3 to 6 months, 18 from 6 to 12 months, 16 from 12 months to 2 years, 7 from 2 to 3 years, 5 from 3 to 4 years, 2 from 4 to 5 years, and 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 54 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 34 were dismissed before trial. In 34 cases the divorces were granted to the wives and in 15 cases to the husbands. One case was contested. The custody of the minor children was awarded to the wives and 3 to the husbands. There

es tried within 60 days after the petitions were filed, 36 from 60 days to 6 months, and 10 after 6 months. The grounds for divorce were: Gross neglect, 1 case; extreme cruelty, 13 cases; abandonment, 17 cases, nonsupport, 1 case; and miscellaneous, 3 cases. Court costs, amounting to \$699.86, were reported in 54 cases, showing a minimum of \$3, a maximum of \$68.55, and an average of \$12.96. There were 22 divorce cases pending July 1, 1937, of which 1 had been pending less than 3 months, 1 from 3 to 6 months, 2 from 6 to 12 months, 3 from 1 to 2 years, 2 from 2 to 3 years, and 2 from 3 to 4 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 42 criminal cases disposed of in the year ending June 30, 1937. Of this number 16 were dismissed before trial on the merits. In 19 cases the defendants entered pleas of guilty. There were 7 cases tried to the jury, resulting in 4 verdicts of guilty and 3 verdicts of not guilty. The trial was had within 10 days after the information was filed in 1 case, from 10 to 30 days in 1 case, from 30 days to 3 months in 3 cases, and from 3 to 6 months in 2 cases. There were 3 paroles granted. Court costs, amounting to \$1,299.80, were reported in 40 cases, showing a minimum of \$1.80, a maximum of \$214 and an average of \$32.49. There were 12 criminal cases pending July 1, 1937. Of this number 2 had been pending less than 3 months, 3 from 3 to 6 months, 5 from 6 months to 1 year, and 1 from 1 to 2 years. The information was filed was not reported in 3 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 149 motions or demurrers were reported. Of this number 17 were withdrawn or not presented and 4 were still pending July 1, 1937. Of the number disposed of 93 were presented within 10 days after they were filed, 18 from 10 to 30 days, and 17 after 30 days. There were 127 motions or demurrers decided on the day presented and 1 not the same day but within 10 days. Of the 128 reported upon 100 were allowed, 27 denied, and 1 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 61 motions reported. Of this number 3 were withdrawn or not presented and 1 was still pending July 1, 1937. Of the number disposed of 19 were presented within 10 days after they were filed, 12 from 10 to 30 days, and 26 after 30 days. There were 54 motions decided on the day presented, 2 not the same day but within 10 days, and 1 after 30 days. Of the 57 ruled upon 46 were allowed, 9 denied, and 2 partially allowed and denied.

### THIRTY-FOURTH DISTRICT

HON. W. K. SKINNER, of Goodland, Judge  
 GRACE SCHWEITZER, Clerk, Graham County  
 GEORGE F. CRANE, Clerk, Rooks County  
 NOAH TURNER, Clerk, Sheridan County  
 WILLIAM MANGUS, Clerk, Sherman County  
 N. C. KNUDSON, Clerk, Thomas County

five counties: Graham, Rooks, Sheridan, Sherman and Thomas. Area, 1,200 square miles; population, 35,308; assessed value, \$50,672,740.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 421 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 61 were dismissed before trial on the merits, 352 were tried to the court, 7 to the jury, and 1 was removed to federal court. In 358 cases no answers were filed. In 25 cases answers were filed from

30 to 60 days after the petitions were filed, in 14 from 60 days to 6 months, in 24 after 6 months. There were 213 cases tried on the merits within 30 days of the time the petitions were filed, 97 from 3 to 6 months, 36 from 6 to 12 months, and 13 after 1 year. In 346 cases journal entries were filed on the day of trial, in 7 not the same day but within 10 days, in 14 from 10 to 30 days, in 5 after 30 days, and in 48 cases no journal entries had yet been filed. Court costs, amounting to \$13,622.10, were reported in 354 cases, showing a minimum of \$1.75, a maximum of \$467, and an average of \$42.42. There were 103 actions other than divorce pending July 1, 1937. Of this number 74 had been pending less than 3 months, 35 from 3 to 6 months, 34 from 6 to 12 months, 10 from 1 to 2 years, 7 from 2 to 3 years, 6 from 3 to 4 years, and 1 over 4 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 44 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 27 were dismissed before trial. In 27 cases the divorces were granted to the wives and in 12 cases to the husbands. The custody of 15 minor children was awarded to the wives, 4 to the husbands, and 2 to the grandparents. There were 34 divorces tried within 60 days after the petitions were filed, 34 from 60 days to 6 months, and 2 after 6 months. The grounds for divorce were: Gross neglect, 1 case; extreme cruelty, 12 cases; abandonment, 8 cases; nonsupport, 5 cases; imprisonment, 1 case. Court costs, amounting to \$318.47, were reported in 34 cases, showing a minimum of \$2.50, a maximum of \$33, and an average of \$9.37. There were 19 divorce cases pending July 1, 1937, 17 of which had been pending less than 3 months, 1 from 3 to 6 months, and 1 more than 1 year.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 27 criminal cases disposed of within the year ending June 30, 1937. Of this number 5 were dismissed before trial on the merits. In 13 cases the defendants entered pleas of guilty. In 9 cases were 9 cases tried to the jury, resulting in 5 verdicts of guilty, 2 verdicts of not guilty, in 1 case there was a hung jury, and 1 compromise. Trial was completed within 10 days after the information was filed in 3 cases, from 30 days to 60 days in 4 cases, from 3 to 6 months in 1 case, and from 6 months to 1 year in 1 case. There were 6 paroles granted. Court costs, amounting to \$113.33, were reported in 23 cases, showing a minimum of \$7.30, a maximum of \$113.33, and an average of \$41.33. There were 21 criminal cases pending July 1, 1937. Of this number 6 had been pending less than 3 months, 9 from 3 to 6 months, 2 from 6 months to 1 year, 3 from 2 to 3 years, and 1 from 3 to 4 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 356 motions or demurrers were reported. Of this number 77 were drawn or not presented and 11 were still pending July 1, 1937. Of the 268 motions or demurrers disposed of 134 were presented within 10 days after they were filed, 73 from 10 to 30 days, and 61 after 30 days. There were 256 motions or demurrers reported on the day presented, 6 not the same day but within 10 days, and 6 from 10 to 30 days. Of the 268 ruled upon 210 were allowed, 45 denied, and 13 pending at the close of the year.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 27 motions reported. Of this number 10 were withdrawn or not presented. Of the number disposed of 17 were presented within 10 days after they were filed and 1 after 30 days.



13 motions decided on the day presented, 1 not the same day but within 30 days, and 3 after 30 days. Of the 17 ruled upon 12 were allowed and 5 denied.

### THIRTY-FIFTH DISTRICT

HON. ROBERT T. PRICE, of Alma, Judge  
WALTER MAXWELL, Clerk, Osage County  
EVA DORMAN, Clerk, Wabaunsee County

two counties: Osage and Wabaunsee. Area, 1,513 square miles; population, 15,871; assessed value, \$41,900,353.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 180 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 45 were dismissed before trial on the merits, 133 were tried to the court, and 2 to the jury. In 129 cases no answers were filed. In 23 cases answers were filed within 30 days after the petition was filed, in 13 from 30 to 60 days, in 11 from 60 days to 6 months, and in 1 after 6 months. There were 105 cases tried on the merits within 3 months after the time the petitions were filed, 19 from 3 to 6 months, 9 from 6 to 12 months, and 2 after 1 year. In 108 cases journal entries were filed the day after trial, in 28 not the same day but within 10 days, in 18 from 10 to 30 days, in 10 after 30 days, and in 16 cases no journal entries had yet been filed. Court costs, amounting to \$10,117.52, were reported in 178 cases, showing a minimum of \$1.20, a maximum of \$573.19, and an average of \$56.84. There were 91 civil actions, other than divorce, pending July 1, 1937. Of this number 1 had been pending less than 3 months, 17 from 3 to 6 months, 10 from 6 months to 1 year, 10 from 1 to 2 years, 4 from 2 to 3 years, 3 from 3 to 4 years, and 1 from 4 to 5 years, and 3 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 25 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 5 were dismissed before trial. In 16 cases the divorces were granted to the wives and in 4 cases to the husbands. The custody of 13 minor children was awarded to the wives and in 1 case the child was awarded part time to each parent. There was 1 case tried 60 days after the petition was filed, 17 from 60 days to 6 months, and 2 after 6 months. The grounds for divorce were: Gross neglect, 9 cases; extreme cruelty, 5 cases; adultery, 1 case; conviction of a felony, 1 case, and abandonment, 4 cases. Court costs, amounting to \$261.45, were reported in 25 cases, showing a minimum of \$3.20, a maximum of \$52.50, and an average of \$10.46. There were 14 divorce cases pending July 1, 1937. Of this number 10 had been pending less than 3 months, 3 from 6 months to 1 year, and 1 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 34 criminal cases disposed of within the year ending June 30, 1937. Of this number 20 were dismissed before trial on the merits. In 10 cases the defendants entered pleas of guilty. There were 4 cases tried to the jury, resulting in 3 verdicts of guilty and 1 verdict of not guilty. Trial was had within 10 to 30 days after the information was filed in 2 cases and within 3 to 6 months in 2 cases. The date information was filed was not reported in 10 cases. There were 14 paroles granted. Court costs, amounting to \$1,170.27, were reported in 34 cases, showing a minimum of \$1.20, a maximum of \$206.25, and an average of \$37.39. There were 17 criminal

cases pending July 1, 1937. Of this number, 5 had been pending less than 3 months, 3 from 3 to 6 months, 6 from 6 months to 1 year, and 3 from 1 to 3 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 186 motions or demurrers were reported. Of this number 17 were withdrawn or not presented and 7 were still pending July 1, 1937. Of the 162 disposed of, 116 were presented within 10 days after they were filed, 29 from 10 to 30 days, and 17 after 30 days. There were 148 motions or demurrers decided the day presented, 6 not the same day but within 10 days, 6 within 10 to 30 days, and 2 after 30 days. Of the 162 ruled upon 133 were allowed, 23 denied, and 1 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 7 motions reported. Of these, 3 were presented within 10 days after they were filed, 2 within 10 to 30 days, and 2 after 30 days. There were 6 motions decided on the day presented and 1 not the same day but after 30 days. Of the 7 ruled upon 5 motions were allowed and 4 denied.

### THIRTY-SIXTH DISTRICT

HON. LLOYD E. MORRIS, of Oskaloosa, Judge  
ELFA RUDY, Clerk, Jackson County  
MARGUERITE N. MCCOY, Clerk, Jefferson County  
CHAS. S. SMITH, Clerk, Pottawatomie County

Three counties: Jackson, Jefferson and Pottawatomie. Area, 2,047 square miles; population, 43,427; assessed value, \$68,311,155.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 311 cases tried on the merits, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 84 were dismissed before trial on the merits, 331 were tried to the court, and 5 to the jury. In 265 cases no answers were filed. In 75 cases answers were filed within 30 days after the petitions were filed, in 25 from 30 to 60 days, in 39 from 60 days to 6 months, and 16 after 6 months. There were 229 cases tried on the merits within 30 days of the time the petitions were filed, 52 from 3 to 6 months, 29 from 6 months to 1 year, and 26 after 1 year. In 296 cases journal entries were filed at the time of trial, in 11 not the same day but within 10 days, in 10 from 10 to 30 days, and in 11 after 30 days, and in 92 cases no journal entries had yet been filed. Costs, amounting to \$11,103.25, were reported in 394 cases, showing a minimum of 50 cents, a maximum of \$162.08, and an average of \$28.18. There were 311 civil actions, other than divorce, pending July 1, 1937. Of this number 17 were pending less than 3 months, 12 from 3 to 6 months, 16 from 6 months to 1 year, 15 from 1 to 2 years, 12 from 2 to 3 years, 6 from 3 to 4 years, 4 to 5 years, and 4 over five years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 52 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 32 were dismissed before trial. In 32 cases the divorces were granted to the wives and in 13 cases to the husbands. The custody of 34 minor children was awarded to the wives, 4 to the husbands, and the custody of 7 children is still in advisement. There were 3 cases tried within 60 days after the petition was filed.

37 from 60 days to 6 months, and 5 after 6 months. The grounds for divorce were: Gross neglect, 21 cases; extreme cruelty, 13 cases; abandonment, 1 case; and conviction of a felony, 1 case. Court costs, amounting to \$413.05, were reported in 51 cases, showing a minimum of \$4.40, a maximum of \$15.15, and an average of \$8.10. There were 31 divorce cases pending July 1, 1937, of which 20 had been pending less than 3 months, 6 from 3 to 6 months, 3 from 6 months to 1 year, and 2 from 1 to 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 64 criminal cases disposed of within the year ending June 30, 1937. Of this number 24 were dismissed before trial on the merits. In 33 cases the defendants entered pleas of guilty. There were 7 cases tried to the jury, resulting in 4 verdicts of guilty and 3 verdicts of not guilty. Trial was had within 30 days to 3 months after the information was filed in 3 cases, in 2 cases from 3 to 6 months, and in 2 cases from 6 months to 1 year. The date information was filed was not reported in 1 case. Court costs, amounting to \$2,490.37, were reported in 64 cases, showing a minimum of \$5.65, a maximum of \$215.05, and an average of \$38.91. There were 13 criminal cases pending July 1, 1937. Of this number 4 had been pending less than 3 months, 4 from 6 months to 1 year, 3 from 1 to 2 years, and 2 from 2 to 3 years.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 433 motions or demurrers were reported. Of this number 44 were withdrawn or not presented and 12 were pending July 1, 1937. Of the number disposed of 258 were presented within 10 days after they were filed, 66 from 10 to 30 days, and 53 after 30 days. There were 363 motions or demurrers decided on the day presented, 7 not the same day but within 10 days, 3 within 10 to 30 days, and 4 after 30 days. Of the 377 ruled upon 289 were allowed, 80 denied, and 8 partially allowed and denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 14 motions reported. Of this number 8 were presented within 10 days after they were filed and 6 after 30 days. There were 12 motions decided on the day presented and 2 not the same day but within 10 days. Of the 14 cases ruled upon 13 were allowed and 1 denied.

### THIRTY-SEVENTH DISTRICT

HON. WALLACE H. ANDERSON, of Iola, Judge  
NELL HOGAN STIRNAMAN, Clerk, Allen County  
JOHN F. TIMM, Clerk, Woodson County

Two counties: Allen and Woodson. Area, 1,013 square miles; population, 12,000; assessed value, \$37,850,260.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 159 civil cases, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 24 were dismissed before trial on the merits, 134 were tried to the court, and 1 to the jury. In 132 cases no answers were filed. In 9 cases answers were filed within 30 days after the petitions were filed, in 5 from 30 to 60 days, in 6 from 60 days to 6 months, and in 7 after 6 months. There were 84 cases tried on the merits within 3 months of the time the petitions were filed, 25 from 3 to 6 months, 17 from 6 to 12 months, and 9 from 12 months to 1 year. In 68 cases journal entries were filed the day of trial, in 14 not

the same day but within 10 days, in 12 from 10 to 30 days, and in 29 a days. In 36 cases journal entries had not yet been filed. Court costs, amounting to \$4,278.64, were reported in 153 cases, showing a minimum of \$0.00, a maximum of \$209.96, and an average of \$29.35. There were 134 civil cases other than divorce, pending July 1, 1937. Of this number 42 had been pending less than 3 months, 12 from 3 to 6 months, 16 from 6 to 12 months, 24 from 12 to 2 years, 13 from 2 to 3 years, 11 from 3 to 4 years, 4 from 4 to 5 years, and 12 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 59 divorce cases tried to the merits or dismissed within the year ending June 30, 1937. Of this number 13 were dismissed before trial. In 34 cases the divorces were granted to the wives, in 11 to the husbands, and 3 cases were denied. Two cases were continued. The custody of 22 minor children was awarded to the wives and 6 to the husbands. There were 3 cases tried within 60 days after the petitions were filed, 39 from 60 days to 6 months, and 6 after 6 months. The grounds for divorce were: Gross neglect, 15 cases; extreme cruelty, 10 cases; and abandonment, 20 cases. Court costs, amounting to \$492.81, were reported in 59 cases, showing a minimum of \$2.90, a maximum of \$52.90, and an average of \$8.35. There were 27 divorce cases pending July 1, 1937. Of this number, 11 had been pending less than 3 months, 4 from 3 to 6 months, 7 from 6 months to 1 year, 1 from 1 to 2 years, and 2 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 44 criminal cases disposed of within the year ending June 30, 1937. Of this number 13 were disposed of before trial on the merits. In 15 cases the defendants entered pleas of guilty. There were 11 cases tried to the jury and 5 to the court, resulting in 14 verdicts of guilty, 1 verdict of insanity, and in 1 case there was a hung jury. There had been information filed within 10 to 30 days after the information was filed in 6 cases, within 30 days to 3 months in 8 cases, and in 6 months to 1 year in 2 cases. The date information was filed was not reported in 10 cases. There were 4 cases granted. Court costs, amounting to \$1,035.53, were reported in 44 cases, showing a minimum of \$3.65, a maximum of \$90.64, and an average of \$23.30. There were 12 criminal cases pending July 1, 1937. Of this number, 7 had been pending less than 3 months, 4 from 6 months to 1 year, and 1 from 1 to 2 years. The date information was filed was not reported in 5 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 139 motions or demurrers were reported. Of this number 13 were withdrawn or not presented and 10 were still pending July 1, 1937. Of the number disposed of 75 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 20 after 30 days. There were 112 motions or demurrers decided the day presented. Of the 112 ruled upon 91 were allowed and 21 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried to the merits prior to July 1, 1936, there were 154 motions reported. Of this number 1 was withdrawn or not presented. Of the number disposed of 1 case was presented in 10 to 30 days after it was filed, and 152 after 30 days. There were 152 motions decided on the day presented and 1 after 30 days. Of the 153 ruled upon 151 were allowed and 2 denied.

## THIRTY-EIGHTH DISTRICT

HON. L. M. RESLER, of Pittsburg, Judge  
JEAN BELL, Clerk

county: Crawford. Area, 605 square miles; population, 48,364; assessed value, \$39,101,833.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 185 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 50 were dismissed before trial on the merits, 14 were tried to the court, 1 to the jury, and 1 to a referee. In 136 cases no answers were filed. In 20 cases answers were filed within 30 days after the petitions were filed, in 7 from 30 to 60 days, in 13 from 60 days to 6 months, and 14 after 6 months. There were 69 cases tried on the merits within 3 months after the time the petitions were filed, 34 from 3 to 6 months, 15 from 6 to 12 months, and 17 after 1 year. In 122 cases journal entries were filed the day of filing, in 9 not the same day but within 10 days, in 2 within 10 to 30 days, in 7 from 30 to 60 days, and in 45 cases no journal entries had yet been filed. Court costs, amounting to \$4,614.69, were reported in 185 cases, showing a minimum of \$1.25, a maximum of \$525, and an average of \$24.94. There were 235 civil cases other than divorce pending July 1, 1937. Of this number 44 had been pending less than 3 months, 25 from 3 to 6 months, 34 from 6 to 12 months, 39 from 1 to 2 years, 23 from 2 to 3 years, 33 from 3 to 4 years, 16 from 4 to 5 years, and 21 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 147 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 31 were dismissed before trial. In 89 cases the divorces were granted to the wives, 57 cases to the husbands, and 1 case was denied. Thirteen cases were continued. The custody of 32 minor children was awarded to the wives and 5 to the husbands. There were 11 cases tried 60 days after the petitions were filed, 10 from 60 days to 6 months, and 28 after 6 months. The grounds for divorce were: Gross neglect, 21 cases; extreme cruelty, 67 cases; and abandonment, 59 cases. Court costs, amounting to \$1,162.87, were reported in 147 cases, showing a minimum of \$4, a maximum of \$46.65, and an average of \$7.91. There were 154 divorce cases pending July 1, 1937, of which, 44 had been pending less than 3 months, 8 from 3 to 6 months, 23 from 6 months to 1 year, 10 from 1 to 2 years, 10 from 2 to 3 years, 13 from 3 to 4 years, 7 from 4 to 5 years, and 6 over 5 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 50 criminal cases disposed of within the year ending June 30, 1937. Of this number 25 were dismissed before trial on the merits. In 19 cases the defendants entered pleas of guilty. There were 6 cases tried to the jury, resulting in 4 verdicts of guilty and 2 verdicts of not guilty. Trial was had within 10 days after the information was filed in 15 cases, within 30 days to 3 months in 3 cases, and within 3 to 6 months in 1 case. The date information was filed was not reported in 15 cases. There were 12 paroles and 1 probation granted. Court costs, amounting to \$1,172.65, were reported in 50 cases, showing a minimum of \$5.50, a maximum of \$104.60, and an average of \$23.45. There were 32 criminal cases pending July 1, 1937. Of this number 10 had been pending less than 3 months, 8 from 3 to 6 months,

4 from 6 months to 1 year, 8 from 1 to 2 years, and 2 from 2 to 3 years. Date information was filed was not reported in 22 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending June 30, 1937, 120 motions or demurrers were reported. Of this number 52 were drawn or not presented and 9 were still pending July 1, 1937. Of the 59 disposed of 28 were presented within 10 days after they were filed, 10 from 10 to 30 days, and 21 after 30 days. There were 55 motions or demurrers decided the day presented, 3 not the same day but within 10 to 30 days after 30 days. Of the 59 ruled upon 25 were allowed, 22 denied, and 12 partially allowed and denied.

### THIRTY-NINTH DISTRICT

HON. F. O. RINDOM, of Liberal, Judge  
JEWELL ROWLAND, Clerk, Grant County  
EDITH M. YARBROUGH, Clerk, Haskell County  
KATHLEEN CRAWFORD, Clerk, Morton County  
H. W. LANE, Clerk, Seward County  
J. E. SAUNDERS, Clerk, Stanton County  
JOHN F. FULKERSON, Clerk, Stevens County

Six counties: Grant, Haskell, Morton, Seward, Stanton and Stevens. 3,930 square miles; population, 19,174; assessed value, \$40,532,376.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 300 actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 48 were dismissed before trial on the merits, and 255 were tried to the court. In 269 cases no answers were filed. In 15 cases answers were filed within 30 days after the petitions were filed, 9 from 30 to 60 days, in 7 from 60 days to 6 months, and in 3 after 6 months. There were 166 cases tried on the merits within 3 months of the time the petitions were filed, 61 from 3 to 6 months, 20 from 6 to 12 months, 10 from 12 months to 1 year, and 75 after 1 year. In 180 cases journal entries were filed the day of trial, in 12 the same day but within 10 days, in 32 from 10 to 30 days, in 12 from 30 to 60 days, and in 27 cases no journal entries had yet been filed. Court costs amounting to \$7,912.58, were reported in 287 cases, showing a minimum of \$2.75, a maximum of \$119.50, and an average of \$27.57. There were 100 actions, other than divorce, pending July 1, 1937. Of this number 10 had been pending less than 3 months, 21 from 3 to 6 months, 20 from 6 months to 1 year, 17 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, and 14 over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 52 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 26 were dismissed before trial. In 26 cases the divorces were granted to the wives and in 12 cases to the husbands. Three cases were contested. The custody of 18 minor children was awarded to the wives and 1 to the husband. There were 3 cases tried within 60 days after the petitions were filed, 31 from 60 days to 6 months, and 4 after 6 months. The grounds for divorce were: Gross neglect, 6 cases; extreme cruelty, 10 cases; abandonment, 19 cases; habitual drunkenness, 1 case; insanity, 1 case; and conviction of a felony, 1 case. Court costs amounting to \$375.41, were reported in 50 cases, showing a minimum of \$10.00, a maximum of \$61.10, and an average of \$7.50. There were 18 divorces pending July 1, 1937.

ending July 1, 1937, of which 11 had been pending less than 3 months, 1 from 3 to 6 months, 4 from 6 to 12 months, and 2 from 2 to 3 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 35 criminal cases disposed of during the year ending June 30, 1937. Of this number 9 were dismissed before trial on the merits. In 11 cases the defendants entered pleas of guilty. There were 19 cases tried to the jury and 6 to the court, resulting in 12 verdicts of guilty, 2 verdicts of not guilty, and in 1 case there was a hung jury. Trial was completed within 10 days after the information was filed in 4 cases, from 10 to 30 days in 7 cases, from 30 days to 3 months in 3 cases, and from 6 to 12 months in 1 case. The date information was filed was not reported in 8 cases. There were 8 paroles granted. Court costs, amounting to \$1,241.70, were reported in 19 cases, showing a minimum of \$2.40, a maximum of \$360.30, and an average of \$3.52. There were 15 criminal cases pending July 1, 1937. Of this number 11 had been pending less than 3 months, 2 from 3 to 6 months, 5 from 6 months to 1 year, and 1 from 1 to 2 years. The date information was filed was not reported in 8 cases.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 282 motions or demurrers were reported. Of this number 53 were withdrawn or not presented and 1 was pending July 1, 1937. Of the number disposed of 145 were presented within 10 days after they were filed, 51 from 10 to 30 days, and 32 after 30 days. There were 226 motions or demurrers decided on the day presented and 2 from 10 to 30 days. Of the 228 ruled upon, 199 were allowed and 27 denied.

**MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a.** In cases tried on the merits prior to July 1, 1936, there were 13 motions reported. Of this number 1 was withdrawn or not presented and 1 was still pending July 1, 1937. Of the number disposed of 2 were presented within 10 days, 3 from 10 to 30 days, and 6 after 30 days. All motions were decided on the day presented. Of the 11 ruled upon 10 were allowed and 1 denied.

### SUMMARY FOR THE STATE

The following is a summary of the work of all the district courts of the state during the year ending June 30, 1937, and of the cases pending in those courts July 1, 1937. There are 36 judicial districts, with 45 district judges, in the 105 counties in the state, with an aggregate population of 1,823,679 and property having an assessed value of \$2,764,868,802.

**CIVIL CASES (OTHER THAN DIVORCE)—FORMS 1 AND 2.** There were 12,953 civil actions, other than divorce, tried on the merits or dismissed within the year ending June 30, 1937. Of this number 2,962 were dismissed before trial on the merits, 9,579 were tried to the court, 376 to the jury, and 3 to referees; 1,395 cases were removed to federal court. In 9,375 cases no answers were filed. In 3,395 cases answers were filed within 30 days after the petitions were filed, 1,383 from 30 to 60 days, in 938 from 60 days to 6 months, and in 304 cases after 6 months. There were 6,204 cases tried on the merits within 3 months of the time the petitions were filed, 2,161 cases from 3 to 6 months, 963 cases from 6 to 12 months, and 630 cases after 12 months. In 8,399 cases the journal entry was filed the day of trial, in 1,231 cases not the same day but within 10 days, in 584 cases from 10 to 30 days, and in 565 cases after 30 days. In

2,141 cases the journal entries are not reported as having been filed. costs, amounting to \$357,678.63, were reported in 12,089 cases, showing a minimum of 60 cents, a maximum of \$1,342.34, and an average of \$29.58. There were 7,761 civil actions, other than divorce, pending July 1, 1937. Of this number 2,528 cases had been pending less than 3 months, 1,076 cases from 3 to 6 months, 1,214 cases from 6 to 12 months, 1,255 cases from 1 to 2 years, 525 cases from 2 to 3 years, 416 cases from 3 to 4 years, 273 from 4 to 5 years, and 474 cases over 5 years.

**DIVORCE CASES—FORMS 3 AND 4.** There were 5,864 divorce cases tried on the merits or dismissed within the year ending June 30, 1937. Of this number 1,592 were dismissed before trial. In 3,284 cases the divorces were granted to the wives, in 947 cases to the husbands, and in 41 cases the divorce was denied; 550 cases were contested. The custody of 2,397 minor children was awarded to wives, 318 to husbands, and 51 to other parties. There were 3,274 cases tried within 60 days after the petitions were filed, 3,274 cases from 60 days to 6 months, and 596 cases after 6 months. The grounds for divorce were: Gross neglect, 1,658 cases; extreme cruelty, 1,491 cases; abandonment, 35 cases; adultery, 35 cases; nonsupport, 20 cases; habitual drunkenness, 3 cases; conviction of a felony, 35 cases; insanity, 2 cases; and miscellaneous grounds, 87 cases. Court costs, amounting to \$65,180.44, were reported in 5,814 cases, showing a minimum of 80 cents, a maximum of \$196.80, and an average of \$11.20. There were 4,120 divorce cases pending July 1, 1937. Of this number 1,287 had been pending less than 3 months, 502 from 3 to 6 months, 712 from 6 months to 1 year, 636 from 1 to 2 years, and 975 more than 2 years.

**CRIMINAL CASES—FORMS 5 AND 6.** There were 2,848 criminal cases disposed of within the year ending June 30, 1937. Of this number 1,053 cases were dismissed before trial on the merits. In 1,429 cases the defendants entered pleas of guilty. There were 366 cases tried to the jury, resulting in 272 verdicts of guilty, 80 of not guilty, and 14 hung juries. Trial was had within 10 days in 66 cases, the information was filed in 66 cases, in 10 to 30 days in 98 cases, in 30 to 60 days in 94 cases, in 3 to 6 months in 63 cases, in 6 months to 1 year in 35 cases, and after 1 year in 10 cases. The date information was filed was not reported in 539 cases. There were 592 paroles granted. Court costs, amounting to \$82,495.32, were reported in 2,805 cases, showing a minimum of 95 cents, a maximum of \$541.09, and an average of \$29.41. There were 409 criminal cases pending July 1, 1937. Of this number 409 cases had been pending less than 3 months, 183 from 3 to 6 months, 266 from 6 months to 1 year, 244 from 1 to 2 years, 75 from 2 to 3 years, and 198 more than 3 years. There were 379 cases in which a transcript but no information was filed.

**MOTIONS AND DEMURRERS—FORMS 1 TO 6.** In all of the cases which were disposed of during the year ending June 30, 1937, or which were pending July 1, 1937, 12,857 motions or demurrers were reported. Of this number 2,911 were withdrawn or not presented and 302 were pending July 1, 1937. Of the 9,644 cases disposed of, 5,991 were presented within 10 days after they were filed, 2,032 from 10 to 30 days, and 1,566 after 30 days. There were 8,891 motions or demurrers decided the day presented, 331 not the same day but within 10 days, 193 in 10 to 30 days, and 174 after 30 days. Of the 9,589 rulings, 7,470 were allowed, 1,923 denied, and 196 partially allowed and denied.



MOTIONS IN CASES TRIED PRIOR TO JULY 1, 1936—FORM 6a. In cases tried on merits prior to July 1, 1936, there were 936 motions reported. Of this number 15 were withdrawn or not presented and 15 were pending July 1, 1937. Of 921 motions disposed of 424 were presented within 10 days after they were filed, 307 from 10 to 30 days, and 190 after 30 days. There were 832 motions decided on merits, 13 within 10 days, 7 in 10 to 30 days, and 18 after 30 days. Of 870 ruled upon 776 were allowed, 88 denied, and 6 partially allowed and 18 pending.

## SUMMARY OF DISTRICT COURTS

TABLE I.—CIVIL CASES (OTHER THAN DIVORCE) TRIED ON THE MERITS (OR DISMISSED), YEAR ENDING JUNE 30, 1937.

(Compiled from Form 1)

COUNTIES.	Number of cases.	Dis- missed before trial.	Tried to the court.	Tried to the jury.	Trans- ferred to federal court.	No answer filed.	Answer filed.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Allen.....	110	22	87	1	0	90	5	3	5	7	46	17	16	9
Anderson.....	175	18	53	4	0	49	13	7	5	1	34	17	5	1
Atchison.....	149	34	114	1	0	120	13	10	4	2	83	21	8	3
Barber.....	172	13	55	2	2	43	18	8	8	3	20	20	3	5
Barton.....	124	29	92	3	0	97	7	10	10	0	73	16	6	0
Bourbon.....	158	29	129	0	0	150	0	2	1	5	52	58	5	14
Brown.....	136	34	99	2	1	101	16	9	3	6	41	43	12	5
Butler.....	192	52	131	9	0	190	2	0	0	0	78	25	14	23
Chase.....	41	7	33	1	0	32	5	4	0	0	8	14	6	0
Chautauqua.....	22	5	17	0	0	16	5	0	1	0	12	5	0	0
Cherokee.....	150	52	94	4	0	110	15	6	11	8	57	21	11	9
Cheyenne.....	53	9	43	1	0	49	0	2	2	0	20	21	2	1
Clark.....	49	14	35	0	0	32	9	1	6	1	19	13	3	0
Clay.....	46	3	42	1	0	41	2	2	1	0	23	19	1	0
Cloud.....	94	13	78	2	1	64	9	7	13	0	55	13	2	10
Coffey.....	80	8	71	1	0	57	7	11	4	1	55	12	5	0
Comanche.....	35	10	25	0	0	28	5	0	1	1	18	4	3	0
Cowley.....	244	60	168	16	0	168	25	14	30	7	105	54	15	10
Crawford.....	185	50	120	*15	0	136	20	7	13	9	69	34	15	17
Decatur.....	37	11	24	*2	0	28	5	0	3	1	18	2	1	5
Dickinson.....	138	29	106	3	0	106	16	9	7	0	76	27	6	0
Doniphan.....	89	26	59	4	0	66	8	3	9	3	21	27	12	3
Douglas.....	175	34	117	20	4	97	31	14	20	9	81	24	15	17

COUNTRIES.	Number of cases.	Dis-mitted before trial.	Tried to the court.	Tried to the jury.	Trans-ferred to federal court.	No answer filed.	Answer filed.				Cases tried.		
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months petition.	In 3 to 6 months.	In 6 to 12 months.
Ellis.....	120	29	85	1	5	86	9	8	12	0	44	32	7
Ellsworth.....	135	6	29	0	0	28	2	3	2	0	22	7	0
Finney.....	132	19	109	7	0	135	0	0	0	0	73	19	14
Ford.....	218	32	172	11	0	185	13	8	11	1	82	59	29
Franklin.....	118	19	96	3	0	98	11	1	7	1	75	18	5
Geary.....	112	13	96	3	0	85	14	10	3	0	74	17	8
Gove.....	150	9	40	1	0	50	0	0	0	0	26	7	4
Graham.....	72	18	40	5	0	45	18	4	5	0	32	11	10
Grant.....	31	2	29	0	0	28	1	1	1	0	24	5	0
Gray.....	59	5	54	0	0	56	0	3	0	0	34	16	3
Greeley.....	36	9	27	0	0	33	0	1	1	1	13	8	4
Greenwood.....	117	26	80	2	0	112	5	0	0	0	78	12	1
Hamilton.....	155	17	38	0	0	37	4	10	3	1	27	4	2
Harper.....	30	12	25	2	0	30	2	0	7	0	18	7	2
Harvey.....	94	27	66	1	0	52	23	8	9	2	39	15	10
Haskell.....	28	3	25	0	0	23	1	1	2	1	15	5	3
Hodgeman.....	27	3	33	1	0	26	5	4	2	0	22	7	3
Jackson.....	148	23	114	1	0	80	38	13	11	6	87	20	6
Jefferson.....	114	17	97	0	0	81	10	5	13	5	53	18	8
Jewell.....	128	14	113	1	0	95	12	4	10	7	78	24	7
Johnson.....	100	64	123	3	0	116	29	20	19	6	75	25	15
Kearny.....	146	9	37	0	0	41	0	3	0	2	29	5	1
Kingman.....	74	21	40	4	0	30	7	17	20	0	31	16	1
Kiowa.....	50	6	43	0	1	38	5	6	0	0	33	10	0
Labette.....	97	24	69	2	2	71	9	3	11	1	44	15	6
Lane.....	36	12	23	1	0	24	5	3	4	0	17	5	1
Leavenworth.....	168	28	140	0	0	103	31	23	7	4	95	25	10
Lincoln.....	87	24	73	0	0	71	16	3	4	3	59	7	4
Linn.....	80	21	59	0	0	63	7	5	3	2	41	9	4
Logan.....	61	5	56	0	0	45	3	8	4	1	12	28	10

TABLE I.—CONTINUED. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1937.

COUNTIES.	Number of cases.	Dis-missed before trial.	Tried to the court.	Tried to the jury.	Trans-ferred to federal court.	No answer filed.	Answer filed.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Lyon.....	211	39	162	10	0	154	24	14	17	2	115	22	24	11
Marion.....	41	10	31	0	0	25	10	6	0	0	12	16	3	0
Marshall.....	64	6	58	0	0	40	17	2	4	1	45	13	0	0
McPherson.....	155	43	108	4	0	113	15	9	14	4	87	14	9	2
Meade.....	66	3	63	0	0	59	1	2	4	0	18	29	12	4
Miami.....	135	35	99	1	0	114	9	4	5	3	81	8	5	6
Mitchell.....	70	16	50	3	1	49	13	2	4	1	38	14	1	0
Montgomery.....	219	36	175	8	0	149	32	15	16	7	131	35	12	5
Morris.....	49	6	43	0	0	49	0	0	0	0	28	11	2	0
Morton.....	53	6	47	0	0	51	1	1	0	0	24	15	8	0
Nemaha.....	149	32	112	5	0	113	19	11	5	1	55	46	10	6
Neosho.....	120	37	81	2	0	91	15	10	3	1	58	17	7	1
Ness.....	71	18	53	0	0	63	1	1	5	1	39	9	3	2
Norton.....	65	13	52	0	0	56	3	4	1	1	34	14	1	3
Osage.....	111	25	84	2	0	80	15	8	4	4	64	13	8	1
Osborne.....	81	7	74	0	0	65	6	4	6	0	55	13	2	4
Ottawa.....	44	12	32	0	0	41	0	1	0	2	23	6	2	1
Pawnee.....	57	19	37	1	0	46	4	2	4	1	24	8	4	2
Phillips.....	66	8	58	0	0	38	11	12	5	0	41	14	3	0
Pottawatomie.....	158	34	120	4	0	104	27	7	15	5	89	14	15	6
Pratt.....	80	23	55	2	0	56	8	3	10	3	37	14	6	0
Rawlins.....	51	4	47	0	0	25	4	16	5	1	10	10	9	0
Reno.....	366	89	264	13	0	219	59	33	40	15	168	45	30	34
Republic.....	70	21	48	1	0	62	6	0	0	0	43	4	2	0
Rice.....	83	15	66	2	0	48	14	10	10	1	49	13	5	1
Riley.....	114	15	97	2	0	96	9	6	3	0	63	14	8	14
Rooks.....	110	15	93	1	0	104	8	2	2	0	60	26	5	3

COUNTIES.	Number of cases.	Dis-mitted before trial.	Tried to the court.	Tried to the jury.	Trans-ferred to federal court.	No answer fled.	Answer fled.				Cases tried.			
							In 30 days.	In 30 to 60 days.	In 60 days to 6 months.	After 6 months.	In 3 months of petition.	In 3 to 6 months.	In 6 to 12 months.	After 12 months.
Scott.....	57	12	41	4	0	41	6	2	8	0	28	14	1	2
Sedrick*.....	1,312	416	813	68	15	801	119	98	151	38	532	187	108	54
Seward.....	103	19	84	0	0	89	7	4	3	0	32	15	2	5
Shawnee.....	636	188	425	23	0	424	88	55	43	21	312	78	47	11
Sheridan.....	66	9	57	0	0	33	3	3	4	1	34	16	1	6
Sherman.....	100	11	89	0	0	88	1	4	6	1	47	22	17	3
Smith.....	80	11	68	1	0	57	17	3	2	1	50	13	6	0
Stafford.....	100	20	73	7	0	64	12	14	9	1	53	12	9	6
Stanton.....	18	2	16	0	0	16	0	2	0	0	13	3	0	0
Stevens.....	70	16	54	0	0	62	5	0	1	2	23	18	7	1
Sumner.....	191	45	141	5	0	122	16	17	17	19	91	21	14	20
Thomas.....	73	8	64	1	0	68	1	0	4	0	40	22	3	0
Trego.....	37	16	31	0	0	27	0	0	0	0	27	3	1	0
Wagoner.....	69	20	49	0	0	49	8	5	7	0	41	6	1	1
Wallace.....	26	0	26	0	0	26	0	0	0	0	11	14	1	0
Washington.....	77	9	68	0	0	59	6	6	6	0	58	3	5	2
Wichita.....	73	7	66	0	0	73	0	0	0	0	54	11	1	0
Wilson.....	98	15	81	2	0	68	17	7	5	3	52	12	6	3
Woodson.....	49	2	47	0	0	42	4	2	1	0	38	8	1	0
Wyandotte.....	1,230	300	886	44	0	670	208	162	145	45	507	176	122	125
Totals.....	12,953	2,936	9,605	379	33	9,357	1,405	911	943	304	6,215	2,175	964	630

\* One to a referee. † Two compromised.

TABLE I.—CONTINUED. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1937.

COUNTIES.	Journal entry.				No journal entry filed.	Costs.			Number cases reported.	Average cost.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.		Minimum.	Maximum.	Aggregate.		
Allen.....	51	9	7	23	20	\$2.90	\$209.96	\$3,247.08	110	\$29.35
Anderson.....	47	0	2	3	23	5.85	191.65	3,561.42	75	46.43
Atchison.....	76	23	2	6	42	3.50	52.04	2,725.78	140	19.47
Baker.....	35	8	8	6	13	5.00	175.75	2,066.36	72	28.73
Barton.....	106	1	0	3	14	3.05	312.61	2,987.09	124	24.09
Bourbon.....	9	141	1	0	7	16.40	211.15	3,066.90	157	77.12
Brown.....	36	35	3	38	20	3.80	196.55	3,706.59	136	27.91
Butler.....	87	13	4	0	88	5.30	1,342.34	3,936.89	41	96.02
Chase.....	40	2	1	6	9	5.10	62.65	591.03	22	25.70
Chautauqua.....	4									
Cherokee.....	118	1	0	2	29	4.35	459.84	6,641.69	148	45.96
Cherokee.....	35	14	3	1	0	3.25	90.75	1,827.03	44	41.52
Clark.....	25	3	4	5	12	3.35	63.40	1,068.52	49	21.80
Clay.....	34	3	2	2	5	3.45	161.97	1,238.53	43	28.57
Cloud.....	37	22	7	22	5	2.65	288.67	3,578.06	91	39.32
Coffey.....	67	3	0	2	8	60	175.65	3,250.92	80	40.63
Comanche.....	24	0	0	1	10	2.85	138.96	3,700.52	34	23.25
Cowley.....	91	69	8	8	68	7.63	763.75	7,162.25	244	29.35
Crawford.....	122	9	2	7	45	4.25	525.00	4,614.69	185	24.94
Deatur.....	22	4	3	4	4	2.50	131.00	1,377.19	37	37.22
Dickinson.....	12									
Dominion.....	95	12	11	0	20	4.15	1,243.98	7,705.12	138	55.83
Douglas.....	5	22	23	16	23	2.85	145.05	1,586.69	62	25.99
Douglas.....	106	38	9	16	2	2.85	477.40	4,514.95	175	25.80
Edwards.....	50	1	5	2	10	2.50	127.38	1,809.69	68	26.61
Elk.....	14	4	7	5	7					
Ellis.....	85	0	1	1	29	2.10	980.77	6,242.49	120	52.02
Ellsworth.....	34	0	0	0	0	5.35	72.83	866.87	35	24.77

COUNTIES.	Journal entry.				No journal entry filed.	Costs.			Number cases reported.	Average cost.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.		Minimum.	Maximum.	Aggregate.		
Geary.....	69	11	11	14	7	\$3.40	\$128.05	\$2,780.40	112	\$24.82
Gove.....	35	4	3	6	2	3.80	104.35	1,535.50	50	30.71
Graham.....	65	0	1	0	6	1.75	307.07	2,747.72	72	38.16
Grant.....	31	0	0	0	0	2.05	65.60	807.98	31	26.60
Gray.....	29	7	8	14	1	2.75	151.98	1,950.61	31	33.06
Greeley.....	24	1	2	2	7	2.50	52.18	917.95	35	26.22
Greenwood.....	86	7	1	0	23	2.10	82.80	3,404.26	117	29.03
Hamilton.....	13	10	6	7	19	3.00	94.70	1,516.01	55	27.64
Harper.....	24	1	2	2	16	2.95	109.30	850.83	39	21.81
Harvey.....	42	23	13	1	15	4.70	159.85	2,082.85	94	22.15
Haskell.....	17	4	3	1	3	6.80	36.25	610.00	25	24.40
Hogeman.....	28	1	3	1	4	66.57	66.57	969.87	34	28.52
Jackson.....	90	8	8	10	32	1.35	125.75	3,432.75	148	23.21
Jefferson.....	94	0	0	2	18	1.80	135.18	2,882.77	88	32.76
Jewell.....	93	8	4	4	19	4.00	217.00	5,578.54	128	43.58
Johnson.....	120	45	8	1	16	2.85	999.77	6,163.48	190	32.44
Kearny.....	24	1	6	4	11	1.55	74.84	1,122.24	45	24.94
Kingman.....	55	0	0	0	10	3.00	50.00	1,722.05	58	30.77
Kiowa.....	33	4	6	0	6	2.75	96.65	1,068.80	47	22.67
Labette.....	54	11	11	7	12	2.50	62.35	2,948.87	96	30.72
Lane.....	16	7	3	0	10	2.40	50.05	569.57	34	16.75
Leavenworth.....	126	0	0	0	32	2.90	162.05	3,092.25	168	18.41
Lincoln.....	54	24	0	9	16	4.55	187.67	2,462.23	82	28.06
Linn.....	46	3	5	3	23	1.80	82.95	2,181.92	78	27.97
Logan.....	56	1	0	0	4	4.00	113.71	2,106.09	61	34.51
Lyon.....	160	4	4	4	39	1.55	264.70	5,180.84	211	24.59
Marion.....	20	7	2	1	11	3.50	102.80	1,186.72	41	29.01
Marshall.....	63	0	0	0	11	5.25	737.22	6,054.74	64	94.60
McPherson.....	114	6	3	19	13	1.88	181.21	3,036.94	155	19.59
Meade.....	62	2	0	0	2	2.80	79.01	1,932.86	65	29.73

TABLE I.—CONTINUED. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1937.

COUNTIES.	Journal entry.				No journal entry filed.	Costs.			Number cases reported.	Average cost.
	Filed day of trial.	Within 10 days.	In 10 to 30 days.	After 30 days.		Minimum.	Maximum.	Aggregate.		
Miami.....	105	19	6	5	0	\$3.15	\$930.20	\$6,438.50	134	\$48.05
Mitchell.....	17	1	2	35	14	2.85	713.25	4,414.12	70	63.06
Montgomery.....	172	15	8	6	18	.....	.....	.....	.....	.....
Morris.....	48	0	0	0	1	2.85	66.88	1,522.45	49	31.28
Morton.....	53	0	0	0	0	9.00	71.36	1,451.83	46	31.56
Nenaha.....	18	60	47	9	15	5.35	493.11	9,568.36	127	75.34
Neesho.....	50	12	14	7	37	2.50	156.02	3,083.17	127	25.69
Ness.....	54	0	0	0	17	2.10	188.82	2,002.66	171	35.24
Norton.....	34	6	8	8	9	2.95	132.14	1,912.94	65	29.43
Osage.....	72	19	6	5	9	1.20	573.19	7,803.18	109	71.59
Osborne.....	61	6	4	4	6	4.70	286.80	2,664.84	81	32.90
Ottawa.....	41	1	0	0	2	5.00	299.86	1,884.23	41	42.00
Paynee.....	33	0	0	2	22	1.10	565.84	1,808.64	57	31.73
Phillips.....	30	5	8	17	6	3.40	284.35	2,658.76	67	40.27
Pottawatomie.....	112	3	0	1	42	4.35	162.08	4,785.73	158	30.29
Pratt.....	29	8	11	5	27	4.20	128.15	1,621.66	78	20.78
Ravins.....	14	6	7	14	10	3.70	70.16	1,280.28	46	28.02
Reno.....	238	43	24	17	44	3.65	809.68	13,132.72	366	35.88
Republic.....	46	3	7	3	11	2.10	70.67	1,232.76	367	18.43
Rice.....	81	0	0	0	2	3.30	151.75	1,537.56	83	18.52
Riley.....	65	12	7	11	19	3.10	116.58	3,351.06	114	29.40
Rooks.....	93	1	0	0	15	2.85	467.00	4,524.15	109	42.42
Rush.....	55	0	0	0	15	2.25	111.35	1,578.63	55	28.70
Russell.....	80	2	0	4	33	.....	.....	.....	.....	.....
Saline.....	185	14	21	13	13	3.05	245.80	6,263.23	252	24.62
Scott.....	27	7	3	8	12	2.80	71.30	1,060.66	57	18.60
Sedgwick.....	918	46	2	5	326	2.40	1,154.25	35,067.82	1,312	26.72
Seward.....	66	16	7	9	5	4.30	72.55	2,324.07	403	27.42
Shawnee.....	555	13	10	8	0	1.52	9,092.57	15,284.07	493	27.42



TABLE I.—CONCLUDED. Civil cases (other than divorce) tried on the merits (or dismissed), year ending June 30, 1937.

COUNTIES.	Journal entry.				No journal entry filed.	Costs.			Number cases reported.	Average cost.
	Filed day of trial	Within 10 days.	In 10 to 30 days.	After 30 days.		Minimum.	Maximum.	Aggregate.		
Sherman.....	71	3	7	2	17	\$3.85	\$310.45	\$3,941.56	100	\$39.41
Smith.....	68	0	1	0	11	2.45	74.80	2,470.49	69	35.88
Stafford.....	60	4	2	8	26	2.70	206.64	2,731.53	100	27.31
Stanton.....	14	1	1	0	2	4.10	66.85	411.05	17	24.18
Stevens.....	1	31	21	2	15	2.75	119.50	1,807.15	65	27.80
Sumner.....	106	34	6	11	34	4.50	262.90	5,986.29	191	31.34
Thomas.....	61	3	5	3	1	3.85	87.39	2,308.67	73	31.62
Trego.....	9	3	14	11	0	2.20	90.96	849.90	38	22.37
Wabunsee.....	36	9	12	5	7	2.05	348.00	2,314.34	69	33.54
Wallace.....	21	2	0	0	3	.....	.....	.....	.....	.....
Washington.....	47	9	16	4	1	5.30	451.31	5,867.06	77	7.61
Wichita.....	70	0	0	0	3	1.25	53.80	1,157.27	64	18.08
Wilson.....	82	0	0	0	16	3.90	158.55	2,804.33	98	28.62
Woodson.....	17	5	5	6	16	3.20	161.60	1,031.56	43	23.99
Wyandotte.....	822	87	17	4	300	4.85	2,483.34	26,011.83	1,230	21.15
Totals.....	8,399	1,231	584	565	2,141	\$0.60	\$1,342.34	\$354,089.82	12,089	\$29.58

TABLE II.—Summary, district courts. Civil cases (other than divorce) pending July  
(Compiled from Form 2)

COUNTIES.	Civil actions pending 7-1-'37.	Pending less than 3 months.	3 to 6 months.	6 to 12 months.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to years.
Allen.....	104	22	9	9	24	13	11	4
Anderson.....	46	16	2	3	13	4	5	1
Atchison.....	117	24	12	10	29	16	8	1
Barber.....	49	18	5	11	7	5	1	2
Barton.....	55	30	6	17	2	0	0	7
Bourbon.....	174	39	12	39	47	4	7	10
Brown.....	50	21	5	14	7	2	1	0
Butler.....	194	46	30	35	30	21	8	0
Chase.....	26	9	4	1	7	2	2	0
Chautauqua.....	9	6	1	2	0	0	0	0
Cherokee.....	151	43	15	20	17	8	5	10
Cheyenne.....	12	0	0	0	12	0	0	0
Clark.....	33	10	6	13	1	0	1	0
Clay.....	14	9	1	4	0	0	0	0
Cloud.....	26	11	11	4	0	0	0	0
Coffey.....	24	14	6	2	1	1	0	0
Comanche.....	27	7	8	6	0	5	0	0
Cowley.....	151	57	22	26	21	6	9	0
Crawford.....	235	44	25	34	39	23	33	10
Decatur.....	11	7	2	2	0	0	0	0
Dickinson.....	58	25	10	20	2	1	0	0
Doniphan.....	50	15	8	6	15	3	1	0
Douglas.....	59	33	13	6	7	0	0	0
Edwards.....	17	10	2	3	2	0	0	0
Elk.....	17	15	2	0	0	0	0	0
Ellis.....	83	24	22	14	14	4	5	0
Ellsworth.....	21	10	4	7	0	0	0	0
Finney.....	82	32	13	9	12	4	1	0
Ford.....	112	22	26	36	16	7	2	0
Franklin.....	47	24	12	10	0	0	1	0
Gearry.....	35	23	5	4	1	2	0	0
Gove.....	10	5	1	2	0	1	1	0
Graham.....	53	26	12	4	10	0	1	0
Grant.....	11	8	2	1	0	0	0	0
Gray.....	18	8	4	3	1	1	0	0
Greeley.....	39	14	12	4	3	1	3	0
Greenwood.....	62	46	5	8	3	0	0	0
Hamilton.....	34	9	12	6	3	3	0	0
Harper.....	20	10	2	4	2	2	0	0
Harvey.....	68	27	13	10	13	1	2	0
Haskell.....	7	3	1	1	1	1	0	0
Hodgeman.....	28	17	6	3	0	2	0	0
Jackson.....	41	24	3	3	5	5	1	0
Jefferson.....	45	18	2	5	5	4	5	0
Jewell.....	28	12	8	4	2	2	0	0
Johnson.....	122	47	24	15	24	8	4	0
Kearny.....	16	4	4	6	0	1	1	0
Kingman.....	14	4	4	4	2	0	0	0
Kiowa.....	15	6	3	4	2	0	0	0
Labette.....	54	21	7	9	12	3	1	0
Lane.....	19	2	3	4	1	3	4	0
Leavenworth.....	77	32	18	27	0	0	0	0
Lincoln.....	15	5	5	1	2	1	1	0
Linn.....	43	12	4	8	9	2	1	0
Logan.....	36	18	3	6	6	2	0	0

LE II.—CONCLUDED. Summary, district courts. Civil cases (other than divorce) pending  
July 1, 1937

(Compiled from Form 2)

CIVIL CASES.	Civil actions pending 7-1-'37.	Pending less than 3 months.	3 to 6 months.	6 to 12 months.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	Over 5 years.
.....	71	21	11	8	19	8	2	1	1
.....	23	13	2	4	4	0	0	0	0
.....	28	14	5	5	2	2	0	0	0
on.....	84	33	17	18	14	2	0	0	0
.....	39	19	7	8	2	1	1	0	1
.....	66	26	12	9	8	2	1	1	7
.....	28	15	6	1	3	2	1	0	0
ery.....	146	72	14	26	24	5	0	1	4
.....	12	6	4	1	1	0	0	0	0
.....	27	11	11	1	4	0	0	0	0
.....	32	19	9	0	3	1	0	0	0
.....	48	14	9	11	7	3	1	1	2
.....	33	11	2	3	4	2	3	2	6
.....	34	15	13	2	3	0	0	1	0
.....	57	28	8	6	7	2	3	1	2
.....	32	18	7	2	4	0	0	1	0
.....	12	10	0	0	1	1	0	0	0
.....	23	14	2	2	2	1	0	1	1
mie.....	49	9	13	11	7	3	0	4	2
.....	47	23	7	8	5	3	0	1	0
.....	47	11	8	8	6	9	4	0	1
.....	21	9	0	11	1	0	0	0	0
.....	149	52	17	26	27	14	4	4	5
.....	17	9	4	1	3	0	0	0	0
.....	40	18	5	7	8	2	0	0	0
.....	49	25	12	5	4	0	2	1	0
.....	50	22	5	10	7	2	4	0	0
.....	17	4	1	4	5	2	0	1	0
.....	123	38	16	69	0	0	0	0	0
.....	236	40	11	62	30	11	23	18	41
.....	25	21	2	2	0	0	0	0	0
.....	631	230	121	111	119	36	6	7	1
.....	28	13	5	3	5	1	0	0	1
.....	196	97	44	25	15	8	3	3	1
.....	27	7	3	7	7	2	1	0	0
.....	42	12	12	10	4	2	1	0	1
.....	29	17	7	1	3	0	0	0	1
.....	27	14	2	4	3	2	1	0	1
.....	17	7	1	8	1	0	0	0	0
.....	33	14	1	6	6	3	3	0	0
.....	100	22	11	12	11	12	4	4	24
.....	17	7	3	3	4	0	0	0	0
.....	28	11	1	6	4	3	2	0	1
ee.....	34	15	9	4	3	2	0	0	1
.....	8	6	1	0	0	0	1	0	0
on.....	40	14	9	3	8	2	3	0	1
.....	5	3	0	2	0	0	0	0	0
.....	54	24	10	9	6	2	2	0	1
.....	30	20	3	7	0	0	0	0	0
te.....	1,894	334	152	222	409	198	214	135	230
ls.....	7,869	2,551	1,092	1,283	1,255	525	416	273	474

TABLE III.—Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1937.  
(Compiled from Form 3)

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.			Trial.		Grounds.	
							Awarded to wives.	Awarded to husbands.	Other disposition.	In 60 days of petition.	In 60 days to 6 months.	Gross neglect of duty.	Extreme cruelty.
Allen.....	52	11	31	8	2	2	22	6	0	1	34	12	10
Anderson.....	58	1	4	3	0	1	5	3	0	0	5	2	1
Atchison.....	59	14	34	11	0	0	21	2	0	1	42	38	4
Barber.....	21	7	12	2	0	0	16	0	0	0	12	6	6
Barton.....	40	7	23	10	0	1	18	2	0	5	26	1	18
Bourbon.....	51	11	31	8	1	9	19	2	0	1	34	21	3
Brown.....	28	4	15	9	0	5	16	1	0	0	19	5	2
Butler.....	21	58	11	11	0	8	43	1	0	11	48	31	15
Chase.....	23	4	13	5	1	5	21	6	0	0	12	7	8
Chautauqua.....	6	0	5	1	0	1	5	0	0	1	5	3	0
Cherokee.....	111	40	53	18	0	1	29	5	1	8	51	15	36
Cheyenne.....	7	0	5	2	0	1	10	0	0	0	5	2	0
Clark.....	12	6	6	3	0	0	9	2	0	2	8	3	4
Clay.....	15	1	12	3	0	0	15	0	3	0	15	1	7
Cloud.....	37	10	19	7	1	6	19	0	1	0	24	6	10
Coffey.....	25	3	18	4	0	4	11	1	0	1	19	0	12
Comanche.....	8	0	7	1	0	0	4	1	0	0	8	1	5
Cowley.....	207	65	119	23	0	2	65	3	4	20	95	50	78
Crawford.....	147	31	89	26	1	13	32	5	0	11	77	21	67
Decatur.....	10	0	8	2	0	1	14	0	0	1	8	1	3
Dickinson.....	26	10	11	4	1	1	10	0	0	0	15	7	3
Doniphan.....	28	12	13	2	1	0	12	1	2	0	16	11	1
Douglas.....	23	55	55	16	0	5	27	7	0	2	56	25	13
Edwards.....	34	1	1	1	0	0	1	0	0	0	1	0	0

COUNTIES.	Total number cases.	Cases dis- missed.	Di- vorces granted to wives.	Di- vorces granted to hus- bands.	Di- vorces denied.	Di- voice cases con- tested.	Disposition of minor children.			Trial.			Grounds.	
							Awarded to wives.	Awarded to hus- bands.	Other disposi- tion.	In 60 days of petition.	In 60 days to 6 months.	After 6 months.	Gross neglect of duty.	Extreme cruelty.
Ellis.....	24	4	13	7	0	2	6	2	0	4	15	1	10	5
Elsworth.....	13	1	11	1	0	3	5	0	0	0	10	2	2	8
Finney.....	33	6	23	4	0	0	11	7	0	3	23	1	7	9
Ford.....	63	13	37	13	0	0	30	5	1	5	37	3	16	14
Franklin.....	60	7	39	12	2	4	27	4	2	0	50	3	32	11
Geary.....	50	13	26	9	2	4	26	7	0	0	35	2	1	11
Gove.....	1	0	1	0	0	0	0	0	0	0	1	0	0	0
Graham.....	10	4	5	1	0	0	0	0	0	0	6	0	0	5
Grant.....	5	1	4	0	0	0	4	0	0	1	2	1	0	4
Gray.....	3	0	3	0	0	0	3	0	0	0	3	0	2	1
Greeley.....	2	0	2	0	0	0	2	0	0	0	2	0	0	0
Greenwood.....	40	5	28	7	0	2	17	0	1	0	29	6	4	18
Hamilton.....	9	6	2	1	0	0	1	0	0	0	3	0	1	1
Harper.....	19	3	14	0	2	2	20	2	0	0	15	1	4	4
Harvey.....	55	14	33	8	0	2	20	3	4	4	29	8	14	14
Haskell.....	6	2	3	1	0	0	5	0	0	0	3	1	1	1
Hodgeman.....	4	0	3	1	0	0	5	1	0	0	4	0	3	1
Jackson.....	28	3	18	7	0	1	20	0	7	1	21	3	16	3
Jefferson.....	8	0	6	2	0	1	5	2	0	2	5	1	5	2
Jewell.....	11	2	7	2	0	0	14	0	0	1	7	1	1	6
Johnson.....	70	10	40	18	2	4	33	9	5	2	51	7	25	13
Kearny.....	5	1	3	1	0	1	1	2	0	0	4	0	1	1
Kingman.....	13	5	7	1	0	0	5	0	0	1	6	1	0	5
Kiowa.....	11	0	6	5	0	0	5	6	0	0	6	5	2	4
Labette.....	95	35	45	15	0	9	50	7	0	2	51	7	18	22
Lane.....	7	0	5	2	0	1	9	2	0	0	6	1	0	3
Leavenworth.....	113	10	65	34	4	7	38	9	0	6	79	18	79	8
Lincoln.....	14	5	8	1	0	0	10	1	0	2	5	2	3	5
Linn.....	16	3	8	5	1	0	11	0	0	0	14	0	9	1
Logan.....	3	0	0	3	0	1	0	1	0	0	3	0	0	0

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Total number cases.	Cases dismissed.	Divorces granted to wives.	Divorces granted to husbands.	Divorces denied.	Divorce cases contested.	Disposition of minor children.			Trial.			Grounds.	
							Awarded to wives.	Awarded to husbands.	Other disposition.	In 60 days of petition.	In 60 days to 6 months.	After 6 months.	Gross neglect of duty.	Extreme cruelty.
Lyon.....	77	22	43	10	2	14	39	6	0	4	40	11	13	24
Marion.....	13	4	6	3	0	0	6	4	0	0	7	2	6	0
Marshall.....	20	6	11	3	0	3	14	2	0	0	11	3	3	9
McPherson.....	47	12	27	8	0	2	21	2	0	5	26	4	10	20
Meade.....	7	1	6	0	0	1	13	0	0	0	6	0	1	1
Miami.....	46	11	26	7	2	0	19	0	0	9	26	0	12	7
Mitchell.....	15	1	11	3	0	1	15	4	1	1	11	2	3	8
Montgomery.....	184	37	109	37	1	0	80	6	0	28	101	18	53	48
Morris.....	9	2	5	2	0	0	9	1	0	0	7	0	3	2
Morton.....	4	0	1	3	0	0	2	1	0	0	3	1	1	2
Nemaha.....	22	4	13	5	0	4	15	0	0	0	16	2	14	2
Neosho.....	75	10	48	17	0	17	35	0	0	5	51	9	23	21
Ness.....	11	0	5	6	0	1	10	0	0	0	8	3	0	1
Norton.....	26	7	16	2	1	1	8	1	0	0	16	3	4	6
Osage.....	17	3	11	3	0	0	9	0	0	1	12	1	6	4
Osborne.....	12	3	8	1	0	0	5	0	0	0	9	0	0	7
Ottawa.....	10	4	5	1	0	1	2	0	0	0	6	0	3	1
Pawnee.....	17	2	14	1	0	0	16	1	0	1	11	3	10	1
Phillips.....	7	0	5	2	0	0	6	0	0	0	7	0	2	2
Pottawatomie.....	16	4	8	4	0	0	9	2	0	0	11	1	0	8
Pratt.....	32	10	19	3	0	0	31	0	0	0	21	1	2	9
Rawlins.....	11	3	7	1	0	0	10	0	0	0	8	0	0	3
Reno.....	303	99	158	46	0	10	100	27	3	35	138	31	93	64
Republic.....	18	3	12	3	0	2	11	0	0	1	13	2	13	10
Rice.....	35	5	23	7	0	0	16	6	1	1	26	3	11	9
Riley.....	45	10	28	7	0	0	19	8	0	6	27	2	6	14
Rooks.....	13	0	9	4	0	0	8	2	0	2	10	1	2	5

TABLE III.—Continued. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Total number cases.	Cases dis- missed.	Di- vorces granted to wives.	Di- vorces granted to hus- bands.	Di- vorces denied.	Di- vorces con- tested.	Disposition of minor children.			Trial.			Grounds.	
							Awarded to wives.	Awarded to hus- bands.	Other dispo- sition.	In 60 days of peti- tion.	In 60 days to 6 months.	After 6 months.	Gross neglect of duty.	Extreme cruelty.
Scott.....	5	0	5	0	0	2	2	0	0	0	5	0	0	1
Sedgwick.....	1,210	511	570	129	0	59	365	43	12	110	500	89	235	327
Seward.....	22	6	32	4	0	1	4	0	0	0	15	1	3	8
Shawnee.....	664	255	327	71	11	36	223	20	1	49	325	35	270	74
Sheridan.....	3	0	2	1	0	0	2	0	0	0	3	0	0	2
Sherman.....	14	1	8	5	0	0	1	2	1	1	11	1	13	0
Smith.....	17	2	10	5	0	2	6	1	0	0	11	4	10	5
Stafford.....	28	6	15	6	1	3	17	4	0	2	16	4	17	4
Stanton.....	6	1	3	2	0	1	1	0	0	0	5	0	0	0
Stevens.....	9	4	3	2	0	1	2	0	0	0	5	0	1	2
Sumner.....	54	10	33	11	0	3	22	0	0	3	34	7	27	11
Thomas.....	4	0	3	1	0	0	4	0	0	0	4	0	0	3
Trego.....	24	2	17	5	0	1	10	3	0	1	17	4	17	5
Wabunsee.....	8	2	5	1	0	0	4	0	1	0	5	1	3	1
Wallace.....	4	0	2	2	0	0	2	1	0	0	3	1	2	0
Washington.....	11	0	7	4	0	0	5	2	0	0	9	2	0	7
Wichita.....	4	1	2	1	0	0	0	0	0	2	1	0	1	0
Wilson.....	59	18	35	6	0	4	38	3	0	1	38	2	14	19
Woodson.....	7	0	3	3	1	0	3	0	0	2	5	0	3	0
Wyandotte.....	543	58	382	110	0	6	219	30	0	25	361	106	200	191
Totals.....	5,864	1,592	3,284	947	41	550	2,397	318	51	402	3,274	596	1,658	1,491





COUNTIES.	Grounds—Concluded.						Cost.					
	Aban- don- ment.	Adul- tery.	Non- support.	Habit- ual drunk- eness.	Con- viction of a felony.	In- sanity.	Mis- cell- aneous grounds.	Minimum cost.	Maximum cost.	Number of cases reporting costs.	Aggregate cost.	Average cost.
Ellis.....	3	0	0	0	1	0	1	\$2.45	\$20.10	24	\$127.80	\$5.32
Ellsworth.....	1	1	0	0	0	0	0	4.80	20.20	13	130.49	10.03
Finney.....	10	0	0	1	0	0	0	4.05	15.00	33	262.12	7.94
Ford.....	17	2	0	0	1	0	0	3.20	15.47	63	464.58	7.37
Franklin.....	8	0	0	0	0	0	0	2.85	25.70	60	439.43	7.32
Geary.....	20	1	0	1	0	0	1	3.85	35.40	50	449.30	8.98
Gove.....	0	0	0	0	0	0	0	.....	.....	.....	.....	.....
Graham.....	1	0	0	0	0	0	0	2.50	9.30	1	8.31	8.31
Grant.....	0	0	0	0	0	0	0	9.32	19.38	4	4.84	4.84
Gray.....	0	0	0	0	0	0	0	4.70	12.50	3	26.38	8.79
Greeley.....	0	2	0	0	0	0	0	3.55	10.50	2	14.05	7.02
Greenwood.....	13	0	0	0	0	0	0	3.60	19.50	39	322.84	8.27
Hamilton.....	1	0	0	0	0	0	0	2.15	8.70	9	51.35	5.70
Harper.....	3	0	0	1	0	0	0	3.65	62.55	19	216.71	11.40
Harvey.....	11	1	0	0	1	0	0	2.05	196.80	55	668.39	12.15
Haskell.....	2	0	0	0	0	0	0	2.80	13.80	5	44.00	8.80
Hodgeman.....	0	0	0	0	0	0	0	3.70	8.40	4	26.01	6.50
Jackson.....	5	0	0	0	1	0	0	4.40	11.85	28	201.70	7.20
Jefferson.....	1	0	0	0	0	0	0	5.40	11.65	8	70.95	8.86
Jewell.....	2	0	0	0	0	0	0	4.65	30.74	11	136.74	12.43
Johnson.....	16	0	0	2	2	0	0	2.65	38.80	70	587.43	8.39
Keary.....	1	1	0	0	1	0	0	4.95	71.61	4	97.07	24.27
Kingman.....	2	1	0	0	0	0	0	3.70	12.25	13	77.75	5.98
Kiowa.....	4	0	0	1	0	0	0	4.60	12.65	11	95.84	8.71
Labette.....	17	1	0	1	0	1	0	3.95	71.10	95	1,026.68	10.80
Lane.....	4	0	0	0	0	0	0	2.55	5.70	7	26.40	3.77
Leavenworth.....	12	0	0	0	0	0	0	2.35	46.80	113	903.15	7.99
Lincoln.....	1	0	0	0	0	0	0	3.65	32.10	14	145.54	10.39
Linn.....	2	0	0	0	0	0	0	2.85	46.95	16	141.15	8.82
Logan.....	3	0	0	0	1	0	0	7.75	9.33	3	25.83	8.61

TABLE III.—CONTINUED. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Grounds—Continued.							Cost.				
	Aban- don- ment.	Adul- tery.	Non- support.	Habit- ual drunk- ness.	Con- vic- tion of a felony.	In- sanity.	Mis- cel- lan- eous grounds.	Minimum cost.	Maximum cost.	Number of cases reporting costs.	Aggregate cost.	Average cost.
Lyon.....	15	1	0	0	0	0	0	\$2.20	\$19.80	77	\$489.45	\$6.36
Marion.....	2	1	0	0	0	0	0	4.25	11.04	13	98.79	7.60
Marshall.....	1	0	0	0	0	0	1	3.70	96.95	20	332.05	16.60
McPherson.....	5	0	0	0	0	0	0	3.10	40.35	47	389.74	8.29
Meade.....	3	0	0	0	1	0	0	5.96	10.73	6	51.79	8.63
Miami.....	10	0	0	0	1	0	3	2.95	137.10	31	667.00	21.52
Mitchell.....	3	0	0	0	0	0	0	4.45	12.35	15	123.35	8.22
Montgomery.....	36	1	1	2	2	0	3	3.20	27.50	184	1,524.04	8.33
Morris.....	1	0	0	0	0	0	1	4.40	21.00	9	68.98	7.66
Morton.....	1	0	0	0	0	0	0	4.30	11.15	4	33.93	8.48
Nemaha.....	2	0	0	0	0	0	0	4.40	76.90	22	374.60	17.03
Neosho.....	18	0	2	0	1	0	0	2.85	69.80	75	863.30	11.51
Ness.....	6	0	2	0	0	0	2	3.65	12.00	11	89.80	8.16
Norton.....	7	0	0	0	0	0	1	2.75	23.89	22	163.62	7.44
Osage.....	4	0	0	0	0	0	0	4.05	52.50	17	187.60	11.03
Osborne.....	2	0	0	0	0	0	0	3.95	11.00	12	81.42	6.78
Ottawa.....	2	0	0	0	0	0	0	3.45	9.95	8	50.93	6.36
Pawnee.....	2	0	1	0	0	0	1	4.50	68.55	17	400.24	23.54
Phillips.....	3	0	0	0	0	0	0	4.35	55.70	7	143.25	20.46
Pottawatomie.....	4	0	0	0	0	0	0	4.80	15.15	15	140.40	9.36
Pratt.....	11	0	0	0	0	0	0	3.75	16.95	32	292.22	9.13
Rawlins.....	5	0	0	0	0	0	0	4.35	15.00	11	82.85	7.53
Reno.....	39	0	0	3	2	0	3	3.60	150.00	303	7,333.22	24.20
Republic.....	0	0	0	0	0	0	2	2.45	11.90	18	112.66	6.25
Rice.....	4	0	2	0	0	0	4	3.15	12.80	33	224.85	6.81

TABLE III.—Convulened. Summary, district courts. Divorce cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Grounds—Concluded.							Cost.				
	Aban- don- ment.	Adul- tery.	Non- support.	Habit- ual drunk- enness.	Con- viction of a felony.	In- sanity.	Mis- cel- laneous grounds.	Minimum cost.	Maximum cost.	Number of cases reporting costs.	Aggregate cost.	Average cost.
Scott.....	4	0	0	0	0	0	0	\$3.15	\$7.63	5	\$24.70	\$4.94
Sedawick.....	118	3	0	4	7	0	5	3.35	110.35	1,210	12,529.68	10.36
Seward.....	3	0	0	1	1	0	0	3.60	61.10	22	183.50	8.34
Shawnee.....	48	0	0	1	4	0	1	3.05	189.50	664	11,286.31	16.96
Sheridan.....	1	0	0	0	0	0	0	2.65	8.33	3	15.68	5.22
Sherman.....	0	0	0	0	0	0	0	3.70	12.50	13	93.50	7.19
Smith.....	0	0	0	0	0	0	0	3.35	10.65	17	131.90	7.76
Stafford.....	0	0	0	0	0	0	0	3.00	22.25	28	225.64	8.05
Stanton.....	5	0	0	0	0	0	0	2.35	11.35	6	26.60	4.43
Stevens.....	1	0	0	0	0	1	0	2.30	23.15	9	68.00	7.55
Sumner.....	6	0	0	0	0	0	0	4.35	40.40	54	525.35	9.73
Thomas.....	1	0	0	0	0	0	0	4.15	12.54	4	28.69	7.17
Trego.....	0	0	0	0	0	0	0	2.70	47.60	24	168.47	7.00
Wabunsee.....	0	1	0	0	1	0	0	3.20	26.40	8	73.85	9.23
Wallace.....	2	0	0	0	0	0	0	2.05	13.10	4	33.15	8.28
Washington.....	4	0	0	0	0	0	0	4.10	28.70	11	103.29	9.39
Wichita.....	2	0	0	0	0	0	0	4.00	10.40	3	21.60	7.20
Wilson.....	3	0	0	0	0	0	5	3.05	46.85	59	521.56	8.84
Woodson.....	3	0	0	0	0	0	0	4.60	52.90	7	141.40	20.20
Wyandotte.....	91	5	3	0	2	0	0	5.80	35.90	546	6,008.62	11.00
Totals.....	873	35	20	30	35	2	87	\$0.80	\$196.80	5,818	\$65,180.44	\$11.20

\* Failed to report grounds.

TABLE IV.—Summary, district courts. Divorce cases pending July 1, 1937.  
(Compiled from Form 4)

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 to 12 months.	From 1 to 2 years.
Allen.....	21	9	2	5	3
Anderson.....	21	6	2	3	4
Atchison.....	88	5	17	16	18
Barber.....	8	5	0	3	0
Barton.....	21	14	1	6	0
Bourbon.....	61	17	9	10	11
Brown.....	9	4	1	0	2
Butler.....	105	23	17	23	21
Chase.....	4	0	0	1	3
Chautauqua.....	3	2	1	0	0
Cherokee.....	63	16	7	8	17
Cheyenne.....	1	0	0	0	1
Clark.....	8	4	3	1	0
Clay.....	12	3	5	4	0
Cloud.....	10	4	5	0	1
Coffey.....	11	7	0	1	1
Comanche.....	1	0	0	1	0
Cowley.....	54	37	8	5	4
Crawford.....	154	44	8	23	43
Decatur.....	3	3	0	0	0
Dickinson.....	7	4	1	0	2
Doniphan.....	8	1	1	0	4
Douglas.....	22	13	7	2	0
Edwards.....	4	4	0	0	0
Elk.....	1	0	1	0	0
Ellis.....	2	1	0	0	1
Ellsworth.....	2	1	1	0	0
Finney.....	16	8	0	4	3
Ford.....	42	20	7	9	4
Franklin.....	19	14	2	3	0
Geary.....	10	5	2	2	1
Gove.....	0	0	0	0	0
Graham.....	6	6	0	0	0
Grant.....	0	0	0	0	0
Gray.....	3	1	0	2	0
Greeley.....	1	1	0	0	0
Greenwood.....	24	12	5	3	4
Hamilton.....	7	0	1	3	3
Harper.....	3	3	0	0	0
Harvey.....	23	11	4	0	7
Haskell.....	3	3	0	0	0
Hodgeman.....	6	3	0	1	0
Jackson.....	16	8	3	3	2
Jefferson.....	8	7	1	0	0
Jewell.....	10	4	1	4	1
Johnson.....	28	16	3	4	4
Kearny.....	2	1	0	0	1
Kingman.....	3	0	2	0	1
Kiowa.....	5	3	1	0	1
Labette.....	29	19	4	5	1
Lane.....	0	0	0	0	0
Leavenworth.....	119	31	41	47	0
Lincoln.....	2	2	0	0	0
Linn.....	5	0	2	0	1
Logan.....	2	2	0	0	0

TABLE IV.—CONCLUDED. Summary, district courts. Divorce cases pending July 1, 1937.

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 to 12 months.	From 1 to 2 years.	More than 2 years.
on.....	32	9	5	9	7	2
hall.....	7	2	1	3	1	0
herson.....	8	5	0	1	1	1
le.....	28	27	0	1	0	0
ni.....	6	3	2	1	0	0
hell.....	25	14	5	4	2	0
gomery.....	13	7	1	1	2	2
is.....	83	27	13	17	15	11
on.....	5	3	2	0	0	0
aha.....	2	0	0	0	2	0
ho.....	10	3	4	3	0	0
on.....	44	10	5	8	6	15
e.....	0	0	0	0	0	0
rne.....	15	11	1	3	0	0
wa.....	8	8	0	0	0	0
ee.....	3	0	1	2	0	0
ps.....	4	1	0	2	0	1
awatomie.....	10	4	1	1	1	3
ins.....	2	1	1	0	0	0
ublic.....	8	5	2	0	1	0
.....	12	10	1	1	0	0
.....	1	1	0	0	0	0
.....	130	61	25	42	2	0
.....	7	4	2	0	1	0
.....	23	12	3	8	0	0
.....	27	13	3	1	6	4
.....	4	4	0	0	0	0
.....	2	1	0	0	1	0
ell.....	26	9	5	8	2	2
e.....	157	34	5	27	26	65
.....	1	1	0	0	0	0
wick.....	455	227	102	86	32	8
rd.....	8	6	1	1	0	0
nee.....	120	92	23	4	1	0
dan.....	0	0	0	0	0	0
man.....	7	5	1	0	1	0
h.....	4	2	2	0	0	0
ord.....	10	5	2	3	0	0
ton.....	1	0	0	1	0	0
ens.....	4	2	2	0	0	0
er.....	55	26	4	8	6	11
mas.....	2	2	0	0	0	0
o.....	1	1	0	0	0	0
aunsee.....	6	2	0	3	1	0
ace.....	3	3	0	0	0	0
ington.....	4	3	0	1	0	0
ita.....	1	1	0	0	0	0
on.....	25	8	4	8	3	2
dson.....	6	2	2	2	0	0
ndotte.....	1,609	203	95	258	346	707
Totals.....	4,120	1,287	502	720	636	975

TABLE V.—Summary district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1937  
(Compiled from Form 5)

COUNTIES.	Total number cases.	Cases dismissed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried, after information filed.					
								In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.	After 1 year.
Allen.....	34	10	15	9	*8	0	1	0	1	6	0	2	0
Anderson.....	16	4	8	4	3	1	0	0	3	0	0	0	1
Atchison.....	35	21	12	4	2	0	0	2	0	0	0	0	0
Barber.....	7	2	4	1	1	0	0	0	1	0	0	0	0
Barton.....	21	4	14	3	2	1	0	1	1	0	0	1	0
Bourbon.....	25	3	20	2	2	0	0	0	1	0	1	0	0
Brown.....	24	4	15	5	3	2	0	2	2	1	0	0	0
Butler.....	45	5	39	1	1	0	0	0	0	0	1	0	0
Chase.....	1	0	1	0	0	0	0	0	0	0	0	0	0
Chautauqua.....	8	0	7	1	0	1	0	0	1	0	0	0	0
Cherokee.....	39	18	13	8	6	2	0	0	2	3	1	0	2
Cheyenne.....	6	0	4	2	1	1	0	1	1	0	0	0	0
Clark.....	11	4	7	0	0	0	0	0	0	0	0	0	0
Clay.....	7	1	5	1	1	0	0	0	0	0	0	1	0
Cloud.....	17	6	9	2	2	0	0	0	0	1	1	0	0
Coffey.....	9	0	9	0	0	0	0	0	0	0	0	0	0
Conanche.....	12	6	5	1	1	0	0	0	0	0	0	0	0
Cowley.....	54	12	36	6	1	4	1	0	0	4	2	0	0
Crawford.....	50	25	19	6	4	2	0	1	3	0	2	0	0
Decatur.....	5	2	3	0	0	0	0	0	0	0	0	0	0
Dickinson.....	13	3	9	1	0	0	1	0	0	1	0	0	0
Doniphan.....	14	2	10	2	2	0	0	1	1	0	0	0	0
Douglas.....	43	25	17	1	1	0	0	0	1	0	0	0	0
Edwards.....	19	8	10	1	1	0	0	1	0	0	0	0	0
Elk.....	2	0	2	1	0	0	0	1	0	0	0	0	0

COUNTRIES.	Total number cases.	Cases dis-missed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried, after information filed.				
								In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.
Ellis.....	13	7	5	1	0	1	0	0	0	0	0	1
Ellsworth.....	12	4	3	5	2	3	1	3	1	0	0	0
Finney.....	26	12	8	6	3	1	0	1	2	2	0	0
Ford.....	34	15	25	3	2	1	0	2	0	0	0	0
Franklin.....	33	15	14	4	1	3	0	1	0	2	1	0
Geary.....	17	6	4	7	5	2	0	3	3	0	0	1
Gove.....	1	0	0	1	1	0	0	0	1	0	0	0
Graham.....	4	1	3	0	0	0	0	0	0	0	0	0
Grant.....	6	0	0	6	0	0	0	6	0	0	0	0
Gray.....	3	0	1	2	0	1	1	0	1	0	0	0
Greeley.....	1	0	1	0	0	0	0	0	0	0	0	0
Greenwood.....	35	13	12	10	8	0	0	0	7	3	0	0
Hamilton.....	6	4	2	0	0	0	2	0	0	0	0	0
Harper.....	11	7	4	0	0	0	0	0	0	0	0	0
Harvey.....	35	8	22	5	2	1	2	0	1	2	2	0
Haskell.....	4	0	2	2	0	1	1	1	0	0	0	0
Hodgeman.....	5	4	1	0	0	0	0	0	0	0	0	0
Jackson.....	28	7	18	3	1	2	0	0	2	0	1	0
Jefferson.....	23	11	9	3	2	1	0	1	0	1	1	0
Jewell.....	12	3	7	2	2	0	0	0	0	1	0	0
Johnson.....	23	6	15	2	1	1	0	0	1	0	0	1
Kearny.....	1	1	0	0	0	0	0	0	0	0	0	0
Kingman.....	13	10	1	2	1	1	0	0	1	1	0	0
Kiowa.....	2	0	2	0	0	0	0	0	0	0	0	0
Labette.....	33	12	15	6	3	3	0	2	1	2	1	0
Lane.....	8	7	1	0	0	0	0	0	0	0	0	0
Leavenworth.....	38	8	14	16	15	1	0	1	8	6	1	0
Lincoln.....	9	2	5	2	1	1	0	0	1	1	0	0
Linn.....	8	4	2	2	1	0	1	0	1	1	0	0
Logan.....	8	4	5	1	1	0	0	1	0	0	0	0

TABLE V.—CONTINUED. Summary district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Total number cases.	Cases dismissed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried, after information filed.					
								In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.	After 1 year.
Lyon.....	41	21	16	4	3	0	1	0	1	0	1	2	0
Marion.....	17	3	10	4	3	1	0	0	2	2	0	0	0
Marshall.....	15	7	7	1	1	1	0	0	1	0	0	0	0
McPherson.....	27	8	19	0	0	0	0	0	0	0	0	0	0
Meade.....	5	0	5	0	0	0	0	0	0	0	0	0	0
Miami.....	17	5	9	3	3	0	0	0	2	0	1	0	0
Mitchell.....	14	3	8	3	2	1	0	1	0	1	0	1	0
Montgomery.....	92	26	54	12	9	3	0	0	0	6	6	0	0
Morris.....	2	0	1	1	1	0	0	1	0	0	0	0	0
Morton.....	5	3	1	1	1	0	0	0	0	1	0	0	0
Nemaha.....	13	6	3	4	3	1	0	0	1	0	0	1	2
Neosho.....	30	10	20	0	0	0	0	0	0	0	0	0	0
Ness.....	0	0	0	0	0	0	0	0	0	0	0	0	0
Norton.....	13	4	6	3	3	0	0	0	2	0	0	1	0
Osage.....	21	14	5	2	1	1	0	0	1	0	1	0	0
Osborne.....	6	3	3	0	0	0	0	0	0	0	0	0	0
Ottawa.....	2	0	0	2	2	0	0	0	0	0	0	0	0
Pawnee.....	8	2	1	5	3	2	0	0	1	3	1	0	0
Phillips.....	9	4	3	2	2	0	0	1	0	0	0	1	0
Pottawatomie.....	13	6	6	1	1	0	0	0	0	0	1	0	0
Pratt.....	11	7	3	1	0	1	0	0	0	0	0	1	0
Rawlins.....	8	5	3	0	0	0	0	0	0	0	0	1	0
Reno.....	182	57	79	26	24	1	0	0	24	0	0	0	0
Republic.....	22	5	14	3	3	0	0	1	1	0	1	0	0
Rice.....	23	2	15	6	4	2	0	1	0	1	3	1	0
Riley.....	7	0	5	2	1	1	0	0	0	2	0	0	0
Rock.....	4	0	1	0	1	0	0	0	0	0	0	0	0



TABLE V.—CONTINUED. Summary district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Total number cases.	Cases dismissed.	Pleas of guilty.	Cases tried to jury.	Verdicts of guilty.	Verdicts of not guilty.	Hung jury.	Cases tried, after information filed.				
								In 10 days.	In 10 to 30 days.	In 30 days to 3 months.	In 3 to 6 months.	In 6 months to 1 year.
Scott.....	6	1	3	2	2	0	0	0	2	0	0	0
Sedgwick.....	533	212	289	432	29	0	1	3	2	0	10	6
Seward.....	11	5	4	2	1	1	0	1	0	1	0	0
Shawnee.....	322	186	118	18	12	6	0	1	3	7	4	0
Sheridan.....	14	3	6	5	2	2	1	1	0	3	1	0
Sherman.....	3	0	3	0	0	0	0	0	0	0	0	0
Smith.....	8	1	2	5	5	0	0	3	1	0	0	0
Stafford.....	23	6	14	3	3	0	0	2	0	1	0	0
Stanton.....	5	0	4	1	0	0	1	0	0	0	0	0
Stevens.....	4	1	0	3	3	0	0	2	1	0	0	0
Sumner.....	36	12	22	2	2	0	0	2	0	0	0	0
Thomas.....	2	0	0	2	2	0	0	2	0	0	0	0
Trego.....	3	1	2	0	0	0	0	0	0	0	0	0
Wabunsee.....	13	6	5	2	2	0	0	0	1	0	1	0
Wallace.....	4	4	0	0	0	0	0	0	0	0	0	0
Washington.....	5	0	3	2	0	2	0	1	1	0	0	0
Wichita.....	2	0	2	0	0	0	0	0	0	0	0	0
Wilson.....	34	11	20	3	2	1	0	1	1	0	0	0
Woodson.....	10	3	0	7	7	0	0	5	2	0	0	0
Wyandotte.....	170	31	108	31	17	14	0	12	5	5	5	3
Totals.....	2,853	1,054	1,434	365	267	80	16	64	98	96	62	35
												10

\* One verdict insanity. † Tried to the court. ‡ Two cases verdict not shown.



COUNTRIES.	Transcript but no information filed.	Number paroles granted.	Cost.				Average cost.
			Minimum cost.	Maximum cost.	Aggregate cost.	Number of cases reporting costs.	
Ellis.....	1	0	\$11.40	\$93.20	\$388.05	13	\$29.85
Ellsworth.....	3	1	6.15	81.90	314.75	12	26.23
Finey.....	19	3	2.55	21.95	185.70	26	7.14
Ford.....	14	7	3.00	320.50	985.90	34	28.17
Franklin.....	8	2	2.65	151.35	560.20	31	18.07
Geary.....	0	3	3.95	91.40	793.10	17	42.53
Gove.....	0	0	.....	.....	316.00	1	.....
Graham.....	0	2	8.80	17.90	56.15	4	14.04
Grant.....	1	4	.....	.....	.....	0	.....
Gray.....	0	1	32.70	66.95	142.30	3	47.42
Greeley.....	0	0	.....	.....	.....	0	.....
Greenwood.....	8	2	4.00	120.90	952.40	35	27.21
Hamilton.....	3	0	6.10	79.30	187.75	6	31.29
Harper.....	2	2	8.25	171.70	549.85	11	49.98
Harvey.....	0	12	5.10	211.40	645.40	34	19.00
Haskell.....	0	1	14.35	35.55	109.25	4	27.31
Hodgeman.....	0	0	1.80	4.05	14.20	5	2.84
Jackson.....	1	0	12.30	213.05	1,200.77	28	42.89
Jefferson.....	8	4	6.30	215.05	1,022.70	23	44.46
Jewell.....	0	8	9.35	276.70	551.66	12	45.97
Johnson.....	3	0	3.60	204.75	822.75	23	35.77
Kearny.....	0	0	.....	.....	8.15	1	.....
Kingman.....	10	0	2.05	59.90	335.95	13	25.84
Kiowa.....	1	2	8.30	15.75	24.05	2	12.02
Labette.....	6	1	1.86	103.75	642.76	33	19.44
Lane.....	0	0	2.25	71.11	111.50	8	17.94
Leavenworth.....	1	12	2.60	125.65	1,985.53	38	52.25
Lincoln.....	0	0	2.95	110.80	370.15	9	41.12
Linn.....	1	1	15.70	194.85	455.30	8	56.91
Logan.....	2	2	8.35	138.50	379.95	8	47.49

TABLE V.—CONTINUED. Summary district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Transcript but no informa- tion filed.	Number paroles granted.	Cost.			
			Minimum cost.	Maximum cost.	Aggregate cost.	Number of cases reporting costs.
Lyon.....	8	1	\$2.50	\$158.77	\$647.27	39
Marion.....	1	4	7.75	224.70	1,053.67	17
Marshall.....	5	1	9.00	145.10	553.05	15
McPherson.....	5	8	5.55	121.75	865.23	27
Meade.....	0	0	4.40	5.90	25.05	5
Miami.....	3	14	3.55	154.60	803.87	17
Mitchell.....	8	8	6.65	82.70	238.95	14
Montgomery.....	10	13	3.90	115.00	3,513.65	92
Morris.....	0	1	18.20	32.15	50.35	2
Morton.....	2	0	5.20	360.30	726.75	5
Nemaha.....	0	1	9.10	179.35	670.65	13
Neosho.....	9	8	3.40	32.60	398.80	30
Ness.....	0	0	.....	.....	.....	.....
Norton.....	2	6	2.50	39.80	187.90	13
Osage.....	10	10	2.40	206.25	805.90	21
Oshorne.....	0	0	3.65	15.25	27.60	3
Ottawa.....	0	1	52.40	72.50	124.90	2
Pawnee.....	0	0	10.00	95.90	365.20	8
Phillips.....	0	2	3.30	98.45	233.00	9
Pottawatomie.....	2	0	5.65	101.20	266.90	13
Pratt.....	1	0	4.00	46.19	253.40	11
Rawlins.....	1	3	7.10	51.45	177.50	7
Reno.....	17	46	3.85	330.20	5,229.64	162
Republic.....	0	5	5.00	109.50	555.20	21
Rice.....	6	8	4.45	661.90	1,182.85	23
Riley.....	1	1	3.05	118.65	147.85	7
						21
						12

TABLE V.—CONCLUDED. Summary, district courts. Criminal cases tried on merits (or dismissed) year ending June 30, 1937.

COUNTIES.	Transcript but no information filed.	Number paroles granted.	Cost.			
			Minimum cost.	Maximum cost.	Aggregate cost.	Average cost.
Scott.....	1	2	\$0.95	\$119.95	\$168.10	\$28.01
Sedgwick.....	163	152	5.30	541.09	14,236.50	26.96
Seward.....	5	1	5.75	116.00	324.40	29.49
Shawnee.....	29	53	4.05	192.45	8,520.79	26.46
Sheridan.....	3	2	12.00	175.00	580.35	58.03
Sherman.....	0	1	7.30	34.35	58.45	19.48
Smith.....	2	14	2.80	62.80	209.30	26.14
Stafford.....	0	1	6.20	133.10	753.20	32.74
Stanton.....	0	0	2.40	17.15	29.40	5.88
Stevens.....	0	2	3.05	32.00	51.90	17.30
Sumner.....	11	6	7.00	159.95	1,004.15	27.89
Thomas.....	0	0	10.45	10.50	20.95	10.50
Trego.....	3	0	.....	.....	.....	.....
Wabausee.....	0	4	3.05	65.05	364.37	28.03
Wallace.....	2	0	3.90	53.55	69.50	13.30
Washington.....	0	0	14.75	129.60	263.55	52.71
Wichita.....	0	0	7.00	10.00	17.00	8.50
Wilson.....	3	9	4.05	242.20	1,264.82	37.20
Woodson.....	2	2	5.70	78.35	307.00	30.70
Wyandotte.....	27	52	7.35	93.70	3,708.90	22.07
Totals.....	539	592	\$0.95	\$541.09	\$82,505.32	\$29.41

TABLE VI.—Summary, district courts. Criminal cases pending July 1, 1937

(Compiled from Form 6)

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	More than 3 years.
Allen.....	9	4	0	4	1	0	0
Anderson.....	3	3	0	0	0	0	0
Atchison.....	9	1	3	2	3	0	0
Barber.....	3	0	0	2	1	0	0
Barton.....	8	2	2	2	2	0	0
Bourbon.....	39	2	4	11	15	6	1
Brown.....	3	3	0	0	0	0	0
Butler.....	30	13	7	7	2	1	0
Chase.....	0	0	0	0	0	0	0
Chautauqua.....	3	2	0	1	0	0	0
Cherokee.....	16	2	3	0	4	2	5
Cheyenne.....	1	0	0	0	1	0	0
Clark.....	1	1	0	0	0	0	0
Clay.....	2	2	0	0	0	0	0
Cloud.....	4	4	0	0	0	0	0
Coffey.....	0	0	0	0	0	0	0
Comanche.....	5	1	0	3	1	0	0
Cowley.....	15	5	2	5	3	0	0
Crawford.....	32	10	8	4	8	2	0
Decatur.....	0	0	0	0	0	0	0
Dickinson.....	2	1	1	0	0	0	0
Doniphan.....	0	0	0	0	0	0	0
Douglas.....	7	3	1	2	1	0	0
Edwards.....	2	1	0	1	0	0	0
Elk.....	1	0	0	1	0	0	0
Ellis.....	7	1	0	1	4	1	0
Ellsworth.....	2	0	1	0	0	0	1
Finney.....	16	6	3	0	6	1	0
Ford.....	11	4	2	2	3	0	0
Franklin.....	4	3	1	0	0	0	0
Geary.....	4	2	2	0	0	0	0
Gove.....	1	0	0	0	1	0	0
Graham.....	2	0	1	1	0	0	0
Grant.....	0	0	0	0	0	0	0
Gray.....	5	3	2	0	0	0	0
Greeley.....	0	0	0	0	0	0	0
Greenwood.....	3	1	0	0	2	0	0
Hamilton.....	5	3	0	0	2	0	0
Harper.....	6	4	0	2	0	0	0
Harvey.....	5	2	2	1	0	0	0
Haskell.....	2	0	0	1	1	0	0
Hodgeman.....	2	0	0	1	1	0	0
Jackson.....	7	2	0	4	1	0	0
Jefferson.....	1	0	0	0	1	0	0
Jewell.....	4	0	2	2	0	0	0
Johnson.....	9	8	0	1	0	0	0
Kearny.....	0	0	0	0	0	0	0
Kingman.....	5	2	0	3	0	0	0
Kiowa.....	1	1	0	0	0	0	0
Labette.....	6	3	1	2	0	0	0
Lane.....	6	0	1	1	1	2	1
Leavenworth.....	41	13	3	25	0	0	0
Lincoln.....	1	1	0	0	0	0	0
Linn.....	14	4	4	1	4	1	0
Logan.....	3	1	1	1	0	0	0

VI.—CONCLUDED. Summary, district courts. Criminal cases pending July 1, 1937.

COUNTIES.	Number of cases.	Pending less than 3 months.	From 3 to 6 months.	From 6 months to 1 year.	From 1 to 2 years.	From 2 to 3 years.	More than 3 years.	Transcript but no information filed.
.....	9	2	3	3	1	0	0	6
.....	1	0	1	0	0	0	0	1
Albany.....	2	1	0	1	0	0	0	1
Albany.....	9	6	1	2	0	0	0	8
Albany.....	3	1	2	0	0	0	0	0
.....	12	2	5	0	3	2	0	0
.....	7	4	1	2	0	0	0	3
Albany.....	22	9	3	8	1	1	0	8
.....	3	0	2	1	0	0	0	0
.....	0	0	0	0	0	0	0	0
.....	4	2	0	1	1	0	0	3
.....	4	3	0	0	1	0	0	2
.....	4	1	3	0	0	0	0	3
.....	1	1	0	0	0	0	0	1
.....	12	3	1	6	2	0	0	0
.....	3	2	0	1	0	0	0	0
.....	1	1	0	0	0	0	0	1
.....	3	0	0	0	2	1	0	0
.....	18	2	3	6	3	3	1	0
Albany.....	5	2	0	0	1	2	0	0
.....	1	0	0	1	0	0	0	0
.....	3	1	3	0	0	0	0	0
.....	37	21	7	8	1	0	0	13
.....	3	0	2	0	1	0	0	0
.....	6	5	0	0	0	1	0	5
.....	12	3	1	2	3	1	2	9
.....	9	4	2	0	0	3	0	0
.....	1	0	0	0	1	0	0	0
.....	0	0	0	0	0	0	0	0
.....	10	4	1	0	3	2	0	5
.....	2	0	0	2	0	0	0	2
Albany.....	182	76	43	34	29	0	0	27
.....	7	5	1	1	0	0	0	7
.....	85	37	9	20	9	6	4	4
.....	2	2	0	0	0	0	0	0
.....	7	0	0	5	1	0	1	0
.....	3	1	0	2	0	0	0	0
.....	4	2	0	0	1	1	0	3
.....	5	1	1	3	0	0	0	0
.....	1	1	0	0	0	0	0	0
.....	19	6	1	4	4	0	4	11
.....	1	0	1	0	0	0	0	0
.....	2	1	0	0	0	0	1	2
Albany.....	5	2	2	0	1	0	0	0
.....	2	0	0	2	0	0	0	0
Albany.....	3	0	1	2	0	0	0	0
.....	1	0	1	0	0	0	0	0
.....	7	4	1	0	2	0	0	4
.....	3	3	0	0	0	0	0	0
Albany.....	460	65	23	55	104	36	177	200
Albany.....	1,375	409	183	266	244	75	198	393

TABLE VII.—Summary, district courts. Motions and demurrers, year ending June 30, 1937.  
(Compiled from forms 1, 2, 3, 4, 5 and 6.)

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1937.	Presented.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	Decided day pre- sented.	Not same day but within 10 days	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Allen.....	100	12	9	64	10	5	79	0	0	0	63	16	0
Anderson.....	68	0	10	29	18	11	53	1	3	1	40	15	3
Atchison.....	359	54	12	176	49	68	114	119	38	22	223	62	8
Barber.....	65	3	1	25	19	17	61	0	0	0	47	12	2
Barton.....	81	12	2	53	3	11	66	1	0	0	57	10	0
Bourbon.....	73	27	2	25	5	14	43	1	0	0	34	10	0
Brown.....	203	23	0	98	49	33	179	0	0	1	138	42	0
Butler.....	196	41	4	145	5	6	151	0	0	0	132	13	0
Chase.....	14	8	0	0	3	3	0	6	0	0	3	3	0
Chautauqua.....	22	22	0	0	0	0	0	0	0	0	0	0	0
Cherokee.....	201	43	5	125	12	16	152	0	1	0	119	32	2
Chevyenne.....	47	3	0	44	0	0	44	0	0	0	41	3	0
Clark.....	50	9	2	24	3	12	36	0	2	1	30	9	0
Clay.....	13	5	0	5	1	2	8	0	0	0	6	2	0
Cloud.....	133	3	0	100	13	17	128	1	1	0	104	26	0
Coffey.....	81	0	2	68	4	7	62	11	1	5	66	13	0
Comanche.....	12	3	0	3	5	1	8	1	1	0	5	4	0
Cowley.....	240	11	26	60	92	51	202	1	0	0	113	71	19
Crawford.....	120	52	9	28	10	21	55	3	0	1	25	22	12
Decatur.....	47	9	2	25	7	4	34	0	0	2	25	9	2
Dickinson.....	108	15	0	48	29	16	93	0	0	0	77	16	0
Doniphan.....	132	11	2	95	14	10	90	16	5	8	90	27	0
Douglas.....	177	13	0	93	48	23	139	8	8	9	113	51	0



COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1937.	Presented.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	Decided day pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Ellis.....	73	10	3	22	15	23	58	2	0	0	30	30	0
Ellsworth.....	27	6	0	17	1	3	21	0	0	0	17	4	0
Finey.....	31	3	0	18	3	7	28	0	0	0	26	2	0
Ford.....	150	30	1	99	2	18	119	0	0	0	103	16	0
Franklin.....	58	6	1	28	15	8	49	1	1	0	41	9	1
Geary.....	114	29	1	49	19	16	84	0	0	0	66	16	2
Gove.....	9	0	1	2	0	6	6	2	0	0	3	5	0
Graham.....	151	51	5	48	24	23	86	3	2	4	67	23	5
Grant.....	16	2	0	7	5	2	12	2	0	0	9	5	0
Gray.....	9	9	0	0	0	0	0	0	0	0	0	0	0
Greeley.....	49	37	0	5	4	3	11	0	0	1	9	3	0
Greenwood.....	107	6	2	69	20	10	97	1	0	1	86	13	0
Hamilton.....	81	25	0	40	11	5	54	2	0	0	48	9	1
Harper.....	13	2	0	8	0	3	11	0	0	0	10	1	0
Harvey.....	85	19	0	33	16	17	64	1	0	1	54	12	0
Haskell.....	12	2	0	6	1	3	12	0	0	0	7	3	0
Hodgeman.....	25	1	0	17	2	5	24	0	0	0	21	2	1
Jackson.....	159	21	3	105	19	11	131	2	2	0	105	27	3
Jefferson.....	176	14	9	109	20	24	143	5	1	4	118	30	5
Jewell.....	157	8	5	86	38	20	144	0	0	0	118	24	2
Johnson.....	206	42	1	108	27	28	163	0	0	0	142	18	3
Kearny.....	35	10	0	14	9	2	22	1	1	1	13	12	0
Kingman.....	57	5	0	30	13	9	52	0	0	0	36	15	1
Kiowa.....	35	0	1	17	9	8	33	1	0	0	30	4	0
Labette.....	219	48	3	115	28	25	165	0	1	2	127	33	8
Lane.....	45	4	0	31	4	6	40	1	1	0	25	16	0
Leavenworth.....	166	69	0	75	21	1	92	3	1	1	87	10	0
Lincoln.....	97	15	1	66	9	6	81	0	0	0	71	10	0
Linn.....	49	9	1	23	12	4	36	2	1	0	28	11	0
Logan.....	39	22	1	6	2	8	15	0	1	0	8	8	0

TABLE VII.—CONTINUED. Summary, district courts. Motions and demurrers, year ending June 30, 1937.

COUNTIES.	Number filed.	With- drawn or not pre- sented.	Pend- ing July 1, 1937.	Presented.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	Decided pre- sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Lyon.....	133	89	2	39	2	1	38	4	0	0	26	16	0
Marion.....	73	31	1	25	8	8	35	6	0	0	29	12	0
Marshall.....	111	26	0	67	13	5	84	1	0	0	79	6	0
McPherson.....	59	2	0	27	12	18	57	0	0	0	39	18	0
Meade.....	27	22	0	0	0	5	4	0	1	0	5	0	0
Miami.....	106	16	2	27	28	33	72	5	3	8	64	22	2
Mitchell.....	39	12	0	7	5	27	27	0	0	0	11	14	2
Montgomery.....	180	39	8	86	26	21	132	1	0	0	109	24	0
Morris.....	1	0	0	1	0	0	1	0	0	0	0	1	0
Morton.....	88	31	0	19	23	15	57	0	0	0	49	8	0
Nemaha.....	152	7	1	110	18	16	143	1	0	0	140	4	0
Neosho.....	105	9	0	81	12	3	70	10	16	0	87	9	0
Ness.....	55	12	0	36	3	4	43	0	0	0	43	0	0
Norton.....	14	1	1	9	3	0	12	0	0	0	11	1	0
Osage.....	149	11	5	102	18	13	124	5	4	0	114	19	0
Osborne.....	58	8	0	23	14	13	50	0	0	0	44	6	0
Ottawa.....	14	7	0	5	0	2	7	0	0	0	3	4	0
Pawnee.....	26	4	0	17	3	2	22	0	0	0	13	9	0
Phillips.....	102	30	0	55	6	11	71	1	0	0	64	8	0
Pottawatomie.....	98	9	0	44	27	18	89	0	0	0	66	23	0
Pratt.....	53	14	0	4	15	20	39	0	0	0	12	25	2
Rawlins.....	12	12	0	19	5	0	24	0	0	0	17	5	2
Reno.....	295	55	3	160	47	30	230	3	1	3	179	52	6
Republic.....	108	11	1	79	11	6	85	8	1	2	80	11	5
Rice.....	98	21	0	68	6	3	75	0	2	0	65	10	2
Riley.....	170	22	0	124	15	9	144	4	0	0	131	14	3

TABLE VII.—CONCLUDED. Summary, district courts. Motions and demurrers, year ending June 30, 1937.

COUNTIES.	Number filed.	With-drawn or not pre-sented.	Pend-ing July 1, 1937.	Presented.			Decided.				How decided.		
				Within 10 days.	In 10 to 30 days.	After 30 days.	Decided day pre-sented.	Not same day but within 10 days.	In 10 to 30 days.	After 30 days.	Allowed.	Denied.	Partially allowed and denied.
Scott.....	60	5	1	36	7	11	52	1	0	1	36	16	2
Sedgwick.....	863	279	41	281	200	62	468	5	36	34	393	114	36
Seward.....	99	11	0	76	10	2	88	0	0	0	86	2	0
Shawnee.....	1,178	141	20	509	309	199	854	65	54	44	740	266	11
Sheridan.....	67	16	0	34	9	8	50	1	0	0	43	8	0
Sherman.....	97	4	5	40	28	20	86	2	0	0	78	7	3
Smith.....	37	4	0	24	5	4	33	0	0	0	27	6	0
Stafford.....	105	38	0	43	6	18	61	1	0	5	41	26	0
Stanton.....	20	1	0	16	0	3	19	0	0	0	16	3	0
Stevens.....	47	6	1	21	12	7	40	0	0	0	34	6	0
Sumner.....	297	74	37	111	27	48	185	1	0	0	140	43	3
Thomas.....	35	3	1	11	11	9	31	0	0	0	19	7	5
Trego.....	28	3	0	13	3	9	25	0	0	0	16	9	0
Wabunsee.....	37	8	0	14	11	4	24	1	2	2	24	4	1
Wallace.....	1	0	0	1	0	0	0	1	0	0	0	1	0
Washington.....	152	6	30	79	31	6	116	0	0	0	87	26	3
Wichita.....	21	2	0	19	0	0	19	0	0	0	18	1	0
Wilson.....	124	33	2	73	10	6	87	1	1	0	73	12	4
Woodson.....	39	5	1	11	7	15	33	0	0	0	28	5	0
Wyandotte.....	1,709	666	8	682	243	110	1,022	4	2	7	916	119	0
Totals.....	12,876	2,966	302	6,010	2,032	1,566	8,910	331	193	174	7,488	1,924	196





Sec. 562

U. S. I

**P**

Topek

Permi



17-1390

# KANSAS JUDICIAL COUNCIL BULLETIN

DECEMBER, 1937

PART 4—ELEVENTH ANNUAL REPORT



WALTER G. THIELE  
Justice, Supreme Court of Kansas

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland.
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell.
Formerly Judge, Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas C.
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John.
Judge Twentieth Judicial District.	
KIRKE W. DALE.....	Emporia.
Chairman Senate Judiciary Committee.	
HARRY W. FISHER.....	Atchison.
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concordia.
ROBERT C. FOULSTON.....	Wichita.
CHESTER STEVENS.....	Independence.

### COÖPERATING WITH THE

KANSAS STATE BAR ASSOCIATION,  
SOUTHWESTERN KANSAS BAR ASSOCIATION,  
NORTHWESTERN KANSAS BAR ASSOCIATION,  
LOCAL BAR ASSOCIATION OF KANSAS,  
JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
COURT OFFICIALS AND THEIR ASSOCIATIONS,  
THE LEGISLATIVE COUNCIL,  
MEMBERS OF THE PRESS,  
OTHER ORGANIZATIONS, and leading citizens generally throughout the state,

For the improvement of our Judicial System and its more efficient functioning.



## TABLE OF CONTENTS

---

	PAGE
ION DAYS FOR 1938 .....	200
WORD .....	207
TS OF INHERITANCE AS LIMITED BY DEGREES OF CONSANGUINITY.....	209
By JUSTICE THIELE.	
MAIES OF REPORTS OF PROBATE COURTS, by Counties.....	212
The State as a Whole.....	343
ES, COMPILED FROM REPORTS OF PROBATE JUDGES (in next issue).	

MOTION DAYS IN DISTRICT COURTS

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Allen.....	Iola.....	Wallace H. Anderson,	Nell Hogan Stinaman,	37	5 11	2 9 16 23	2 30	6 13 20 27	4 10	1 29	7 13	5 12 19 26	2 9 30	7 14		
Anderson.....	Garnett.....	Hugh Means.....	Mrs. Erna Miller.....	4	7	4	7	1	6	13	9	10	4	9		
Atchison.....	Atchison.....	Lawrence F. Day....	Hal Waisner.....	2	8 15 22 29	5 19 26	5 12 19 26	2 9 16 23 30	7 14 21 28	4 11 18 25	10 17 24	8 15 22 29	5 12 19 26	3 10 17 31		
Barber.....	Medicine Lodge....	George L. Hay.....	Edith Myers.....	24	6	14	12	25	13	3	10	24	10	9		
Barton.....	Great Bend.....	Ray H. Beals.....	Jack Morrison, Jr.....	20	8	5	1	2	7	7	3	1	5	3		
Bourbon.....	Fort Scott.....	W. F. Jackson.....	George T. Farmer.....	6	1 8 15 22 29	5 19 26	5 12 19 26	2 9 16 23 30	7 14 21 28	4 11 18 25	3 10 17 24	1 8 15 22 29	5 12 19 26	3 10 17		
Brown.....	Hiawatha.....	C. W. Ryan.....	H. N. Zimmerman.....	22	25	22	29	26	24	14	27	25	29	20		
Butler.....	El Dorado.....	A. T. Ayres..... George J. Benson.	Charles G. Smith.....	13	8	5	7	1	7	13	3	1	14	6		
Chase.....	Cottonwood Falls..	Joe Rolston, Jr.....	Clinton W. Scott.....	5	28	25	25	29	27	24	30	28	25	30		
Chautauqua.....	Sedan.....	A. T. Ayres..... George J. Benson.	J. B. McTown.....	13	15	1	21	4	14	7	6	11	1	5		
Cherokee..... Columbus div.	Columbus.....	V. J. Bowersock.....	Earnest Milton.....	11	4	8	8	5	2	7	2	4	2	2		

Country.	County seat.	Judge.	Clerk.	No. Ind. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Clark.....	Ashland.....	Karl Miller.....	Mrs. Hope Grimes.....	31	13b	17b	17b	14b	12b	16b	8b	6b	10b	15b		
Clay.....	Clay Center.....	Edgar C. Bennett.....	Harold Crawford.....	21	6	11	7	7	4	6	1	6	7	2		
Cloud.....	Concordia.....	Thos. Kennett.....	Lawrence Johnston.....	12	3	8	8	4	3	7	20	18	22	16		
Coffey.....	Burlington.....	Joe Rolston, Jr.....	John Meek, Jr.....	5	31	28	28	25	31	27	26	31	28	27		
Comanche.....	Coldwater.....	Karl Miller.....	Jessie Chamness.....	31	12a	16a	16a	13a	11a	15a	7a	5a	9a	14a		
Cowley.....	Winfield.....	Stewart F. Bloss.....	Mrs. Marie Snyder.....	19	3	7	7	4	2	6	5	3	7	5		
					17	21	21	18	16	20	19	17	21	19		
Crawford.....	Girard.....	L. M. Resler.....	Jean Bell.....	38	10	7	7	4	2	6	5	3	7	5		
Girard div.					17	21	21	18	9	20	19	17	21	19		
Pittsburg div.																
Decatur.....	Oberlin.....	E. E. Kite.....	Dorothy McGee.....	17	20	17 - 28	17	15	9	3	15	4 - 10	29	13		
Dickinson.....	Abilene.....	C. M. Clark.....	Seth Barter, Jr.....	8	8a	18a	7c	16c	16a	6c	12a	14a	14c	17a		
Doniphan.....	Troy.....	C. W. Ryan.....	Bulah M. Swiggett.....	22	27	24	31	28	26	16	29	27	30	21		
Douglas.....	Lawrence.....	Hugh Means.....	John Callahan.....	4	8	7	5	2	2	4	10	8	7	3		
Edwards.....	Kinsley.....	Lorin T. Peters.....	C. E. Burke.....	33	4	14	7	7	2	1	7	4	10	6		
Elk.....	Howard.....	A. T. Ayres.....	Mary E. Johnson.....	13	3	7	19	2	2	6	19	3	7	6		
		George J. Benson.....														
Ellis.....	Hays.....	C. A. Spencer.....	C. J. Werth.....	23	13	7	18	14	16	17	15	17	18	15		
Ellsworth.....	Ellsworth.....	Roy A. Smith.....	James M. Wilson.....	30	24	24	28	25	12	3	6	10	3	1		
Finney.....	Garden City.....	Fred J. Evans.....	Mrs. Walter Harvey.....	32	10f	11f	25f	22f	2f	25f	13f-26f	22f	19f	17f		
Ford.....	Dodge City.....	Karl Miller.....	Susan Ader Evans.....	31	15a	19a	19a	16a	14a	18a	10a	8a	12a	17a		

MOTION DAYS IN DISTRICT COURTS—CONTINUED

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Franklin.....	Ottawa.....	Hugh Means.....	Ann M. Shiras.....	4	3	5	4	4	7	11	12	7	5	10		
Geary.....	Junction City.....	C. M. Clark.....	George J. Webster.....	8	3c	18c	7a	16a	16c	6a	12c	14c	14a	17c		
Gove.....	Gove City.....	C. A. Spencer.....	J. B. Chenoweth.....	23	26	23	21	25	27	20	26	15	21	28		
Graham.....	Hill City.....	W. K. Skinner.....	Grace Schweitzer.....	34	8	7	16	14	16	18	19	10	18	6		
Grant.....	Ulysses.....	F. O. Rindom.....	Jewell Rowland.....	39	3d	7d	7b	11b	2d	6d	3d	3d	2d	5b		
Gray.....	Cimarron.....	Karl Miller.....	Mollie Parks.....	31	10d	14d	14d	11d	9d	13d	5d	3d	7d	12d		
Greeley.....	Tribune.....	Fred J. Evans.....	T. P. Tucker.....	32	5f	14f	23f	20f	25f	22f	16f	17f	16f	14f		
Greenwood.....	Eureka.....	A. T. Ayres..... George J. Benson.	Warren R. Willis.....	13	17	2	18	1	16	11	6	10	2	7		
Hamilton.....	Syracuse.....	Fred J. Evans.....	Amelia J. Minor.....	32	4f	23f	24f	19f	24f	21f	15f	24f	21f	15f		
Harper.....	Anthony.....	George L. Hay.....	Jay B. Pearl.....	24	10	10	11	11	12	20	9	10	9	8		
Harvey.....	Newton.....	J. G. Somers.....	Lloyd L. McMullen.....	9	6	14	18	7	9	10	22	27	14	9		
Haskell.....	Sublette.....	F. O. Rindom.....	Mrs E. M. Yarbrough.	39	3b	7b	14b	6b	2b	6b	19b	3b	2b	1b		
Hodgeman.....	Jetmore.....	Lorine Peters.....	Fred R. Wilson.....	33	5	7	1	5	9	6	8	5	14	7		
Jackson.....	Holton.....	Lloyd Morris.....	Mrs. Elfa Rudy.....	36	10	3	3	7	2	10	8	3	10	8		
Jefferson.....	Oskaloosa.....	Lloyd Morris.....	Marguerite N. McCoy.	36	3	1	7	8	6	6	9	7	7	9		
Jewell.....	Mankato.....	W. R. Mitchell.....	Bernice Howard.....	15	8	4	7	8	6	6	23	14	14	3		
Johnson.....	Olathe.....	G. A. Roberts.....	Violet J. Paris.....	10	3	21	28	11	2	23	6	17	21	12		

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Kiowa.....	Greensburg.....	Karl Miller.....	Herbert Miller.....	31	11d	15d	15d	12d	10d	14d	6d	4d	8d	13d		
Labette.....	Oswego.....	L. E. Goodrich.....	Fred Wyrick.....	16	28	25	25	29	27	24	23	28	25	16		
Oswego div.....	Parsons div.....	.....	.....	.....	17	28	28	25	23	20	19	17	28	19		
Lane.....	Dighton.....	Fred J. Evans.....	Q. H. Jewett.....	32	8f	9f	28f	21f	27f	24f	19f	19f	28f	21f		
Leavenworth.....	Leavenworth.....	J. H. Wendorf.....	Minnie Courtney.....	1	1	5	5	2	7	4	3	1	5	3		
Lincoln.....	Lincoln.....	Roy A. Smith.....	Ernest D. Harlow.....	30	4	14	29	8	16	2	8	7	7	2		
Linn.....	Mound City.....	W. F. Jackson.....	C. B. Platt.....	6	4	7	7	11	2	6	6	3	7	5		
Logan.....	Russell Springs.....	C. A. Spencer.....	A. W. Rogge.....	23	28	25	19	4	14	29	5	28	19	5		
Lyon.....	Emporia.....	Joe Rolston, Jr.....	Maude Evans.....	5	26	23	30	27	25	29	28	26	30	28		
Marion.....	Marion.....	C. M. Clark.....	Peter P. Fleming.....	8	15a	7a	19a	11	2	18	6a	3	7a	24		
Marshall.....	Marysville.....	Edgar C. Bennett.....	Wallace J. Koppes.....	21	7	7	11	8	2	3	2	3	4	3		
McPherson.....	McPherson.....	J. G. Somers.....	Donald S. Clark.....	9	7	18	14	8	13	6	23	28	18	5		
Meade.....	Meade.....	Karl Miller.....	Ethel Copenhaver.....	31	14b	18b	18b	15b	13b	17b	9b	7b	11b	16b		
Miami.....	Paola.....	G. A. Roberts.....	Hugh W. Campbell.....	10	17	7	21	25	16	6-27	1	3	14	19		
Mitchell.....	Beloit.....	W. R. Mitchell.....	Herbert Shaefer.....	15	10	3	4	18	5	3	26	12	10	2		
Montgomery.....	Independence.....	James W. Holdren.....	Chester F. Critton.....	14	1	5	5	2	7	4	3	1	5	3		
Independ. div.....	.....	.....	.....	.....	15	19	19	16	21	18	17	15	19	17		
Coffeyville div.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....		
Morris.....	Council Grove.....	C. M. Clark.....	J. A. Bruton.....	8	15c	19	18	4	14	20	6c	15	7c	5		

MOTION DAYS IN DISTRICT COURTS—CONTINUED

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Morton.....	Richfield.....	F. O. Rindom.....	Kathleen Crawford....	39	4d	14b	8b	7b	3d	7d	5b	4d	3d	2b		
Nemaha.....	Seneca.....	C. W. Ryan.....	Ella Schneider.....	22	24	21	28	25	23	13	26	24	28	19		
Neosho.....	Erie.....	J. T. Cooper.....	Margaret Whitworth...	7	5	8	2	6	10	1	7	11	2	7		
Ness.....	Ness City.....	Lorin T. Peters.....	Laura M. Jackson.....	33	6	9	14	6	12	7	12	6	8	12		
Norton.....	Norton.....	E. E. Kite.....	Ethel Bechtoldt.....	17	3 10 - 19	18	15	13	4	2	5 14	6	12	15		
Osage.....	Lyndon.....	Robert T. Price.....	Walter Maxwell.....	35	7	4	8	1	6	14	9	7	8	2		
Osborne.....	Osborne.....	W. R. Mitchell.....	Alva Anderson.....	15	7	7	3	7	9	1	22	17	12	1		
Ottawa.....	Minneapolis.....	Roy A. Smith.....	A. H. Finley.....	30	10	23	30	11	13	1	7	24	4	3		
Pawnee.....	Larned.....	Lorin T. Peters.....	Rose Mason.....	33	3	10	9	11	10	2	6	10	7	5		
Phillips.....	Phillipsburg.....	E. E. Kite.....	L. R. Halbert.....	17	18	7 - 19	16	16	2	1	13 - 19	5	11	14		
Pottawatomie.....	Westmoreland....	Lloyd Morris.....	Charles S. Smith.....	36	6	4	4	5	5	9	6	6	11	6		
Pratt.....	Pratt.....	George L. Hay.....	Mary Fairchild.....	24	7	11	14	8	16	4	12	7	14	10		
Rawlins.....	Atwood.....	E. E. Kite.....	Elizabeth Thompson....	17	21	16	14 - 21	14	16	4a	16	7	10 - 14	16		
Reno.....	Hutchinson.....	J. G. Somers.....	Walter Mead.....	9	8 15 22	5 19 26	5 12 26	2 9 16	7 14 21	4 11 18	17 24 25	1 8 15	5 12 19	3 10 17		
Republic.....	Belleville.....	Thos. Kennett.....	Wm. R. Goodwin.....	12	4	7	9	5	2	8	27	17	23	17		

COUNTY.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Rooks.....	Stockton.....	W. K. Skinner.....	George F. Crane.....	34	10	19	12	13	2	4	5	11	19	5		
Rush.....	La Crosse.....	Lorin T. Peters.....	Edwin Popp.....	33	10	8	8	4	11	3	5	3	9	8		
Russell.....	Russell.....	C. A. Spencer.....	George W. Brandt.....	23	3	17	17	13	2	16	13	3	17	13		
Saline.....	Salina.....	Roy A. Smith.....	O. Howard Ford.....	30	3	25	7	9	14	4	12	8	5	5		
Scott.....	Scott City.....	Fred J. Evans.....	Nellie Schuerman.....	32	7f	8f	21f	11f	28f	27f	20f	20f	18f	12f		
Sedgwick.....	Wichita.....	A. E. Jacques.....	A. E. Jacques.....	18	15	5	5	2	7	4	3	1	5	3		
First div.....	First div.....	Ross McCormick.....	1st and 2d divisions.....	.....	.....	19	19	16	21	13	17	15	19	17		
Second div.....	Second div.....	R. L. Nesmith.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....		
Third div.....	Third div.....	Grover Pierpont.....	3d and 4th divisions.....	.....	8	12	12	9	14	11	10	8	12	10		
Fourth div.....	Fourth div.....	I. N. Williams.....	.....	.....	22	26	26	23	28	25	24	22	26	24		
Seward.....	Liberal.....	F. O. Rindom.....	H. W. Lane.....	39	10b	19b	19b	16b	23b	18b	17b	15b	14b	19b		
Shawnee (Note 3). First div.....	Topeka.....	George A. Kline.....	Leah B. Willcuts.....	3	15	5	19	9	21	11	3	15	5	17		
Second div.....	Second div.....	Paul L. Heinz.....	.....	.....	1	12	5	16	7	18	10	1	12	3		
Third div.....	Third div.....	Otis E. Hungate.....	.....	.....	22	.....	26	.....	26	.....	.....	22	.....	24		
Sheridan.....	Hoxie.....	W. K. Skinner.....	Noah Turner.....	34	8	19	13	2	14	4	17	8	19	10		
Sherman.....	Goodland.....	W. K. Skinner.....	William Mangus.....	.....	29	.....	.....	23	.....	25	.....	29	.....	31		
Smith.....	Smith Center.....	W. R. Mitchell.....	Ronald McClain.....	15	6	2	28	6	4	20	21	13	9	5		
Stafford.....	St. John.....	Ray H. Beals.....	Gertrude Bartle.....	20	3	1	7	4	3	6	2	4	1	1		
Stanton.....	Johnson.....	F. O. Rindom.....	J. E. Saunders.....	39	4b	28b	7d	6d	3b	7b	12b	4b	3b	1d		

MOTION DAYS IN DISTRICT COURTS—CONCLUDED

County.	County seat.	Judge.	Clerk.	No. Jud. Dist.	1938.											
					Jan.	Feb.	Mar.	Apr.	May.	June.	Sept.	Oct.	Nov.	Dec.		
Stevens.....	Hugoton.....	F. O. Rindom.....	John F. Fulkerson.....	39	24b	8b	28b	7d	4b	8b	3b	24b	4b	2d		
Sumner.....	Wellington.....	Wendell Ready.....	Jessie Haverstock.....	25	4	3	3	7	3	2	6	6	3	1		
Thomas.....	Colby.....	W. K. Skinner.....	N. C. Knudson.....	34	6	18	21	16	27	20	16	13	7	8		
Trego.....	Wakeeney.....	C. A. Spencer.....	Elba Brandenburg.....	23	14	18	7	15	13	6	17	14	7	17		
Wabaunsee.....	Alma.....	Robert T. Price.....	Eva Dorman.....	35	5	1	2	6	3	1	7	4	2	7		
Wallace.....	Sharon Springs.....	C. A. Spencer.....	Ida Ward.....	23	27	24	30	18	26	28	19	27	28	19		
Washington.....	Washington.....	Thos. Kennett.....	Mrs. Alta Hennon.....	12	5	9	7	6	4	6	28	19	21	15		
Wichita.....	Leoti.....	Fred J. Evans.....	Mrs. Kate Elder.....	32	6f	10f	22f	25f	26f	23f	17f	21f	17f	19f		
Wilson.....	Fredonia.....	J. T. Cooper.....	Leslie V. York.....	7	4	1	1	5	3	7	6	4	1	6		
Woodson.....	Yates Center.....	Wallace H. Anderson.....	John F. Timm.....	37	4	1	1	5	3	7	6	4	1	6		
					.....	8	8	12	31	14	27	11	8	13		
					.....	15 - 22	29	19 - 26	.....	.....	.....	18 - 25	15	.....		
Wyandotte.....	Kansas City.....	.....	Harold H. Harding.....	29	8	5	5	2	7	4	17	1	5	3		
First div.....	.....	E. L. Fischer.....	.....	.....	8	12	12	9	14	11	10	8	12	10		
Second div.....	.....	Willard M. Benton.....	.....	.....	15	19	19	16	21	18	17	15	19	17		
Third div.....	.....	Harvey J. Emerson.....	.....	.....	22	26	26	23	28	25	24	22	26	24		
Fourth div.....	.....	C. A. Miller.....	.....	.....												

a. 9:00 a. m. b. 10:00 a. m. c. 1:30 p. m. d. 2:00 p. m. e. 1:00 p. m. mountain time. f. 10:00 a. m. mountain time.

NOTE 1. Italics indicate the date is also the first day of a regular term of court.

NOTE 2. The four divisions of the court in Wyandotte county work with three jury divisions and one "law division," which is rotated among the judges. The "law division" has a motion day each week. The day of the week is designated by the judge at the beginning of the term. Except as modified by the



## FOREWORD

---

In this issue we have as our frontispiece the portrait of Justice Thiele, of the Supreme Court, and we print an article by him on "Rights of Inheritance Limited by Degrees of Consanguinity." Justice Thiele is unusually well qualified to treat this subject, or any question involving rights of inheritance in the law of estates. For several years before he became a member of the Court, a substantial portion of his practice had to do with these questions, and he is now instructing a class in the law of wills at the Washburn College School of Law. The question discussed in his article is met by district judges in partition actions and by probate judges in the distribution of estates. Several of them have suggested to some member of the Council the need of a limitation. It is rare that any real satisfactory evidence can be produced in court at a hearing to establish relationship by consanguinity beyond the fourth degree, as computed by the civil law, and frequently that is true before the fourth degree. To determine inheritance to unlimited degrees the evidence offered is hazy, uncertain, influenced by self interest, and all too frequently by actual fraud and perjury, under circumstances impossible to command and ordinarily those found to be heirs in such a hearing are so far removed from the one whose estate is to be distributed as to have no meritorious claim. The question is worthy of consideration, with a view of formulating an appropriate statute on the subject. Comments on the advisability of such a statute, and suggestions as to how best to frame it, will be appreciated.

---

**CORRECTION:** On page 151 of our October, 1937, BULLETIN we made an error in stating the population of the thirty-fifth judicial district as 15,871. The district is composed of two counties, Osage with a population of 15,824, and Pottawatomie with a population of 10,047, making the total for the district 25,871.

---

This issue contains the "motion days" for 1938 for the various district courts throughout the state. The fixing of these days has become an institution in the judicial structure and procedure, and has enabled the courts, attorneys and laymen to expedite the disposition of business with many beneficial results.

---

In this issue, also, are the summaries of reports from probate judges of the business transacted in those courts for the year ending June 30, 1937, and beginning on July 1 of that year. We appreciate the promptness with which the reports have been sent in and the coöperation of the probate judges throughout the state in their efforts to have these reports complete and accurate. It is the best set of reports we have ever received from probate judges, and they came to us more promptly than at any time previously when such

reports have been collected. Collectively they show the great amount of business being transacted in these courts and the importance of the courts to the people of the respective counties. While data is not available to compare them accurately, we feel confident that the value of the probate process of administration in these courts exceeds that involved in litigation in the district courts. The legal questions which arise in the transaction of business frequently are as important and as difficult of solution as those which arise in the district courts. As units in our judicial structure these courts heretofore have not had as much attention by the people generally and by the legislature as they are entitled to receive. Correspondence with the judges discloses that while in relatively few counties the quarters provided for the courthouse for the probate court and help furnished are adequate to enable them to handle the business properly, in a great many of the counties that is not true. In all too many of them the judges are compelled to work in cramped quarters and with the lack of adequate clerical help. The chief complaint in such counties is that the judges have to work excessively long hours, sometimes at times in the evenings, and they find it then impossible to do the work as well as they would like to do it and as it should be done. Compared with what is expected and required of them the salary is grossly inadequate. In any county where these conditions exist it would be real economy to improve the situations to be improved. Such improvement would enable the courts to perform its work so much better and more expeditiously that the additional expense would be justified.

---

In reporting on cases pending, most of the judges searched their records only a few years back. Others endeavored to show all unclosed cases. The correspondence indicates that in almost every county in the state there are a large number of estates of deceased persons and of minors that never have been closed, although in many of them no action has been taken for several years. At least one of the judges has endeavored to close up these old cases, proceeding under G. S. 1935, 22-908. Obviously these old cases should be closed. The fact that it has not been done frequently necessitates actions to close them and other litigation. If the statute cited is inadequate for that purpose, the almost uniform lack of use would tend to show, a statute should be enacted on the subject. We would be glad to hear from judges and attorneys recommending such a proposed statute.

---

We are continuing our study of a probate code and the framing of a code embodying the substantive law of estates mentioned in our October Bulletin. Already we have had some advice from a few probate judges and a number of attorneys who are not members of the Council, and expect to have more that within the next few months. The work is progressing in such a way that we feel confident we will be able to present a tentative draft of these proposals with explanatory notes, in our April, 1938, BULLETIN.

## Rights of Inheritance as Limited by Degrees of Consanguinity

By WALTER G. THIELE, Justice, Supreme Court of Kansas

In recent years the courts of this state have been and are now concerned with the administration of two particular estates which have attracted attention largely because the owners died intestate leaving estates of great value and because there were no definitely known heirs. One is that of Mar-Schindler, of Wichita, the other is that of Ellen Doyle, of Marion. In these cases there has been controversy about whether the decedent left heirs who those heirs are, and who is next of kin under our statutes and thus entitled to the respective estates or interests therein.

A similar case from another jurisdiction is that of a Miss Wendell, an elderly woman, whose family had amassed a fortune in New York realty. She died in 1933, leaving a will giving the bulk of her fortune to charity. Her executors, in carrying out her will for probate, stated she left no relatives. Some 2,300 persons sought to establish themselves as heirs entitled to join in an assault on her will. In 1933, four claimants, conceded to be relatives in the fifth degree, accepted two million dollars in consideration of their agreement not to contest her will and they are believed to have agreed to share this sum with some sixty persons in the sixth, seventh and eighth degrees.

The purpose hereof is not to discuss either of these estates. Rather, the fact that there has been controversy as to whether either decedent left heirs who might be entitled to inherit if the decedent died intestate, or whether the estate would escheat to the state generally or for some particular purpose, or if the decedent left a will, whether the estate might be entitled to contest it, has aroused curiosity as to the law generally with respect to whether there is or should be any limit on degrees of inheritance.

While people generally are inclined to believe they have certain natural rights of inheritance, the fact is that practically every known code of laws provides a provision for the disposition of property after death. The ancient codes differ from one another just as the laws of inheritance of our various states differ from one another. Space does not permit any discussion of so-called civil laws. It must suffice here to say the Supreme Court of the United States, in upholding statutes levying a tax on successions, adopted the view that the right of inheritance was not a natural right.

Although some references will be made to our statutes respecting descents and escheats which will disclose the same more fully, it may be said that in general the right to inherit is the result of positive enactment, and not the deduction of any assumed natural right to inherit. We may not now concern ourselves with any system dealing with primogeniture, providing for forced heirs, etc. Rather, attention will be directed to the system as it now exists in Kansas, to determine whether there should be a limitation declared as to who may inherit from a decedent.

Persons having the blood of a common ancestor are said to be in consanguinity, and the relationship may be lineal or collateral. Lineal consanguinity exists when one is descended from the other, as grandfather, father and son. Collateral consanguinity is the relationship existing among persons who are de-

scended from the same ancestor but not from each other, that is, the common ancestor but are in different branches of the ancestor's family aunt, nephew, niece, cousin. Consanguinity is counted by degrees, the method of counting varies under the civil law on the one hand, and common law on the other, and both methods are recognized in various statutes terminating next of kin.

Under the common law the method of determining degree is to find the common ancestor and to reckon downward, and the degree the two persons concerned, or the more remote of them, is from that common ancestor is the degree of consanguinity existing between them. Under this rule, brothers are the first degree, and an uncle and his nephew are in the second degree.

The method under the civil law is to begin with either of two persons concerned and count up to the common ancestor, and then down to the other, giving it a degree for each person both ascending and descending, and the sum of degrees thus obtained is the degree of consanguinity between them. Under this rule the relationship between an uncle and his nephew would be the third degree.

Both methods have been criticized. Under either system there is no difference as to lineal consanguinity, but if any limit is to be placed on consanguinity it must be made certain which method is to be followed. There must be specific declaration that heirship is limited to a named common ancestor, as, for instance, a common grandfather. The latter is subject to criticism that it still would leave open possibility of controversy as to "next of kin," that is, who is the closest surviving relative.

A very brief summary of our Kansas statutes with respect to heirs and escheat because of failure of heirs, and ignoring provisions as to dower and forced shares, etc., discloses that under the first territorial act, chapter 67, Laws of 1855, real and personal property went to decedent's children or their heirs in equal parts, or if there were no children or descendants, then to the father, mother, brothers and sisters and their descendants, in equal parts; if none of them, then to his grandfather, grandmother, uncles and aunts and their descendants, in equal parts; if none of these, great grandfathers, etc. In other cases, without end, passing to the nearest lineal ancestors, children, and their descendants, in equal parts." If there was failure of these, then the wife took. A more complete review of this act would be of interest, but limits of space preclude. Chapter 67, Laws of 1855, was amended by chapter 28 sections providing for escheat to the Territory of the property of a person dying seized of real or personal property, without devise, and leaving no heirs or representatives capable of inheriting the same, etc. In view of the extensive provisions of the act defining descents, it is somewhat difficult to see where there ever could be an escheat.

Chapter 63, Laws of 1859, made provision for the wife, and in the absence of a will, the remaining estate descended in equal shares to the children, the heirs of a deceased child to take his share in the same manner, though he had outlived his parent and, failing issue, the whole estate should go to the wife, and if the decedent left no wife or children, then the estate should go to his father, and if he were dead, then in the same manner as though the father had survived and died in possession of the property, so on through each ascending ancestor and his issue, unless heirs were found. If there was a failure in the male line, then the portion un-

to the mother and to her heirs, following the same rules, and, failing heirs in that manner, provision was made to the wife's heirs, and if the decedent had two wives, for division among their heirs, and—

"Sec. 22. If still there be property remaining uninherited, it shall escheat to the territory."

After statehood, a change was made. G. S. 1868, ch. 33, made provision for homestead and the wife's interest, and that the remaining property should be divided among the children in equal shares, the heirs of a deceased child to take his share; that if decedent left no issue, the whole should go to the wife and, if no wife, all to his parents. We shall not notice subsequent changes, for they do not materially affect the question. This act made no mention of failure of heirs nor of escheat. But in the act with reference to executors and administrators, provisions were made for the disposition of the estates of persons dying without heirs. These provisions were repealed by a more comprehensive act passed in 1935, but this last act makes no pretense of limiting heirs. It does provide that estates of persons dying without known heirs shall be administered and the proceeds paid into the state treasury for the benefit of the state school fund, subject to being claimed by heirs within the time limit prescribed by the act.

The fact our present law of inheritance has stood practically unchanged for nearly seventy years is some indication that it fairly reflects the ideas of our people and provides a just and equitable method of descent and distribution. In 1935 the legislature saw fit to change the statutory provisions with reference to estates of persons dying intestate and without known heirs and the former situation was not satisfactory. Would the situation be improved by placing a limit on those who might inherit under such circumstances? It must be remembered that within the past thirty years we have had legislation in the state and nation for inheritance and succession taxes, thus affecting the shares of heirs and beneficiaries. Should we now amend our laws to prohibit that rights of inheritance are limited to persons within certain degrees of relationship to the decedent, not attempting, of course, to limit the right of a competent person to make provision by will for his property to go where he may choose? The present statute provides for escheat where the deceased leaves no known heirs. Yet everyone knows that perhaps no person exists who, on his death, does not leave heirs in some degree who may be discovered if the search be carried far enough. And everyone knows that if the decedent leaves a substantial estate, there will be many fanciful, if not actually fraudulent, claims made by persons claiming heirship, and who never knew or cared for the decedent until they read in some newspaper of his death and the fact he left, or were informed thereof by some otherwise interested person. Where is there some place to draw the line and to say "In equity and good conscience, you are not entitled to inherit"? The term "laughing heir" has been applied to a person who, although related in some degree, is so remotely related to or so remotely acquainted with the decedent that he is much more pleased with his inheritance than he is grieved by the death of his relative. A strong argument may be made that the present form may be based on the social injustice of inheritance by the "laughing heir" and the litigation from contests by remote heirs capitalizing upon their relationship. Changing social and economic conditions present another point of view. The state, which would be the most immediate beneficiary of a limitation of inheritance, has come to occupy more and more a paternalistic position toward

the individual citizen. Not only is education publicly supported, but of varying sorts are conferred by the state on various of its citizens. The state maintains an extensive system of public eleemosynary, educational and other institutions which the state maintains as a tribute to each person's benefit; and if a competent person, knowing no kin within a particular degree, sees fit to die without providing by will for the disposition of his estate, whether it be large or small, no good reason suggests itself why it should not go to the state which, by the protection afforded, enabled the decedent to accumulate and keep the property. Certainly such a limitation with consequent effects would be equally as objectionable as the inheritance and estate taxes which, dependent on the size of the estate, pass largely into the amount widows, children and those closely related now receive.

In other countries and other jurisdictions there are now limitations on inheritance. The French law permits the intestate's second cousin to inherit in ordinary cases none of more remote degree may do so. Prior to 1804 laterals up to the twelfth degree might inherit in France. In that year the law was reduced to the sixth degree where the decedent could not make a will. Our American statutes generally follow the old English law and allow succession to the sixth degree though the claimant be ever so distantly related, provided there is no nearer relative of kin. The rule of the German civil code is in accord. However, there are many exceptions. In the District of Columbia and Maryland, personalty passes to relatives more distant than the fifth degree reckoned by counting from the common ancestor to the more remote, but goes instead to the nearest relative of the decedent's estate. In Wyoming, the statutory table provides for descendants of the intestate to the third degree, but not to the fourth degree, and to the parents and no farther.

Whether there should be a limitation fixed may be the subject of future legislation. If a change is to be made, it should be only after careful consideration as to an exact method of determining limitations as to degrees of relationship, but where the line should be drawn. Consideration might also be given to a provision similar to that in effect in England that when property passes to the state, provision may be made out of it for dependents, whether kindred or not of the intestate, and other persons for whom the intestate might reasonably be expected to have been expected to make provision, had he made a will.

#### ALLEN COUNTY

Area, 504 square miles; population, 20,196; assessed value, \$26,035,400.

Report made by Hon. A. M. Dunlap, probate judge for 6 months. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed as needed, 7 juvenile cases were closed within the year and none were pending. There were no habeas corpus proceedings, no orders were made in district court cases, and no proceedings in execution within the year. Three adoption proceedings were had and no insanity cases were heard within the year.

Estates of 42 deceased persons were closed within the year. In 1914 the final report was filed within 1 year after letters of administration were granted in 24 cases from 1 to 2 years, in 6 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 3 cases from 4 to 5 years, in 4 cases from 5 to 10 years, and in 3 cases longer than 10 years. In 24 cases there was a will, and in 18 cases the decedent was intestate. In 28 cases bond was required of the executor or administrator and in 27 cases bonds had been kept good. In 14 cases

required. The inventory was filed within 60 days in 18 cases, and after 60 days in 24 cases. Thirty-eight first annual reports had been filed. The aggregate value of 41 of these estates, as appraised, was \$436,235.18; the estimated value of estates not appraised was \$38,081.50. In 34 cases attorneys represented the executor or administrator, but in no cases were the heirs or devisees represented. In 8 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,154.60 were allowed for executors and administrators, and \$3,307.90 for attorneys. In 38 cases the estates paid claims in full and in 4 cases the estates did not pay claims in full.

There were 150 deceased persons were pending July 1, 1937. Of these cases there have been pending less than 1 year, 22 from 1 to 2 years, 14 from 2 to 3 years, 16 from 3 to 4 years, 14 from 4 to 5 years, 27 from 5 to 10 years, and 39 longer than 10 years. In 78 of these there was a will and in 72 cases decedent was intestate. In 113 cases bond was required of the executor or administrator and all bonds were kept good. In 37 cases no bond was required. In 9 cases the inventory was filed within 60 days, in 68 cases after 60 days, and in 23 cases no inventory was filed. The appraised value of 109 of these estates is \$1,007,108.28, and the estimated value of property not appraised is \$82,266. In 51 cases first annual reports have been filed and in 99 cases reports had not been filed. An attorney represented the executor or administrator in 81 cases, the heirs or devisees in 3 cases, and in 69 cases the report does not show that an attorney appeared for anyone.

There were 9 guardianship estates of minors or other incompetents closed in the year. In 1 case final report was filed within 1 year after guardian appointed, in 3 cases from 1 to 2 years, in 2 cases from 3 to 4 years, in 1 case from 4 to 5 years, in 1 from 5 to 10 years, and in 1 longer than 10 years. Of these estates 6 were minors, 1 of an insane person, and 2 of incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$42,583.79. All guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 4 cases, and after 30 days in 5 cases. In these cases 31 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 6 cases, but in no case for the ward. In 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$450 were allowed for guardians and \$45 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 118 guardianship estate cases pending July 1, 1937. Of these there had been pending less than 1 year, 14 from 1 to 2 years, 12 from 2 to 3 years, 13 from 3 to 4 years, 6 from 4 to 5 years, 39 from 5 to 10 years, and 19 longer than 10 years. These were estates of 81 minors, 28 insane persons, and 9 other incompetents. A guardian was appointed for the person of the ward in 12 cases. The value of these estates, as reported, is \$135,677.36. In 99 cases bond was required of the guardian and in 93 cases bond has been kept good. In 19 cases no bond was required. An inventory was filed within 30 days in 22 cases, after 30 days in 29 cases, and in 67 cases no inventory had been filed. In these cases 155 annual reports had been filed. The investment of funds of the ward is supervised by the court in 45 cases and in 72 cases they have not. In 1 case there were no funds. An attorney appeared for the guardian

in 39 cases and in no case for the ward. In 79 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,580.00 were allowed for guardians and \$1,917.86 for attorneys. The wards' funds have been properly preserved and cared for in 52 cases. In 3 cases funds were not cared for support of the minor.

#### ANDERSON COUNTY

Area, 576 square miles; population, 11,821; assessed value, \$18,595,800.

Report made by Hon. L. H. Spohn, probate judge for 8½ years. There had been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, 15 juvenile cases were heard within the year and of this number 7 were pending. There were no habeas corpus cases, 3 orders were made in district court cases, and there were no writs in aid of execution within the year. Two adoption proceedings were heard and 9 insanity cases were heard within the year.

Estates of 57 deceased persons were closed within the year. In 9 cases the final report was filed within 1 year after letters of administration were granted, in 28 cases from 1 to 2 years, in 7 cases from 2 to 3 years, in 5 cases from 3 to 4 years, in 1 case from 4 to 5 years, in 3 cases from 5 to 10 years, and in 4 cases after 10 years. In 25 cases there was a will, and in 32 cases there was no will. In 34 cases bond was required of the executor or administrator, and in 33 cases bonds had been kept good. In 23 cases no bond was required. The inventory was filed within 60 days in 26 cases, after 60 days in 19 cases, and in 21 cases no inventory was filed. Fifty-seven annual reports have been filed. The aggregate value of 34 of these estates, as appraised, was \$171,303.82, the estimated value of estates not appraised was \$101,303.82. In 14 cases attorneys represented the executor or administrator, in 13 cases the heirs or devisees and in 42 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,572.80 were allowed for the executors or administrators, and \$3,026.78 for attorneys. In 47 cases the estates paid claims in full and in 10 cases the estates did not pay claims in full.

Estates of 80 deceased persons were pending July 1, 1937. Thirty-nine cases have been pending less than 1 year, 14 from 1 to 2 years, 12 from 2 to 3 years, 6 cases from 3 to 4 years, 5 cases from 4 to 5 years, 4 cases from 5 to 10 years, and in 1 case after 10 years. In 39 of these cases there was a will and in 41 cases deceased was intestate. In 46 cases bond was required of the executor or administrator. In 33 cases bonds were kept good, and in 8 cases bonds were not kept good. In 19 cases no bond was required. In 35 cases the inventory was filed within 60 days, in 5 cases after 60 days, and in 40 cases no inventory was filed. The aggregate value of 57 of these estates is \$376,992.89 and the estimated value of estates not appraised is \$100. In 5 cases first annual reports have been filed, in 75 cases such reports had not been filed. An attorney represented the executor or administrator in 12 cases; the heirs or devisees in 8 cases; and in 60 cases the report does not show that an attorney appeared for anyone.

There were 6 guardianship estates of minors or other incompetent persons within the year. In 2 cases final report was filed within 1 year, in 1 case from 1 to 2 years, and in 3 cases from 5 to 10 years. Of these estates 4 were of minors, 1 of an insane person and 1 of an incompetent person. In 4 cases a guardian was appointed for the person of the ward. The value of these estates as reported, is \$7,712. Five guardians were required to give bond,



have been kept good. No inventory was filed in any case. In these 15 annual reports have been filed. Investment of funds of the ward has supervised by the court in 4 cases. An attorney appeared for the guardian in 2 cases. In 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$135 were allowed for guardians and \$10 for attorneys. In 4 cases the funds of the wards were properly accounted for and disbursed. In 2 cases there were no funds.

There were 35 guardianship estate cases pending July 1, 1937. Of these 4 cases have been pending less than 1 year, 5 cases from 1 to 2 years, 4 cases from 2 to 3 years, 1 case from 3 to 4 years, 4 cases from 4 to 5 years, 10 cases from 5 to 10 years, and 7 cases longer than 10 years. These were estates of minors, 7 insane persons, and 9 other incompetents. A guardian was appointed for the person of the ward in 27 cases. The value of these estates as reported, is \$114,611.89. In 32 cases bond was required of the guardian and in 3 cases bond has been kept good. In 3 cases no bond was required. An attorney was filed within 30 days in 8 cases, after 30 days in 2 cases, and in 5 cases no inventory had been filed. In these cases 113 annual reports had been filed. The investment of funds of the ward is supervised by the court in 25 cases and in 23 cases they are not supervised by the court. An attorney appeared for the guardian in 6 cases but in no case appeared for the ward. In 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,468 were allowed for guardians and \$100 for attorneys. Wards' funds have been properly preserved and cared for in 12 cases.

#### ATCHISON COUNTY

Area, 423 square miles; population, 23,284; assessed value, \$32,668,784. Report made by Hon. F. P. Wertz, probate judge for 4½ years. There have been no defalcations by guardians, executors or administrators within the year.

One juvenile officer is employed and 11 juvenile cases were heard in the year. There were no habeas corpus cases, no orders made in disbarment cases, and no proceedings in aid of execution within the year. Eight partition proceedings were had and 14 insanity cases were heard within the year.

The estates of 52 deceased persons were closed within the year. In 7 cases the final report was filed within 1 year after letters of administration were granted, in 23 cases within 2 years, in 7 cases from 2 to 3 years, in 2 cases from 3 to 4 years, in 6 cases from 4 to 5 years, in 4 cases from 5 to 10 years, and in 3 cases after 10 years. In 38 cases there was a will, and in 14 cases decedent was intestate. In 25 cases bond was required of the executor or administrator and in all cases bond had been kept good. In 27 cases no bond was required. An inventory was filed within 60 days in 29 cases, after 60 days in 20 cases, and in 3 cases no inventory was filed. Seven annual reports had been filed. The aggregate value of 47 of these estates, as appraised, was \$410,903.91; the unappraised value of 38 estates not appraised was \$200,502.83. In 30 cases attorneys represented the executor or administrator, in 30 cases the heirs or next of kin and in 21 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$7,205.80 were allowed for executors or administrators, and \$4,125 for attorneys. In 49 cases the estates paid claims in full and in 3 cases the estates did not pay claims in full.

Estates of 74 deceased persons were pending July 1, 1937. All of them had been pending less than 1 year. In 37 of these there was a will in 37 cases deceased was intestate. In 47 cases bond was required of the executor or administrator and all bonds were kept good. In 27 cases no bond was required. In 28 cases the inventory was filed within 60 days, in 4 cases 60 days, and in 42 cases no inventory was filed. The appraised value of these estates is \$166,632.20 and the estimated value of property not included is \$348,295.74. In 2 cases first annual reports have been filed and in 57 such reports had not been filed. An attorney represented the executor or administrator in 16 cases; the heirs or devisees in 12 cases; and in 57 cases the report does not show that an attorney appeared for anyone.

There were 9 guardianship estates of minors or other incompetents pending within the year. In 3 cases final report was filed within 2 to 3 years, in 3 from 3 to 4 years, and in 2 cases longer than 10 years. Of these 9 cases 8 were of minors, and 1 of insane person. In 9 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$166,632.20. Nine guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 2 cases, after 30 days in 3 cases, and in 5 cases no inventory was filed. In these cases 27 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in all cases and in no case was the ward represented. In 1 case a fee of \$10 was allowed for the attorney and no fees were allowed attorneys. In 9 cases the funds of the ward have been properly accounted for and disbursed.

There were 21 guardianship estate cases pending July 1, 1937. Of these 21 cases 21 had been pending less than 1 year. These were estates of 12 minors, 9 persons, and 4 other incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates as reported, is \$166,632.20. In 16 cases bond was required of the guardian and in all cases bond was kept good. In 5 cases no bond was required. An inventory was filed within 30 days in 2 cases, and in 19 cases no inventory had been filed. In the 21 cases 21 annual reports had been filed. The investment of funds of the ward was supervised by the court in 17 cases and in 4 cases they are not supervised by the court. An attorney appeared for the guardian in 3 cases and in 3 cases for the ward. In 18 cases the report does not show that an attorney appeared for anyone. There were no fees allowed for guardians or attorneys. The funds have been properly preserved and cared for in 16 cases.

#### BARBER COUNTY

Area, 1,134 square miles; population, 9,010; assessed value, \$16,954,500.

Report made by Hon. Jno. C. Hilkey, probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed. Two juvenile cases were heard within the year and both were pending. There were 2 habeas corpus cases and in both cases writ was allowed. Four orders were made in district court and no proceedings in aid of execution within the year. Two adoption proceedings were had and 5 insanity cases were heard within the year.

Estates of 21 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letter of administration was issued.

from 1 to 2 years, in 2 from 2 to 3 years, in 3 from 3 to 4 years, in 4 from 5 to 10 years, and in 1 case after 10 years. In 8 cases there was a will, and in 13 cases decedent was intestate. In 16 cases bond was required of the executor or administrator and all bonds had been kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 9 cases, after 60 days in 3 cases, and in 9 cases no inventory was filed. Three first annual reports had been filed. The aggregate value of 14 of these estates, as appraised, was \$308,747.37; the estimated value of 3 estates not appraised was \$41,000, and in 7 cases the report was not given. In 15 cases attorneys represented the executor or administrator, in 12 cases the heirs or devisees and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$5,680 were allowed to executors or administrators, and \$3,919.70 for attorneys. In 19 cases the estates paid claims in full and in 2 cases the estates did not pay claims in full. Estates of 38 deceased persons were pending July 1, 1937. Of these cases 26 had been pending less than 1 year, 6 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, and 1 from 5 to 10 years. In 20 of these cases there was a will, and in 18 cases decedent was intestate. In 24 cases bond was required of the executor or administrator. In 15 cases bonds were kept good, in 14 cases no bond was required. In 21 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 10 cases no inventory was filed. The appraised value of 24 of these estates is \$248,599.24, and the estimated value of property not appraised is \$14,851.36. First annual reports have not been filed in any case. An attorney represented the executor or administrator in 12 cases, and in no cases were the heirs or devisees represented by attorneys. In 2 cases the report does not show that an attorney appeared for anyone. There was 1 guardianship estate of a minor closed within the year. In this case the final report was filed within 5 to 10 years after guardian was appointed. A guardian was appointed for the person of the ward. The value of this estate, as reported, is \$500. The guardian was required to give bond, and bond has been kept good. There was no inventory filed. In this case 1 annual report had been filed. The report does not show whether or not the investment of the ward's funds has been supervised by the court. Attorneys appeared for both the guardian and the ward. Fees amounting to \$25 were allowed attorneys. The funds of the ward were properly accounted for and disbursed. There were 9 guardianship estate cases pending July 1, 1937. Of these 6 had been pending less than 1 year, and 3 from 5 to 10 years. These were estates of 3 minors, 3 insane persons, and 1 other incompetent. A guardian was also appointed for the person of the ward in all cases. The value of these estates as reported, is \$9,935.75. In 8 cases bond was required of the guardian and in 5 cases bond has been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 1 case, and in 8 cases no inventory had been filed. Annual reports had been filed. The investment of funds of the ward is supervised by the court in 1 case and in 8 cases they are not supervised by the court. An attorney appeared for the guardian in 5 cases, and in no cases for the ward. In 4 cases the report does not show that an attorney appeared for anyone. There were no fees allowed guardians or attorneys. The ward's funds have been properly preserved and cared for in 3 cases.

## BARTON COUNTY

Area, 900 square miles; population, 22,364; assessed value, \$44,396,720.

Report made by Hon. H. A. Hall, probate judge for 28½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed part time, 1 juvenile case was heard within the year. There were no habeas corpus cases, 3 orders were made in distribution cases, and there were no proceedings in aid of execution within the year. Adoption proceedings were had and 8 insanity cases were heard within the year.

Estates of 78 deceased persons were closed within the year. In 11 cases final report was filed within 1 year after letters of administration were granted, in 35 cases from 1 to 2 years, in 8 from 2 to 3 years, in 6 from 3 to 4 years, in 2 from 4 to 5 years, in 13 from 5 to 10 years, and in 3 cases longer than 10 years. In 51 cases there was a will, and in 27 cases decedent was intestate. In 43 cases bond was required of the executor or administrator and all bonds have been kept good. In 35 cases no bond was required. The inventory was filed within 60 days in 60 cases, after 60 days in 17 cases, and in 1 case no inventory was filed. Nine first annual reports had been filed. The aggregate value of these estates, as appraised, was \$1,469,419.08; the estimated value of property not appraised was \$1,708. In 25 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees, and in 53 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$7,903.33 were allowed for executors or administrators, and \$12,139.33 for attorneys. In 40 cases the estates paid claims in full and in 6 cases the estates did not pay claims in full.

Estates of 146 deceased persons were pending July 1, 1937. Of these 66 have been pending less than 1 year, 16 from 1 to 2 years, 7 from 2 to 3 years, 10 from 3 to 4 years, 8 from 4 to 5 years, 23 from 5 to 10 years, and 26 longer than 10 years. In 82 of these there was a will and in 64 cases decedent was intestate. In 84 cases bond was required of the executor or administrator and in 82 cases bonds were kept good. In 62 cases no bond was required. In 103 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 26 cases no inventory was filed. The appraised value of 121 of these estates is \$3,383,117.58 and the estimated value of property not appraised is \$14,708. In 22 cases first annual reports have been filed and in 124 cases such reports had not been filed. An attorney represented the executor or administrator in 40 cases, the heirs or devisees in 1 case, and in 106 cases the report does not show that an attorney appeared for anyone.

There were 10 guardianship estates of minors or other incompetent persons closed within the year. In 1 case final report was filed within 1 year after guardian was appointed, in 2 cases from 4 to 5 years, in 2 from 5 to 10 years, and in 5 longer than 10 years. Of these estates 9 were of minors, and 1 of an adult person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$36,175.57. All guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 1 case and in 9 cases no inventory was filed. In the year 28 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 3 cases. An attorney appeared for the guardian in 1 case, but in no case for the ward. In 9 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$40 were allowed.

dian in 1 case, and no fees were allowed attorneys. In all cases the funds of the wards were properly accounted for and disbursed. There were 117 guardianship estate cases pending July 1, 1937. Of these 18 had been pending less than 1 year, 10 from 1 to 2 years, 12 from 2 to 3 years, 10 from 3 to 4 years, 6 from 4 to 5 years, 41 from 5 to 10 years, and 18 longer than 10 years. These were estates of 104 minors, and 13 insane persons. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$157,009.31. In all cases bond was required of the guardian and all bonds had been kept good. An inventory was filed within 30 days in 9 cases, after 30 days in 5 cases, and in 103 cases no inventory had been filed. In these cases 269 annual reports had been filed. The investment funds of the ward is supervised by the court in 39 cases and in 78 cases they were not supervised by the court. An attorney appeared for the guardian in 33 cases, but in no cases for the ward. In 84 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,110 were allowed for guardians and \$1,372 for attorneys. The wards' funds have been properly preserved and cared for in 91 cases. In 20 cases there were no funds and in 6 cases the funds were exhausted.

#### BOURBON COUNTY

Area, 637 square miles; population, 20,799; assessed value, \$22,937,311. Report made by Hon. J. A. Stanton, probate judge for 6 months. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed. Eleven juvenile cases were heard in the year. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in aid of execution within the year. Two partition proceedings were had and 10 insanity cases were heard within the

estates of 29 deceased persons were closed within the year. In 9 cases the report was filed within 1 year after letters of administration were issued, 1 case from 1 to 2 years, in 3 cases from 2 to 3 years, in 1 case from 4 to 5 years, and in 2 cases from 5 to 10 years. In 17 cases there was a will, and in 2 cases decedent was intestate. In 16 cases bond was required of the executor or administrator and all bonds were kept good. In 13 cases no bond was required. The inventory was filed within 60 days in 19 cases, after 60 days in 7 cases, and in 3 cases no inventory was filed. One annual report had been filed. The aggregate value of 26 of these estates, as appraised, was \$570.01. In 3 cases the value was not given. In 17 cases attorneys represented the executor or administrator, in 1 case the heirs or devisees, and in 10 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,599.47 were allowed for executors or administrators, and \$9.08 for attorneys. In 24 cases the estates paid claims in full and in 5 cases the estates did not pay claims in full.

Estates of 149 deceased persons were pending July 1, 1937. Of these cases 10 have been pending less than 1 year, 30 cases from 1 to 2 years, 19 cases from 2 to 3 years, 5 cases from 3 to 4 years, 8 cases from 4 to 5 years, 14 cases from 5 to 10 years, and 13 cases longer than 10 years. In 105 of these there was a will and in 44 cases deceased was intestate. In 83 cases bond was required of the executor or administrator. In 75 cases bonds were kept good, in 8 cases bonds were not kept good. In 66 cases no bond was required.

In 78 cases the inventory was filed within 60 days, in 23 cases after 60 days and in 48 cases no inventory was filed. The appraised value of 98 estates is \$699,102.43. In 2 cases first annual reports have been filed. In 147 cases such reports had not been filed. An attorney represented the executor or administrator in 72 cases, the heirs or devisees in no cases, and in 77 cases the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of minors closed within the year. In both cases final report was filed from 5 to 10 years after guardian was appointed. In both cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,089.66. Both guardians were required to give bond, and both bonds kept good. The inventory was filed within 30 days in 1 case, and in 1 case no inventory was filed. In the 14 annual reports have been filed. Investment of funds of the ward has been supervised by the court in both cases. The report does not show whether an attorney appeared in either case. The report does not show that any fees were allowed for guardians or attorneys. In both cases the funds of the wards were properly accounted for and disbursed.

There were 74 guardianship estate cases pending July 1, 1937. Of these cases had been pending less than 1 year, 5 from 1 to 2 years, 9 from 2 to 3 years, 4 from 3 to 4 years, 5 from 4 to 5 years, 19 from 5 to 10 years, and 11 cases longer than 10 years. These were estates of 53 minors, 13 insane persons, and 8 other incompetents. A guardian was appointed for the person of the ward in 17 cases. The value of these estates as reported, is \$54,260.69. In 69 cases bond was required of the guardian and in 65 cases bond has been kept good. In 5 cases no bond was required. An inventory was filed within 30 days in 11 cases, after 30 days in 12 cases, and in 51 cases no inventory was filed. In these cases 223 annual reports had been filed. The investment of funds of the ward is supervised by the court in 72 cases and in 2 cases are not supervised by the court. An attorney appeared for the guardian in 72 cases, but in no case for the ward. In 64 cases the report does not show whether an attorney appeared for anyone. Fees amounting to \$700 were allowed for guardians, but the report does not show any fees allowed for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### BROWN COUNTY

Area, 576 square miles; population, 20,138; assessed value, \$35,502,700.

Report made by Hon. Dale Bailey, probate judge for 6 months. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed. Nine juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, none were made in district court cases, and no proceedings in aid of execution within the year. Three adoption proceedings were had and 11 insanity cases were heard within the year.

Estates of 44 deceased persons were closed within the year. In 2 cases final report was filed within 1 year after letters of administration were granted, in 38 cases from 1 to 2 years, in 3 cases from 2 to 3 years, and in 1 case more than 3 years. In 24 cases there was a will, and in 20 cases decedent was insane. In 27 cases bond was required of the executor or administrator and all bonds had been kept good. In 17 cases no bond was required. The inventory was filed within 60 days in 30 cases, after 60 days in 6 cases, and in 8 cases no inventory was filed.

ry was filed. Nineteen first annual reports had been filed. The aggregate value of 36 of these estates, as appraised, was \$392,583.47 and in 8 cases value was not given. In 8 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees and in 34 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,570 were allowed for executors or administrators, and \$2,460 for attorneys. In 15 cases the estates paid claims in full and in 14 cases the estates did not pay claims in full.

Estates of 132 deceased persons were pending July 1, 1937. Of these cases 10 have been pending less than 1 year, 29 from 1 to 2 years, 18 from 2 to 3 years, 16 from 3 to 4 years, 7 from 4 to 5 years, 3 from 5 to 10 years, and 2 longer than 10 years. In 73 of these there was a will and in 59 cases decedent was intestate. In 88 cases bond was required of the executor or administrator. In 86 cases bonds were kept good, and in 44 cases no bond was required. In 61 cases the inventory was filed within 60 days, in 28 cases after 60 days, and in 43 cases no inventory was filed. The appraised value of 93 of these estates is \$598,099.22. In 26 cases first annual reports have been filed and in 106 cases such reports had not been filed. An attorney represented the executor or administrator in 12 cases; the heirs or devisees in 5 cases; and in 15 cases the report does not show that an attorney represented anyone.

There were 7 guardianship estates of minors or other incompetents closed during the year. In 3 cases final report was filed within 1 year after guardian was appointed, in 2 cases from 2 to 3 years, and in 2 cases from 5 to 10 years. Of these estates, 2 were of minors, 1 of an insane person, and 4 of incompetent persons. In 7 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$4,237. All guardians were required to post bond, and all bonds have been kept good. No inventory was filed in any of these cases. In these cases 13 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 5 cases. An attorney appeared for the guardian in 2 cases and for the ward in 1 case. In 5 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$212 were allowed for guardians. In 6 cases the funds of the wards were properly invested for and disbursed.

There were 42 guardianship estate cases pending July 1, 1937. Of these 30 have been pending less than 1 year, 10 from 1 to 2 years, 9 from 2 to 3 years, 4 from 3 to 4 years, 1 from 4 to 5 years, 8 from 5 to 10 years, and 7 longer than 10 years. These were estates of 24 minors, 5 insane persons, and 13 other incompetents. A guardian was also appointed for the person of the ward in 33 cases. The value of these estates as reported, is \$57,085.28. In 41 cases bond was required of the guardian and in 38 cases bond has been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 4 cases, within 30 days in 5 cases, and in 33 cases no inventory had been filed. In these 42 cases 137 annual reports had been filed. The investment of funds of the ward has been supervised by the court in 12 cases and in 30 cases they are not supervised by the court. An attorney appeared for the guardian in 4 cases and in 1 case for the ward. In 37 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,354.40 were allowed for guardians and \$65 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

## BUTLER COUNTY

Area, 1,428 square miles; population, 30,119; assessed value, \$56,1

Report made by Hon. W. N. Calkins, probate judge for 3½ year had been no defalcations by guardians, executors, or administrators w year. No juvenile officer is employed, 20 juvenile cases were heard w year, and 17 were pending. There were no habeas corpus cases, no or made in district court cases, and no proceedings in aid of execution w year. Seven adoption proceedings were had and 13 insanity cases w within the year.

Estates of 56 deceased persons were closed within the year. In 9 final report was filed within 1 year after letters of administration we in 25 from 1 to 2 years, in 1 from 2 to 3 years, in 4 from 3 to 4 years, 4 to 5 years, in 6 from 5 to 10 years, and in 9 cases no final report In 26 cases there was a will and in 30 cases decedent was intestat cases bond was required of the executor or administrator and a had been kept good. In 17 cases no bond was required. The inven filed within 60 days in 19 cases, after 60 days in 14 cases, and in 23 inventory was filed. Seven first annual reports had been filed. The value of 49 of these estates, as appraised, was \$1,344,235.60 and the value of estates not appraised was \$3,750. In all cases attorneys re the executor or administrator and in no cases were the heirs or dev resented. Fees amounting to \$4,380.32 were allowed for executors or trators and \$9,671.79 for attorneys. In 51 cases the estates paid claim and in 5 cases the estates did not pay claims in full.

Estates of 214 deceased persons were pending July 1, 1937. Of th 68 have been pending less than 1 year, 35 from 1 to 2 years, 16 from years, 9 from 3 to 4 years, 12 from 4 to 5 years, 54 from 5 to 10 year longer than 10 years. In 124 of these there was a will and in 90 cases was intestate. In 127 cases bond was required of the executor or adm and in all cases bonds were kept good. In 87 cases no bond was req 45 cases the inventory was filed within 60 days in 43 cases after 60 da 126 cases no inventory was filed. The appraised value of 109 of the is \$3,690,571.80 and the estimated value of property not appraised is In 35 cases first annual reports have been filed and in 179 cases suc had not been filed. An attorney represented the executor or admini all cases and the heirs or devisees were represented in 13 cases.

There were 30 guardianship estates of minors or other incompetent within the year. In 3 cases final report was filed within 1 year after was appointed, in 4 from 1 to 2 years, in 2 from 2 to 3 years, in 1 4 years, in 2 from 4 to 5 years, in 4 longer than 10 years, and in 14 final report was filed. Of these estates 15 were of minors, 6 of insane incompetent persons. In 18 cases a guardian was appointed for the the ward. The value of these estates, as reported, is \$279,036.54. seven guardians were required to give bond and all bonds have been k The inventory was filed within 30 days in 6 cases, after 30 days in 6 in 18 cases no inventory was filed. In these cases 30 annual reports l filed. Investment of funds of the ward has been supervised by the every case. An attorney appeared for the guardian in all cases and i



ward. Fees amounting to \$189 were allowed for guardians and \$4,469.66 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 165 guardianship estate cases pending July 1, 1937. Of these 20 were pending less than 1 year, 26 from 1 to 2 years, 11 from 2 to 3 years, 13 from 3 to 4 years, 6 from 4 to 5 years, 69 from 5 to 10 years, and 22 longer than 10 years. These were estates of 137 minors, 13 insane persons, and 15 incompetents. A guardian was also appointed for the person of the ward in 164 cases. The value of these estates, as reported, is \$253,714.20. In 164 cases no bond was required of the guardian and all bonds have been kept good. In 1 case a bond was required. An inventory was filed within 30 days in 2 cases, 30 days in 9 cases, and in 154 cases no inventory had been filed. In these 164 cases 137 annual reports had been filed. The investment of funds of the ward was supervised by the court in all cases. An attorney appeared for the guardian in every case and in no case for the ward. Fees amounting to \$2,945 were allowed for guardians and \$210 for attorneys. The ward's funds have been properly preserved and cared for in all cases.

#### CHASE COUNTY

Area, 750 square miles; population, 6,050; assessed value, \$18,273,688. Report made by Hon. A. E. Johnson, probate judge for 2½ years. There had been no defalcations by guardians, executors or administrators within the year. A juvenile officer is employed, 2 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, 1 order was made in district court case, and no proceedings in aid of execution within the year. Adoption proceedings were had and 7 insanity cases were heard within the

estates of 10 deceased persons were closed within the year. In 8 cases the report was filed within 1 to 2 years after letters of administration were granted, and in 2 cases from 2 to 3 years. In 6 cases there was a will, and in 4 cases the decedent was intestate. In 7 cases bond was required of the executor or administrator and all bonds had been kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 5 cases, after 60 days in 4 cases and in 1 case no inventory was filed. Four first annual reports had been filed. The aggregate value of 8 of these estates, as appraised, was \$15,450.35; the estimated value of estates not appraised was \$40,771.92. In 3 cases attorneys represented the executor or administrator, in 1 case the heirs or devisees, and in 6 cases the report does not show that an attorney appeared for the estate. Fees amounting to \$239 were allowed for executors or administrators, and \$80.50 for attorneys. In 9 cases the estates paid claims in full and 1 case the estate did not pay claims in full.

There were 33 deceased persons were pending July 1, 1937. Of these cases 10 have been pending less than 1 year, 2 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years and 3 from 5 to 10 years. In 16 cases there was a will and in 11 cases deceased was intestate. In 16 cases no bond was required of the executor or administrator. In 4 cases bonds were kept good, and in 17 cases no bond was required. In 19 cases the inventory was filed within 60 days, in 11 cases after 60 days, and in 3 cases no inventory was filed. The appraised value of 30 of these estates is \$430,636.09.

and the estimated value of property not appraised is \$10,443. In 7 annual reports have been filed and in 26 cases such reports had not been filed. An attorney represented the executor or administrator in 8 cases, the devisees in 4 cases, and in 24 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors, 1 of which was a foreign estate, closed within the year. In 1 case final report was filed within 1 year after guardian was appointed, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. In 2 cases a guardian was appointed for the benefit of the ward. The value of these estates, as reported, is \$3,892.70. Trustees were required to give bond and both bonds have been kept good. An inventory was filed within 30 days in 1 case, and in 2 cases no inventory was filed. In these cases 6 annual reports have been filed. Investment of the ward has been supervised by the court in 2 cases. No attorney appeared for guardian or ward in any case. In 2 cases the funds of the ward were properly accounted for and disbursed.

There were 39 guardianship estate cases pending July 1, 1937. Cases had been pending less than 1 year, 7 from 1 to 2 years, 8 from 2 to 3 years, 4 from 3 to 4 years, 1 from 4 to 5 years, 7 from 5 to 10 years, and 1 more than 10 years. These were estates of 33 minors, 3 insane persons, and 3 incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$67,262.16. In 25 cases bond was required of the guardian and in 25 cases bond has been kept good. In 6 cases no bond was required. An inventory was filed within 30 days in 2 cases, after 30 days in 2 cases, and in 30 cases no inventory had been filed. In these cases 67 annual reports had been filed. The investment of the ward is supervised by the court in 12 cases and in 27 cases the ward is supervised by the court. An attorney appeared for the guardian in 11 cases and in no case for the ward. In 38 cases the report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. The wards' funds have been properly preserved and cared for in 11 cases.

#### CHAUTAUQUA COUNTY

Area, 651 square miles; population, 10,136; assessed value, \$11,860,000.

Report made by Hon. R. E. Rathbun, probate judge for six months. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed, and no juvenile cases were heard within the year. There were no habeas corpus cases, 1 order was made by the district court case, and no proceedings in aid of execution within the year. One adoption proceeding was had and 3 insanity cases were heard within the year.

The estates of 8 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were issued and in 3 from 1 to 2 years. In 3 cases there was a will and in 5 cases decedent was intestate. In 5 cases bond was required of the executor or administrator and all bonds were kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 3 cases, after 60 days in 2 cases, and in 3 cases no inventory was filed. One first annual report had been filed. The aggregate value of 5 estates, as appraised, was \$13,398.11. In 11 cases attorneys represented the executor or administrator, the heirs or devisees.

represented in any case, and in 3 cases the report does not show that an attorney appeared for anyone. No fees were allowed for executors or administrators and \$200 for attorneys. In all cases the estates paid claims in full. Of the estates of 41 deceased persons were pending July 1, 1937. Of this number 8 have been pending less than 1 year, 12 from 1 to 2 years, and 11 from 3 years. In 13 cases there was a will and in 28 cases deceased was intestate.

In 31 cases bond was required of the executor or administrator and all bonds have been kept good. In 10 cases no bond was required. In 19 cases an inventory was filed within 60 days, in 6 cases after 60 days, and in 16 cases no inventory was filed. The appraised value of 22 estates is \$59,078.35, and the estimated value of property not appraised is \$6,064.93. In 10 cases annual reports have been filed and in 31 cases such reports have not been filed.

An attorney represented the executor or administrator in 30 cases, the heirs or devisees in 3 cases, and in 11 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 7 guardianship estate cases pending July 1, 1937, all of which have been pending less than 1 year. These were estates of 6 minors and 1 incompetent person. A guardian was appointed for the person of the ward in 2 cases. The value of these estates, as reported, is \$200. In 5 cases bond was required of the guardian and all bonds were kept good. In 2 cases no bond was required. The inventory was not filed in any case. No annual reports had been filed.

The investment of funds of the ward is supervised by the court in 1 case. An attorney appeared for the guardian in 5 cases, for the ward in 1 case, and in 1 case the report does not show that an attorney appeared for anyone. No fees have been allowed for guardians or attorneys. The report does not show whether or not the ward's funds have been properly preserved or accounted for to date.

#### CHEROKEE COUNTY

Area, 589 square miles; population, 30,409; assessed value, \$23,920,120.

Report made by Hon. Walter Largen, probate judge for 4½ years. There have been no defalcations by guardians, executors, or administrators within the year.

One juvenile officer is employed. There were 26 juvenile cases heard within the year. There were no habeas corpus cases, no orders were made in contempt court cases, and no proceedings in aid of execution within the year.

Adoption proceedings were had and 16 insanity cases were heard within the year.

The estates of 49 deceased persons were closed within the year. In 14 cases the final report was filed within 1 year after letters of administration were granted, in 22 from 1 to 2 years, in 2 from 2 to 3 years, in 3 from 3 to 4 years, in 4 from 4 to 5 years, in 2 from 5 to 10 years, and in 3 after 10 years. In 24 cases there was a will and in 25 cases decedent was intestate. In 29 cases bond was required of the executor or administrator and all bonds had been kept good. In 20 cases no bond was required. The inventory was filed within 60 days in 43 cases, after 60 days in 3 cases, and in 3 cases no inventory was filed.

Three first annual reports had been filed. The aggregate value of 46 estates, as appraised, was \$91,166.17, and the estimated value of property not appraised was \$50. In 7 cases attorneys represented the executor or administrator, in no cases were the heirs or devisees represented, and in 42 cases the

report does not show that an attorney appeared for anyone. Fees amounting to \$446.95 were allowed for executors or administrators and \$355 for attorneys. In 42 cases the estates paid claims in full.

The estates of 159 deceased persons were pending July 1, 1937. Of this number 79 have been pending less than 1 year, 41 from 1 to 2 years, 22 from 2 to 3 years, 10 from 3 to 4 years, 5 from 4 to 5 years, 3 from 5 to 10 years, and 1 longer than 10 years. In 68 cases there was a will and in 91 cases the deceased was intestate. In 106 cases bond was required of the executor or administrator and 104 bonds have been kept good. In 53 cases no bond was required. In 124 cases the inventory was filed within 60 days, in 11 after 60 days, and in 24 cases no inventory was filed. The appraised value of the estates is \$553,670.95. In 7 cases first annual reports have been filed, in 152 cases such reports had not been filed. An attorney represented the executor or administrator in 19 cases, in no cases were the heirs or next of kin represented, and in 140 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates of minors or other incompetents pending within the year. In 1 case the final report was filed within 1 year, in 1 case a letter of guardianship was issued, in 1 from 2 to 3 years, and in 3 longer than 10 years. These were estates of 4 minors and 1 insane person. In 4 cases a guardian was appointed for the person of the ward. The value of the estates, as reported, is \$5,360.75. Five guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 2 cases and in 3 cases no inventory was filed. In these cases annual reports have been filed. Investment of funds of the ward has been supervised by the court in 5 cases. The report does not show that an attorney appeared for anyone. In 5 cases the funds of the wards were properly accounted for and disbursed.

There were 113 guardianship estate cases pending July 1, 1937. Of these 17 had been pending less than 1 year, 17 from 1 to 2 years, 25 from 2 to 3 years, 7 from 3 to 4 years, 2 from 4 to 5 years, 16 from 5 to 10 years, and 1 longer than 10 years. These were estates of 70 minors, 29 insane persons and 14 other incompetents. A guardian was appointed for the person of the ward in 73 cases. The value of these estates, as reported, is \$65,643. In 101 cases bond was required of the guardian and in 101 cases bond had been kept good. In 9 cases no bond was required. An inventory was filed within 30 days in 7 cases, after 30 days in 2 cases, and in 104 cases no inventory was filed. In these cases 277 annual reports had been filed. The investment of funds of the ward is supervised by the court in 36 cases. An attorney appeared for the guardian in 8 cases and in no case for the ward. In 105 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,000.00 have been allowed for guardians and in 4 cases the guardian was allowed 5% of the income. The wards' funds have been properly preserved and accounted for in 31 cases.

#### CHEYENNE COUNTY

Area 1,020 square miles; population, 6,637; assessed value, \$7,427,346.

Report made by Hon. Florence Curry, probate judge for 1 year. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. Seven juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no

in district court cases, and no proceedings in aid of execution within the year. Eight adoption proceedings were had and 2 insanity cases were heard the year.

Estates of 8 deceased persons were closed within the year. In 3 cases the report was filed within 1 to 2 years after letters of administration were granted, in 3 from 3 to 4 years, in 1 from 4 to 5 years, and in 1 case from 5 to 6 years. In 1 case there was a will, and in 7 cases decedent was intestate. In all cases bond was required of the executor or administrator and all bonds had been kept good. The inventory was filed within 60 days in 6 cases, and after 60 days in 2 cases. Two first annual reports had been filed. The aggregate value of 7 of these estates, as appraised, was \$92,694.25. In all cases attorneys represented the executor or administrator, in 1 case the heir or devisee. Fees amounting to \$470.80 were allowed for executors or administrators, and \$350.80 for attorneys. In all cases the estates paid claims in full.

Estates of 35 deceased persons were pending July 1, 1937. Of these cases 15 had been pending less than 1 year, 3 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 7 from 5 to 10 years, and 2 longer than 10 years. In 19 of these there was a will and in 16 cases deceased was intestate. In all cases bond was required of the executor or administrator. In 24 cases the bonds were kept good, 3 cases were of recent filing and no report on bond had been made, and in 8 cases no bond was required. In 25 cases the inventory was filed within 60 days, in 6 cases after 60 days, and in 4 cases no inventory had been filed. The appraised value of 32 of these estates is \$337,728.90 and the unappraised value of property not appraised is \$500. In 8 cases first annual reports have been filed and in 27 cases such reports have not been filed. An attorney represented the executor or administrator in all cases, and the heirs or devisees in 2 cases.

There were 4 guardianship estates of minors or other incompetents closed within the year. In 2 cases final report was filed within 1 to 2 years after guardian was appointed, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. Of these estates, 3 were of minors, and 1 of an insane person. In 3 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$20,106.96. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case, after 30 days in 2 cases, and in 1 case no inventory was filed. In these 4 cases 4 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the ward in all cases and for the ward in 1 case. Fees amounting to \$1,372.55 were allowed for guardians and \$1,092.50 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 29 guardianship estate cases pending July 1, 1937. Of these 15 had been pending less than 1 year, 4 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, 10 from 5 to 10 years, and 8 longer than 10 years. These were estates of 26 minors and 3 insane persons. A guardian was appointed for the person of the ward in 21 cases. The value of these estates, as reported, is \$27,980.27. In all cases bonds were required of the guardian and in all cases bond has been kept good. An inventory was filed within 30 days in 1 case, after 30 days in 6 cases, and in 12 cases no inventory had been filed. In 25 cases 25 annual reports had been filed. The investment of funds of the wards was approved by the court in 18 cases and in 11 cases there were no reports.

An attorney appeared for the guardian in 27 cases and in no case for In 2 cases the report does not show that an attorney appeared for any fees have been allowed for guardians. The attorney received \$11 i The wards' funds have been properly preserved and cared for in 1 cas cases there is no report.

#### CLARK COUNTY

Area, 975 square miles; population, 4,495; assessed value, \$11,004,224.

Report made by Hon. O. T. Ammon, probate judge for 2½ years had been no defalcations by guardians, executors or administrators w year. No juvenile officer is employed. Eleven juvenile cases were heard the year and none were pending. There were no habeas corpus cases, were made in district court cases, and there were 3 proceedings in a ecution within the year. No adoption proceedings were had and 5 cases were heard within the year.

Estates of 6 deceased persons were closed within the year. In 5 final report was filed within 1 to 2 years after letters of administration issued, and in 1 case from 2 to 3 years. In 3 cases there was a will, cases decedent was intestate. In all cases bond was required of the or administrator and all bonds had been kept good. The inventory within 60 days in 3 cases, and after 60 days in 3 cases. No annual report been filed. The aggregate value of 6 of these estates, as appraised, 223.18. In all cases attorneys represented the executor or administrator in no case the heirs or devisees. Fees amounting to \$210 were allowed executors or administrators, and \$650 for attorneys. In all cases the estate claims in full.

Estates of 49 deceased persons were pending July 1, 1937. Seventy foreign transcripts. Of these cases 32 have been pending less than from 1 to 2 years, 1 from 2 to 3 years, 2 from 3 to 4 years, 7 from 5 to and 1 over 10 years. In 34 of these there was a will and in 15 cases was intestate. In 21 cases bond was required of the executor or administrator. In 11 cases bonds were kept good, and in 28 cases no bond was required. In 13 cases the inventory was filed within 60 days, in 9 cases after 60 days. In 27 cases no inventory was filed. The appraised value of 26 of these \$291,679.11. In 3 cases first annual reports have been filed and in 46 cases reports had not been filed. An attorney represented the executor or administrator in 27 cases, and in 22 cases the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of insane persons closed within the year. In 1 case final report was filed within 2 to 3 years after guardian was appointed and in 1 case from 4 to 5 years. In both cases a guardian was appointed the person of the ward. The value of these estates, as reported, is \$10,000. Both guardians were required to give bond, and both bonds have been kept good. The inventory was filed within 30 days in 1 case and after 30 days in 1 case. In these cases 6 annual reports have been filed. Investment of the ward has been supervised by the court in both cases. An attorney appeared for the guardian in both cases. Fees amounting to \$202 were allowed for guardians and \$33 for attorneys. In both cases the funds of the ward were properly accounted for and disbursed.

There were 39 guardianship estate cases pending July 1, 1937. O

been pending less than 1 year, 5 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 13 from 5 to 10 years, and 8 longer than 10 years. These were estates of 30 minors, and 9 insane persons. A guardian was also appointed for the person of the ward in 36 cases. The value of these estates as reported, is \$39,953.88. In 35 cases bond was required of the guardian and in 18 cases bond has been kept good. In 4 cases no bond was required. An inventory was filed within 30 days in 6 cases, after 30 days in 2 cases, and in 31 cases no inventory had been filed. In these cases 8 annual reports had been filed. The investment of funds of the ward is supervised by the court in 15 cases and in 24 cases they are not supervised by the court. An attorney appeared for the guardian in 25 cases and in 1 case for the ward. In 13 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$270 were allowed for guardians and \$60 for attorneys. The wards' funds have been properly preserved and cared for in 16 cases.

## CLAY COUNTY

Area, 660 square miles; population, 13,633; assessed value, \$25,202,724. Report made by Hon. Frank H. Meek, probate judge for 4½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed, 3 juvenile cases were heard within the year and 1 was pending. There were no habeas corpus cases, 6 orders were granted in district court cases, and there were 2 proceedings in aid of execution in the year. Three adoption proceedings were had and 10 insanity cases were heard within the year. Estates of 51 deceased persons were closed within the year. In 29 cases the final report was filed within 1 year after letters of administration were granted, in 15 from 1 to 2 years, in 2 from 2 to 3 years, in 3 from 3 to 4 years, in 4 from 4 to 5 years, and in 1 from 5 to 10 years. In 19 cases there was a will, and in 32 cases decedent was intestate. In 39 cases bond was required of the executor or administrator and all bonds had been kept good. In 12 cases no bond was required. The inventory was filed within 60 days in 43 cases, after 60 days in 7 cases, and in 1 case no inventory was filed. Seven first annual reports had been filed. The aggregate value of 49 of these estates, as appraised, was \$333,078.12; the estimated value of estates not appraised was \$40,925.14. In 1 case attorneys represented the executor or administrator, in 1 case the executor or devisees, and in 31 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,633.19 were allowed for executors and administrators, and \$2,425.61 for attorneys. In 45 cases the estates paid claims in full and in 6 cases the estates did not pay claims in full. Estates of 68 deceased persons were pending July 1, 1937. Of these cases 10 had been pending less than 1 year, 10 from 1 to 2 years, 4 from 2 to 3 years, 6 from 3 to 4 years, 1 from 4 to 5 years, and 6 from 5 to 10 years. In 7 of these there was a will and in 31 cases decedent was intestate. In 5 cases bond was required of the executor or administrator and all bonds were kept good. In 23 cases no bond was required. In 50 cases an inventory was filed within 60 days, in 11 cases after 60 days, and in 7 cases no inventory was filed. The appraised value of 57 of these estates is \$463,870.66 and the estimated value of property not appraised is \$978,327.01. In 12 cases

first annual reports have been filed and in 56 cases such reports had been filed. An attorney represented the executor or administrator in 31 cases, the heir or devisee in 1 case, and in 37 cases the report does not show whether an attorney appeared for anyone.

There were 10 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 year after appointment, in 1 from 2 to 3 years, in 2 from 3 to 4 years, in 3 from 4 to 5 years, and in 3 cases longer than 10 years. Of these estates, 7 were of sane and 3 of insane persons. In all cases a guardian was appointed for the benefit of the ward. The value of these estates, as reported, is \$6,850. All guardians were required to give bond and all bonds have been kept good. No inventory was filed in any case. In these cases 47 annual reports have been filed. The investment of funds of the ward has been supervised by the court in every case. The report does not show that an attorney appeared for anyone. Fees amounting to \$762.15 were allowed for guardians. In all cases the funds of the wards were properly accounted for and disbursed.

There were 80 guardianship estate cases pending July 1, 1937. Of these, 1 had been pending less than 1 year, 16 from 1 to 2 years, 8 from 2 to 3 years, 5 from 3 to 4 years, 4 from 4 to 5 years, 14 from 5 to 10 years, and 1 from more than 10 years. These were estates of 54 minors, 19 insane persons, and 7 incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$193,939.71. In all cases bond was required of the guardian and in 79 cases bond has been kept good. Inventory was filed within 30 days in 8 cases, after 30 days in 4 cases, and in 68 cases no inventory had been filed. In these cases 105 annual reports have been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 14 cases and in no case for the ward. In 66 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,840 were allowed for guardians and \$4,000 for the attorneys. The wards' funds have been properly preserved and accounted for in 69 cases.

#### CLOUD COUNTY

Area, 720 square miles; population, 16,655; assessed value, \$27,770,000.

Report made by Hon. E. W. Thompson, probate judge for 12 years. There had been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed. Five juvenile cases were heard within the year. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had and 8 insanity cases were closed within the year.

The estates of 53 deceased persons were closed within the year. In all cases the final report was filed within 1 year after letters of administration were issued, in 25 from 1 to 2 years, in 1 from 2 to 3 years, in 4 from 3 to 4 years, in 1 from 4 to 5 years, in 3 from 5 to 10 years, in 3 after 10 years, and in 1 case the final report had not yet been filed. In 30 cases there was a will and in 23 cases decedent was intestate. In 40 cases bond was required of the executor or administrator and all bonds were kept good. In 13 cases no bond was required. The inventory was filed within 60 days in 44 cases and after



cases. The aggregate value of 48 estates, as appraised, was \$510,101.57. The estimated value of property not appraised was \$9,342.05. In 16 cases attorneys represented the executor or administrator, in 3 cases the heirs or devisees, and in 37 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,792.23, were allowed for executors or administrators and \$1,944 for attorneys. In 50 cases the estates paid claims in full. The estates of 178 deceased persons were pending July 1, 1937. Of these 178, 56 have been pending less than 1 year, 27 from 1 to 2 years, 13 from 2 to 3 years, 13 from 3 to 4 years, 3 from 4 to 5 years, 40 from 5 to 10 years, 16 longer than 10 years. In 111 cases there was a will and in 67 cases the decedent was intestate. In 115 cases bond was required of the executor or administrator and 111 bonds have been kept good. In 63 cases no bond was required. In 120 cases the inventory was filed within 60 days, in 47 after 60 days, and in 11 cases no inventory was filed. The appraised value of 156 estates is \$2,316,740.09, and the estimated value of property, not appraised, is \$1,307. In 59 cases first annual reports have been filed and in 119 cases second annual reports have not been filed. An attorney represented the executor or administrator in 31 cases, the heirs or devisees in 4 cases, and in 145 cases the report does not show that an attorney appeared for anyone.

There were 4 guardianship estates of minors or other incompetents closed during the year. In 1 case final report was filed within 1 year after letters of guardianship were issued, in 2 from 1 to 2 years, and in 1 longer than 2 years. Of these estates, 2 were of minors, 1 of insane, and 1 of another incompetent person. In 4 cases a guardian was appointed for the person of the ward. The aggregate value of these estates, as reported, is \$5,507.57. Four guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case and after 30 days in 3 cases. In these cases 8 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 1 case. An attorney appeared for the guardian in 1 case and for the ward in 3 cases. In 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$68.75 were allowed for guardians and \$80.00 for attorneys. In 4 cases the funds of the wards were properly accounted for and disbursed.

There were 114 guardianship estate cases pending July 1, 1937. Of these 133 have been pending less than 1 year, 8 from 1 to 2 years, 8 from 2 to 3 years, 11 from 3 to 4 years, 8 from 4 to 5 years, 34 from 5 to 10 years, and 32 longer than 10 years. These were estates of 72 minors, 25 insane persons, and 17 incompetents. A guardian was appointed for the person of the ward in 7 cases. The value of these estates, as reported, is \$244,394.73. In 112 cases bond was required of the guardian and in 108 cases bond has been kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 32 cases, after 30 days in 32 cases, and in 47 cases no inventory was filed. In these cases 439 annual reports had been filed. The investment of funds of the ward is supervised by the court in 94 cases. An attorney appeared for the guardian in 10 cases and in 9 cases for the ward. In 95 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,555.45 were allowed for guardians and \$443.04 for attorneys. The wards' funds have been properly preserved and cared for in 110 cases.

## COFFEY COUNTY

Area, 648 square miles; population, 13,158; assessed value, \$18,038.

Report made by Hon. W. A. Starliper, probate judge for 6 months. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed. Four juvenile cases were heard within the year and 1 was pending. There were no habeas corpus cases, no marriages were made in district court cases, and no proceedings in aid of marriage within the year. One adoption proceeding was had and 12 insanity cases were heard within the year.

Estates of 31 deceased persons were closed within the year, six of which were foreign transcripts. In 5 cases the final report was filed within 1 year, 10 letters of administration were issued, in 17 cases from 1 to 2 years, in 14 cases from 4 to 5 years. In 14 cases there was a will, and in 11 cases deceased was intestate. In 12 cases bond was required of the executor or administrator, and in all bonds had been kept good. In 19 cases no bond was given. The inventory was filed within 60 days in 22 cases, after 60 days in 3 cases, and in 6 cases no inventory was filed. Twenty-five first annual reports had been filed. The aggregate value of 24 of these estates, as appraised, was \$118,658.68; the estimated value of 24 estates not appraised was \$44,040, and in 7 cases the inventory was not given. In 14 cases attorneys represented the executor or administrator, and in 17 cases the report does not show that an attorney appeared for the estate. Fees amounting to \$938.78 were allowed for executors or administrators, and \$1,138 for attorneys. In 22 cases the estates paid claims in full and in 9 cases the estates did not pay claims in full.

Estates of 73 deceased persons were pending July 1, 1937. Of these 23 had been pending less than 1 year, 12 from 1 to 2 years, 3 from 2 to 3 years, 7 from 3 to 4 years, 5 from 4 to 5 years, 1 from 5 to 10 years, and 2 from more than 10 years. In 29 of these there was a will and in 44 cases deceased was intestate. In 53 cases bond was required of the executor or administrator, and in 47 cases bonds were kept good, and in 20 cases no bond was required. In 47 cases the inventory was filed within 60 days, in 9 cases after 60 days, and in 24 cases no inventory was filed. The appraised value of 67 of these estates was \$108,521.49 and the estimated value of property not appraised is \$228,000. In 24 cases first annual reports have been filed and in 49 cases such reports have not been filed. An attorney represented the executor or administrator in 14 cases, and in 27 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents pending within the year.

There were 93 guardianship estate cases pending July 1, 1937. Of these 23 had been pending less than 1 year, 11 from 1 to 2 years, 7 from 2 to 3 years, 7 from 3 to 4 years, 1 from 4 to 5 years, 27 from 5 to 10 years, and 3 from more than 10 years. These were estates of 69 minors, 17 insane persons, and 7 incompetents. A guardian was also appointed for the person of the ward in 84 cases. The value of these estates as reported, is \$93,897.39. In 84 cases bond was required of the guardian and in 70 cases bond has been kept good. In 11 cases no bond was required. An inventory was filed within 30 days in 38 cases, after 30 days in 13 cases, and in 42 cases no inventory had been filed. The investment of funds of the ward is supervised by the court in 2

in 65 cases they are not supervised by the court. An attorney appeared for the guardian in 20 cases. In 73 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,242.35 were allowed for guardians and \$203 for attorneys. The wards' funds have been properly protected and cared for in 26 cases.

### COMANCHE COUNTY

Area, 795 square miles; population, 5,017; assessed value, \$8,661,467.

Report made by Hon. M. M. Cosby, probate judge for 19½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed; 2 juvenile cases were heard within the year and 3 were pending. There were no habeas corpus cases, 2 orders were granted in district court cases, and there were no proceedings in aid of execution in the year. One adoption proceeding was had and 2 insanity cases were closed within the year.

Estates of 9 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, in 1 case from 1 to 2 years. In 7 cases there was a will, and in 2 cases decedent was intestate. In 4 cases bond was required of the executor or administrator and all bonds had been kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 7 cases, after 60 days in 1 case and in 1 case no inventory was filed. Eight first annual reports had been filed.

The aggregate value of 8 of these estates, as appraised, was \$113,324.82; estimated value of 2 estates not appraised was \$1,502.50, and in 1 case the value was not given. In all cases attorneys represented the executor or administrator, but in no cases were the heirs or devisees represented. Fees amounting to \$425 were allowed for executors or administrators, and \$485 for attorneys. In all cases the estates paid claims in full.

Estates of 15 deceased persons were pending July 1, 1937. All these cases have been pending less than 1 year. In 10 cases there was a will and in 5 cases decedent was intestate. In 7 cases bond was required of the executor or administrator. In all cases bonds were kept good, and in 8 cases no bond was required. In 11 cases the inventory was filed within 60 days, in 1 case after 60 days, and in 3 cases no inventory was filed. The appraised value of 11 of these estates is \$158,724.01 and the estimated value of property not appraised is \$277.33. In 1 case first annual reports have been filed and in 14 cases such reports had not been filed. An attorney represented the executor or administrator in 13 cases, and in 2 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 4 guardianship estate cases pending July 1, 1937. Of these 3 had been pending less than 1 year, and 1 from 1 to 2 years. These were estates of minors and 2 insane persons. A guardian was also appointed for the person of the ward in all cases. The value of these estates as reported, is \$2,250. In 3 cases bond was required of the guardian and in all cases bond has been kept good. An inventory was filed within 30 days in 2 cases, and in 2 cases no inventory had been filed. In these cases 1 annual report had been filed. The management of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 3 cases, and in 1 case for the ward. The

report does not show that any fees were allowed for either the guardian or administrators. The wards' funds have been properly preserved and accounted for in all cases.

### COWLEY COUNTY

Area, 1,112 square miles; population, 36,376; assessed value, \$61,880.

Report made by Hon. Ellis Fink, probate judge for 3½ years. There have been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed, 99 juvenile cases were heard within the year, and none were pending. There were no habeas corpus orders made in district court cases, and no proceedings in aid of execution within the year. Sixteen adoption proceedings were had and 28 cases were heard within the year.

Estates of 83 deceased persons were closed within the year. In 25 cases final report was filed within 1 year after letters of administration were granted, in 42 from 1 to 2 years, in 6 from 2 to 3 years, in 1 from 3 to 4 years, in 2 from 4 to 5 years, in 2 from 5 to 10 years, and in 1 case longer than 10 years. In 50 cases there was a will, and in 33 cases decedent was intestate. In all cases bond was required of the executor or administrator and all bonds have been kept good. In 26 cases no bond was required. The inventory was filed within 60 days in 39 cases, after 60 days in 44 cases. Eighty-three first reports had been filed. The aggregate value of these estates, as appraised, was \$1,032,515, and the estimated value of estates not appraised was \$21,026. In 46 cases attorneys represented the executor or administrator, in 46 cases the report does not show that an attorney appeared for anyone, and in 14 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$16,288 were allowed for executors or administrators, and \$17,601 for attorneys. In 79 cases the estates paid claims in full and in 4 cases the estates did not pay claims in full.

Estates of 153 deceased persons were pending July 1, 1937. Of these 92 have been pending less than 1 year, 28 from 1 to 2 years, 10 from 2 to 3 years, 11 from 3 to 4 years, 10 from 4 to 5 years, and 2 from 5 to 10 years. In 94 of these there was a will and in 59 cases decedent was intestate. In all cases bond was required of the executor or administrator and all bonds have been kept good. In 58 cases no bond was required. In 68 cases the inventory was filed within 60 days, in 66 cases after 60 days, and in 19 cases no inventory was filed. The appraised value of 134 of these estates is \$2,086,358 and the estimated value of property not appraised is \$160,900. In 29 cases first reports have been filed and in 124 cases such reports had not been filed. In 121 cases an attorney represented the executor or administrator in 121 cases, the report does not show that an attorney appeared for anyone, and in 86 cases the report does not show that an attorney appeared for anyone.

There were 13 guardianship estates of minors or other incompetent persons closed within the year. In 2 cases final report was filed within 1 year after appointment, in 1 from 1 to 2 years, in 1 from 2 to 3 years, in 3 from 3 to 4 years, and in 6 cases longer than 10 years. Of these estates, 9 were of minors, 2 of insane, and 2 of incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as appraised, was \$32,620. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 10 cases, after 30 days in 2 cases, and in 1 case no inventory was filed. In these cases 48 and

s have been filed. Investment of funds of the ward has been supervised by the court in 12 cases. An attorney appeared for the guardian in 5 cases for the ward in 3 cases. In 8 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$9 were allowed for guardians and \$100 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 121 guardianship estate cases pending July 1, 1937. Of these 18 have been pending less than 1 year, 22 from 1 to 2 years, 13 from 2 to 3 years, 10 from 3 to 4 years, 7 from 4 to 5 years, 31 from 5 to 10 years, and 21 longer than 10 years. These were estates of 87 minors, 17 insane persons and 17 incompetent persons. A guardian was also appointed for the person of the ward in 20 cases. The value of these estates, as reported, is \$398,645. In 120 cases a bond was required of the guardian and all bonds have been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 80 cases, within 30 days in 40 cases, and in 1 case no inventory had been filed. In these 300 annual reports had been filed. The investment of funds of the ward was supervised by the court in 112 cases, in 4 cases there are no funds, and in 5 cases are not supervised by court. An attorney appeared for the guardian in 45 cases and in 43 cases for the ward. In 50 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$9,500 were allowed for guardians and \$7,180 for attorneys. The wards' funds have been properly served and cared for in 116 cases.

#### CRAWFORD COUNTY

Area, 592 square miles; population, 48,364; assessed value, \$39,101,833. Report made by Hon. Robert W. Colburn, probate judge for 16½ years. There have been no defalcations by guardians, executors or administrators within the year. One juvenile officer is employed and 12 juvenile cases were heard in the year. There were no habeas corpus cases, 5 orders were made in district court cases, and there were no proceedings in aid of execution within the year. Four adoption proceedings were had and 36 insanity cases heard in the year.

The estates of 81 deceased persons were closed within the year. In 31 cases a final report was filed within 1 year after letters of administration were granted, in 36 from 1 to 2 years, in 1 from 2 to 3 years, in 4 from 3 to 4 years, in 1 from 4 to 5 years, in 6 from 5 to 10 years, and in 2 after 10 years. In 38 cases there was a will and in 43 cases decedent was intestate. In 57 cases bonds were required of the executor or administrator and all bonds were kept good. In 4 cases no bond was required. The inventory was filed within 60 days in 15 cases, after 60 days in 8 cases, and in 2 cases no inventory was filed. Sixty-first annual reports had been filed. The aggregate value of 80 estates, as appraised, was \$429,787.62, and the estimated value of property not appraised was \$36,650. In 49 cases attorneys represented the executor or administrator, in 15 cases the heirs or devisees, and in 32 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,991.75 were allowed for executors or administrators and \$2,372.50 for attorneys. In 76 cases the claims were paid in full.

There were 232 estates of deceased persons pending July 1, 1937. Of this number 75 have been pending less than 1 year, 27 from 1 to 2 years, 12 from 2 to 3 years, 7 from 3 to 4 years, 14 from 4 to 5 years, 53 from 5 to 10 years,

and 44 longer than 10 years. In 119 cases there was a will and in 1 deceased was intestate. In 164 cases bond was required of the executor, administrator and all bonds have been kept good. In 68 cases no bond was required. In 140 cases the inventory was filed within 60 days, in 41 after 60 days and in 51 cases no inventory was filed. The appraised value of 174 estates is \$1,111,178.82 and the estimated value of property not appraised is \$1,111,178.82. In 33 cases first annual reports have been filed and in 199 cases such reports have not been filed. An attorney represented the executor or administrator in 98 cases, the heirs or devisees in 29 cases, and in 133 cases the report does not show that an attorney appeared for anyone.

There were 6 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 5 to 10 years. In 5 cases letters of guardianship were issued and in 5 longer than 10 years. In 4 cases estates, 4 were of minors, 1 of insane, and 1 of an incompetent. In 5 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$19,509.50. Six guardians were required to post bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case and in 5 cases no inventory was filed. In these cases 637 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 1 case, for the ward in 1 case, and in 5 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$288.97 were allowed for guardians and \$50 for attorneys. In all cases the funds of the ward have been properly accounted for and disbursed.

There were 312 guardianship estate cases pending July 1, 1937. Of these 14 had been pending less than 1 year, 25 from 1 to 2 years, 20 from 2 to 3 years, 14 from 3 to 4 years, 13 from 4 to 5 years, 117 from 5 to 10 years, and 121 longer than 10 years. These were estates of 255 minors, 40 insane persons, and 17 other incompetents. A guardian was appointed for the person of the ward in 283 cases. The value of these estates, as reported, is \$665,278.87. In 14 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 1 case, after 30 days in 9 cases, and in 293 cases no inventory was filed. In 637 cases 637 annual reports had been filed. The investment of funds of the ward is supervised by the court in 282 cases. An attorney appeared for the guardian in 52 cases and in 3 cases for the ward. In 260 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,220.53 have been allowed for guardians and \$4,713.40 for attorneys. The wards' funds have been properly preserved and cared for in 154 cases.

#### DECATUR COUNTY

Area, 900 square miles; population, 8,182; assessed value, \$10,302,277.

Report made by Hon. Ralph McLaughlin, probate judge for 27 years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. There were 3 cases heard within the year. There was 1 habeas corpus case in which writ was allowed, 1 order was made in a district court case, and there were 2 proceedings in aid of execution within the year. Two adoption proceedings were had and 3 insanity cases were heard within the year.

The estates of 24 deceased persons were closed within the year. In

final report was filed within 1 year after letters of administration were filed, in 13 from 1 to 2 years, in 1 from 3 to 4 years, in 5 from 5 to 10 years, and in 1 after 10 years. In 10 cases there was a will and in 14 cases decedent intestate. In 19 cases bond was required of the executor or administrator and in all cases bonds had been kept good. In 5 cases no bond was required. Inventory was filed within 60 days in 20 cases, after 60 days in 3 cases, and in 1 case no inventory was filed. Two first annual reports had been filed. The aggregate value of 23 estates, as appraised, was \$290,270.46, and the estimated value of property not appraised was \$13,100. In 18 cases attorneys represented the executor or administrator, in 1 case the heir or devisee, and in 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$7,767.58 were allowed for executors or administrators and \$2,025 for attorneys. In 22 cases the estates paid claims in full. The annual report was given as to the number of estates of deceased persons which were pending July 1, 1937.

There were 5 guardianship estates of minors or other incompetents closed during the year. In 3 cases final report was filed within 1 to 2 years after letters of guardianship were issued and in 2 cases longer than 10 years. Of these estates 4 were of minors and 1 of an insane person. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$6,565.40. Five guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 2 cases and in 3 cases no inventory was filed. In these cases 13 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 3 cases and in no case for the ward. In 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$162.50 were allowed for guardians and \$122.50 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 45 guardianship estate cases pending July 1, 1937. Of these 3 cases have been pending less than 1 year, 7 from 1 to 2 years, 7 from 2 to 3 years, 4 from 3 to 4 years, 1 from 4 to 5 years, 9 from 5 to 10 years, and 14 longer than 10 years. These were estates of 33 minors, 3 insane persons, and 9 other incompetents. A guardian was appointed for the person of the ward in 28 cases. The aggregate value of these estates, as reported, is \$45,977.15. In 44 cases bond was required of the guardian and in 41 cases bond has been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 11 cases, after 30 days in 4 cases, and in 30 cases no inventory was filed. In these cases 146 annual reports had been filed. The investment of funds of the ward is supervised by the court in 28 cases. An attorney appeared for the guardian in 17 cases and in 2 cases for the ward. In 27 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$515.50 have been allowed for guardians and \$10 for attorneys. The wards' funds have been properly preserved and cared for in 41 cases.

#### DICKINSON COUNTY

Area, 851 square miles; population, 25,036, assessed value, \$43,952,292. Probate report made by Hon. D. W. Nickles, probate judge for 4½ years. There have been 1 defalcation by guardian, executor or administrator within the year amounting to \$2,468, all of which was paid by bondsmen. Two juvenile

officers are employed, 22 juvenile cases were heard within the year were pending. There were no habeas corpus cases, 5 orders were made in district court cases, and no proceedings in aid of execution within the year. Eight adoption proceedings were had and 18 insanity cases were heard within the year.

Estates of 87 deceased persons were closed within the year. Ten were closed by transcripts. In 25 cases the final report was filed within 1 year after the death of administration were issued, in 50 cases from 1 to 2 years, in 5 cases from 2 to 3 years, in 3 cases from 3 to 4 years., in 1 case from 4 to 5 years, and in 1 case from 5 to 10 years. In 49 cases there was a will, and in 38 cases there was intestate. In 52 cases bond was required of the executor or administrator and all bonds had been kept good. In 35 cases no bond was required. In 56 cases inventory was filed within 60 days, after 60 days in 15 cases, and in 16 cases no inventory was filed. Seventy-two first annual reports were filed. The aggregate value of 69 of these estates, as appraised, was \$449,142.35, and the estimated value of 58 estates not appraised was \$449,142.35, and in 11 cases the value was not given. In 35 cases attorneys represented the executor or administrator, in 5 cases the heirs or devisees, and in 52 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$15,911.10 were allowed for executors or administrators, and \$6,903.83 for attorneys. In 65 cases the estates paid claims in full and in 22 cases they did not pay claims in full.

Estates of 143 deceased persons were pending July 1, 1937. Of these 77 have been pending less than 1 year, 20 from 1 to 2 years, 14 from 2 to 3 years, 4 from 3 to 4 years, 8 from 4 to 5 years, 17 from 5 to 10 years, and 1 case longer than 10 years. In 99 of these there was a will and in 44 cases deceased was intestate. In 91 cases bond was required of the executor or administrator. In all cases bonds were kept good, and in 52 cases no bond was required. In 92 cases the inventory was filed within 60 days, in 34 cases after 60 days, and in 17 cases no inventory was filed. The appraised value of these estates is \$1,007,229.13, and the estimated value of property not appraised is \$1,297,051.83. In 45 cases first annual reports have been filed, and in 98 cases such reports had not been filed. An attorney represented the executor or administrator in 24 cases, the heirs or devisees in 9 cases, and in 110 cases the report does not show that an attorney appeared for anyone.

There were 25 guardianship estates of minors or other incompetent persons closed within the year. In 1 case final report was filed within 1 year after the appointment, in 2 cases from 1 to 2 years, in 1 case from 2 to 3 years, in 3 cases from 4 to 5 years, in 5 cases from 5 to 10 years, and in 13 cases longer than 10 years. Of these estates 20 were of minors, 4 of insane, and 1 of a competent person. In 12 a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$36,943.41. Twenty-four cases were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 11 cases, after 30 days in 10 cases, and in 4 cases no inventory was filed. In these cases 142 annual reports have been filed. Investment of the funds of the ward has been supervised by the court in 11 cases. An attorney appeared for the guardian in 5 cases, in no case for the ward. In 20 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$955.58 were allowed for guardians and \$275.25 for attorneys.



ys. In 24 cases the funds of the wards were properly accounted for and rrsed.

ere were 221 guardianship estate cases pending July 1, 1937. Of these d been pending less than 1 year, 15 from 1 to 2 years, 12 from 2 to 3 , 14 from 3 to 4 years, 14 from 4 to 5 years, 83 from 5 to 10 years, and nger than 10 years. There were estates of 149 minors, 38 insane persons, 4 other incompetents. A guardian was also appointed for the person of ard in 87 cases. The value of these estates as reported, is \$1,008,531.80.

0 cases bond was required of the guardian and all bonds has been kept In 1 case no bond was required. An inventory was filed within 30 in 88 cases, after 30 days in 83 cases, and in 50 cases no inventory had filed. In these cases 1182 annual reports had been filed. The investment nds of the ward is supervised by the court in 137 cases and in 84 cases are not supervised by the court. An attorney appeared for the guardian cases and in 1 case for the ward. In 175 cases the report does not show an attorney appeared for anyone. Fees amounting to \$23,440.48 were ed for guardians and \$1,992.88 for attorneys. The wards' funds have properly preserved and cared for in 183 cases.

#### DONIPHAN COUNTY

ea, 379 square miles; population, 14,721; assessed value, \$18,991,693.

port made by Hon. John R. Bell, probate judge for 6½ years. There een no defalcations by guardians, executors or administrators within the

One juvenile officer is employed; 52 juvenile cases were heard within ear and 4 were pending. There were 4 habeas corpus cases, in all of a cases, writ was allowed.

vo orders were made in district court cases, and there were no proceedings d of execution within the year. Four adoption proceedings were had and anity cases were heard within the year.

ates of 51 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, cases from 1 to 2 years, in 6 from 2 to 3 years, in 6 from 3 to 4 years, in n 5 to 10 years, and in 6 cases after 10 years. In 26 cases there was a will, n 25 cases decedent was intestate. In 34 cases bond was required of the tor or administrator and all bonds had been kept good. In 17 cases no was required. The inventory was filed within 60 days in 47 cases, and 60 days in 4 cases. Fifty-one first annual reports had been filed. The gate value of all of these estates, as appraised, was \$452,188.72; the esti- d value of 11 estates not appraised was \$2,640. In 23 cases attorneys sented the executor or administrator, in 7 cases the heirs or devisees, and cases the report does not show that an attorney appeared for anyone. amounting to \$4,032 were allowed for executors or administrators, and 6 for attorneys. In 48 cases the estates paid claims in full and in 3 cases states did not pay claims in full.

ates of 132 deceased persons were pending July 1, 1937. Of these cases ve been pending less than 1 year, 22 from 1 to 2 years, 12 from 2 to 3 , 9 from 3 to 4 years, 8 from 4 to 5 years, 28 from 5 to 10 years, and 6 longer than 10 years. In 71 of these there was a will and in 61 cases sed was intestate. In 89 cases bond was required of the executor or ad-

ministrator, and all bonds had been kept good. In 43 cases no bond was required. In 108 cases the inventory was filed within 60 days, in 14 cases within 60 days, and in 10 cases no inventory was filed. The appraised value of these estates is \$1,542,655.60 and the estimated value of property not appraised is \$5,200. In 47 cases first annual reports have been filed and in 63 cases such reports had not been filed. An attorney represented the executor or administrator in 65 cases, the heirs or devisees in 38 cases, and in 63 cases the report does not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents closed within the year. In 2 cases final report was filed within 1 year after appointment, in 2 cases from 1 to 2 years, in 1 case from 2 to 3 years, in 1 case from 3 to 4 years, in 1 case from 4 to 5 years, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. Of these 7 cases 3 were of minors, 3 of insane, and none of incompetents. In all cases a guardian was appointed for the person of the ward. The value of these estates as reported, is \$1,060. All guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in all cases. In these cases 17 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. Attorneys did not appear for anyone in any case. Fees amounting to \$350 were allowed for guardians but no fees for attorneys. In all cases the funds of the wards were accounted for and disbursed.

There were 47 guardianship estate cases pending July 1, 1937. Of these 16 had been pending less than 1 year, 16 from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, 2 from 4 to 5 years, 7 from 5 to 10 years, and 5 longer than 10 years. These were estates of 31 minors, and 16 insane persons. A guardian was also appointed for the person of the ward in 42 cases. The value of these estates as reported, is \$44,124.98. In all cases bond was required of the guardian and all bonds had been kept good. An inventory was filed within 30 days in 42 cases, after 30 days in 1 case, and in 4 cases no inventory had been filed. In these cases 37 annual reports had been filed. The investment of funds of the ward is supervised by the court in 40 cases and in 7 cases they are not supervised by the court. An attorney appeared for the guardian in 36 cases and in 1 case for the ward. In 36 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$725 were allowed for guardians and \$350 for attorneys. The wards' funds have been properly accounted for and cared for in all cases.

#### DOUGLAS COUNTY

Area, 469 square miles; population, 26,419; assessed value, \$39,704,900.

Report made by Hon. L. H. Menger, probate judge for 16½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 11 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no writs were made in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were had and 10 insanity cases were heard within the year.

Estates of 43 deceased persons were closed within the year. In 4 cases final report was filed within 1 year after letters of administration were granted, in 32 cases from 1 to 2 years, in 3 from 2 to 3 years, in 3 from 3 to 4 years,

case from 4 to 5 years. In 25 cases there was a will and in 18 cases deceased was intestate. In 31 cases bond was required of the executor or administrator and all bonds had been kept good. In 12 cases no bond was required. The inventory was filed within 60 days in 31 cases and after 60 days in 12 cases. No first annual reports had been filed. The aggregate value of these estates, as appraised, was \$307,451.73. In every case attorneys represented the executor or administrator, but in no cases were the heirs or devisees represented. In 25 cases the estates paid claims in full, 2 cases were prorated, and in 3 cases there were no claims.

Of 126 deceased persons were pending July 1, 1937. Of these cases 7 have been pending less than 1 year, 26 from 1 to 2 years, 12 from 2 to 3 years, 7 from 3 to 4 years, 5 from 4 to 5 years, and 6 from 5 to 10 years. In 43 of these there was a will and in 40 cases deceased was intestate. In 74 cases bond was required of the executor or administrator and all bonds were kept good.

In 52 cases no bond was required. In 86 cases the inventory was filed within 60 days, in 33 cases after 60 days, and in 7 cases no inventory was filed. The appraised value of 103 of these estates is \$1,161,059.40. In 15 cases first annual reports have been filed and in 111 cases such reports had not been filed. In 107 cases an attorney represented the executor or administrator in 124 cases, in 10 cases no attorney was the heirs or devisees represented, and in 2 cases the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of minors closed within the year. In both cases final report was filed within 5 to 10 years after guardian was appointed. In both cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$864.88. Both guardians were required to give bond and both bonds have been kept good. The inventory was filed after 30 days in both cases. In these cases 8 annual reports have been filed. Investment of funds of the ward has been approved by the court in both cases. An attorney appeared for the guardian in both cases and in both cases for the ward. There were no fees allowed guardians or attorneys. In both cases the funds of the wards were properly accounted for and disbursed.

There were 75 guardianship estate cases pending July 1, 1937. Of these 13 have been pending less than 1 year, 16 from 1 to 2 years, 11 from 2 to 3 years, 10 from 3 to 4 years, 22 from 4 to 5 years, and 3 from 5 to 10 years. These estates of 54 minors, 18 insane persons, and 3 other incompetents. A guardian was also appointed for the person of the ward in 23 cases. The aggregate value of these estates, as reported, is \$62,992.23. In 66 cases bond was required of the guardian and all bonds were kept good. In 9 cases no bond was required. An inventory was filed within 30 days in 30 cases, after 30 days in 29 cases, and in 16 cases no inventory had been filed. In these cases 71 annual reports had been filed. The investment of funds of the ward is approved by the court in 65 cases and in 10 cases they are not approved by the court. An attorney appeared for the guardian in 61 cases and in no cases for the wards represented. In 14 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$18 were allowed for guardians. The wards' funds have been properly preserved and cared for in 75 cases.

## EDWARDS COUNTY

Area, 612 square miles; population, 6,906; assessed value, \$14,221.

Report made by Hon. L. L. Anderson, probate judge for 5 months. There had been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed part time, 3 juveniles were heard within the year and none were pending. There were no corpus cases, 9 orders were made in district court cases, and no proceedings in aid of execution within the year. Three adoption proceedings and 6 insanity cases were heard within the year.

Estates of 25 deceased persons were closed within the year. In 7 cases final report was filed within 1 year after letters of administration were issued, in 9 cases from 1 to 2 years, in 6 cases from 2 to 3 years, in 1 case from 3 to 4 years, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. In 14 cases there was a will, and in 11 cases decedent was intestate. In all cases bond was required of the executor or administrator and all bonds have been kept good. In 7 cases no bond was required. The inventory was filed within 60 days in 20 cases, and after 60 days in 5 cases. Twenty-five reports had been filed. The aggregate value of all of these estates appraised, was \$240,433.35; the estimated value of 8 estates not appraised was \$101,796.50. In 25 cases attorneys represented the executor or administrator. In 3 cases the heirs or devisees. Fees amounting to \$8,021.60 were allowed for executors or administrators, and \$988.76 for attorneys. In all cases the estates paid claims in full.

Estates of 37 deceased persons were pending July 1, 1937. Of these 17 have been pending less than 1 year, 5 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, 4 from 4 to 5 years, and 3 from 5 to 10 years. In 24 cases there was a will and in 12 cases deceased was intestate. In 24 cases bond was required of the executor or administrator and all bonds were kept good. In 13 cases no bond was required. In 24 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 6 cases no inventory was filed. The appraised value of 31 of these estates is \$454,034.72 and the estimated value of property not appraised is \$115,946. In 12 cases first annual reports had been filed and in 25 cases such reports had not been filed. An attorney represented the executor or administrator in 35 cases, the heirs or devisees in 3 cases, and in 2 cases the report does not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents pending within the year. In 2 cases final report was filed within 2 to 3 years, in 3 cases a guardian was appointed, in 3 from 5 to 10 years, and in 2 cases longer than 10 years. Of these estates 6 were of minors and 1 of an insane person. In 4 cases a guardian was appointed for the person of the ward. The value of the estates, as reported, is \$5,117.69. All guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 1 case, after 30 days in 5 cases, and in 1 case no inventory was filed. In 37 cases 37 annual reports have been filed. Investment of funds of the wards has been supervised by the court in 6 cases. An attorney appeared for the guardian in 4 cases, but in no case for the ward. In 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$56.67 were allowed for guardians and \$56.67 for attorneys. In all cases the wards were properly accounted for and disbursed.

ere were 42 guardianship estate cases pending July 1, 1937. Of these 7  
een pending less than 1 year, 3 from 1 to 2 years, 6 from 2 to 3 years, 3  
3 to 4 years, 15 from 5 to 10 years, and 8 longer than 10 years. These  
estates of 32 minors, 9 insane persons, and 1 other incompetent. A  
an was also appointed for the person of the ward in 32 cases. The value  
se estates, as reported, is \$111,947.59. In 41 cases bond was required of  
ardian and all bonds were kept good. In 1 case no bond was required.  
ventory was filed within 30 days in 28 cases, after 30 days in 10 cases, and  
ases no inventory had been filed. In these cases 111 annual reports had  
iled. The investment of funds of the ward is supervised by the court in  
es and in 7 cases they are not supervised by the court. In 5 cases there  
no funds. An attorney appeared for the guardian in 17 cases and in no  
for the ward. In 25 cases the report does not show that an attorney ap  
l for anyone. Fees amounting to \$2,539 were allowed for guardians and  
7 for attorneys. The wards' funds have been properly preserved and  
for in 34 cases.

#### ELK COUNTY

a, 651 square miles; population, 8,291; assessed value, \$13,849,838.  
ort made by Hon. W. M. Gibbons, probate judge for 2½ years. There  
een no defalcations by guardians, executors, or administrators within the  
No juvenile officer is employed, and no juvenile cases were heard within  
ear. There were no habeas corpus cases, 2 orders were made in district  
cases, and there were no proceedings in aid of execution within the year.  
option proceedings were had and 6 insanity cases were heard within the

ates of 27 deceased persons were closed within the year. In 12 cases the  
report was filed within 1 year after letters of administration were issued,  
from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 4 to 5 years, and in 1  
onger than 10 years. In 14 cases there was a will, and in 13 cases de  
t was intestate. In 17 cases bond was required of the executor or ad  
rator and all bonds had been kept good. In 10 cases no bond was re  
l. The inventory was filed within 60 days in 25 cases, after 60 days in 1  
and in 1 case no inventory was filed. Three first annual reports had been  
The aggregate value of 24 of these estates, as appraised, was \$108,324.71;  
timated value of 20 estates not appraised was \$115,321.21 and in all cases  
alue was given. In 15 cases attorneys represented the executor or ad  
rator, in 1 case the heir or devisee, and in 12 cases the report does not  
that an attorney appeared for anyone. Fees amounting to \$1,105.74 were  
d for executors or administrators, and \$520 for attorneys. In 26 cases  
state paid claims in full and in 1 case estate did not pay claims in

ates of 63 deceased persons were pending July 1, 1937. Of these cases  
ve been pending less than 1 year, 7 from 1 to 2 years, 6 from 2 to 3 years,  
n 3 to 4 years, 4 from 4 to 5 years, 8 from 5 to 10 years, and 7 longer than  
ars. In 27 of these there was a will and in 36 cases deceased was intestate.  
cases bond was required of the executor or administrator and all bonds  
kept good. In 23 cases no bond was required. In 57 cases the inventory  
led within 60 days, in 5 cases after 60 days, and in 1 case no inventory  
led. The appraised value of 60 of these estates is \$809,371.77, and the

estimated value of property not appraised is \$409,546.67. In 16 cases annual reports have been filed and in 47 cases such reports had not been filed. An attorney represented the executor or administrator in 25 cases, the devisees in 3 cases, and in 38 cases the report does not show that an attorney appeared for anyone.

There were 4 guardianship estates of minors closed within the year. The final report was filed within 5 to 10 years after guardian was appointed and in 1 case longer than 10 years. In 3 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$3,026.76. Guardians were required to give bond, and all bonds have been kept good. The inventory was filed within 30 days in 3 cases, and after 30 days in 1 case. In these cases 11 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the ward in 1 case and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$35 were allowed for guardians and fees were allowed for attorneys. In all cases the funds of the wards have been properly accounted for and disbursed.

There were 32 guardianship estate cases pending July 1, 1937. Of these 1 had been pending less than 1 year, 8 from 1 to 2 years, 2 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 8 from 5 to 10 years, and 6 longer than 10 years. These were estates of 26 minors, 5 insane persons, and 1 incompetent. A guardian was also appointed for the person of the wards in 5 cases. The value of these estates, as reported, is \$35,026.76. In all cases bond was required of the guardian and all bonds have been kept good. An inventory was filed within 30 days in 22 cases, after 30 days in 5 cases, and in 5 cases no inventory had been filed. In these cases 66 annual reports had been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 10 cases and in 1 case for the ward. In 22 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$506.80 were allowed for guardians and \$225 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### ELLIS COUNTY

Area, 900 square miles; population, 16,562; assessed value, \$21,820,100.

Report made by Hon. Peter Holzmeister, probate judge for 4 years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. One juvenile case was heard within the year and 1 was pending. There was 1 habeas corpus case in which the writ was allowed, 3 orders were made in district court cases, and there were no proceedings in aid of execution within the year. Three adoption proceedings were had and 8 insanity cases were heard within the year.

The estates of 34 deceased persons were closed within the year. In 10 the final report was filed within 1 year after letters of administration were issued, in 21 from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 4 to 5 years, in 5 from 5 to 10 years, and in 1 after 10 years. In 22 cases there was a will and in 12 cases decedent was intestate. In 14 cases bond was required of the executor or administrator and all bonds were kept good. In 20 cases no bond was required. The inventory was filed within 60 days in 26 cases and after 60 days in 8 cases. Thirty-four first annual reports had been filed. The

value of these estates, as appraised, was \$394,794.93. In 14 cases attorneys represented the executor or administrator, in no cases were the heirs or decedents represented, and in 20 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,760 were allowed for executors or administrators and \$1,358 for attorneys. In all cases the estates paid claims in

the estates of 92 deceased persons were pending July 1, 1937. Of this number 9 have been pending less than 1 year, 17 from 1 to 2 years, 1 from 2 to 3 years, 7 from 3 to 4 years, 7 from 4 to 5 years, and 21 from 5 to 10 years. In 59 cases there was a will and in 33 cases deceased was intestate. In 47 cases bond was required of the executor or administrator and in 42 cases bonds have been kept good. In 45 cases no bond was required. In 69 cases the inventory was filed within 60 days, in 19 after 60 days, and in 4 cases no inventory was filed. The appraised value of 89 estates is \$1,402,782.49. In 23 cases first annual reports have been filed and in 69 cases such reports have not been filed. An attorney represented the executor or administrator in 23 cases, the heirs or decedents were not represented in any case, and in 69 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 19 guardianship estate cases pending July 1, 1937, all of which have been pending less than 1 year. These were estates of 13 minors and 6 adult persons. A guardian was appointed for the person of the ward in 13 cases. The value of these estates, as reported, is \$8,755.54. In 15 cases bond was required of the guardian and all bonds were kept good. In 4 cases no bond was required. An inventory was filed within 30 days in 9 cases and in 10 cases no inventory was filed. No annual reports had been filed. The investment of the funds of the ward is not supervised by the court in any case. The report does not show that an attorney appeared for anyone. The wards' funds have been properly preserved and cared for in all cases.

#### ELLSWORTH COUNTY

Area, 720 square miles; population, 10,106; assessed value, \$23,958,657. Report made by Hon. Frank Vitek, probate judge for 8½ years. There had been no defalcations by guardians, executors or administrators within the year. A juvenile officer is employed, 12 juvenile cases were heard within the year, none were pending. There were no habeas corpus cases, 2 orders were granted in district court cases, and there were no proceedings in aid of execution within the year. No adoption proceedings were had and 3 insanity cases were closed within the year.

Estates of 32 deceased persons were closed within the year. In 6 cases the report was filed within 1 year after letters of administration were issued, 1 from 1 to 2 years, in 3 from 2 to 3 years, and in 1 case longer than 10 years. In 19 cases there was a will, and in 13 cases decedent was intestate. In 15 cases bond was required of the executor or administrator and all bonds had been kept good. In 12 cases no bond was required. The inventory was filed within 60 days in 26 cases, after 60 days in 4 cases, and in 2 cases no inventory was filed. Two first annual reports had been filed. The aggregate value of 30 of these estates, as appraised, was \$544,549.95, the estimated value of 2 estates

not appraised was \$29,508.36 and in all cases the value was given. In all cases attorneys represented the executor or administrator, in 3 cases the heirs or devisees, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$1,723.06 were allowed for executors or administrators, and \$1,700 for attorneys. In all cases the estates paid claim.

Estates of 69 deceased persons were pending July 1, 1937. Of these 29 have been pending less than 1 year, 16 from 1 to 2 years, 5 from 2 to 3 years, 14 from 3 to 4 years, 3 from 4 to 5 years, and 2 from 5 to 10 years. In 14 of these there was a will and in 28 cases deceased was intestate. In all cases bond was required of the executor or administrator and all bonds were kept good. In 33 cases no bond was required. In 55 cases the inventory was filed within 60 days, in 5 cases after 60 days, and in 9 cases no inventory was filed. The appraised value of 60 of these estates is \$902,230.66 and the value of property not appraised is \$4,152.37. In 12 cases first annual reports have been filed and in 57 cases such reports had not been filed. In all cases attorneys represented the executor or administrator in 57 cases, the heirs or devisees in 4 cases, and in 12 cases the report does not show that an attorney appeared for anyone.

There was 1 guardianship estate of a minor closed within the year. In this case final report was filed within 1 year after guardian was appointed. The guardian was appointed for the person of the ward. The value of the estate as reported, is \$990. Guardian was required to give bond and bond was kept good. No inventory was filed. Two annual reports have been filed in this case. Investment of funds of the ward has been supervised by the court. An attorney appeared for the guardian in this case. There were no other wards, no allowed guardians, and fees amounting to \$25 were allowed attorneys. The wards' funds have been properly accounted for and disbursed.

There were 36 guardianship estate cases pending July 1, 1937. Of these 10 had been pending less than 1 year, 7 from 1 to 2 years, 9 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 3 from 5 to 10 years, and 7 longer than 10 years. These were estates of 28 minors, 7 insane persons, and 1 competent person. A guardian was also appointed for the person of the ward in 24 cases. The value of these estates as reported, is \$46,723.43. In all cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 1 case, after 30 days in 3 cases, and in 31 cases no inventory had been filed. In 31 cases 80 annual reports had been filed. The investment of funds of the wards has been supervised by the court in 13 cases and in 23 cases they are not supervised by the court. An attorney appeared for the guardian in 9 cases and in 1 case for the ward. In 27 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,260 were allowed for guardians and \$225 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### FINNEY COUNTY

Area, 1,296 square miles; population, 10,445; assessed value, \$15,891,000.

Report made by Hon. Edgar Foster, probate judge for 7 years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed part time, 11 juvenile cases were heard during the year and none were pending. There were no habeas corpus cases, no writs made in district court cases, and no proceedings in aid of execution.



the year. Three adoption proceedings were had and 1 insanity case heard within the year.

Estates of 22 deceased persons were closed within the year. In 8 cases the report was filed within 1 year after letters of administration were issued, from 1 to 2 years, in 1 from 2 to 3 years, and in 2 from 4 to 5 years. In 13 cases there was a will, and in 14 cases decedent was intestate. In 19 cases bond was required of the executor or administrator and all bonds had been kept good. In 3 cases no bond was required. The inventory was filed within 30 days in 21 cases, and after 60 days in 1 case. Four first annual reports had been filed. The aggregate value of these estates, as appraised, was \$199,561.42. In 15 cases attorneys represented the executor or administrator, but in no cases heirs or devisees, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$1,256.64 were allowed for executors or administrators, and \$1,362.80 for attorneys. In 17 cases the estates paid in full, 3 cases were pro-rated, and in 2 cases the estates did not pay in full.

Estates of 25 deceased persons were pending July 1, 1937. Of these cases 11 had been pending less than 1 year, 11 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, and 2 from 5 to 10 years. In 12 of these cases there was a will and in 13 cases deceased was intestate. In 19 cases bond was required of the executor or administrator. In 18 cases bonds were kept good and in 6 cases no bond was required. In 22 cases the inventory was filed within 60 days, and in 3 cases after 60 days. The appraised value of 24 of these estates is \$180,702.51, and the estimated value of property not appraised is \$100. In 7 cases first annual reports have been filed and in 18 cases such reports had not been filed. An attorney represented the executor or administrator in every case, the heirs or devisees were not represented in any case. There were 3 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed 7 years after guardian was appointed and in 1 case was filed after 12 years. One case was transferred to Clinton county, Missouri. Of these estates, 2 were of minors and 1 of an incompetent person. In every case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$4,050.46. In all cases guardians were required to give bond, and both bonds have been kept good.

The inventory was filed after 30 days in 1 case, and in 2 cases no inventory was filed. In these cases 9 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 1 case. An attorney appeared for the guardian in 1 case, for the ward in 1 case, and in 1 case the report does not show that an attorney appeared for anyone. There were no fees allowed guardians, and in 1 case \$50 was allowed for attorney. In 2 cases the funds of the wards were properly accounted for and disbursed.

There were 7 guardianship estate cases pending July 1, 1937. Of these 3 had been pending less than 1 year, 2 from 4 to 5 years and 2 from 5 to 10 years. There were estates of 4 minors, 1 insane person, and 2 other incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$12,416.66. In all cases bond was required of the guardian and all bonds have been kept good. An inventory was filed within 30 days in 1 case, and in 6 cases no inventory had been filed. In these cases 3 annual reports had been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 6 cases and

in no case for the ward. In 1 case the report does not show that a guardian appeared for anyone. Fees amounting to \$300 were allowed for guardians, and no fees were allowed for attorneys. The wards' funds have been preserved and cared for in all cases.

#### FORD COUNTY

Area, 1,080 square miles; population, 18,169; assessed value, \$29,800,000.

Report made by Hon. Richard W. Evans, probate judge for Ford County. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officers are employed, 21 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, 10 orders were made in district court cases, and 1 proceeding for execution within the year. Seven adoption proceedings were had and 10 insanity cases were heard within the year.

Estates of 36 deceased persons were closed within the year. In 2 cases final report was filed within 1 year after letters of administration were granted, in 18 from 1 to 2 years, in 2 from 2 to 3 years, in 4 from 3 to 4 years, in 4 from 4 to 5 years, in 3 from 5 to 10 years, and in 5 cases longer than 10 years. In 19 cases there was a will, and in 17 cases decedent was intestate. In 23 cases bond was required of the executor or administrator and in 23 cases the bond had been kept good. In 12 cases no bond was required. The inventory was filed within 60 days in 15 cases, after 60 days in 13 cases, and in 8 cases no inventory was filed. Three first annual reports had been filed. The appraised value of 28 of these estates, as appraised, was \$510,000; the estimated value of estates not appraised was \$16,000; and in 2 cases the value was not estimated. In 29 cases attorneys represented the executor or administrator, the heirs or devisees were not represented in any case, and in 7 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,755.80 were allowed for executors or administrators, and \$3,298.43 for attorneys. In 10 cases the estates paid claims in full and in 4 cases the estates did not pay claims in full. In 6 cases there were no claims against estates.

Estates of 56 deceased persons were pending July 1, 1937. Of these 10 have been pending less than 1 year, 13 from 1 to 2 years, 8 from 2 to 3 years, 11 from 3 to 4 years, 7 from 4 to 5 years, and 1 from 5 to 10 years. In 11 of these there was a will and in 29 cases deceased was intestate. In 23 cases bond was required of the executor or administrator and all bonds were kept good. In 21 cases the inventory was filed within 60 days, in 8 cases after 60 days, and in 27 cases no inventory was filed. The appraised value of these estates is \$232,315. In 3 cases first annual reports have been filed and in 53 cases such reports had not been filed. An attorney represented the executor or administrator in every case, and the heirs or devisees were not represented in any case.

There were 7 guardianship estates of minors or other incompetent persons within the year. In 2 cases final report was filed within 1 year after appointment, in 1 case from 1 to 2 years, in 1 case from 3 to 4 years, in 1 case from 4 to 5 years, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. Of these estates, 4 were of minors, and 3 of insane persons. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$2,100. All guardians were required to give

nds have been kept good. The inventory was filed within 30 days in 1 after 30 days in 2 cases, and in 4 cases no inventory was filed. In these 13 annual reports have been filed. Investment of funds of the ward has supervised by the court in all cases. An attorney appeared for the an in 2 cases and the ward was not represented in any case. In 5 cases report does not show that an attorney appeared for anyone. Fees amount- \$67.70 were allowed for guardians and \$101 for attorneys. In 6 cases nds of the wards were properly accounted for and disbursed. In 1 case were no funds.

ere were 50 guardianship estate cases pending July 1, 1937. Of these 8 een pending less than 1 year, 8 from 1 to 2 years, 12 from 2 to 3 years, m 3 to 4 years, 6 from 4 to 5 years, and 3 from 5 to 10 years. These estates of 39 minors, 8 insane persons, and 3 other incompetents. A an was also appointed for the person of the ward in every case. The of these estates, as reported, is \$32,514.14. In 48 cases bond was re- of the guardian and all bonds had been kept good. In 2 cases no bond required. An inventory was filed within 30 days in 2 cases, after 30 days es, and in 42 cases no inventory had been filed. In these cases 8 annual s had been filed. The investment of funds of the ward is supervised by ourt in all cases. An attorney appeared for the guardian in 43 cases and case for the ward. In 7 cases the report does not show that an attorney ed for anyone. Fees amounting to \$62.62 were allowed for guardians, o fees were allowed attorneys. The wards' funds have been properly yed and cared for in 5 cases.

#### FRANKLIN COUNTY

a, 576 square miles; population, 21,022; assessed value, \$31,868,556. port made by Hon. Clive H. Owen, probate judge for 8½ years. There een no defalcations by guardians, executors, or administrators within the One juvenile officer is employed, 10 juvenile cases were heard within ar and 2 were pending. There were no habeas corpus cases, 10 orders ade in district court cases, and there were no proceedings in aid of exe- within the year. Three adoption proceedings were had and 13 insanity ere heard within the year.

ates of 62 deceased persons were closed within the year. In 8 cases the report was filed within 1 year after letters of administration were issued, rom 1 to 2 years, in 4 from 2 to 3 years, in 2 from 3 to 4 years, in 1 from years, in 3 from 5 to 10 years, and in 1 case longer than 10 years. In 36 here was a will, and in 26 cases decedent was intestate. In 43 cases bond required of the executor or administrator and all bonds had been kept In 19 cases no bond was required. The inventory was filed within 60 n 47 cases, after 60 days in 10 cases, and in 5 cases no inventory was filed. first annual reports had been filed. The aggregate value of 54 of these s, as appraised, was \$426,662.46 and the estimated value of estates not ap- d was \$124,438. In 31 cases attorneys represented the executor or ad- rator, in no cases were the heirs or devisees represented, and in 31 cases port does not show that an attorney appeared for anyone. Fees amount- \$2,829.59 were allowed for executors or administrators, and \$1,563.71 for eys. In 59 cases the estates paid claims in full and in 3 cases the estates t pay claims in full.

Estates of 141 deceased persons were pending July 1, 1937. Of these 68 have been pending less than 1 year, 36 from 1 to 2 years, 13 from 2 to 3 years, 4 from 3 to 4 years, 6 from 4 to 5 years, 12 from 5 to 10 years, and 3 cases longer than 10 years. In 85 of these there was a will and in 56 cases the deceased was intestate. In 94 cases bond was required of the executor or administrator and all bonds were kept good. In 47 cases no bond was required. In 102 cases the inventory was filed within 60 days, in 22 cases after 60 days and in 17 cases no inventory was filed. The appraised value of 111 estates is \$1,081,082.28 and the estimated value of property not appraised is \$266,665.54. In 13 cases first annual reports have been filed and in 107 such reports had not been filed. An attorney represented the executor or administrator in 75 cases, the heir or devisee in 1 case, and in 66 cases the report does not show that an attorney appeared for anyone.

There were 11 guardianship estates of minors or other incompetents pending within the year. In 1 case final report was filed within 1 year after appointment, in 2 cases from 2 to 3 years, in 1 case from 3 to 4 years, in 3 cases from 5 to 10 years, and in 4 cases longer than 10 years. Of these 6 were of minors, 1 of an insane person, and 2 of incompetent persons. In 10 cases a guardian was appointed for the person of the ward. The appraised value of these estates, as reported, is \$24,780.06. All guardians were required to post bond, and all bonds have been kept good. The inventory was filed within 30 days in 2 cases, after 30 days in 4 cases, and in 5 cases no inventory was filed. In these cases 34 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 8 cases. An attorney appeared for the guardian in 1 case and in no case for the ward. In 10 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$100 were allowed for guardians and \$10 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 127 guardianship estate cases pending July 1, 1937. Of these 68 had been pending less than 1 year, 16 from 1 to 2 years, 13 from 2 to 3 years, 7 from 3 to 4 years, 7 from 4 to 5 years, 32 from 5 to 10 years, and 13 cases longer than 10 years. These were estates of 85 minors, 20 insane persons, and 12 other incompetents. A guardian was also appointed for the person of the ward in 110 cases. The value of these estates, as reported, is \$339,280.02. In 107 cases bond was required of the guardian and all bonds were kept good. In 20 cases no bond was required. An inventory was filed within 30 days in 24 cases, after 30 days in 24 cases, and in 53 cases no inventory had been filed. In 107 cases 268 annual reports had been filed. The investment of funds of the ward is supervised by the court in 80 cases and in 47 cases they are not supervised by the court. An attorney appeared for the guardian in 30 cases and in 97 cases for the ward. In 97 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,788 were allowed for guardians and \$10 for attorneys. The wards' funds have been properly preserved and in 69 cases.

#### GEARY COUNTY

Area, 407 square miles; population, 12,093; assessed value, \$15,929,700.

Report made by Hon. Dave Rankin, probate judge for 6 months. In 1 case there had been 1 defalcation by a guardian, executor, or administrator within the year, amounting to \$456.97, none of which had yet been received. There are 10 constable officers employed. Eleven juvenile cases were heard within

1 was pending. There were no habeas corpus cases, no orders made in court cases, and no proceedings in aid of execution within the year. Adoption proceedings were had and 5 insanity cases were heard within the year.

The estates of 33 deceased persons were closed within the year. In 26 cases final report was filed within 1 to 2 years after letters of administration issued, in 2 from 2 to 3 years, in 2 from 4 to 5 years, and in 3 after 10 years. In 24 cases there was a will and in 9 cases decedent was intestate. In 16 cases bond was required of the executor or administrator and 16 bonds had been kept good. In 16 cases no bond was required. The inventory was filed within 60 days in 24 cases, after 60 days in 7 cases, and in 2 cases no inventory was filed. Three first annual reports had been filed. The aggregate value of the estates, as appraised, was \$493,775.83. In 33 cases attorneys represented the executor or administrator and the heirs or devisees were not represented in any case. Fees amounting to \$4,470 were allowed for executors or administrators and \$4,921.50 for attorneys. In 27 cases the estates paid claims in full. The estates of 60 deceased persons were pending July 1, 1937. Of this number 17 have been pending less than 1 year, 13 from 1 to 2 years, 4 from 2 to 3 years, 1 from 3 to 4 years, 4 from 4 to 5 years, and 1 from 5 to 10 years. In 21 cases there was a will and in 21 cases deceased was intestate. In 36 cases bond was required of the executor or administrator and all bonds have been kept good. In 24 cases no bond was required. In 44 cases the inventory was filed within 60 days, in 8 after 60 days, and in 8 cases no inventory was filed. The appraised value of 52 estates is \$760,326.38 and the estimated value of the 8 estates not appraised is \$41,613. In 4 cases first annual reports have been filed and in 56 cases such reports have not been filed. An attorney represented the executor or administrator in 59 cases, the heirs or devisees in 2 cases, and in 1 case the report does not show that an attorney appeared for anyone.

There were 9 guardianship estates of minors or other incompetents closed within the year. In 2 cases final report was filed within 1 to 2 years after letters of guardianship were issued, in 1 from 2 to 3 years, in 1 from 3 to 4 years, in 2 from 4 to 5 years, in 1 from 5 to 10 years, and in 2 longer than 10 years. Of these estates 5 were of minors and 4 of insane persons. A guardian was not appointed for the person of the ward in any case. The value of these estates, as reported, is \$49,841.81. Nine guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 11 cases and after 30 days in 6 cases. In these cases 21 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 11 cases. An attorney appeared for the guardian in 8 cases and in no cases for the ward. In 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$116.10 were allowed for guardians and \$99 for attorneys. In 9 cases the funds of the wards were properly accounted for and disbursed.

There were 58 guardianship estate cases pending July 1, 1937. Of these 9 have been pending less than 1 year, 7 from 1 to 2 years, 7 from 2 to 3 years, 7 from 3 to 4 years, 5 from 4 to 5 years, 16 from 5 to 10 years, and 7 longer than 10 years. These were estates of 44 minors, 10 insane persons, and 4 other incompetents. A guardian was appointed for the person of the ward in 1 case. The value of these estates, as reported is \$158,496.93. In 57 cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond

was required. An inventory was filed within 30 days in 11 cases, after in 19 cases, and in 28 cases no inventory was filed. In these cases 141 reports had been filed. The investment of funds of the ward is supervised by the court in 39 cases. An attorney appeared for the guardian in 29 cases and in no cases for the ward. In 29 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,525.82 have been allowed for guardians and \$793.62 for attorneys. The wards' funds have been preserved and cared for in 17 cases.

### GOVE COUNTY

Area, 1,080 square miles; population, 5,225; assessed value, \$9,181,918.

Report made by Hon. Geo. F. Turner, probate judge for 10½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed and no juvenile cases were filed within the year. There were no habeas corpus cases, 1 order was made by the district court case, and there were no proceedings in aid of execution within the year. One adoption proceeding was had and no insanity cases were filed within the year.

The estates of 17 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration were issued, in 6 from 1 to 2 years, in 1 from 2 to 3 years, in 4 from 3 to 4 years, in 3 from 5 to 10 years, and in 1 after 10 years. In 5 cases there was no inventory and in 12 cases decedent was intestate. In 17 cases bond was required of the executor or administrator and all bonds were kept good. The inventory was filed within 60 days in 12 cases, after 60 days in 4 cases, and in 1 case no inventory was filed. Two first annual reports had been filed. The appraised value of 17 estates, as appraised, was \$79,752.68. In 5 cases attorney represented the executor or administrator; the heirs or devisees were not represented in any case, and in 12 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,170 were allowed for executors, administrators and \$60 for attorneys. In 12 cases the estates paid claims in full, in 4 cases there were no claims, and in 1 case the estate did not pay claims in full.

The estates of 19 deceased persons were pending July 1, 1937. Of these 16 have been pending less than 1 year, 3 from 2 to 3 years, 5 from 3 to 4 years, and 3 longer than 10 years. In 10 cases there was a will and in 9 cases deceased was intestate. In 11 cases bond was required of the executor or administrator and 10 bonds have been kept good. In 8 cases no bond was required. In 14 cases the inventory was filed within 60 days, in 3 cases no inventory was filed, and in 2 cases no inventory was filed. The appraised value of 16 estates is \$164,137.99 and the estimated value of property not appraised is \$11,000. In 14 cases first annual reports have been filed and in 5 cases such reports have not been filed. An attorney represented the executor or administrator in 14 cases, the heirs or devisees in 1 case, and in 8 cases the report does not show that an attorney appeared for anyone.

There was 1 guardianship estate of a minor closed within the year. The final report was filed within 2 to 3 years after letter of guardianship was issued. The estate was of no value. The guardian was required to give bond and the bond has been kept good. No inventory was filed. No annual reports

filed. An attorney appeared for the guardian but not for the ward. No were allowed for guardian or attorney.

ere were 30 guardianship estate cases pending July 1, 1937. Of these 2 been pending from 1 to 2 years, 5 from 2 to 3 years, 4 from 3 to 4 years, n 4 to 5 years, 14 from 5 to 10 years, and 2 longer than 10 years. These estates of 29 minors and 1 insane person. A guardian was appointed for person of the ward in 1 case. The value of these estates, as reported, is \$8.20. In 30 cases bond was required of the guardian and all bonds were good. An inventory was filed within 30 days in 1 case and in 29 cases no tory was filed. In these cases 36 annual reports had been filed. The in- tment of funds of the ward is supervised by the court in 25 cases. An at- y appeared for the guardian in 13 cases and in no case for the ward. In ses the report does not show that an attorney appeared for anyone. A mounting to \$15 was allowed an attorney. The wards' funds have been rly preserved and cared for in 29 cases.

## GRAHAM COUNTY

ea, 900 square miles; population, 6,868; assessed value, \$9,380,970.

port made by Hon. E. L. McClure, probate judge for 12½ years. There een no defalcations by guardians, executors, or administrators within the

One juvenile officer is employed, 5 juvenile cases were heard within the and none were pending. There were no habeas corpus cases, 1 order was in a district court case, and there were no proceedings in aid of execution n the year. Three adoption proceedings were had and 2 insanity cases heard within the year.

ates of 13 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, ases from 1 to 2 years, and in 3 cases from 2 to 3 years. In 9 cases there will, and in 4 cases decedent was intestate. In 9 cases bond was required e executor or administrator and all bonds had been kept good. In 4 cases nd was required. The inventory was filed within 60 days in 10 cases, and 60 days in 3 cases. Two first annual reports had been filed. The aggre- value of these estates, as appraised, was \$106,496.38. In 4 cases attorneys sent the executor or administrator and in no cases were the heirs or eses represented. In 9 cases the report does not show that an attorney ap- d for anyone. Fees amounting to \$69.09 were allowed for executors or nistrators, and \$185 for attorneys. In 11 cases the estates paid claims in nd in 2 cases the estates did not pay claims in full.

ates of 28 deceased persons were pending July 1, 1937. Of these cases ve been pending less than 1 year, 5 from 1 to 2 years, 8 from 2 to 3 years, n 3 to 4 years, 2 from 4 to 5 years, and 1 from 5 to 10 years. In 16 of there was a will and in 12 cases deceased was intestate. In 21 cases bond equired of the executor or administrator. All bonds were kept good, and ases no bond was required. In 20 cases the inventory was filed within 60 in 3 cases after 60 days, and in 5 cases no inventory was filed. The ap- d value of 25 of these estates is \$115,455.95 and the estimated value of rty not appraised is \$8,100. In 2 cases first annual reports have been filed n 26 cases such reports had not been filed. An attorney represented the tór or administrator in 11 cases, but in no cases were the heirs or devisees

represented. In 17 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 11 guardianship estate cases pending July 1, 1937. Of these had been pending less than 1 year, 1 from 3 to 4 years, 1 from 4 to 5 years, 1 from 5 to 10 years, and 4 cases longer than 10 years. These were estates of 3 minors, 4 insane persons, and 1 other incompetent. A guardian was appointed for the person of the ward in 6 cases. The value of these estates reported, is \$33,450. In 11 cases bond was required of the guardian and in 10 cases bond has been kept good. An inventory was filed within 30 days in 10 cases, after 30 days in 3 cases, and in 6 cases no inventory had been filed. In 10 cases 27 annual reports had been filed. The investment of funds of the ward is supervised by the court in 6 cases and in 5 cases they are not supervised by the court. An attorney appeared for the guardian in 4 cases, but in 3 cases for the ward. In 7 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,383.32 were allowed for guardians and attorneys. The wards' funds have been properly preserved and accounted for in 5 cases.

#### GRANT COUNTY

Area, 576 square miles; population, 2,084; assessed value, \$5,546,091.

Report made by Hon. Myrtie Newby, probate judge for 6 months. There had been no defalcations by guardians, executors or administrators within the year. No juvenile officer is employed, 2 juvenile cases were heard within the year and 2 were pending. There were no habeas corpus cases, none were made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had and 1 insane person was heard within the year.

One estate of a deceased person was closed within the year. In this case the final report was filed 2 years after letters of administration were granted. In this case there was a will. Bond was required of the executor or administrator and bond had been kept good. There was no inventory filed. Annual reports had been filed. The aggregate value of this estate reported, was \$15,000 and the estimated value was \$15,000. An attorney represented the executor or administrator, but did not represent the heir or devisee. There was a fee of \$7 allowed for attorney. The estate paid claims in full.

Estates of 9 deceased persons were pending July 1, 1937. Of these 2 have been pending less than 1 year, 4 from 1 to 2 years, 2 from 2 to 5 years, and 1 from 5 to 10 years. In 2 of these there was a will and 7 cases deceased was intestate. In 7 cases bond was required of the executor or administrator and in 6 cases bond had kept good. In 2 cases no bond was required. In 7 cases the inventory was filed within 60 days, in 1 case within 60 days, and in 1 case no inventory was filed. The appraised value of these estates is \$71,153.11. No first annual reports have been filed. An attorney represented the executor or administrator in 7 cases, but in 2 cases the heirs or devisees were represented. In 2 cases the report does not show that an attorney appeared for anyone.

There was 1 guardianship estate of a minor closed within the year. The final report was filed 6½ years after guardian was appointed. A



appointed for the person of the ward. The value of this estate was not in, as part of it was in Oklahoma. Guardian was required to give bond and bond has been kept good. The inventory was filed within 30 days. Annual report had been filed. Investment of funds of the ward has been supervised by the court. An attorney appeared for the guardian but not for ward. There were no fees allowed guardian, but \$21.15 was allowed for attorneys. The funds of the ward were properly accounted for and disbursed. There were 5 guardianship estate cases pending July 1, 1937. Of these 1 had been pending less than 1 year, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 5 to 10 years, and 1 longer than 10 years. These were estates of 3 sane and 2 insane persons. A guardian was appointed for the person of ward in 4 cases. The value of these estates, as reported is \$50. In all cases bond was required of the guardian and all bonds had been kept good. Inventory was filed within 30 days in 1 case, after 30 days in 1 case, and in 2 cases no inventory had been filed. In these cases 2 annual reports had been filed. The investment of funds of the ward is supervised by the court in 2 cases and in 1 case they are not supervised by the court. An attorney appeared for the guardian in 3 cases and in no case for the ward. In 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$421.23 were allowed for guardians and \$25 for attorneys. The ward's funds have been properly preserved and cared for in 2 cases.

#### GRAY COUNTY

Area, 864 square miles; population, 5,271; assessed value, \$11,232,954. Report made by Hon. Edith M. Johnston, probate judge for 6½ years. There had been no defalcations by guardians, executors or administrators in the year. No juvenile officer is employed, no juvenile cases were heard in the year, and 5 were pending. There were no habeas corpus cases, no writs were made in district court cases, and no proceedings in aid of execution in the year. Four adoption proceedings were had and 1 insanity case was closed within the year.

Estates of 10 deceased persons were closed within the year. In 2 cases the report was filed within 1 year after letters of administration were issued, in 3 cases from 1 to 2 years, in 3 cases from 2 to 3 years, and in 1 case from 5 years. In 6 cases there was a will, and in 4 cases decedent was intestate. In 5 cases bond was required of the executor or administrator and all bonds had been kept good. In 4 cases no bond was required. The inventory was filed within 60 days in 5 cases, and after 60 days in 5 cases. No first annual reports had been filed. The aggregate value of these estates, as appraised, was \$151.57. In all cases attorneys represented the executor or administrator, and in no cases were the heirs or devisees represented. Fees amounting to \$10.17 were allowed for executors or administrators, and \$735 for attorneys. In 3 cases the estates paid claims in full and in 1 case the estate did not pay claims in full.

Estates of 31 deceased persons were pending July 1, 1937. Of these cases, 8 had been pending less than 1 year, 12 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, and 1 from 5 to 10 years. In 16 of these cases there was a will and in 15 cases deceased was intestate. In 20 cases bond was required of the executor or administrator and all bonds had been kept good. In 11 cases no bond was required. In 19 cases the inventory was filed

within 60 days, in 11 cases after 60 days, and in 1 case no inventory was filed. The appraised value of 30 of these estates is \$293,445.92. In 3 cases 1 annual reports have been filed and in 28 cases such reports had not been filed. An attorney represented the executor or administrator in every case and heirs or devisees were not represented in any case.

There were 2 guardianship estates of minors or other incompetents within the year. In both cases final report was filed within 1 to 2 years. A guardian was appointed. Of these estates, 1 was of a minor, and the other of an incompetent person. In both cases a guardian was appointed for the benefit of the ward. The value of these estates, as reported, is \$7,325.78. Both guardians were required to give bond, and both bonds have been kept good. An inventory was filed after 30 days in both cases. In these cases 1 annual report has been filed. Investment of funds of the ward has been supervised by the court in both cases. An attorney appeared for the guardian in both cases and no attorney appeared for the ward. There were no fees allowed for guardians and \$45 for attorneys. In both cases the funds of the wards were properly accounted for and disbursed.

There were 29 guardianship estate cases pending July 1, 1937. Of these, 1 had been pending less than 1 year, 8 from 1 to 2 years, 5 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 8 from 5 to 10 years, and 2 longer than 10 years. These were estates of 16 minors, 2 insane persons, and 11 of other incompetents. A guardian was also appointed for the person of the ward in 28 cases. The value of these estates, as reported, is \$61,311.57. In 28 cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 25 cases, after 30 days in 2 cases, and in 2 cases no inventory had been filed. In these cases 1 annual reports had been filed. The investment of funds of the ward is supervised by the court in 19 cases and in 10 cases they are not supervised by the court. An attorney appeared for the guardian in 16 cases and in no case for the ward. In 13 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,456.41 were allowed for guardians and attorneys for attorneys. The wards' funds have been properly preserved and accounted for in 18 cases.

#### GREELEY COUNTY

Area, 780 square miles; population, 1,540; assessed value, \$4,455,104.

Report made by Hon. J. G. Ridlen, probate judge for 4½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, and no juvenile cases were heard within the year. There were no habeas corpus cases, 2 orders were made in district court cases, and there were no proceedings in aid of execution within the year. An adoption proceeding was had and 1 insanity case was heard within the year.

There were no estates of deceased persons closed within the year. Estates of 38 deceased persons were pending July 1, 1937, 5 of which were foreign transcripts. Of these cases, 12 have been pending less than 1 year, 8 from 1 to 2 years, 8 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 10 from 5 to 10 years. In 32 of these there was a will and in 6 cases the deceased was intestate. In 5 cases bond was required of the executor or administrator. In 3 cases bonds were kept good, and in 33 cases no bond was required. In 6 cases the inventory was filed within 60 days, in 1 case after 60 days, and in 31 cases no inventory was filed. The appraised value of

the estates is \$146,195 and the estimated value of property not appraised is \$460. In 1 case first annual report has been filed. An attorney represented executor or administrator in 13 cases, the heirs or devisees in no case, and in 5 cases the report does not show that an attorney appeared for anyone. There were no guardianship estates of minors or other incompetents closed within the year.

There were 6 guardianship estate cases pending July 1, 1937. Of these, 1 has been pending from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 5 to 10 years. These were estates of 3 minors and 3 insane persons. Guardian was also appointed for the person of the ward in 4 cases. The value of these estates, as reported, is \$8,600. In 1 case the estate consisted of 10 acres of land and in 3 cases there was no property of value. In 2 cases bond was required of the guardian and in 1 case bond has been kept good. In 3 cases no bond was required. An inventory was filed after 30 days in 2 cases, in 4 cases no inventory had been filed. In these cases 1 annual report had been filed. The investment of funds of the ward is supervised by the court in 3 cases and in 5 cases they are not supervised by the court. An attorney did not appear for the guardian or ward in any case. The wards' funds have been properly preserved and cared for in 1 case.

#### GREENWOOD COUNTY

Area, 1,155 square miles; population, 16,944; assessed value, \$31,443,824. Report made by Hon. B. M. Beyer, probate judge for 6 months. There had been no defalcations by guardians, executors, or administrators within the year. A juvenile officer is employed. There were 9 juvenile cases heard within the year. There was 1 habeas corpus case in which the writ was allowed, no appeals were made in district court cases, and no proceedings in aid of execution within the year. Three adoption proceedings were had and 15 insanity cases were heard within the year.

The estates of 44 deceased persons were closed within the year. In 6 cases final report was filed within 1 year after letters of administration were granted, in 22 from 1 to 2 years, in 3 from 2 to 3 years, in 4 from 3 to 4 years, in 1 from 4 to 5 years, in 6 from 5 to 10 years, and in 1 case the final report has not yet been filed. In 21 cases there was a will and in 23 cases decedent was intestate. In 35 cases bond was required of the executor or administrator and all bonds had been kept good. In 9 cases no bond was required. The inventory was filed within 60 days in 36 cases and after 60 days in 8 cases. Forty-one first annual reports had been filed. The aggregate value of 44 estates, as reported, was \$744,605.72. In 6 cases attorneys represented the executor or administrator, in no cases were the heirs or devisees represented, and in 38 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$24,298.50 were allowed for executors or administrators and \$548 for attorneys. In 43 cases the estates paid claims in full.

The estates of 129 deceased persons were pending July 1, 1937. Of this number 49 have been pending less than 1 year, 24 from 1 to 2 years, 11 from 2 to 3 years, 9 from 3 to 4 years, 11 from 4 to 5 years, 21 from 5 to 10 years, and 4 longer than 10 years. In 62 cases there was a will and in 67 cases decedent was intestate. In 91 cases bond was required of the executor or administrator and 62 bonds have been kept good. In 38 cases no bond was required. In 87 cases the inventory was filed within 60 days, in 23 after 60 days,

and in 19 cases no inventory was filed. The appraised value of 107 estates was \$1,368,400.31, and the estimated value of property not appraised is \$1,368,400.31. In 32 cases first annual reports have been filed and in 97 cases such reports have not been filed. An attorney represented the executor or administrator in 27 cases, the heirs or devisees in 6 cases, and in 102 cases the reports do not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetent persons closed within the year. In 1 case final report was filed within 1 year after letters of guardianship were issued, in 1 from 1 to 2 years, in 3 from 5 to 10 years, and in 2 longer than 10 years. Of these estates 4 were of minors, 1 of insane persons, and 2 of other incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$7,137.70. In all cases guardians were required to give bond and all bonds have been kept good. In 3 cases inventory was filed within 30 days and in 4 cases no inventory was filed. In these cases 14 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. The reports do not show that an attorney appeared for anyone. A fee amounting to \$1,379.50 has been allowed for guardian. In all cases the funds of the wards were properly accounted for and disbursed.

There were 228 guardianship estate cases pending July 1, 1937. Of these 17 had been pending less than 1 year, 18 from 1 to 2 years, 5 from 2 to 3 years, 7 from 3 to 4 years, 5 from 4 to 5 years, 48 from 5 to 10 years, and 122 longer than 10 years. These were estates of 191 minors, 30 insane persons, and 7 incompetent persons. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$211,891.06. In 222 cases bond was required of the guardian and in 166 cases bond has been kept good. In 7 cases no bond was required. An inventory was filed within 30 days in 3 cases, after 30 days in 19 cases, and in 180 cases no inventory was filed. In these cases 298 annual reports had been filed. The investment of funds of the ward is supervised by the court in 122 cases. An attorney appeared for the guardian in 39 cases and in 18 cases for the ward. In 185 cases the reports do not show that an attorney appeared for anyone. Fees amounting to \$1,379.50 have been allowed for guardians and \$1,379.50 for attorneys. The wards have been properly preserved and cared for in 104 cases.

#### HAMILTON COUNTY

Area, 972 square miles; population, 3,074; assessed value, \$6,300,590.

Report made by Hon. D. P. Hotton, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, 2 juvenile cases were heard within the year and both were pending. There were no habeas corpus cases, 4 orders made in district court cases, and there were no proceedings in aid of execution within the year. No adoption proceedings were had and 3 insanity cases were heard within the year.

Estates of 17 deceased persons were closed within the year. In 4 cases final report was filed within 1 year after letters of administration were issued, in 5 from 1 to 2 years, in 1 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 5 to 10 years, and in 1 case longer than 10 years. In 9 cases there was no will and in 8 cases decedent was intestate. In 8 cases bond was required of the executor or administrator and all bonds had been kept good. In 9 cases

was required. The inventory was filed within 60 days in 8 cases, after 60 days in 7 cases, and in 2 cases no inventory was filed. No first annual report had been filed. The aggregate value of 16 of these estates, as appraised, was \$53,973, and the estimated value of estates not appraised was \$40,485. In 1 case an attorney represented the executor or administrator, in no cases were the heirs or devisees represented, and in 16 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$606.36 were allowed for executors or administrators, and \$65 for attorneys. In 10 cases the claims were paid in full.

Estates of 39 deceased persons were pending July 1, 1937. Of these cases 16 have been pending less than 1 year, 7 from 1 to 2 years, 4 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, 10 from 5 to 10 years, and 10 longer than 10 years. In 16 of these there was a will and in 23 cases deceased was sane. In 25 cases bond was required of the executor or administrator and in all cases bonds were kept good. In 14 cases no bond was required. In 19 cases the inventory was filed within 60 days, in 9 cases after 60 days, and in 11 cases no inventory was filed. The appraised value of 28 of these estates is \$106,868 and the estimated value of property not appraised is \$24,970. In 12 cases first annual reports have been filed and in 27 cases such reports had not been filed. An attorney represented the executor or administrator in 1 case, the heirs or devisees in 10 cases, and in 28 cases the report does not show that an attorney appeared for anyone. The old cases do not show in how many cases attorneys were employed.

There were 3 guardianship estates of minors or other incompetents closed during the year. In 1 case final report was filed within 2 to 3 years after guardian was appointed, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. Of these estates 2 were of minors, and 1 of an insane person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,350. Two guardians were required to give bond and in both cases bonds have been kept good. The inventory was filed within 30 days in 1 case and in 2 cases no inventory was filed. In these cases 10 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 2 cases. An attorney appeared for the guardian in 2 cases and in 1 case for the ward. In 1 case the report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 24 guardianship estate cases pending July 1, 1937. Of these 16 have been pending less than 1 year, 1 from 1 to 2 years, 6 from 2 to 3 years, 2 from 3 to 4 years, 7 from 5 to 10 years, and 5 longer than 10 years. These are 18 estates of 18 minors, 5 insane persons, and 1 other incompetent. A guardian was appointed for the person of the ward in every case. The value of these estates, as reported, is \$45,577. In 16 cases bond was required of the guardian and in 14 cases bond has been kept good. In 8 cases no bond was required. An inventory was filed within 30 days in 7 cases, after 30 days in 6 cases, and in 11 cases no inventory had been filed. In these cases 16 annual reports had been filed. The investment of funds of the ward is supervised by the court in 11 cases and in 13 cases they are not supervised by the court. An attorney appeared for the guardian in 8 cases and in no case for the ward. In 13 cases the report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. The wards' funds have been properly preserved and cared for in 9 cases.

## HARPER COUNTY

Area, 810 square miles; population, 12,499; assessed value, \$25,456,1

Report made by Hon. D. C. Hawk, probate judge for 26½ years had been no defalcations by guardians, executors, or administrators year. Two juvenile officers are employed, 16 juvenile cases were heard the year and 1 was pending. There were no habeas corpus cases, 6 or made in district court cases, and no proceedings in aid of execution year. Two adoption proceedings were had and 1 insanity case was heard the year.

Estates of 38 deceased persons were closed within the year. In 4 final report was filed within 1 year after letters of administration were in 24 from 1 to 2 years, in 2 from 2 to 3 years, in 2 from 3 to 4 years, from 5 to 10 years, and in 1 case after 10 years. In 19 cases there was and in 19 cases decedent was intestate. In 26 cases bond was required executor or administrator and all bonds had been kept good. In 12 bond was required. The inventory was filed within 60 days in 32 cases, 60 days in 6 cases. Thirty-eight first annual reports had been filed. Aggregate value of these estates, as appraised, was \$452,953.88. In 32 attorneys represented the executor or administrator, in no cases were or devisees represented, and in 6 cases the report does not show that attorney appeared for anyone. Fees amounting to \$1,345 were allowed executors or administrators, and \$3,670 for attorneys. In 36 cases the paid claims in full and in 2 cases the estates did not pay claims in full.

Estates of 59 deceased persons were pending July 1, 1937. Of these 44 have been pending less than 1 year, 6 from 1 to 2 years, 3 from 2 to 3 years, 2 from 4 to 5 years, and 4 from 5 to 10 years. In 30 of these there was a will and in 29 cases deceased was intestate. In 40 cases bond was required the executor or administrator and in 39 cases bonds were kept good cases no bond was required. In 53 cases the inventory was filed within 30 days, in 5 cases after 60 days, and in 1 case no inventory was filed. Appraised value of 58 of these estates is \$769,895.63. In 12 cases first annual reports have been filed and in 47 cases such reports had not been filed. Attorney represented the executor or administrator in 55 cases, the devisee in 1 case, and in 4 cases the report does not show that an attorney appeared for anyone.

There were 11 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 year after appointment, in 1 case from 2 to 3 years, in 1 from 4 to 5 years, in 1 from 5 to 10 years, and in 6 longer than 10 years. Of these estates 10 were of minors and 1 of an insane person. In 2 cases a guardian was appointed for son of the ward. The value of these estates, as reported, is \$41,800. Guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 10 cases and after 30 days in 1 case. In these cases 56 annual reports have been filed. Investment of funds of the ward has been supervised by the court in every case. An attorney appeared for the guardian in 3 cases and in no case for the ward. In 8 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,000 were allowed for guardians and \$525 for attorneys. In 10 cases the wards were properly accounted for and disbursed.

There were 58 guardianship estate cases pending July 1, 1937. Of these 7 had been pending less than 1 year, 12 from 1 to 2 years, 11 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, 14 from 5 to 10 years, and 11 over than 10 years. These were estates of 39 minors, 16 insane persons, and 3 other incompetents. A guardian was also appointed for the person of the ward in 24 cases. The value of these estates, as reported, is \$100,739.14. In 47 cases bond was required of the guardian and in 50 cases bond has been kept good. In 5 cases no bond was required. An inventory was filed within 60 days in 37 cases, after 30 days in 18 cases, and in 3 cases no inventory had been filed. In these cases 152 annual reports had been filed. The investment funds of the ward is supervised by the court in 47 cases and in 11 cases they are not supervised by the court. An attorney appeared for the guardian in 15 cases, in 3 cases for the ward, and in 12 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,120 were allowed for guardians and \$305 for attorneys. The wards' funds have been properly preserved and cared for in 51 cases.

#### HARVEY COUNTY

Area, 540 square miles; population, 21,346; assessed value, \$39,365,422. Report made by Hon. W. G. Adams, probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year.

No juvenile officers are employed. There were 52 juvenile cases heard in the year. There were no habeas corpus cases, 1 order was made in a contempt court case, and there were no proceedings in aid of execution within the year. Five adoption proceedings were had and 6 insanity cases were heard in the year.

The estates of 86 deceased persons were closed within the year. In 9 cases the final report was filed within 1 year after letters of administration were granted, in 35 from 1 to 2 years, in 14 from 2 to 3 years, in 3 from 3 to 4 years, in 4 from 4 to 5 years, in 17 from 5 to 10 years, and in 3 after 10 years. In 45 cases there was a will and in 45 cases decedent was intestate. In 56 cases bond was required of the executor or administrator and all bonds were kept good. In 30 cases no bond was required. The inventory was filed within 60 days in 53 cases, after 60 days in 25 cases, and in 8 cases no inventory was filed. Eighty-two first annual reports had been filed. The aggregate value of the estates, as appraised, was \$666,519, and the estimated value of property not appraised was \$22,411. In 51 cases attorneys represented the executor or administrator, in 11 cases the heirs or devisees, and in 35 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,342 were allowed for executors or administrators and \$8,245 for attorneys. In 76 cases the estate paid claims in full.

The estates of 213 deceased persons were pending July 1, 1937. Of this number 63 have been pending less than 1 year, 53 from 1 to 2 years, 15 from 2 to 3 years, 12 from 3 to 4 years, 16 from 4 to 5 years, 44 from 5 to 10 years, and 10 longer than 10 years. In 119 cases there was a will and in 94 cases the decedent was intestate. In 139 cases bond was required of the executor or administrator and all bonds have been kept good. In 74 cases no bond was required. In 128 cases the inventory was filed within 60 days, in 34 after 60 days, and in 51 cases no inventory was filed. The appraised value of 161

estates is \$2,480,329, and the estimated value of property not appraised is \$150,382. In 63 cases first annual reports have been filed, in 97 cases second annual reports have not been filed, and in 53 cases such reports are not yet filed. In 141 cases an attorney represented the executor or administrator in 141 cases, the guardian in 17 cases, and in 71 cases the report does not show that an attorney appeared for anyone.

There were 21 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 to 2 years, 5 letters of guardianship were issued, in 5 from 2 to 3 years, in 7 from 3 to 4 years, and in 8 longer than 10 years. Of these estates, 15 were of minors, 6 of insane persons. In 1 case a guardian was appointed for the estate of the ward. The value of these estates, as reported, is \$42,733. Twenty-one guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 18 cases no inventory was filed. In these cases 81 annual reports have been filed. An attorney appeared for the guardian in 8 cases, for the ward in 1 case, and in 12 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,150 were allowed for guardians and \$900 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed. In 18 cases there were no funds.

There were 143 guardianship estate cases pending July 1, 1937. Nineteen had been pending less than 1 year, 9 from 1 to 2 years, 14 from 2 to 3 years, 13 from 3 to 4 years, 7 from 4 to 5 years, 46 from 5 to 10 years, and 44 longer than 10 years. These were estates of 95 minors, 33 insane persons, and 15 other incompetents. A guardian was not appointed for the person of the ward in any case. The value of these estates, as reported, is \$515,544. In some cases the estate consisted of real estate. In 142 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 31 cases, after 30 days in 113 cases, and in 94 cases no inventory was filed. In these cases 363 annual reports had been filed. The investment of funds of the ward is supervised by the court in 6 cases and in many cases there were no funds. An attorney appeared for the guardian in 77 cases, in 1 case for the ward, and in 65 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,292.50 have been allowed for guardians and \$6,560 for attorneys. In all cases wards' funds have been properly preserved and cared for in 104 cases.

#### HASKELL COUNTY

Area, 576 square miles; population, 2,191; assessed value, \$5,912,587.

Report made by Hon. Lawrence G. Meairs, probate judge for 15 years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed. No juvenile cases were heard within the year. There were no habeas corpus cases, no orders made in district court cases, and there were no proceedings in aid of execution within the year. No adoption proceedings were had and 1 insanity case was heard within the year.

The estates of 7 deceased persons were closed within the year. In 1 case the final report was filed within 1 to 2 years after letters of administration were issued and in 3 from 2 to 3 years. In 3 cases there was a will and in 1 case decedent was intestate. In 5 cases bond was required of the executor.



strator and all bonds were kept good. In 2 cases no bond was required. Inventory was filed within 60 days in 5 cases, after 60 days in 1 case, and in 1 case no inventory was filed. Seven first annual reports had been filed. Aggregate value of 6 estates, as appraised, was \$34,840.43, and the estimated value of property not appraised was \$2,250. In 2 cases attorneys represented executor or administrator, in no cases were the heirs or devisees represented, and in 5 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$335 were allowed for executors or administrators and \$100 for attorneys. In 6 cases the estates paid claims in full.

Estates of 7 deceased persons were pending July 1, 1937. Of this number have been pending less than 1 year, 2 from 1 to 2 years, 2 from 2 to 3 years and 1 from 3 to 4 years. In 2 cases there was a will and in 5 cases decedent was intestate. In 5 cases bond was required of the executor or administrator and all bonds have been kept good. In 2 cases no bond was required.

In 4 cases the inventory was filed within 60 days, in 2 after 60 days, and in 1 case no inventory was filed. The appraised value of 6 estates is \$19,780.78 and the estimated value of property not appraised is \$19,700. First annual reports have not been filed in any case. An attorney represented the executor or administrator in all cases and the heirs or devisees were not represented in any case.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 16 guardianship estate cases pending July 1, 1937. Of these 2 were pending less than 1 year, 3 from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, and 6 from 5 to 10 years. These were for 12 minors, 3 insane persons, and 1 other incompetent. A guardian was appointed for the person of the ward in 12 cases. The value of these estates, as reported, is \$34,906.70. In 15 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 8 cases, after 30 days in 2 cases, and in 6 cases no inventory was filed. In these cases 33 annual reports had been filed. The income of funds of the ward is supervised by the court in 10 cases. An attorney appeared for the guardian in 5 cases and in no case for the ward. In 15 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$725 were allowed for guardians and \$255 for attorneys. The funds have been properly preserved and cared for in 15 cases.

#### HODGEMAN COUNTY

Area, 864 square miles; population, 4,009; assessed value, \$7,822,076. Report made by Hon. Hugh Roberts, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 3 juvenile cases were heard within the year and 3 were pending. There were no habeas corpus cases, 1 order was granted in a district court case, and there were no proceedings in aid of execution within the year. One adoption proceeding was had and 1 insanity case heard within the year.

Estates of 11 deceased persons were closed within the year. In 3 cases the first annual report was filed within 1 year after letters of administration were issued, in 1 from 1 to 2 years, in 1 from 2 to 3 years, and in 2 from 5 to 10 years. In

6 cases there was a will, and in 5 cases decedent was intestate. In 9 cases a bond was required of the executor or administrator and all bonds had been kept good. In 2 cases no bond was required. The inventory was filed within 60 days in 6 cases, after 60 days in 4 cases, and in 1 case no inventory had been filed. One first annual report had been filed. The aggregate value of 19 estates, as appraised, was \$79,526.67, and the estimated value of estates not appraised was \$8,738. In 10 cases attorneys represented the executor or administrator, in no cases were the heirs or devisees represented, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$400 were allowed for executors or administrators, and \$665 for attorneys. In 9 cases the estates paid claims in full and in 2 cases the estates did not pay claims in full.

Estates of 26 deceased persons were pending July 1, 1937. Of these 18 have been pending less than 1 year, 7 from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, 5 from 4 to 5 years, 1 from 5 to 10 years, and 1 longer than 10 years. In 8 of these there was a will and in 18 cases decedent was intestate. In 22 cases bond was required of the executor or administrator and all bonds were kept good. In 4 cases no bond was required. In 13 cases the inventory was filed within 60 days, in 10 cases after 60 days, and in 3 cases no inventory was filed. The appraised value of 25 of these estates is \$267,906.94 and the estimated value of property not appraised is \$4,600. In 3 cases first annual reports had been filed and in 23 cases such reports had not been filed. An attorney represented the executor or administrator in 25 cases, the heirs or devisees in 10 cases, and in 1 case the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents pending within the year.

There were 19 guardianship estate cases pending July 1, 1937. Of these 10 had been pending less than 1 year, 1 from 4 to 5 years, 9 from 5 to 10 years, and 3 longer than 10 years. These were estates of 13 minors and 6 adult persons. A guardian was also appointed for the person of the ward in 19 cases. The value of these estates, as reported, is \$19,675.35. In every case a bond was required of the guardian and in 16 cases bond has been kept good. An inventory was filed within 30 days in 16 cases and after 30 days in 3 cases. In these cases 43 annual reports had been filed. The investment of funds of the ward is supervised by the court in 14 cases and in 5 cases they are not supervised by the court. An attorney appeared for the guardian in 15 cases and no case for the ward. In 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$75 were allowed for guardians and \$225 for attorneys. The wards' funds have been properly preserved in 14 cases.

#### JACKSON COUNTY

Area, 658 square miles; population, 15,067; assessed value, \$22,734,000.

Report made by Hon. Jesse L. Hayden, probate judge for 6 months. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, no juvenile cases were heard within the year and 1 was pending. There were no habeas corpus cases, 10 on appeal from district court cases, and there were no proceedings in aid of execution within the year. Four adoption proceedings were had and 17 insolvencies were heard within the year.

ates of 69 deceased persons were closed within the year. In 4 cases the report was filed within 1 year after letters of administration were issued, from 1 to 2 years, in 12 from 2 to 3 years, in 6 from 3 to 4 years, in 1 to 5 years, in 9 from 5 to 10 years, and in 3 after 10 years. In 38 cases was a will and in 31 cases decedent was intestate. In 50 cases bond was of the executor or administrator and all bonds were kept good. In cases no bond was required. The inventory was filed within 60 days in 43 and after 60 days in 26 cases. Eighteen first annual reports had been filed. The aggregate value of 61 of these estates, as appraised, was \$386,612.95, the estimated value of estates not appraised was \$180,092.06. In 40 cases attorneys represented the executor or administrator, in 4 cases the heirs or next of kin and in 29 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$10,075.38 were allowed for executors or administrators and \$3,097.50 for attorneys. In 63 cases the estates paid claims in full and in 6 cases the estates did not pay claims in full.

ates of 314 deceased persons were pending July 1, 1937. Of these cases have been pending less than 1 year, 28 from 1 to 2 years, 24 from 2 to 3 years, 16 from 3 to 4 years, 28 from 4 to 5 years, 82 from 5 to 10 years, and 138 longer than 10 years. In 163 of these there was a will and in 151 cases was intestate. In 223 cases bond was required of the executor or administrator and all bonds were kept good. In 91 cases no bond was required. In 179 cases the inventory was filed within 60 days, in 87 cases after 60 days and in 48 cases no inventory was filed. The appraised value of 249 of these estates is \$1,252,111.14 and the estimated value of property not appraised is \$1,123.36. In 103 cases first annual reports have been filed and in 211 cases such reports had not been filed. An attorney represented the executor or administrator in 183 cases, the heirs or devisees in 40 cases, and in 131 cases the report does not show that an attorney appeared for anyone.

There were 9 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 2 to 3 years after guardian was appointed, in 1 from 3 to 4 years, in 4 from 5 to 10 years and in 3 longer than 10 years. Of these estates 4 were of minors and 5 of insane persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$33,114.10. Eight guardians were appointed to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case, after 30 days in 3 cases, and in 5 cases no inventory was filed. In these cases 79 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 4 cases, for the ward in 3 cases, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$1,240 were allowed for guardians and \$830 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 55 guardianship estate cases pending July 1, 1937. Of these 7 have been pending less than 1 year, 13 from 1 to 2 years, 8 from 2 to 3 years, 13 from 3 to 4 years, 1 from 4 to 5 years, 13 from 5 to 10 years, and 11 longer than 10 years. These were estates of 43 minors, 9 insane persons, and 3 other incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$99,574.17. In 54 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 10 cases,

after 30 days in 14 cases, and in 31 cases no inventory had been filed. In these cases 117 annual reports had been filed. The investment of funds for the ward is supervised by the court in 52 cases and in 3 cases they are supervised by the court. An attorney appeared for the guardian in 10 cases for the ward, and in 44 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,990 were allowed for attorneys and \$355 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### JEFFERSON COUNTY

Area, 568 square miles; population, 13,522; assessed value, \$22,271,000.

Report made by Hon. Arthur Ferris, probate judge for 2½ years. There had been no defalcations by guardians, executors or administrators during the year. No juvenile officer is employed, and 2 juvenile cases were heard during the year. There were no habeas corpus cases, 1 order was made in a district court case, and no proceedings in aid of execution within the year. Two adoption proceedings were had and 7 insanity cases were heard during the year.

Estates of 33 deceased persons were closed within the year. In 5 cases the final report was filed within 1 year after letters of administration were issued, in 14 from 1 to 2 years, in 7 from 2 to 3 years, 1 from 3 to 4 years, 4 to 5 years, in 2 from 5 to 10 years, and in 3 cases longer than 10 years. In 13 cases there was a will, and in 20 cases decedent was intestate. In 19 cases bond was required of the executor or administrator and all bonds were kept good. In 7 cases no bond was required. The inventory was filed within 60 days in 28 cases, and after 60 days in 5 cases. Thirty-two first annual reports had been filed. The aggregate value of these estates, as appraised, was \$323,678.35. In 15 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees, and in 17 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,011.39 were allowed for executors or administrators, and \$672 for attorneys. In 30 cases the estates paid claims in full and in 2 cases the estates did not pay claims. In 1 case there was no funds.

Estates of 99 deceased persons were pending July 1, 1937. Of these 33 have been pending less than 1 year, 13 from 1 to 2 years, 9 from 2 to 3 years, 3 from 3 to 4 years, 4 from 4 to 5 years, 28 from 5 to 10 years, and longer than 10 years. In 51 of these there was a will and in 48 cases there was no will. In 64 cases bond was required of the executor or administrator. In 62 cases bonds were kept good and in 35 cases no bond was required. In 51 cases the inventory was filed within 60 days, in 35 cases after 60 days, and in 13 cases no inventory was filed. The appraised value of 86 of the estates is \$1,072,591.88, and the estimated value of property not appraised is \$1,072,591.88. In 53 cases first annual reports have been filed and in 46 cases no report had not been filed. An attorney represented the executor or administrator in 40 cases, the heirs or devisees in 12 cases, and in 53 cases the report does not show that an attorney appeared for anyone.

One guardianship estate of an insane person was closed within the year. In this case the final report was filed 5 years after guardian was appointed. A guardian was appointed for the person of the ward. The value of the estate as reported, is \$605. Guardian was required to give bond and

kept good. The inventory was filed within 30 days. In this case, 6 annual reports have been filed. The investment of funds of the ward has been supervised by the court. No attorney appeared for the guardian or ward. Fees amounting to \$167 were allowed for guardians but no fees were allowed for attorneys. The funds of the ward were properly accounted for and disbursed. There were 79 guardianship estate cases pending July 1, 1937. Of these cases had been pending less than 1 year, 11 from 1 to 2 years, 12 from 2 to 3 years, 6 from 3 to 4 years, 3 from 4 to 5 years, 19 from 5 to 10 years, and 19 longer than 10 years. These were estates of 53 minors, 21 insane persons, and 5 other incompetents. A guardian was also appointed for the person of the ward in 78 cases. The value of these estates, as reported, is \$148,882.16. In 78 cases bond was required of the guardian and in 72 cases bond has been kept. In 4 cases no bond was required. An inventory was filed within 30 days in 42 cases, after 30 days in 21 cases, and in 16 cases no inventory had been filed. The investment of funds of the ward is supervised by the court in 42 cases and in 22 cases they are not supervised by the court. In 7 cases there were no funds. An attorney appeared for the guardian in 20 cases and for the ward. In 57 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,051.75 were allowed for guardians and \$461 for attorneys. The wards' funds have been properly preserved and accounted for in 57 cases.

#### JEWELL COUNTY

Area, 900 square miles; population, 12,348; assessed value, \$25,388,179. Annual report made by Hon. Frank Kissinger, probate judge for 6 years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, 9 juvenile cases were heard within the year and 5 were pending. There were no habeas corpus cases, 1 order was granted in district court case, and there were no proceedings in aid of execution within the year. Two adoption proceedings were had, 6 cases of incompetents, and 7 insanity cases were heard within the year. Estates of 41 deceased persons were closed within the year. In 5 cases the annual report was filed within 1 year after letters of administration were issued, 3 from 1 to 2 years, in 3 from 2 to 3 years, in 2 from 3 to 4 years, in 3 from 4 to 5 years, in 3 from 5 to 10 years, and in 3 longer than 10 years. In 19 cases there was a will, and in 19 cases decedent was intestate. In 33 cases bond was required of the executor or administrator and all bonds had been kept good. In 8 cases no bond was required. The inventory was filed within 30 days in 35 cases, after 60 days in 5 cases, and in 1 case no inventory was filed. Nine first annual reports had been filed. The aggregate value of personal property, as appraised, was \$235,068.79, and the value of real estate was \$576.50. In 21 cases attorneys represented the executor or administrator, in 19 cases the heirs or devisees, and in 20 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$7,298.19 were allowed for executors or administrators, and \$1,659.70 for attorneys. In 38 cases the estates were claimed in full and in 2 cases the estates did not pay claims in full. In 1 case there was no report.

Estates of 97 deceased persons were pending July 1, 1937. Of these cases there have been pending less than 1 year, 16 from 1 to 2 years, 7 from 2 to 3 years, 4 from 3 to 4 years, 4 from 4 to 5 years, 19 from 5 to 10 years, and 14

longer than 10 years. In 56 of these there was a will and in 41 cases was intestate. In 71 cases bond was required of the executor or administrator and all bonds had been kept good. In 26 cases no bond was required. In 11 cases the inventory was filed within 60 days, in 26 cases after 60 days and in 11 cases no inventory was filed. The appraised value of personal property was \$413,379.56, and the value of real estate was \$617,340.75. In 29 cases annual reports have been filed and in 68 cases such reports had not been filed. An attorney represented the executor or administrator in 45 cases, the guardian in 3 cases, or devisees in 3 cases, and in 52 cases the report does not show that an attorney appeared for anyone.

There were 15 guardianship estates of minors or other incompetents pending within the year. In 1 case final report was filed within 1 to 2 years, 1 case guardian was appointed, in 1 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 5 to 10 years, and in 7 cases longer than 10 years. Of these estates, 1 was of a minor, 1 of an insane person, and 1 of an incompetent person. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$8,342.36. Four estates consisted of interest in real estate. In 17 cases guardians were required to give bond, and 13 bonds have been kept good. The inventory was filed within 30 days in 4 cases, and in 11 cases no inventory was filed. In these cases 17 annual reports have been filed. Investment of the ward has been supervised by the court in 8 cases. An attorney appeared for the guardian in 3 cases and for the ward in 1 case. In 12 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$181 were allowed for guardians and \$181 for attorneys. In 10 cases the report shows that the wards were properly accounted for and disbursed. In 5 cases there were no funds.

There were 70 guardianship estate cases pending July 1, 1937. Of these 15 had been pending less than 1 year, 8 from 1 to 2 years, 5 from 2 to 3 years, 8 from 3 to 4 years, 3 from 4 to 5 years, 21 from 5 to 10 years, and 17 longer than 10 years. These were estates of 38 minors, 22 insane persons and 10 other incompetents. A guardian was also appointed for the person of the ward in 63 cases. The value of these estates, as reported, is \$89,787.64. In 17 cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 1 case, after 30 days in 6 cases, and in 49 cases no inventory had been filed. In 117 cases annual reports had been filed. The investment of funds of the ward is supervised by the court in 37 cases, in 16 cases they are not supervised by the court, and in 17 cases there were no funds. An attorney appeared for the guardian in 12 cases and in no case for the ward. In 58 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$311 were allowed for guardians and \$311 for attorneys. The wards' funds have been properly preserved and cared for in 44 cases.

#### JOHNSON COUNTY

Area, 480 square miles; population, 28,416; assessed value, \$40,428,400.

Report made by Hon. Bert Rogers, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed part time, and 4 juvenile cases were pending within the year. There were no habeas corpus cases, no orders were issued in district court cases, and there were no proceedings in aid of execution.

year. Seven adoption proceedings were had and 15 insanity cases were within the year.

Estates of 59 deceased persons were closed within the year. In 7 cases the report was filed within 1 year after letters of administration were issued, from 1 to 2 years, in 4 from 2 to 3 years, in 3 from 3 to 4 years, in 1 from 4 to 5 years, in 4 from 5 to 10 years, and in 4 after 10 years. In 36 there was a will, and in 23 cases decedent was intestate. In 30 cases bond required of the executor or administrator and in 29 cases bonds had been good. In 29 cases no bond was required. The inventory was filed within 30 days in 42 cases, after 60 days in 13 cases, and in 4 cases no inventory was filed. Twenty-nine first annual reports had been filed. The aggregate value of these estates, as appraised, was \$839,715.70, and the estimated value of those not appraised was \$500. In 57 cases attorneys represented the executor or administrator, in 5 cases the heirs or devisees, and in 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,700 were allowed for executors or administrators and \$25,182.50 for attorneys. In all cases the estates paid claims in full.

Estates of 257 deceased persons were pending July 1, 1937. Of these cases have been pending less than 1 year, 52 from 1 to 2 years, 35 from 2 to 3 years, 19 from 3 to 4 years, 19 from 4 to 5 years, 46 from 5 to 10 years, and 10 longer than 10 years. In 142 of these there was a will and in 115 cases decedent was intestate. In 156 cases bond was required of the executor or administrator and in 154 cases bonds were kept good. In 101 cases no bond was required. In 154 cases the inventory was filed within 60 days, in 44 cases after 60 days, and in 59 cases no inventory was filed. The appraised value of 204 of these estates is \$5,346,750.59, and the estimated value of property not appraised is \$12,338.34. In 51 cases first annual reports have been filed and in 10 cases such reports had not been filed. An attorney represented the executor or administrator in 255 cases, the heirs or devisees in 47 cases, and in 2 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 to 2 years after guardian was appointed, in 1 from 2 to 3 years, and in 1 from 5 to 10 years. Of these estates, 2 were of minors and 1 of an insane person. In all cases a guardian was appointed for the person of the ward. The value of these estates as reported, is \$8,450. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in all cases. In these cases 4 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in all cases and for the ward in 1 case. Fees amounting to \$5 were allowed for guardians and \$600.20 for attorneys. In all cases the wards were properly accounted for and disbursed.

There were 183 guardianship estate cases pending July 1, 1937. Of these, had been pending less than 1 year, 26 from 1 to 2 years, 16 from 2 to 3 years, 16 from 3 to 4 years, 14 from 4 to 5 years, 45 from 5 to 10 years, and 48 longer than 10 years. These were estates of 158 minors, 23 insane persons, and 2 other incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$1,568,711.80. In all cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in

72 cases, after 30 days in 23 cases, and in 88 cases no inventory was filed. In these cases 140 annual reports had been filed. The investment funds of the ward is supervised by the court in 177 cases and in 6 cases are not supervised by the court. An attorney appeared for the guardian in 171 cases, in 11 cases for the ward, and in 11 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,718.40 were allowed for guardians and \$3,146.70 for attorneys. The wards' funds have been properly preserved and cared for in 180 cases.

#### KEARNY COUNTY

Area, 864 square miles; population, 2,680; assessed value, \$6,705,204.

Report made by Hon. Luella Stutzman, probate judge for 6 months. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 3 juvenile cases were heard within the year and 1 was pending. There were no habeas corpus cases, 2 orders made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had and 3 insanity cases were heard within the year.

An estate of 1 deceased person was closed within the year. The final report was filed within 1 to 2 years after letters of administration were issued. In this case there was a will. A bond was required of the executor or administrator and had been kept good. The inventory was filed within 60 days. The first annual report had been filed. The aggregate value of this estate was appraised, was \$2,476. An attorney represented the executor or administrator but no one represented the heirs or devisees. A fee of \$15 was allowed for attorneys. The estate paid claims in full.

Estates of 30 deceased persons were pending July 1, 1937. Of these 17 were pending less than 1 year, 7 from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, 1 from 4 to 5 years, and 3 from 5 to 10 years. In 19 cases there was a will and in 16 cases deceased was intestate. In 19 cases a bond was required of the executor or administrator and all bonds were kept good. In 11 cases no bond was required. In 16 cases the inventory was filed within 60 days, in 9 cases after 60 days, and in 5 cases no inventory was filed. The appraised value of these estates is \$356,204.23. In 8 cases first annual reports have been filed and in 22 cases such reports had not been filed. An attorney represented the executor or administrator in 19 cases, in no cases did the heirs or devisees represented, and in 11 cases the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 year after the ward was appointed and in 1 case after 10 years. Of these estates 1 was of a sane person and 1 of an insane person. In both cases a guardian was appointed and was a person of the ward. The value of these estates, as reported, is \$10,270. Guardians were required to give bond and both bonds were kept good. The inventory was filed within 30 days in 1 case and after 30 days in 1 case. In these cases 14 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 1 case. An attorney appeared for the ward in 1 case and in 1 case the report does not show that an attorney appeared for anyone. In 1 case guardian was allowed expenses and \$10 was allowed for attorney.



neys. In 1 case the funds of the ward were properly accounted for and  
ursed.

here were 8 guardianship estate cases pending July 1, 1937. Of these 2  
been pending less than 1 year, 1 from 1 to 2 years, 1 from 4 to 5 years, 3  
5 to 10 years, and 1 longer than 10 years. These were estates of 7 minors  
1 insane person. A guardian was also appointed for the person of the  
l in every case. The value of these estates, as reported, is \$9,337.43. In  
ases bond was required of the guardian and in 6 cases bond has been kept  
l. An inventory was filed within 30 days in 3 cases, after 30 days in 1  
and in 4 cases no inventory had been filed. In these cases 10 annual  
rts had been filed. The investment of funds of the ward is supervised by  
ourt in 1 case and in 7 cases they are not supervised by the court. An  
ney appeared for the guardian in 1 case and in no case for the ward. In  
ses the report does not show that an attorney appeared for anyone. No  
were allowed guardians or attorneys. The wards' funds have been properly  
erved and cared for in 2 cases.

#### KINGMAN COUNTY

rea, 864 square miles; population, 11,640; assessed value, \$24,279,143.

report made by Hon. L. W. Kabler, probate judge for 10½ years. There  
been no defalcations by guardians, executors, or administrators within the  
. One juvenile officer is employed, 5 juvenile cases were heard within the  
and 1 was pending. There were no habeas corpus cases, no orders were  
e in district court cases, and no proceedings in aid of execution within the  
. Two adoption proceedings were had and 5 insanity cases were heard  
in the year.

states of 40 deceased persons were closed within the year. In 9 cases the  
report was filed within 1 year after letters of administration were issued,  
t from 1 to 2 years, in 3 from 2 to 3 years, in 2 from 3 to 4 years, and in  
m 5 to 10 years. In 21 cases there was a will, and in 19 cases decedent  
intestate. In 23 cases bond was required of the executor or administrator  
in 21 cases bonds had been kept good. In 17 cases no bond was required.  
inventory was filed within 60 days in 32 cases, after 60 days in 6 cases, and  
cases no inventory was filed. Five first annual reports had been filed. The  
egate value of 39 of these estates, as appraised, was \$516,308.45 and the  
nated value of estates not appraised was \$19,018. In 32 cases attorneys  
esented the executor or administrator, in 1 case the heir or devisee, and  
cases the report does not show that an attorney appeared for anyone.  
amounting to \$1,858.23 were allowed for executors or administrators and  
0 for attorneys. In 39 cases the estates paid claims in full and in 1 case  
estate did not pay claims in full.

states of 63 deceased persons were pending July 1, 1937. Of these cases  
ave been pending less than 1 year, 10 from 1 to 2 years, 2 from 2 to 3 years,  
m 3 to 4 years, 10 from 5 to 10 years, and 2 longer than 10 years. In 40  
ese there was a will and in 23 cases deceased was intestate. In 34 cases  
l was required of the executor or administrator and in 29 cases bonds were  
good. In 29 cases no bond was required. In 43 cases the inventory was  
within 60 days, in 17 cases after 60 days, and in 3 cases no inventory was  
. The appraised value of 59 of these estates is \$699,018.85 and the es-  
ted value of property not appraised is \$217,200. In 15 cases first annual

reports have been filed and in 48 cases such reports had not been filed. An attorney represented the executor or administrator in 46 cases, the heirs or devisees in 2 cases, and in 17 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors closed within the year. In 1 case final report was filed within 1 to 2 years after guardian was appointed, in 1 from 5 to 10 years, and in 1 case longer than 10 years. In all cases the guardian was appointed for the person of the ward. The value of these estates, as reported, is \$26,747. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case, in 2 cases no inventory was filed. In these cases 5 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 3 cases. An attorney appeared for the guardian in 3 cases and in no case for the ward. No fees were allowed guardians or attorneys. In 2 cases the funds of the wards were properly accounted for and disbursed.

There were 66 guardianship estate cases pending July 1, 1937. Of these 1 had been pending less than 1 year, 8 from 1 to 2 years, 2 from 2 to 3 years, 10 from 3 to 4 years, 8 from 4 to 5 years, 23 from 5 to 10 years, and 10 longer than 10 years. These were estates of 55 minors and 11 insane persons. A guardian was also appointed for the person of the ward in 51 cases. The value of these estates, as reported, is \$151,529.56. In all cases bond was required of the guardian and all bonds were kept good. An inventory was filed within 30 days in 36 cases, after 30 days in 14 cases, and in 16 cases no inventory was filed. In these cases 106 annual reports had been filed. The investment of funds of the ward is supervised by the court in 36 cases and in 30 cases are not supervised by the court. An attorney appeared for the guardian in 44 cases and in no case for the ward. In 22 cases the report does not show that an attorney appeared for anyone. No fees were allowed for guardians or attorneys. The wards' funds have been properly preserved and cared for in 41 cases.

#### KIOWA COUNTY

Area, 720 square miles; population, 6,005; assessed value, \$10,214,164.

Report made by Hon. Harry Paxton, probate judge for 2½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, and 1 juvenile case was heard within the year. There were no habeas corpus cases, 3 orders were made in aid of execution, and no proceedings in aid of execution within the year. No partition proceedings were had and 1 insanity case was heard within the year.

Estates of 18 deceased persons were closed within the year. In 6 cases final report was filed within 1 year after letters of administration were granted, in 7 from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 3 to 4 years, and in 2 from 4 to 5 years. In 5 cases there was a will and in 13 cases decedent was intestate. In 14 cases bond was required of the executor or administrator and all bonds were kept good. In 4 cases no bond was required. The inventory was filed within 60 days in 15 cases and after 60 days in 3 cases. Four first annual reports had been filed. The aggregate value of these estates, as appraised, is \$383,527.05. In all cases attorneys represented the executor or administrator but in no cases were the heirs or devisees represented. Fees amounting to \$1,960 were allowed for executors or administrators and \$1,960 for attorneys. In all cases the estates paid claims in full.

estates of 30 deceased persons were pending July 1, 1937. Of these cases 15 have been pending less than 1 year, 4 from 1 to 2 years, 6 from 2 to 3 years, 1 from 3 to 4 years, 2 from 4 to 5 years, and 2 from 5 to 10 years. In 8 of these cases there was a will and in 22 cases deceased was intestate. In 25 cases bond was required of the executor or administrator and in 24 cases bonds were kept good. In 5 cases no bond was required. In 22 cases the inventory was filed within 60 days, in 2 cases after 60 days, and in 6 cases no inventory was filed. The appraised value of 24 of these estates is \$301,685.22 and the estimated value of property not appraised is \$4,250. In 9 cases first annual reports have been filed and in 21 cases such reports had not been filed. An attorney represented the executor or administrator in 27 cases, the heir or devisee in 1 case, and in 3 cases the report does not show that an attorney appeared for anyone. There were 3 guardianship estates of minors closed within the year. In 1 case a final report was filed within 1 year after guardian was appointed, in 1 case from 1 to 4 years, and in 1 from 5 to 10 years. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$91,125. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in all cases. In these cases an annual report has been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 1 case and in no case for the ward. There were no fees allowed guardians. \$100 was allowed for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 15 guardianship estate cases pending July 1, 1937. Of these, 3 have been pending less than 1 year, 3 from 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 3 from 5 to 10 years, and 2 longer than 10 years. These were estates of 13 minors and 2 insane persons. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$67,676.59. In all cases bond was required of the guardian and all bonds have been kept good. An inventory was filed within 30 days in 3 cases, after 30 days in 1 case, and in 11 cases no inventory had been filed. In these cases, 41 annual reports had been filed. The investment of funds of the ward is supervised by the court in 14 cases and in 1 case there were no funds. An attorney appeared for the guardian in 9 cases and in no case for the ward. In 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$502.50 were allowed for guardians and \$125 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### LABETTE COUNTY

Area, 649 square miles; population, 31,058; assessed value, \$36,594,766. Report made by Hon. Leonard Rude, Sr., probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer was employed. There were 39 juvenile cases heard within the year. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in aid of execution within the year. Seven adoption proceedings were had and 15 insanity cases were heard within the year.

The estates of 57 deceased persons were closed within the year. In 3 cases a final report was filed within 1 year after letters of administration were issued, in 40 from 1 to 2 years, in 5 from 2 to 3 years, in 2 from 3 to 4 years,

in 1 from 4 to 5 years, in 5 from 5 to 10 years, and in 1 after 10 years. In 37 cases there was a will and in 29 cases decedent was intestate. In 37 cases a bond was required of the executor or administrator and all bonds were kept good. In 20 cases no bond was required. The inventory was filed within 60 days in 36 cases, after 60 days in 11 cases, and in 10 cases no inventory was filed. Seven first annual reports had been filed. The aggregate value of 500 estates as appraised, was \$293,031.78 and the estimated value of property not appraised was \$7,501.30. In 28 cases attorneys represented the executor or administrator, in 3 the heirs or devisees, and in 29 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,556.67 were allowed to executors or administrators and \$1,900 for attorneys. In 57 cases the report shows paid claims in full.

The estates of 207 deceased persons were pending July 1, 1937. Of these, number 39 have been pending less than 1 year, 24 from 1 to 2 years, 12 from 2 to 3 years, 9 from 3 to 4 years, 7 from 4 to 5 years, 64 from 5 to 10 years, and 45 longer than 10 years. In 115 cases there was a will and in 92 cases decedent was intestate. In 126 cases bond was required of the executor or administrator and 96 bonds have been kept good. In 81 cases no bond was required. In 89 cases the inventory was filed within 60 days, in 49 cases after 60 days, and in 69 cases no inventory was filed. The appraised value of 207 estates is \$1,233,558.36 and the estimated value of property not appraised is \$22,910.50. In 22 cases first annual reports have been filed and in 120 cases such reports have not been filed. An attorney represented the executor or administrator in 86 cases, the heirs or devisees in 8 cases, and in 120 cases the report does not show that an attorney appeared for anyone.

There were 9 guardianship estates of minors or other incompetent persons pending within the year. In 3 cases final report was filed within 1 year after the appointment of guardianship were issued, in 1 from 1 to 2 years, in 3 from 5 to 10 years, and in 2 longer than 10 years. Of these estates 6 were of minors, 2 of other incompetents, and 1 of another incompetent person. In 9 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$15,250. Nine guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 1 case and in 8 cases no inventory was filed. In these cases 32 annual reports have been filed. The investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 1 case, and in no cases for the ward, and in 8 cases the report does not show that an attorney appeared for anyone. In 1 case \$15.25 was allowed an attorney. In all cases the funds of the wards were properly accounted for and disbursed.

There were 170 guardianship estate cases pending July 1, 1937. Of these, 12 had been pending less than 1 year, 12 from 1 to 2 years, 12 from 2 to 3 years, 15 from 3 to 4 years, 11 from 4 to 5 years, 70 from 5 to 10 years, and 10 longer than 10 years. These were estates of 140 minors, 20 insane persons, and 10 other incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$63,757.15. In 14 cases a bond was required of the guardian and all bonds were kept good. In 14 cases no bond was required. An inventory was filed within 30 days in 14 cases, after 30 days in 5 cases, and in 151 cases no inventory was filed. In these cases 32 annual reports had been filed. The investment of funds of the ward has been supervised by the court in 169 cases. An attorney appeared for the guardian in 1 case, and in no cases for the ward, and in 8 cases the report does not show that an attorney appeared for anyone.

and in no case for the ward. In 139 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,625 have been allowed for guardians and \$340 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### LANE COUNTY

Area, 720 square miles; population, 2,891; assessed value, \$6,901,131. Report made by Hon. J. A. Radford, probate judge for 8½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, no juvenile cases were heard within the year. There were no habeas corpus cases, no orders were made in district court and there were no proceedings in aid of execution within the year. One partition proceeding was had and 1 insanity case was heard within the year.

Estates of 5 deceased persons were closed within the year. In these cases final report was filed within 1 to 2 years after letters of administration were granted. In every case there was a will. In 1 case bond was required of the executor or administrator and bond had been kept good. In 4 cases no bond was required. The inventory was filed within 60 days in 4 cases and in 1 case no inventory was filed. Two first annual reports had been filed. The aggregate value of 4 of these estates, as appraised, was \$38,780.21, and the estimated value of estates not appraised was \$65,000. The report does not show that an attorney appeared for anyone. A fee amounting to \$550 was allowed for the executor or administrators but no fees were allowed attorneys. In all cases the estates paid claims in full.

Estates of 14 deceased persons were pending July 1, 1937. Of these cases 6 have been pending less than 1 year, 5 from 1 to 2 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 1 from 5 to 10 years. In 6 of these there was a will and in 8 cases deceased was intestate. In 10 cases bond was required of the executor or administrator and all bonds were kept good. In 4 cases no bond was required. In 9 cases the inventory was filed within 60 days, in 3 cases after 60 days, and in 2 cases no inventory was filed. The appraised value of 12 of these estates is \$95,084.57, and the estimated value of property not appraised is \$100,000. In 6 cases first annual reports have been filed and in 8 cases such reports had not been filed. An attorney represented the executor or administrator in 2 cases, the heirs or devisees in 3 cases, and in 11 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 3 guardianship estate cases pending July 1, 1937. Of these 2 have been pending less than 1 year and 1 longer than 10 years. These were estates of 2 insane persons and 1 incompetent person. A guardian was also appointed for the person of the ward in 1 case. The value of these estates, as reported, is \$11,550. In 3 cases bond was required of the guardian and all bonds were kept good. An inventory was filed after 30 days in 1 case and in 2 cases no inventory had been filed. In these cases 3 annual reports had been filed.

The investment of funds of the ward is supervised by the court in 1 case and in 2 cases they are not supervised by the court. The report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. The wards' funds have been properly preserved and cared for in all cases.

## LEAVENWORTH COUNTY

Area, 455 square miles; population, 35,054; assessed value, \$32,912.

Report made by Hon. Sam Parisa, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. There were 259 juvenile cases heard within the year. There were 6 habeas corpus cases, in which 2 writs were allowed, 4 denied, 4 orders were made in district court cases, and there were 4 proceedings in aid of execution within the year. Sixteen adoption proceedings were had and 19 insanity cases heard within the year.

The estates of 99 deceased persons were closed within the year. In 1936 the final report was filed within 1 year after letters of administration were issued, in 37 from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, in 1 from 5 to 10 years, and in 2 after 10 years. In 48 cases there was a will and in 32 cases decedent was intestate. In 48 cases bond was required of the executor or administrator and all bonds were kept good. In 51 cases no bond was required. The inventory was filed within 60 days in 57 cases, after 60 days in 40 cases, and in 2 cases no inventory was filed. In 91 cases first annual reports had been filed. The aggregate value of property not appraised was \$408,373.05, and the estimated value of property not appraised was \$211,275.80. In 51 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees, and in 47 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$13,613.17 were paid for executors or administrators and \$9,223.55 for attorneys. In 88 cases estates paid claims in full.

The estates of 220 deceased persons were pending July 1, 1937. Of these, 95 have been pending less than 1 year, 38 from 1 to 2 years, 25 from 2 to 3 years, 15 from 3 to 4 years, 11 from 4 to 5 years, 32 from 5 to 10 years, and 4 longer than 10 years. In 122 cases there was a will and in 98 cases there was no will. In 135 cases bond was required of the executor or administrator and 132 bonds have been kept good. In 2 cases the amount of bond required was reduced. In 85 cases no bond was required. In 78 cases the inventory was filed within 60 days, in 44 after 60 days, and in 98 cases no inventory was filed. The appraised value of 135 estates is \$310,819.94 and the estimated value of estates not appraised is \$1,078,795.91. In 20 cases first annual reports have been filed. An attorney represented the executor or administrator in 97 cases, the heirs or devisees in 8 cases, and in 122 cases the report does not show that an attorney appeared for anyone.

There were 28 guardianship estates of minors or other incompetent persons closed within the year. In 4 cases final report was filed within 1 year after letters of guardianship were issued, in 7 from 1 to 2 years, in 1 from 2 to 3 years, in 3 from 3 to 4 years, in 1 from 4 to 5 years, in 8 from 5 to 10 years, and in 4 longer than 10 years. Of these estates 19 were of minors, 5 of insane persons, and 4 of other incompetent persons. In 22 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$33,245.48. In 16 cases six guardians were required to give bond and all bonds have been kept good. In 2 cases no bond was required. The inventory was filed within 30 days in 16 cases, after 30 days in 1 case, and in 24 cases no inventory was filed. In 91 cases 91 annual reports have been filed. Investment of funds of the estates has been supervised by the court in 27 cases and in 1 case there was no fund.

ey appeared for the guardian in 10 cases, for the ward in 1 case, and in es the report does not show that an attorney appeared for anyone. Fees ating to \$1,907.48 were allowed for guardians and \$440 for attorneys. In es the funds of the wards were properly accounted for and disbursed. ere were 147 guardianship estate cases pending July 1, 1937. Of these 20 een pending less than 1 year, 25 from 1 to 2 years, 19 from 2 to 3 years, n 3 to 4 years, 11 from 4 to 5 years, 40 from 5 to 10 years, and 23 longer 10 years. These were estates of 96 minors, 44 insane persons, and 7 incompetents. A guardian was appointed for the person of the ward in es. The value of these estates, as reported, is \$284,313.97. In 146 cases as required of the guardian and all bonds were kept good. In 1 case no as required. An inventory was filed within 30 days in 5 cases, after 30 n 1 case, and in 141 cases no inventory was filed. In these cases 416 an- eports had been filed. The investment of funds of the ward is supervised e court in 121 cases and in 26 cases there were no funds. An attorney ap- d for the guardian in 89 cases and in no case for the ward. In 58 cases eport does not show that an attorney appeared for anyone. Fees amount- o \$12,379.60 have been allowed for guardians and \$2,111 for attorneys. ards' funds have been properly preserved and cared for in all cases.

#### LINCOLN COUNTY

ea, 720 square miles; population, 8,722; assessed value, \$19,147,609. eport made by Hon. A. Artman, probate judge for 34½ years. There had no defalcations by guardians, executors, or administrators within the year. uvenile officer is employed, 4 juvenile cases were heard within the year, one were pending. There were no habeas corpus cases, 3 orders were in district court cases, and there were no proceedings in aid of execution n the year. One adoption proceeding was had and 3 insanity cases were within the year. es of 48 deceased persons were closed within the year. In 3 cases the eport was filed within 1 year after letters of administration were issued, from 1 to 2 years, in 5 from 2 to 3 years, in 3 from 3 to 4 years, in 3 from 5 years, and in 5 from 5 to 10 years. In 20 cases there was a will and in es decedent was intestate. In 37 cases bond was required of the executor ministrator and in 21 cases bonds had been kept good. In 11 cases no as required. The inventory was filed within 60 days in 41 cases, and 60 days in 7 cases. Forty-eight first annual reports had been filed. The gate value of these estates, as appraised, was \$904,786.24. In 19 cases at- ys represented the executor or administrator, in 3 cases the heirs or de- s and in 28 cases the report does not show that an attorney appeared for ne. Fees amounting to \$2,590.76 were allowed for executors or admin- ors and \$2,088.82 for attorneys. In 24 cases the estates paid claims in full n 24 cases the estates did not pay claims in full. es of 89 deceased persons were pending July 1, 1937. Of these cases 38 een pending less than 1 year, 13 from 1 to 2 years, 8 from 2 to 3 years, m 3 to 4 years, 6 from 4 to 5 years, 11 from 5 to 10 years, and 9 longer 10 years. In 37 of these there was a will and in 52 cases deceased was in- te. In 67 cases bond was required of the executor or administrator and s cases bonds were kept good. In 22 cases no bond was required. In 71

cases the inventory was filed within 60 days, in 13 cases after 60 days, in 5 cases no inventory was filed. The appraised value of 84 of these was \$854,251.84. In 26 cases first annual reports have been filed and in 13 such reports had not been filed. An attorney represented the executor or administrator in 26 cases, the heirs or devisees in 3 cases, and in 63 cases the report does not show that an attorney appeared for anyone.

There were 4 guardianship estates of minors or other incompetents closed within the year. In 2 cases final report was filed within 1 year after appointment, in 1 case from 1 to 2 years, and in 1 from 2 to 3 years. Of these estates 2 were of minors, 1 of an insane person, and 1 of an incompetent person. In 3 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$22,958.31. Four guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 2 cases and after 30 days in 2 cases. In these cases 2 annual reports have been filed. Investment of funds of the ward has been supervised by the court in every case. An attorney appeared for the guardian in 1 case for the ward in 1 case, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$200.63 were allowed for guardian and \$5 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 74 guardianship estate cases pending July 1, 1937. Of these 8 have been pending less than 1 year, 3 from 1 to 2 years, 10 from 2 to 3 years, 6 from 3 to 4 years, 6 from 4 to 5 years, 23 from 5 to 10 years, and 18 more than 10 years. These were estates of 51 minors, 20 insane persons, and 3 incompetent persons. A guardian was also appointed for the person of the ward in 11 cases. The value of these estates, as reported, is \$227,055.69. In 70 cases bond was required of the guardian and in 68 cases bond has been kept good. In 13 cases no bond was required. An inventory was filed within 30 days in 13 cases, after 30 days in 9 cases, and in 42 cases no inventory had been filed. In 113 cases, 113 annual reports had been filed. The investment of funds of the ward is supervised by the court in 32 cases and in 42 cases they are not supervised by the court. An attorney appeared for the guardian in 11 cases and for the ward in 11 cases. In 57 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,330.03 were allowed for guardian and \$65 for attorneys. The wards' funds have been properly preserved and cared for in 39 cases.

#### LINN COUNTY

Area, 637 square miles; population, 12,354; assessed value, \$15,862,100.

Report made by Hon. Owen E. Root, probate judge for 4½ years. There had been 1 defalcation by guardian, executor, or administrator within the year amounting to \$250, none of which has yet been received. No juvenile is employed, 12 juvenile cases were heard within the year and none were pending. There was 1 habeas corpus case in which the writ was denied, 10 were made in district court cases, and there were no proceedings in execution within the year. Five adoption proceedings were had and 10 insanity cases were heard within the year.

Estates of 43 deceased persons were closed within the year. In 6 cases final report was filed within 1 year after letters of administration were granted, in 18 from 1 to 2 years, in 8 from 2 to 3 years, in 4 from 3 to 4 years,



4 to 5 years, in 3 from 5 to 10 years, and in 2 after 10 years. In 24 cases there was a will, and in 19 cases decedent was intestate. In 31 cases bond was required of the executor or administrator and in 29 cases bonds had been kept good.

In 12 cases no bond was required. The inventory was filed within 60 days in 40 cases and after 60 days in 3 cases. Forty-three first annual reports had been filed. The aggregate value of these estates, as appraised, was \$306,700, and the estimated value of estates not appraised was \$12,500. In 13 cases attorneys represented the executor or administrator, in 9 cases the heirs or next of kin, and in 28 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,354 were allowed for executors or administrators and \$775 for attorneys. In 40 cases the estates paid claims in full and in 10 cases the estates did not pay claims in full.

There were 70 deceased persons who were pending July 1, 1937. Of these cases 10 have been pending less than 1 year, 11 from 1 to 2 years, 9 from 2 to 3 years, 3 from 3 to 4 years, 5 from 4 to 5 years, 15 from 5 to 10 years, and 9 longer than 10 years. In 45 of these there was a will and in 25 cases decedent was intestate. In 49 cases bond was required of the executor or administrator and in 21 cases bonds were kept good. In 21 cases no bond was required. In 54 cases the inventory was filed within 60 days, in 15 cases after 60 days, and in 1 case no inventory was filed. The appraised value of 68 of these estates is \$483,884.97, and the estimated value of property not appraised is \$37,700. In 40 cases first annual reports have been filed and in 30 cases such reports had not been filed. In 23 cases an attorney represented the executor or administrator in 23 cases, the heirs or next of kin in 7 cases, and in 47 cases the report does not show that an attorney appeared for anyone.

There were 26 guardianship estates of minors or other incompetents closed during the year. In 5 cases final report was filed within 1 year after guardian was appointed, in 4 from 1 to 2 years, in 1 from 3 to 4 years, in 8 from 5 to 10 years, and in 8 longer than 10 years. Of these estates 12 were of minors, 10 of minors and incompetents, and 4 of incompetent persons. In 24 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$39,830. In all cases guardians were required to give bond and all bonds have been kept good. Inventory was filed within 30 days in 17 cases, after 30 days in 7 cases, and in 2 cases no inventory was filed. In these cases 95 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 4 cases and for the ward in 1 case. In 21 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,725 were allowed for guardians and \$385 for attorneys. In all cases the funds of the wards were properly accounted for and no claims were allowed.

There were 34 guardianship estate cases pending July 1, 1937. Of these 8 cases have been pending less than 1 year, 1 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, 11 from 5 to 10 years, and 6 longer than 10 years. These were estates of 17 minors and 17 insane persons. A guardian was also appointed for the person of the ward in 33 cases. The value of these estates, as reported, is \$74,087. In 33 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. Inventory was filed within 30 days in 25 cases, after 30 days in 8 cases, and in 1 case no inventory had been filed. In these cases 94 annual reports had been filed. The investment of funds of the ward is supervised by the court in all cases.

cases. An attorney appeared for the guardian in 2 cases, for the v cases, and in 29 cases the report does not show that an attorney app anyone. Fees amounting to \$2,450 were allowed for guardians and attorneys. The wards' funds have been properly preserved and can all cases.

#### LOGAN COUNTY

Area, 1,080 square miles; population, 3,835; assessed value, \$6,961,.

Report made by Hon. Winnie Seitz, probate judge for 8½ year had been no defalcations by guardians, executors, or administrators v year. No juvenile officer is employed, 1 juvenile case was heard w year and 1 was pending. There were no habeas corpus cases, no or made in district court cases, and no proceedings in aid of execution v year. No adoption proceedings were had and 2 insanity cases we within the year.

Estates of 2 deceased persons were closed within the year. No fir was filed in either case. In 1 case there was a will and in 1 case was intestate. In both cases bond was required of the executor or ac tor and both bonds have been kept good. The inventory was filed days in both cases. No first annual reports had been filed. The value of estates, not appraised, was \$1,215. In 1 case an attorney re the executor or administrator and in no cases were the heirs or devise sented. In 1 case the report does not show that an attorney app anyone. Fees amounting to \$55 were allowed for executors or admi and \$50 for attorneys. In both cases the estates paid claims in full.

Estates of 11 deceased persons were pending July 1, 1937. Of th 7 have been pending less than 1 year and 4 from 1 to 2 years. In 3 there was a will and in 8 cases deceased was intestate. In 9 cases required of the executor or administrator and all bonds were kept g 2 cases no bond was required. In 10 cases the inventory was filed days and in 1 case after 60 days. The appraised value of these c \$58,305., and the estimated value of property not appraised is \$34,18 1 case first annual report has been filed and in 10 cases such reports been filed. An attorney represented the executor or administrator case but the heirs or devisees were not represented in any case.

There were no guardianship estates of minors or other incompeten within the year.

There were no guardianship estate cases pending July 1, 1937.

#### LYON COUNTY

Area, 842 square miles; population, 26,561; assessed value, \$43,633,7

Report made by Hon. Robert H. Hudkins, probate judge for 4 There had been 1 defalcation by a guardian, executor, or administrat the year, amounting to \$1,500, all of which was received. One juveni is employed. Nine juvenile cases were heard within the year and pending. There were no habeas corpus cases, 25 orders were made in court cases, and there were no proceedings in aid of execution within Eleven adoption proceedings were had and 13 insanity cases heard w year.

The estates of 57 deceased persons were closed within the year. I the final report was filed within 1 year after letters of administrat

d, in 33 from 1 to 2 years, in 5 from 2 to 3 years, in 3 from 3 to 4 years, from 4 to 5 years, in 4 from 5 to 10 years, and in 2 after 10 years. In 33 there was a will and in 24 cases decedent was intestate. In 41 cases bond was required of the executor or administrator and all bonds were kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 13 cases, after 60 days in 13 cases, and in 29 cases no inventory was filed. In 27 cases first annual reports had been filed. The aggregate value of 29 estates, as appraised, was \$828,172.61, and the estimated value of property, not appraised, was \$653,668.80. In 54 cases attorneys represented the executor or administrator, in 1 case the heir or devisee, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$14,652.50 were allowed for executors or administrators and \$11,625 for attorneys. In 55 cases the estates paid claims in full.

There were 295 deceased persons whose estates were pending July 1, 1937. Of these 72 have been pending less than 1 year, 39 from 1 to 2 years, 28 from 3 to 4 years, 19 from 4 to 5 years, 46 from 5 to 10 years, and 72 longer than 10 years. In 167 cases there was a will and in 128 cases decedent was intestate. In 186 cases bond was required of the executor or administrator and all bonds have been kept good. In 109 cases no bond was required. In 81 cases the inventory was filed within 60 days, in 34 cases after 60 days, and in 180 cases no inventory was filed. The appraised value of 111 estates is \$2,569,865.26, the estimated value of property not appraised is \$1,003.91, and in some cases the estate consisted of real estate not estimated. In 14 cases first annual reports have been filed and in 201 cases such reports have not been filed. An attorney represented the executor or administrator in 186 cases, the heirs or devisees were not represented in any case, and in 70 cases the report does not show that an attorney appeared for anyone.

There were 15 guardianship estates of minors or other incompetents closed during the year. In 1 case final report was filed within 1 year after letters of guardianship were issued, in 3 from 1 to 2 years, in 8 from 3 to 10 years, and in 1 longer than 10 years. Of these estates, 11 were of minors, 2 of insane, and 2 of other incompetent persons. In 15 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$88,485.78. In 13 cases guardians were required to give bond and all bonds have been kept good. In 2 cases no bond was required. The inventory was not filed in any case. In these cases 53 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 6 cases, for the ward in 5 cases, and in 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$815 were allowed for guardians and \$98.75 for attorneys. In all cases the accounts of the wards were properly accounted for and disbursed.

There were 131 guardianship estate cases pending July 1, 1937. Of these 19 have been pending less than 1 year, 19 from 1 to 2 years, 7 from 2 to 3 years, 10 from 3 to 4 years, 2 from 4 to 5 years, 39 from 5 to 10 years, and 35 longer than 10 years. These were estates of 86 minors, 27 insane persons, and 18 other incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$547,729.97. In 127 cases bond was required of the guardian and all bonds were kept good. In 4 cases no bond was required. An inventory was filed within 30 days in 7 cases, after 30 days in 1 case, and in 123 cases no inventory was filed. In these cases 286

annual reports had been filed. The investment of funds of the ward was supervised by the court in all cases. An attorney appeared for the guardians in 5 cases for the ward, and in 59 cases the report does not show an attorney appeared for anyone. Fees amounting to \$8,750.07 had been allowed for guardians and \$2,254.75 for attorneys. The wards' funds had been properly preserved and cared for in all cases.

#### MARION COUNTY

Area, 954 square miles; population, 20,276; assessed value, \$36,005,900. Report made by Hon. Jay E. Hargett, probate judge for 8½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, no juvenile cases were heard within the year, and 3 were pending. There were no habeas corpus cases, 1 case was made in a district court case, and no proceedings in aid of execution within the year. Four adoption proceedings were had and 8 insanity cases were closed within the year.

Estates of 55 deceased persons were closed within the year. In 9 cases the final report was filed within 1 year after letters of administration were issued, in 33 from 1 to 2 years, in 5 from 2 to 3 years, in 1 from 3 to 4 years, in 4 from 4 to 5 years, in 3 from 5 to 10 years, and in 2 after 10 years. In 27 cases there was a will and in 28 cases decedent was intestate. In 46 cases bond was required of the executor or administrator and all bonds were kept good, in 9 cases no bond was required. The inventory was filed within 60 days in 10 cases, after 60 days in 10 cases, and in 2 cases no inventory was filed. In 53 cases the first annual reports had been filed. The aggregate value of 53 estates, as appraised, was \$562,085.19. In 24 cases attorneys represented the executor or administrator, in 4 cases the heirs or devisees, and in 31 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,156.52 were allowed for executors or administrators, and \$2,384.19 for attorneys. In 53 cases the estates paid claims in full and in 2 cases they did not pay claims in full.

Estates of 148 deceased persons were pending July 1, 1937. Of these 54 have been pending less than 1 year, 21 from 1 to 2 years, 14 from 2 to 3 years, 14 from 3 to 4 years, 10 from 4 to 5 years, 29 from 5 to 10 years, and 10 longer than 10 years. In 78 of these there was a will and in 70 cases there was intestate. In 103 cases bond was required of the executor or administrator and all bonds were kept good. In 45 cases bond was not required. In 100 cases the inventory was filed within 60 days, in 32 cases after 60 days, and in 16 cases no inventory was filed. The appraised value of 132 estates is \$2,036,621.21. In 56 cases first annual reports have been filed, in 92 cases such reports had not been filed. An attorney represented the executor or administrator in 87 cases, the heirs or devisees in 11 cases, and in 50 cases the report does not show that an attorney appeared for anyone.

There were 12 guardianship estates of minors or other incompetent persons closed within the year. In 3 cases final report was filed within 1 year after appointment, in 1 case from 1 to 2 years, in 1 from 4 to 5 years, in 1 from 5 to 10 years, and in 5 longer than 10 years. Of these estates 7 were closed for 1 of insane, and 4 of incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as appraised, is \$55,279.09. All guardians were required to give bond and all bonds

kept good. The inventory was filed within 30 days in 5 cases, after 30 in 4 cases, and in 3 cases no inventory was filed. In these cases 74 annual reports have been filed. Investment of funds of the ward has been supervised by the court in every case. An attorney appeared for the guardian in 10 cases and in no case for the ward. In 9 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$483.75 were allowed for guardians and \$95 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 184 guardianship estate cases pending July 1, 1937. Of these 16 had been pending less than 1 year, 23 from 1 to 2 years, 14 from 2 to 3 years, 8 from 3 to 4 years, 8 from 4 to 5 years, 59 from 5 to 10 years, and 56 longer than 10 years. These were estates of 154 minors, 16 insane persons, and 14 other incompetents. A guardian was also appointed for the person of the ward in 16 cases. The value of these estates, as reported, is \$181,046.37. In 182 cases a bond was required of the guardian and all bonds were kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 20 cases, after 30 days in 14 cases, and in 150 cases no inventory had been filed. In 163 cases 630 annual reports had been filed. The investment of funds of the ward is supervised by the court in 181 cases and in 3 cases they are not supervised by the court. An attorney appeared for the guardian in 151 cases and in no case for the ward. In 33 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,418.12 were allowed for guardians and \$1,670.40 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### MARSHALL COUNTY

Area, 900 square miles; population, 22,168; assessed value, \$39,385,781. Report made by Hon. P. R. Pulleine, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. Juvenile officers are employed. There were 9 juvenile cases heard within the year. There were no habeas corpus cases, 4 orders were made in district court cases, and no proceedings in aid of execution within the year. Eight probate proceedings were had and 12 insanity cases were heard within the year.

The estates of 76 deceased persons were closed within the year. In 2 cases the final report was filed within 1 year after letters of administration were granted, in 61 from 1 to 2 years, in 3 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, in 7 from 5 to 10 years, and in 1 after 10 years. In 53 cases there was a will, and in 23 cases decedent was intestate. In 46 cases a bond was required of the executor or administrator and all bonds were kept good. In 30 cases no bond was required. The inventory was filed within 60 days in 67 cases, after 60 days in 5 cases, and in 4 cases no inventory was filed. The first annual reports had been filed. The aggregate value of 72 estates, as appraised, was \$852,319.79, and the estimated value of property not appraised was \$1,340. In 33 cases attorneys represented the executor or administrator, in 13 cases heirs or devisees were not represented in any case, and in 43 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,140 were allowed for executors or administrators, and \$3,140 for attorneys. In 3 cases the estates paid claims in full.

The estates of 222 deceased persons were pending July 1, 1937. Of this num-

ber 71 have been pending less than 1 year, 44 from 1 to 2 years, 17 from 2 to 3 years, 13 from 3 to 4 years, 10 from 4 to 5 years, 50 from 5 to 10 years, and 17 longer than 10 years. In 138 cases there was a will and in 84 cases there was intestate. In 144 cases bond was required of the executor or administrator and 143 bonds have been kept good. In 78 cases no bond was required and in 14 cases the inventory was filed within 60 days, in 31 after 60 days, and in 107 no inventory was filed. The appraised value of 206 estates is \$3,116,389; the estimated value of property not appraised is \$19,389. In 64 cases annual reports have been filed and in 158 cases such reports have not been filed. An attorney represented the executor or administrator in 92 cases, the ward or devisees in 9 cases, and in 129 cases the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of minors or other incompetents pending within the year. In 1 case final report was filed within 1 to 2 years, and in 1 longer than 10 years. A letter of guardianship was issued and in 1 longer than 10 years. In 1 case the estate of 1 was of a minor and 1 of an incompetent person. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$4,095. Two guardians were required to give bond and 2 bonds have been kept good. The inventory was filed after 30 days in 2 cases. In these cases 2 annual reports have been filed. Investment of the ward has been supervised by the court in 1 case. An attorney appeared for the guardian in both cases and in 1 case for the ward. Fees amounting to \$195 were allowed for guardians and \$400 for attorneys. In both cases the funds of the wards were properly accounted for and disbursed.

There were 155 guardianship estate cases pending July 1, 1937. Of these 14 had been pending less than 1 year, 15 from 1 to 2 years, 11 from 2 to 3 years, 9 from 3 to 4 years, 10 from 4 to 5 years, 49 from 5 to 10 years, and 4 longer than 10 years. These were estates of 115 minors, 33 insane persons, and other incompetents. A guardian was appointed for the person of the ward in 6 cases. The value of these estates, as reported, is \$307,201. In 152 cases bond was required of the guardian and in 141 cases bond has been kept good. In 13 cases bond was not required. An inventory was filed within 30 days in 16 cases, after 30 days in 16 cases, and in 107 cases no inventory was filed. In 272 cases annual reports had been filed. The investment of funds of the ward is supervised by the court in 85 cases. An attorney appeared for the guardian in 43 cases, in no case for the ward, and in 112 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,273 had been allowed for guardians and \$524 for attorneys. The wards' funds had been properly preserved and cared for in 126 cases.

#### MCPHERSON COUNTY

Area, 900 square miles; population, 25,747; assessed value, \$54,837,600.

Report made by Hon. J. J. Heidebrecht, probate judge for 12 years. There had been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed and no juvenile cases were heard within the year. There were no habeas corpus cases, 18 orders were granted in district court cases, and no proceedings in aid of execution within the year. Seven adoption proceedings were had and 10 insanity cases were heard within the year.

estates of 95 deceased persons were closed within the year. In 4 cases the report was filed within 1 year after letters of administration were issued, 8 from 1 to 2 years, in 9 from 2 to 3 years, in 6 from 3 to 4 years, in 3 from 4 to 5 years, in 10 from 5 to 10 years, and in 5 after 10 years. In 40 cases there was a will and in 55 cases decedent was intestate. In 74 cases bond was required of the executor or administrator and all bonds were kept good. In 21 cases no bond was required. The inventory was filed within 60 days in 66 cases, after 60 days in 26 cases, and in 3 cases no inventory was filed. Eight annual reports had been filed. The aggregate value of these estates, as appraised, was \$1,814,635.16. In 65 cases attorneys represented the executor or administrator, in 6 cases the heirs or devisees, and in 28 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,077.14 were allowed for executors or administrators and \$17,465.27 for attorneys. In 93 cases the estates paid claims in full and in 2 cases the estates did not pay claims in full.

Estates of 245 deceased persons were pending July 1, 1937. Of these cases 10 have been pending less than 1 year, 32 from 1 to 2 years, 14 from 2 to 3 years, 14 from 3 to 4 years, 15 from 4 to 5 years, 43 from 5 to 10 years, and 67 longer than 10 years. In 134 of these there was a will and in 111 cases decedent was intestate. In 178 cases bond was required of the executor or administrator and in 177 cases bonds were kept good. In 67 cases no bond was required. In 167 cases the inventory was filed within 60 days, in 52 cases after 60 days, and in 26 cases no inventory was filed. The appraised value of these estates is \$3,091,318.16 and the estimated value of property not appraised is \$21,200. In 46 cases first annual reports have been filed and in 199 cases such reports had not been filed. An attorney represented the executor or administrator in 160 cases, the heirs or devisees in 10 cases, and in 85 cases the report does not show that an attorney appeared for anyone.

There were 13 guardianship estates of minors or other incompetents closed within the year. In 5 cases final report was filed within 5 to 10 years after guardian was appointed, and in 8 cases longer than 10 years. Of these estates 10 were of minors and 1 of an incompetent person. In 12 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, was \$8,996.74. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 6 cases, after 30 days in 2 cases, and in 5 cases no inventory was filed. In these cases 25 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 8 cases. An attorney appeared for the guardian in 11 cases, for the ward in 3 cases, and in 2 cases the report does not show that an attorney appeared for anyone. There were no fees allowed for guardians and \$415 for attorneys. The funds of the wards were properly accounted for and disbursed in all cases.

There were 186 guardianship estate cases pending July 1, 1937. Of these 10 have been pending less than 1 year, 12 from 1 to 2 years, 20 from 2 to 3 years, 10 from 3 to 4 years, 11 from 4 to 5 years, 62 from 5 to 10 years, and 48 longer than 10 years. These were estates of 157 minors, 17 insane persons, and 12 other incompetents. A guardian was also appointed for the person of the ward in 138 cases. The value of these estates, as reported, is \$706,418.79. In 183 cases bond was required of the guardian and in 179 cases bond has been kept good. In 3 cases no bond was required. An inventory was filed within 30

days in 29 cases, after 30 days in 14 cases, and in 143 cases no inventory had been filed. In these cases 227 annual reports had been filed. The inventory of funds of the ward is supervised by the court in 134 cases and in 126 cases they are not supervised by the court. An attorney appeared for the ward in 120 cases and in no case for the ward. In 66 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,193.50 were allowed for guardians and \$4,532.70 for attorneys. The wards' funds had been properly preserved and cared for in 154 cases.

#### MEADE COUNTY

Area, 975 square miles; population, 6,041; assessed value, \$11,336,611.

Report made by Hon. Florilla DeCow, probate judge for 12½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed except by special appointment, 2 cases were heard within the year and none were pending. There were no habeas corpus cases, no orders were made in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings had and 4 insanity cases were heard within the year.

Estates of 12 deceased persons were closed within the year. In 8 cases the final report was filed within 1 to 2 years after letters of administration were issued, in 2 from 2 to 3 years, in 1 from 3 to 4 years, and in 1 case no report was filed. In 5 cases there was a will and in 7 cases decedents were intestate. In 7 cases bond was required of the executor or administrator and in 5 cases bonds were kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 11 cases and after 60 days in 1 case. Three final reports had been filed. The aggregate value of these estates, as appraised, was \$68,400.11. In every case attorneys represented the executor or administrator and in 9 cases the heirs or devisees were represented. Fees amounting to \$790 were allowed for executors or administrators and \$790 for attorneys. In 5 cases the estates paid claims in full and in 4 cases the estates did not pay claims in full.

Estates of 37 deceased persons were pending July 1, 1937. Of these 16 have been pending less than 1 year, 6 from 1 to 2 years, 5 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 7 from 5 to 10 years, and 1 longer than 10 years. In 26 of these there was a will and in 11 cases deceased was intestate. In 21 cases bond was required of the executor or administrator and in 16 cases bonds were kept good. In 16 cases no bond was required. In 21 cases the inventory was filed within 60 days, in 9 cases after 60 days, and in 7 cases no inventory was filed. The appraised value of 31 of these estates is \$1,700 and the estimated value of property not appraised is \$2,550. In 11 cases annual reports have been filed and in 26 cases such reports had not been filed. An attorney represented the executor or administrator in 31 cases, the heirs or devisees in 15 cases, and in 6 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetents within the year. In 1 case final report was filed within 1 year after appointment, in 1 case from 5 to 10 years, and in 1 case longer than 10 years. Of these estates 1 was of a minor, 1 of an insane, and 1 of an incompetent person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,700. All guardians were



ive bond and all bonds have been kept good. The inventory was filed in 30 days in all cases. In these cases 6 annual reports have been filed. Investment of funds of the ward has been approved by the court in all cases. Attorney appeared for the guardian in every case and in no case for the ward. Fees amounting to \$75 were allowed for guardians and \$30 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed. There were 21 guardianship estate cases pending July 1, 1937. Of these 4 have been pending less than 1 year, 2 from 1 to 2 years, 1 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 9 from 5 to 10 years, and 3 longer than 10 years. These were estates of 17 minors, 1 insane person, and 3 other incompetents. A guardian was also appointed for the person of the ward in 15 cases. The value of these estates, as reported, is \$18,791.78. In all cases bond was required of the guardian and in 17 cases bond has been kept good. An inventory was filed within 30 days in 13 cases, after 30 days in 4 cases, and in 1 case no inventory had been filed. In these cases 64 annual reports had been filed. The investment of funds of the ward is supervised by the court in 15 cases and in 6 cases they are not supervised by the court. An attorney appeared for the guardian in 16 cases, in 1 case for the ward, and in 5 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$60 were allowed for guardians and \$225 for attorneys. The wards' funds have been properly preserved and cared for in 15 cases.

#### MIAMI COUNTY

Area, 588 square miles; population, 18,722; assessed value, \$26,548,121. Report made by Hon. C. E. Rossman, probate judge for 12½ years. There have been no defalcations by guardians, executors, or administrators within the year.

Two juvenile officers are employed. Seventeen juvenile cases were closed within the year and 25 were pending. There were no habeas corpus cases, appeals were made in district court cases, and no proceedings in aid of execution within the year. Two adoption proceedings were had and 14 insanity cases were heard within the year.

The estates of 66 deceased persons were closed within the year, 9 of which were foreign transcripts. In 18 cases the final report was filed within 1 year and 48 letters of administration were issued, in 31 from 1 to 2 years, in 6 from 2 to 3 years, and in 11 from 3 to 10 years. In 27 cases there was a will and in 39 cases the decedent was intestate. In 43 cases bond was required of the executor or administrator and all bonds were kept good. In 14 cases no bond was required. The inventory was filed within 60 days in 48 cases and after 60 days in 18 cases. Six first annual reports had been filed. The aggregate value of 56 estates, as appraised, was \$134,338.04, and the estimated value of property not appraised was \$256,336.65. In 4 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees, and in 51 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,385.76 were allowed for executors or administrators and \$189 for attorneys. In 53 cases the estates paid claims in full.

The estates of 124 deceased persons were pending July 1, 1937. Of this number 54 have been pending less than 1 year, 24 from 1 to 2 years, 15 from 2 to 3 years, 13 from 3 to 4 years, 4 from 4 to 5 years, and 14 from 5 to 10 years. In 64 cases there was a will and in 60 cases deceased was intestate. In all cases bond was required of the executor or administrator and all bonds have

been kept good. In 33 cases no bond was required. In 115 cases the inventory was filed within 60 days, and in 9 cases after 60 days. The appraised value of 113 estates is \$545,106.96 and the estimated value of property not appraised is \$590,391.14. In 27 cases first annual reports have been filed and in 11 such reports have not been filed. An attorney represented the executor or administrator in 7 cases, the heirs or devisees in 4 cases, and in 114 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 4 to 5 years. Letters of guardianship were issued, in 1 from 5 to 10 years, in 2 longer than 10 years, and in 1 case no final report was filed. Of these estates, 4 were closed and 1 of an insane person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$4,392.22. In all cases guardians were required to give bond and all bonds have been kept good. An inventory was filed within 30 days in 4 cases and in 1 case no inventory was filed. In these cases 30 annual reports have been filed. Investment of the ward has been supervised by the court in 4 cases. An attorney appeared for the guardian in all cases and for the ward in all cases. Fees amounting to \$138.22 were allowed for guardians. In 4 cases the funds of the ward were properly accounted for and disbursed.

There were 87 guardianship estate cases pending July 1, 1937. Of these 1 had been pending less than 1 year, 9 from 1 to 2 years, 8 from 2 to 3 years, 10 from 3 to 4 years, 10 from 4 to 5 years, 22 from 5 to 10 years, and 27 longer than 10 years. These were estates of 71 minors, 11 insane persons, and 5 incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$157,978.77. In 86 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 74 cases, after 30 days in 10 cases, and in 3 cases no inventory was filed. In these cases 18 annual reports had been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 5 cases, for the ward, and in 81 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,843 have been allowed for guardians and \$631.59 for attorneys. The wards' funds have been preserved and cared for in all cases.

#### MITCHELL COUNTY

Area, 720 square miles; population, 11,210; assessed value, \$22,535,000.

Report made by Hon. J. M. Rodgers, probate judge for 6½ years. There had been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed, 11 juvenile cases were heard within the year, and 4 were pending. There were 2 habeas corpus cases. In 1 case writ was allowed and in the other, writ was denied. Six orders were made in probate court cases and no proceedings in aid of execution within the year. No adoption proceedings were had and 7 insanity cases were heard within the year.

Estates of 60 deceased persons were closed within the year. In 1 case final report was filed within 1 year after letters of administration were issued, in 44 from 1 to 2 years, in 5 from 2 to 3 years, in 4 from 3 to 4 years, in 4 to 5 years, in 2 from 5 to 10 years, and in 2 after 10 years. In 19 cases there was a will and in 41 cases decedent was intestate. In 43 cases bonds

d of the executor or administrator and in 42 cases bonds had been kept. In 17 cases no bond was required. In 43 cases the inventory was filed in 60 days, after 60 days in 15 cases, and in 2 cases no inventory was filed. The first annual reports had been filed. The aggregate value of 58 of these estates, as appraised, was \$580,118.51. In 10 cases attorneys represented the executor or administrator, in 4 cases the heirs or devisees, and in 50 cases the report does not show that an attorney appeared for anyone. Fees amounting \$110 were allowed for executors or administrators and \$455 for attorneys. In 3 cases the estates paid claims in full and in 2 cases the estates did not pay claims in full.

Estates of 113 deceased persons were pending July 1, 1937. Of these cases have been pending less than 1 year, 23 from 1 to 2 years, 14 from 2 to 3 years, 2 from 3 to 4 years, 7 from 4 to 5 years, and in 2 cases the date is not known. In 32 of these there was a will and in 81 cases deceased was intestate. In 6 cases bond was required of the executor or administrator and in 70 cases bonds were kept good. In 37 cases no bond was required. In 78 cases the inventory was filed within 60 days, in 19 cases after 60 days, and in 16 cases no inventory was filed. The appraised value of 101 of these estates, is \$875,670.34, the estimated value of property not appraised is \$3,500. In 1 case first annual report had been filed and in 112 cases such reports had not been filed. An attorney represented the executor or administrator in 16 cases, the heirs or devisees in 2 cases, and in 97 cases the report does not show that an attorney appeared for anyone.

There were 15 guardianship estates of minors closed within the year. In 4 cases final report was filed within 1 year after guardian was appointed, in 1 case 1 to 2 years, in 1 from 4 to 5 years, in 6 from 5 to 10 years, in 1 after 10 years, and in 2 cases no final report was filed. In 13 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$74.68. Eleven guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 2 cases and in 13 cases no inventory was filed. In these cases, 4 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 14 cases. An attorney appeared for the guardian in 1 case and in no case for the ward. In 4 cases the report does not show that an attorney appeared for anyone. Fees were allowed for guardians or attorneys. In 13 cases the funds of the estates were properly accounted for and disbursed.

There were 39 guardianship estate cases pending July 1, 1937. Of these 11 have been pending less than 1 year, 8 from 1 to 2 years, 5 from 2 to 3 years, 9 from 3 to 4 years, 2 from 4 to 5 years, and 4 from 5 to 10 years. These were estates of 27 minors, 11 insane persons, and 1 other incompetent. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$149,310.20. In 26 cases bond was required of the guardian and all bonds were kept good. In 13 cases no bond was required. Inventory was filed within 30 days in 3 cases, after 30 days in 3 cases, and in 3 cases no inventory had been filed. In these cases 45 annual reports had been filed. The investment of funds of the ward is supervised by the court in 13 cases. An attorney appeared for the guardian in 4 cases, in no cases for the ward, and in 35 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$100 were allowed for guardians and no fees were allowed for attorneys. The wards' funds have been properly preserved and accounted for in all cases.

## MONTGOMERY COUNTY

Area, 648 square miles; population, 50,783; assessed value, \$50,998,2

Report made by Hon. Earl L. Bailey, probate judge for 2½ years. There had been no defalcations by guardians, executors, or administrators within the year. Three juvenile officers are employed part time. There were 438 cases heard within the year. There were no habeas corpus cases, nor were made in district court cases, and no proceedings in aid of execution within the year. Sixteen adoption proceedings were had and 47 insanity cases heard within the year.

The estates of 68 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration were issued, in 33 from 1 to 2 years, in 6 from 2 to 3 years, in 4 from 3 to 4 years, in 3 from 4 to 5 years, and in 5 after 10 years. In 40 cases there were no bonds required and in 28 cases decedent was intestate. In 51 cases bond was required of the executor or administrator and in 8 cases bonds had been kept good. In 17 cases the old records do not show whether or not bonds were kept good. In 17 cases no bond was required. In 47 cases the inventory was filed within 60 days, in 20 cases after 60 days, and in 1 case no inventory was filed. In 13 cases annual reports had been filed. The aggregate value of 58 estates, as appraised, was \$149,565.64, and the estimated value of property not appraised was \$102,641. In 61 cases attorneys represented the executor or administrator, in 13 cases the heirs or devisees, and in 7 cases the report does not show whether an attorney appeared for anyone. Fees amounting to \$3,157.06 were allowed to executors or administrators and \$4,025.63 for attorneys. In 13 cases the claims were paid in full.

The estates of 654 deceased persons were pending July 1, 1937. Of these, number 105 have been pending less than 1 year, 40 from 1 to 2 years, 22 from 2 to 3 years, 34 from 3 to 4 years, 27 from 4 to 5 years, 100 from 5 to 10 years, and 319 longer than 10 years. In 325 cases there was a will and in 329 cases the deceased was intestate. In 412 cases bond was required of the executor or administrator and 232 bonds have been kept good. In 242 cases no bond was required. In many of the old records it is not shown whether or not bonds were kept good. In 287 cases the inventory was filed within 60 days, in 117 after 60 days, and in 214 cases no inventory was filed. The appraised value of 422 estates is \$3,613,262.36, and the estimated value of property not appraised is \$1,988,935.61. In 96 cases first annual reports have been filed and in 13 cases such reports have not been filed. An attorney represented the executor or administrator in 404 cases, the heirs or devisees in 27 cases, and in 23 cases the report does not show that an attorney appeared for anyone.

There were 17 guardianship estates of minors or other incompetent persons closed within the year. In 3 cases final report was filed within 1 year after letters of guardianship were issued, in 4 from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, in 3 from 5 to 10 years, and in 3 longer than 10 years. Of these estates, 11 were of minors, 1 of insane persons, and of other incompetent persons. In 2 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$86,995. In 17 cases guardians were required to give bond and 2 bonds have been kept good. In 1 case no bond was required. The inventory was filed within 30 days in 11 cases, after 30 days in 1 case, and in 5 cases no inventory was filed.

cases 20 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 6 cases. An attorney appeared for the guardian in 8 cases, in no case for the ward, and in 9 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,584.12 have been allowed for guardians and \$196 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 574 guardianship estate cases pending July 1, 1937. Of these 1 had been pending less than 1 year, 6 from 1 to 2 years, 25 from 2 to 3 years, 47 from 3 to 4 years, 11 from 4 to 5 years, 107 from 5 to 10 years, and 378 longer than 10 years. These were estates of 489 minors, 50 insane persons, and 5 other incompetents. A guardian was appointed for the person of the ward in 114 cases. The value of these estates, as reported, is \$473,052.58. In 164 cases bond was required of the guardian and in 164 cases bond has been kept good. In 8 cases no bond was required. An inventory was filed within 30 days in 143 cases, after 30 days in 88 cases, and in 343 cases no inventory was filed. In these cases 627 annual reports had been filed. The investment of funds of the ward is supervised by the court in 162 cases. An attorney appeared for the guardian in 340 cases, in 5 cases for the ward, and in 234 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$17,441.42 have been allowed for guardians and \$4,870.97 for attorneys. Wards' funds have been properly preserved and cared for in 134 cases. In 164 cases old records do not show whether or not bonds were kept good, and fees were paid to guardians or attorneys, or whether wards' funds have been preserved and cared for.

#### MORRIS COUNTY

Area, 700 square miles; population, 10,828; assessed value, \$18,735,798. Probate report made by Hon. W. T. Williams, probate judge for 6½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed. There were 3 juvenile cases heard within the year. There were no habeas corpus cases, 4 orders were made in probate court cases, and no proceedings in aid of execution within the year. Adoption proceedings were had and 5 insanity cases were heard within the year.

Estates of 53 deceased persons were closed within the year. In 8 cases the final report was filed within 1 year after letters of administration were granted, in 31 from 1 to 2 years, in 7 from 2 to 3 years, in 1 from 3 to 4 years, in 3 from 4 to 5 years, in 3 from 5 to 10 years, and in 2 after 10 years. In 27 cases there was a will and in 27 cases decedent was intestate. In 36 cases bond was required of the executor or administrator and all bonds were kept good. In 17 cases no bond was required. The inventory was filed within 60 days in 42 cases and after 60 days in 11 cases. No first annual reports had been filed. The aggregate value of 53 estates, as appraised, was \$718,413.37. In 33 cases attorneys represented the executor or administrator, the heirs or devisees and in 20 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$7,222.07 were allowed for executors or administrators and \$4,820 for attorneys. In 49 cases estates paid claims in full.

Estates of 67 deceased persons were pending July 1, 1937. Of this number 9 have been pending less than 1 year, 9 from 1 to 2 years, 10 from 2 to 3

years, 5 from 3 to 4 years, 1 from 4 to 5 years, 2 from 5 to 10 years, longer than 10 years. In 33 cases there was a will and in 34 cases decedent died intestate. In 47 cases bond was required of the executor or administrator and all bonds have been kept good. In 20 cases no bond was required. In 10 cases the inventory was filed within 60 days, in 8 cases after 60 days, and in 12 cases no inventory was filed. The appraised value of 54 estates is \$486,132. In 1 case the first annual report has been filed. An attorney represented the executor or administrator in 55 cases, the heirs or devisees were not represented in any case, and in 12 cases the report does not show that an attorney appeared for anyone.

There were 24 guardianship estates of minors or other incompetent persons within the year. In 2 cases final report was filed within 1 year after appointment of guardian. In 1 case guardianship was issued, in 1 from 1 to 2 years, in 3 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, in 8 from 5 to 10 years, longer than 10 years. Of these estates, 18 were of minors, 5 of insane persons, and of another incompetent person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,302.80. Twenty-four guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 10 cases, after 30 days in 10 cases, and in 4 cases no inventory was filed. In these cases 8 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 6 cases. An attorney appeared for the guardian in 1 case, for the ward in 1 case, and in 23 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,302.80 were allowed for guardians and attorneys. In 21 cases the funds of the wards were properly accounted for and disbursed.

There were 62 guardianship estate cases pending July 1, 1937. Of these 18 had been pending less than 1 year, 14 from 1 to 2 years, 6 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 11 from 5 to 10 years, and 18 longer than 10 years. These were estates of 46 minors, 15 insane persons, and 1 competent person. A guardian was appointed for the person of the ward in 62 cases. The value of these estates, as reported, is \$73,587.03. In 60 cases bond was required of the guardian and all bonds were kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 53 cases, after 30 days in 5 cases, and in 4 cases no inventory was filed. In these cases 10 annual reports had been filed. The investment of funds of the ward is supervised by the court in 50 cases and in 12 cases there were no funds. An attorney appeared for the guardian in 12 cases, for the ward in 10 cases, and in 50 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,100 have been allowed for guardians and \$1,150 for attorneys. The wards' funds have been properly preserved and cared for in 51 cases.

#### MORTON COUNTY

Area, 729 square miles; population, 2,626; assessed value, \$4,447,500.

Report made by Hon. Jennie M. Smallwood, probate judge for 7 years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed and no juvenile cases were heard within the year. There were no habeas corpus cases, no orders made in district court cases, no proceedings in aid of execution, no probate proceedings were had, and no insanity cases were heard within the year.

the estate of a deceased person was closed within the year. The final report was filed within 1 to 2 years after letters of administration were granted. In this case there was a will. Bond was required of the executor or administrator and bond was kept good. The inventory was filed within 60 days.

No annual report had been filed. The aggregate value of this estate, as appraised, was \$6,488.20. Attorneys represented the executor or administrator and the heir or devisee. Fees amounting to \$96 were allowed for the executor or administrators and \$200 for attorneys. The estate paid claims of \$11.

There were 14 deceased persons whose estates were pending July 1, 1937. Of these cases 5 have been pending less than 1 year, 6 from 1 to 2 years, 3 from 2 to 3 years, and 2 from 3 to 4 years. In 8 of these there was a will and in 6 the deceased was intestate. In 7 cases bond was required of the executor or administrator and all bonds were kept good. In 7 cases no bond was required. In 6 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 1 case no inventory was filed. The appraised value of these estates is \$71,218.57 and the estimated value of property not appraised is \$11. In 1 case first annual report had been filed and in 13 cases such reports had not been filed. An attorney represented the executor or administrator in 8 cases, the heirs or devisees in 5 cases, and in 6 cases the report does not show whether an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 11 guardianship estate cases pending July 1, 1937. Of these, 3 had been pending less than 1 year, 2 from 1 to 2 years, 2 from 2 to 3 years, 4 from 5 to 10 years, and 1 longer than 10 years. These were estates of 3 minors, 1 insane person, and 1 other incompetent. A guardian was also appointed for the person of the ward in 8 cases. The value of these estates, as reported, is \$21,176.47. In 10 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 3 cases, after 30 days in 3 cases, and in 5 cases no inventory had been filed. In these cases 11 annual reports had been filed. The investment of funds of the ward is supervised by the court in 11 cases, in 4 cases they are not supervised by the court, and in 5 cases there were no funds. An attorney appeared for the guardian in 1 case and for the ward in 1 case. In 10 cases the report does not show that an attorney appeared for anyone. No fees were allowed for guardians or attorneys. The wards' funds have been properly preserved and cared for in 11 cases.

#### NEMAHA COUNTY

Area, 720 square miles; population, 17,179; assessed value, \$31,533,008.

Report made by Hon. L. S. Slocum, probate judge for 16½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, 7 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, 2 arrests were made in district court cases, and no proceedings in aid of execution were heard within the year. Two adoption proceedings were had and 4 insanity cases were heard within the year.

There were 50 deceased persons whose estates were closed within the year. In 13 cases

the final report was filed within 1 year after letters of administration issued, in 19 from 1 to 2 years, in 10 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, in 2 from 5 to 10 years, in 3 after 10 years, in 1 case no final report was filed. In 24 cases there was a will and in 11 cases decedent was intestate. In 28 cases bond was required of the executor or administrator and all bonds had been kept good. In 22 cases no bond was required. The inventory was filed within 60 days in 35 cases, after 60 days in 14 cases, and in 1 case no inventory was filed. Fourteen first annual reports had been filed. The aggregate value of personal property appraised, was \$182,952.61, and the estimated value of real estate not appraised was \$252,010. In 27 cases attorneys represented the executor or administrator, in 5 cases the heirs or devisees, and in 23 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,956.00 were allowed for executors or administrators and \$2,365 for attorneys. In 11 cases the estates paid claims in full and in 4 cases the estate did not pay claims in full.

Estates of 170 deceased persons were pending July 1, 1937. Of these 50 have been pending less than 1 year, 39 from 1 to 2 years, 19 from 2 to 3 years, 9 from 3 to 4 years, 13 from 4 to 5 years, 30 from 5 to 10 years, and 10 longer than 10 years. In 111 of these there was a will and in 59 cases decedent was intestate. In 102 cases bond was required of the executor or administrator and in 101 cases bonds were kept good. In 68 cases no bond was required. In 132 cases the inventory was filed within 60 days, in 28 cases after 60 days, and in 10 cases no inventory was filed. The appraised value of personal property is \$1,076,230.49, and the estimated value of real estate not appraised is \$1,203,199.20. In 82 cases first annual reports have been filed and in 88 cases such reports had not been filed. In 107 cases an attorney represented the executor or administrator, in 30 cases the heirs or devisees, and in 63 cases the report does not show that an attorney appeared for anyone.

There were 11 guardianship estates of minors or other incompetents pending within the year. In 1 case final report was filed within 1 to 2 years, in 10 cases a guardian was appointed, in 1 from 2 to 3 years, in 1 from 4 to 5 years, in 4 from 5 to 10 years, and in 4 longer than 10 years. Of these estates 10 were of minors, 1 of an insane person, and 3 other incompetent persons. In 10 cases a guardian was appointed for the person of the ward. The value of the estates, as reported, is \$67,887.96. All guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 3 cases, after 30 days in 4 cases, and in 4 cases no inventory was filed. In these cases 104 annual reports have been filed. Investments of the funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 6 cases, for the ward in 6 cases, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$450 were allowed for guardians and \$2,960 for attorneys. In all cases the funds of the wards were properly accounted for and distributed.

There were 105 guardianship estate cases pending July 1, 1937. Of these 15 had been pending less than 1 year, 10 from 1 to 2 years, 10 from 2 to 3 years, 3 from 3 to 4 years, 8 from 4 to 5 years, 27 from 5 to 10 years, and 32 longer than 10 years. These were estates of 67 minors, 16 insane persons, and 22 other incompetents. A guardian was also appointed for the



ward in 100 cases. The value of these estates, as reported, is \$336,-. In 104 cases bond was required of the guardian and all bonds were good. In 1 case no bond was required. An inventory was filed within 30 days in 21 cases, after 30 days in 18 cases, and in 66 cases no inventory was filed. In these cases 486 annual reports had been filed. The management of funds of the ward is supervised by the court in 102 cases and in 18 cases they are not supervised by the court. An attorney appeared for the guardian in 48 cases, for the ward in 32 cases, and in 57 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,958.83 were allowed for guardians and \$1,958.83 for attorneys. The wards' property has been properly preserved and cared for in all cases.

### NEOSHO COUNTY

Area, 576 square miles; population, 21,697; assessed value, \$26,256,054. Report made by Hon. L. C. Swan, probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed, 19 juvenile cases were heard within the year and 5 were pending. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had and 7 insanity cases were heard within the year.

Estates of 56 deceased persons were closed within the year. In 6 cases the first annual report was filed within 1 year after letters of administration were granted, in 40 from 1 to 2 years, in 3 from 2 to 3 years, in 5 from 3 to 4 years, and in 2 from 4 to 5 years. In 26 cases there was a will and in 30 cases the decedent was intestate. In 37 cases bond was required of the executor or administrator and all bonds had been kept good. In 19 cases no bond was required. The inventory was filed within 60 days in 34 cases, after 60 days in 14 cases, and in 14 cases no inventory was filed. No first annual reports have been filed. The aggregate value of 52 of these estates, as appraised, was \$2,255. In 18 cases attorneys represented the executor or administrator, in 18 cases the heir or devisee and in 38 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,876.53 were allowed for executors or administrators, and \$4,807.85 for attorneys. In 49 cases the report shows paid claims in full and in 7 cases the estates did not pay claims in

Estates of 85 deceased persons were pending July 1, 1937. Of these cases, 13 have been pending less than 1 year, 13 from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, 4 from 4 to 5 years, 8 from 5 to 10 years, and 1 longer than 10 years. In 49 of these there was a will and in 36 cases the decedent was intestate. In 57 cases bond was required of the executor or administrator. All bonds had been kept good and in 28 cases no bond was required. In 53 cases the inventory was filed within 60 days, in 9 cases after 60 days, and in 23 cases no inventory was filed. The appraised value of these estates is \$593,736.20, and the estimated value of property not appraised is \$1,200. In 19 cases first annual reports have been filed and in 13 cases such reports had not been filed. An attorney represented the executor or administrator in 5 cases, the heirs or devisees in 5 cases, and in 80 cases the report does not show that an attorney appeared for anyone. There were 10 guardianship estates of minors or other incompetents closed

within the year. In all cases final report was filed within 1 year after was appointed. Of these estates 7 were of minors, 2 of insane, and incompetent person. In all cases a guardian was appointed for the ward. The value of these estates, as reported, is \$64,945.36. Guardians were required to give bond and all bonds have been kept good. Inventory was filed after 30 days in 2 cases and in 8 cases no inventory was filed. In these cases 9 annual reports have been filed. Investment of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 1 case and in no case for the ward. In the report does not show that an attorney appeared for anyone. Fees amounting to \$790 were allowed for guardians and \$750 for attorneys. In all the funds of the wards were properly accounted for and disbursed.

There were 85 guardianship estate cases pending July 1, 1937. 13 had been pending less than 1 year, 9 from 1 to 2 years, 15 from 2 to 3 years, 11 from 3 to 4 years, 7 from 4 to 5 years, 26 from 5 to 10 years, 4 longer than 10 years. These were estates of 52 minors, 18 insane and 15 other incompetents. A guardian was also appointed for the ward of the ward in all cases. The value of these estates, as reported, was \$745.68. In 82 cases bond was required of the guardian and in 81 cases has been kept good. In 3 cases no bond was required. An inventory was filed within 30 days in 11 cases, after 30 days in 4 cases, and in 71 cases no inventory had been filed. In these cases 171 annual reports have been filed. The investment of funds of the ward is supervised by the court in 82 cases and in 3 cases there were no funds. An attorney appeared for the guardian in 2 cases, and in 2 cases for the ward. In 82 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,613.92 were allowed for guardians and \$1,035 for attorneys. The funds have been properly preserved and cared for in 82 cases.

#### NESS COUNTY

Area, 1,080 square miles; population, 8,133; assessed value, \$13,450.

Report made by Hon. J. C. M. Anderson, probate judge for 4 years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 2 juvenile cases heard within the year and none were pending. There were no habeas corpus cases, no orders were made in district court cases, and no proceedings of execution within the year. No adoption proceedings were had and no sanity cases were heard within the year.

Estates of 20 deceased persons were closed within the year. In all the final report was filed within 1 to 2 years after letters of administration were issued, in 1 from 2 to 3 years, in 1 from 3 to 4 years, and in 18 from 4 to 5 years. In 9 cases there was a will and in 11 cases decedent was intestate. In 18 cases bond was required of the executor or administrator and all bonds were kept good. In 2 cases no bond was required. Inventory was filed within 60 days in 18 cases and after 60 days in 2 cases. The first annual reports have been filed. The aggregate value of these estates as appraised, was \$67,783 and the estimated value of estates not appraised was \$73,124. In 10 cases attorneys represented the executor or administrator, in 1 case the heir or devisee, and in 10 cases the report does not show.

attorney appeared for anyone. Fees amounting to \$1,976.24 were allowed executors or administrators and \$1,492.35 for attorneys. In all cases the claims paid in full.

Of 44 deceased persons were pending July 1, 1937. Of these cases have been pending less than 1 year, 5 from 1 to 2 years, 3 from 2 to 3 years, 4 from 3 to 4 years, 3 from 4 to 5 years, 11 from 5 to 10 years, and 11 longer than 10 years. In 21 of these there was a will and in 23 cases decedent was intestate. In 34 cases bond was required of the executor or administrator and all bonds were kept good. In 10 cases no bond was required. In 30 cases the inventory was filed within 60 days, in 9 cases within 60 days, and in 5 cases no inventory was filed. The appraised value of these estates is \$185,897 and the estimated value of property not appraised is \$37,533. In 7 cases first annual reports have been filed and in 37 such reports had not been filed. An attorney represented the executor or administrator in 13 cases, the heir or devisee in 1 case, and in 31 cases the report does not show that an attorney appeared for anyone.

There were 4 guardianship estates of minors or other incompetents closed in the year. In 1 case final report was filed within 2 to 3 years after guardian was appointed, in 1 from 3 to 4 years, and in 2 from 5 to 10 years. These estates, 3 were of minors and 1 of an insane person. In all cases guardian was appointed for the person of the ward. The value of these estates, as reported, is \$4,308. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 1 case no inventory was filed. In these cases 7 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 3 cases and in no case for the ward. In 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$50 were allowed for guardians and \$130 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 67 guardianship estate cases pending July 1, 1937. Of these had been pending less than 1 year, 7 from 1 to 2 years, 5 from 2 to 3 years, 13 from 3 to 4 years, 1 from 4 to 5 years, 28 from 5 to 10 years, and 14 longer than 10 years. These were estates of 59 minors, 3 insane persons and 5 incompetents. A guardian was also appointed for the person of the ward in 62 cases. The value of these estates, as reported, is \$54,385. In 66 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 43 cases and after 30 days in 9 cases, and in 15 cases no inventory had been filed. In 113 cases annual reports had been filed. The investment of funds of the ward is supervised by the court in 48 cases and in 19 cases they are not supervised by the court. An attorney appeared for the guardian in 5 cases and in no case for the ward. In 62 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$21 were allowed for guardians and \$80 for attorneys. The wards' funds have been properly preserved and cared for in 37 cases.

## NORTON COUNTY

Area, 900 square miles; population, 10,463; assessed value, \$13,253.

Report made by Hon. W. A. Hendrickson, probate judge for Norton County. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed and 1 juvenile case was heard within the year. There were no habeas corpus cases, 3 orders of writs in district court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had and 5 insanity cases were heard within the year.

Estates of 22 deceased persons were closed within the year. In 4 cases final report was filed within 1 year after letters of administration were granted, in 9 from 1 to 2 years, in 4 from 2 to 3 years, in 2 from 3 to 4 years, in 1 from 4 to 5 years, and in 1 from 5 to 10 years. In 13 cases there was a will and in 9 cases decedent was intestate. In 17 cases bond was required of the executor or administrator and all bonds had been kept good. In 5 cases no bond was required. The inventory was filed within 60 days in 19 cases and after 60 days in 3 cases. Two first annual reports had been filed. The aggregate value of these estates, as appraised, was \$166,021.30. In all cases attorneys represented the executor or administrator and in no cases were the heirs or devisees represented. Fees amounting to \$1,682.46 were allowed for executors and administrators and \$3,007.39 for attorneys. In 21 cases the estates were closed in full and in 1 case the estate did not pay claims in full.

Estates of 75 deceased persons were pending July 1, 1937. Of these 33 have been pending less than 1 year, 12 from 1 to 2 years, 9 from 2 to 3 years, 6 from 3 to 4 years, 5 from 4 to 5 years, 7 from 5 to 10 years, and 3 longer than 10 years. In 47 of these there was a will and in 28 cases there was no will. In 44 cases decedent was intestate. In 44 cases bond was required of the executor or administrator and all bonds were kept good. In 31 cases no bond was required. In 12 cases the inventory was filed within 60 days, in 12 cases after 60 days, and in 51 cases no inventory was filed. The appraised value of 69 of these estates is \$1,100,000 and the estimated value of property not appraised is \$53,500. In 9 cases annual reports have been filed and in 66 cases such reports had not been filed. An attorney represented the executor or administrator in all cases and in 4 cases were the heirs or devisees represented.

There were 4 guardianship estates of minors or other incompetent persons within the year. In 1 case final report was filed within 2 to 3 years, in 1 case a guardian was appointed, in 1 from 3 to 4 years, in 1 from 5 to 10 years, and in 1 case no final report was filed. Of these estates 2 were of minors and 2 of insane persons. In all cases a guardian was appointed for the person and a ward. The value of these estates, as reported, is \$4,126.82. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 1 case no inventory was filed. In 10 cases 10 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in all cases and in no case for the ward. Fees amounting to \$5,000.00 were allowed for guardians and \$25 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 54 guardianship estate cases pending July 1, 1937. Of these 16 had been pending less than 1 year, 16 from 1 to 2 years, 5 from 2 to 3 years,

3 to 4 years, 4 from 4 to 5 years, 13 from 5 to 10 years, and 12 longer than 10 years. These were estates of 39 minors, 12 insane persons, and 3 other incompetents. A guardian was also appointed for the person of the ward in 50 cases. The value of these estates, as reported, is \$98,223.76. In 52 cases bond was required of the guardian and all bonds had been kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 12 cases, after 30 days in 17 cases, and in 25 cases no inventory had been filed. In these 54 cases 136 annual reports had been filed. The investment of funds of the ward was supervised by the court in 52 cases and in 2 cases they are not supervised by the court. An attorney appeared for the guardian in every case and in no case for the ward. Fees amounting to \$1,767.63 were allowed for guardians and \$44 for attorneys. The wards' funds have been properly preserved and accounted for in 53 cases.

#### OSAGE COUNTY

Area, 720 square miles; population, 15,824; assessed value, \$22,836,841. Report made by Hon. George E. Ramskill, probate judge for 2½ years. There had been no defalcations by guardians, executors, or administrators in the year. No juvenile officer is regularly employed. There were 3 habeas corpus cases heard within the year. There were no habeas corpus cases, no appeals were made in district court cases, and no proceedings in aid of execution in the year. Two adoption proceedings were had and 5 insanity cases were closed within the year.

The estates of 52 deceased persons were closed within the year. In 2 cases the final report was filed within 1 year after letters of administration were granted, in 29 from 1 to 2 years, in 6 from 2 to 3 years, in 4 from 3 to 4 years, in 3 from 4 to 5 years, in 4 from 5 to 10 years, and in 5 after 10 years. In 32 cases there was a will and in 20 cases decedent was intestate. In 38 cases bond was required of the executor or administrator and all bonds were kept good. In 14 cases no bond was required. The inventory was filed within 60 days in 14 cases, after 60 days in 14 cases, and in 1 case no inventory was filed. No annual reports had been filed. The aggregate value of 45 estates, as appraised, was \$154,430.74, and the estimated value of property not appraised was \$131.70. In 34 cases attorneys represented the executor or administrator, in 10 cases were the heirs or devisees represented, and in 18 cases the report did not show that an attorney appeared for anyone. Fees amounting to \$1,129 were allowed for executors or administrators and \$1,049.50 for attorneys. In 49 cases the estates paid claims in full.

The estates of 134 deceased persons were pending July 1, 1937. Of this number, 54 have been pending less than 1 year, 31 from 1 to 2 years, 15 from 2 to 3 years, 9 from 3 to 4 years, 9 from 4 to 5 years, 13 from 5 to 10 years, and 8 longer than 10 years. In 89 cases there was a will and in 45 cases deceased was intestate. In 92 cases bond was required of the executor or administrator and all bonds have been kept good. In 42 cases no bond was required. In 104 cases the inventory was filed within 60 days, in 17 after 60 days, and in 13 cases no inventory was filed. The appraised value of 114 estates is \$450,547.78 and the estimated value of property not appraised is \$410,876.56. In 52 cases first annual reports have been filed and in 82 cases such reports have not been filed. An attorney represented the executor or administrator in 72 cases, the heirs or devisees were not represented in any case, and in 62 cases the report does not show that an attorney appeared for anyone.

There were 12 guardianship estates of minors or other incompetents within the year. In 2 cases final report was filed within 1 year after guardianship were issued, in 4 from 1 to 2 years, in 1 from 2 to 3 years, in 5 from 5 to 10 years, and in 3 longer than 10 years. Of these estates, 6 minors and 6 of insane persons. In all cases a guardian was appointed person of the ward. The value of these estates, as reported, is \$1,111.11. Eleven guardians were required to give bond and all bonds have been kept good. In 1 case no bond was required. The inventory was filed within 30 days in 6 cases, after 30 days in 3 cases, and in 3 cases no inventory was filed. In these cases 16 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 5 cases, for the ward in 1 case, and in 7 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,111.11 were allowed for guardians and \$167.94 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 66 guardianship estate cases pending July 1, 1937. Of these 11 have been pending less than 1 year, 11 from 1 to 2 years, 9 from 2 to 3 years, 8 from 3 to 4 years, 3 from 4 to 5 years, 10 from 5 to 10 years, and 1 longer than 10 years. These were estates of 40 minors, 18 insane persons, and 8 incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$125,910.43. In 61 cases bond was required of the guardian and all bonds were kept good. In 5 cases no bond was required. An inventory was filed within 30 days in 25 cases, after 30 days in 18 cases, and in 23 cases no inventory was filed. In these cases 49 annual reports had been filed. The investment of funds of the ward was supervised by the court in 49 cases. An attorney appeared for the guardian in 5 cases, in 1 case for the ward, and in 52 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,404.45 were allowed for guardians and \$1,131.45 for attorneys. The wards' funds have been preserved and cared for in 56 cases.

#### OSBORNE COUNTY

Area, 900 square miles; population, 10,154; assessed value, \$18,184,700.

Report made by Hon. James W. Bell, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 2 juvenile cases were heard within the year. There were no habeas corpus cases, no orders were made in court cases, and no proceedings in aid of execution within the year. Adoption proceedings were had and 9 insanity cases were heard within the year.

Estates of 33 deceased persons were closed within the year. In 3 cases final report was filed within 1 year after letters of administration were issued, in 26 from 1 to 2 years, in 1 from 2 to 3 years, in 2 from 3 to 4 years, and in 1 from 4 to 5 years. In 9 cases there was a will and in 24 cases deceased was intestate. In 26 cases bond was required of the executor or administrator and all bonds were kept good. In 7 cases no bond was required. The inventory was filed within 60 days in 25 cases and after 60 days in 8 cases. No annual reports had been filed. The aggregate value of these estates, as reported, was \$146,501.74. The report does not show that an attorney appeared for anyone. Fees amounting to \$1,085.73 were allowed for executors or administrators and \$390 for attorneys. In all cases the estates paid claims in full.

states of 104 deceased persons were pending July 1, 1937. Of these cases have been pending less than 1 year, 15 from 1 to 2 years, 7 from 2 to 3 years, 3 from 3 to 4 years, 5 from 4 to 5 years, 17 from 5 to 10 years, and 10 longer than 10 years. In 31 of these there was a will and in 73 cases deceased was intestate. In 87 cases bond was required of the executor or administrator and in 17 cases bonds were kept good. In 17 cases no bond was required. In 70 cases the inventory was filed within 60 days, in 16 cases after 60 days, and in 18 cases no inventory was filed. The appraised value of 94 of these estates was \$38,773.79 and the estimated value of property not appraised is \$11,400. In 94 cases first annual reports have been filed and in 94 cases such reports had not been filed. An attorney represented the executor or administrator in 1 case, the heir or devisee was not represented in any case, and in 103 cases the report does not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents closed during the year. In 1 case final report was filed within 1 year after guardian appointed, in 1 from 3 to 4 years, and in 5 cases no final report was filed. These estates, 4 were of minors, 1 of insane, and 2 of incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$10,100. All guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 1 case and in 6 cases no inventory was filed. In these cases 7 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 5 cases. An attorney appeared for the guardian in 1 case and for the ward in 1 case. In 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$250 were allowed for guardians and for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 76 guardianship estate cases pending July 1, 1937. Of these 12 were pending less than 1 year, 9 from 1 to 2 years, 12 from 2 to 3 years, 10 from 3 to 4 years, 4 from 4 to 5 years, 12 from 5 to 10 years, and 17 longer than 10 years. These were estates of 45 minors, 22 insane persons, and 9 other incompetents. A guardian was also appointed for the person of the ward in 76 cases. The value of these estates, as reported, is \$36,219.94. In 65 cases bond was required of the guardian and all bonds were kept good. In 11 cases no bond was required. An inventory was filed within 30 days in 1 case, after 30 to 60 days in 2 cases, and in 73 cases no inventory had been filed. In these cases 76 annual reports had been filed. The investment of funds of the ward is supervised by the court in 28 cases. The report does not show that an attorney appeared for anyone. Fees amounting to \$1,775 were allowed for guardians. Wards' funds have been properly preserved and cared for in 30 cases.

#### OTTAWA COUNTY

Area, 720 square miles; population, 10,054; assessed value, \$21,299,585. Report made by Hon. G. R. King, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. Probation officers are appointed to have jurisdiction over dependent, neglected or delinquent children in their respective districts, and serve without fee. Two juvenile cases were heard within the year and 2 were pending. There were no habeas corpus cases, 1 order was made in a district court case, and

there were no proceedings in aid of execution within the year. One proceeding was had and 3 insanity cases were heard within the year.

The estates of 35 deceased persons were closed within the year. The final report was filed within 1 year after letter of administration was issued in 21 cases from 1 to 2 years, in 4 from 2 to 3 years, in 3 from 3 to 4 years, 1 from 4 to 5 years, in 3 from 5 to 10 years, and in 2 after 10 years. In all cases there was a will and in 21 cases decedent was intestate. In 33 cases all bonds were required of the executor or administrator and all bonds were kept good. In 2 cases no bond was required. The inventory was filed within 60 days in 21 cases and after 60 days in 3 cases. Twenty-two first annual reports have been filed. The aggregate value of these estates, as appraised, was \$317,218. In 18 cases attorneys represented the executor or administrator, in 1 case the heirs or devisees, and in 16 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,230.79 were allowed for executors or administrators, and \$1,007.50 for attorneys. In 33 cases the estate claims in full.

The estates of 85 deceased persons were pending July 1, 1937. Of these, 47 have been pending less than 1 year, 10 from 1 to 2 years, 5 from 2 to 3 years, 5 from 3 to 4 years, 3 from 4 to 5 years, 11 from 5 to 10 years, and 1 longer than 10 years. In 32 cases there was a will and in 53 cases decedent was intestate. In 73 cases bond was required of the executor or administrator and all bonds have been kept good. In 12 cases no bond was required. In 21 cases the inventory was filed within 60 days, in 14 after 60 days, and in 2 cases no inventory was filed. The appraised value of these estates is \$790,292. In 18 cases first annual reports have been filed and in 45 cases such reports have not been filed. An attorney represented the executor or administrator in 18 cases, the heirs or devisees in 1 case, and in 47 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates of minors closed within the year. In all cases final report was filed within 5 to 10 years after letters of guardianship were issued and in 2 longer than 10 years. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, was \$681.59. All guardians were required to give bond and 3 bonds have been kept good. The inventory was not filed in any case. In these cases, 7 annual reports have been filed. An attorney appeared for the guardian in 1 case, no case for the ward, and in 4 cases the report does not show that an attorney appeared for anyone. In all cases the funds of the wards were properly accounted for and disbursed.

There were 49 guardianship estate cases pending July 1, 1937. Of these, 10 had been pending less than 1 year, 4 from 1 to 2 years, 6 from 2 to 3 years, 5 from 3 to 4 years, 1 from 4 to 5 years, 11 from 5 to 10 years, and 1 longer than 10 years. These were estates of 37 minors, 5 insane persons, and 7 incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$69,607.14. In 45 cases bond was required of the guardian and all bonds were kept good. In 4 cases no bond was required. An inventory was filed within 30 days in 9 cases, 30 days in 9 cases, and in 31 cases no inventory was filed. In these cases, 11 annual reports had been filed. The investment of funds of the ward was reviewed by the court in 20 cases. An attorney appeared for the guardian in 11 cases, in no case for the ward, and in 44 cases the report does not show



ney appeared for anyone. Fees amounting to \$1,218.60 have been allowed guardians and \$80 for attorneys. The wards' funds have been properly served and cared for in 41 cases.

#### PAWNEE COUNTY

area, 756 square miles; population, 9,012; assessed value, \$19,979,147. Report made by Hon. W. H. Goddard, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed and 2 juvenile cases were heard within the year. There were no habeas corpus cases, 3 orders were made in district court cases, and no proceedings in aid of execution within the year. Two motion proceedings were had and 13 insanity cases were heard within the year. Estates of 9 deceased persons were closed within the year. In 8 cases the report was filed within 1 to 2 years after letters of administration were granted, and in 1 from 2 to 3 years. In 6 cases there was a will and in 3 cases decedent was intestate. In 6 cases bond was required of the executor or administrator and all bonds had been kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 7 cases and after 60 days in 3 cases. One first annual report had been filed. The aggregate value of these estates, as appraised, was \$86,896.58. In 7 cases attorneys represented the executor or administrator, in no case were the heirs or devisees represented, in 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$938.65 were allowed for executors or administrators and \$80 for attorneys. In all cases the estates paid claims in full. Estates of 40 deceased persons were pending July 1, 1937. Of these cases 24 have been pending less than 1 year, 8 from 1 to 2 years, 5 from 2 to 3 years, and 3 from 3 to 4 years. In 22 of these there was a will and in 18 cases decedent was intestate. In 20 cases bond was required of the executor or administrator and in 18 cases bonds were kept good. In 20 cases no bond was required. In 29 cases the inventory was filed within 60 days, in 5 cases after 60 days, and in 6 cases no inventory was filed. The appraised value of 33 of these estates is \$627,981.37. In 5 cases first annual reports have been filed and in 35 cases such reports had not been filed. An attorney represented the executor or administrator in 39 cases, the heirs or devisees were not represented in any case, in 1 case the report does not show that an attorney appeared for anyone. There were 7 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 year after guardian appointed, in 2 from 1 to 2 years, in 1 from 2 to 3 years, and in 3 longer than 3 years. Of these estates, 6 were of minors and 1 of an insane person. In no case was a guardian appointed for the person of the ward. The value of these estates, as reported, is \$6,351.72. All guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 2 cases, after 30 days in 1 case, and in 4 cases no inventory was filed. In these cases 40 annual reports have been filed. Investment of funds of the wards has been supervised by the court in 2 cases. An attorney appeared for the guardian in 2 cases, for the ward in 1 case, and in 5 cases the report does not show that an attorney appeared for anyone. No fees were allowed for guardians and \$219 was allowed for attorneys. In all cases the funds of the wards were properly accounted for and disbursed. There were 26 guardianship estate cases pending July 1, 1937. Of these 5

had been pending less than 1 year, 1 from 1 to 2 years, 4 from 2 to 3 years, 3 from 3 to 4 years, 8 from 5 to 10 years, and 3 longer than 10 years. The estates of 19 minors, 4 insane persons, and 3 other incompetents. A guardian was also appointed for the person of the ward in 2 cases. The value of the estates, as reported, is \$51,346.53. In 25 cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 5 cases, after 30 days in 7 cases, and in 14 cases no inventory had been filed. In these cases 78 annual reports had been filed. The investment of funds of the ward is supervised by the court in 7 cases and in 19 cases they are not supervised by the court. An attorney appeared for the guardian in 9 cases and in no case for the ward. In 17 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$826.60 were allowed for guardians and \$375 for attorneys. The ward's property has been properly preserved and cared for in 25 cases.

#### PHILLIPS COUNTY

Area, 900 square miles; population, 10,835; assessed value, \$17,214,040.

Report made by Hon. Fred Kelly, probate judge for 4½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed and 1 juvenile case was heard within the year. There were no habeas corpus cases, 3 orders were made in district court, and no proceedings in aid of execution within the year. Two adoption proceedings were had and 6 insanity cases were heard within the year.

The estates of 52 deceased persons were closed within the year. In the final report made was filed within 1 year after letters of administration were issued, in 32 from 1 to 2 years, in 3 from 2 to 3 years, in 3 from 3 to 4 years, in 2 from 4 to 5 years, in 3 from 5 to 10 years, and in 2 after 10 years. In 39 cases there was a will and in 29 cases decedent was intestate. In 39 cases bond was required of the executor or administrator and all bonds were kept good. In 13 cases no bond was required. The inventory was filed within 60 days in 32 cases, after 60 days in 5 cases, and in 1 case no inventory was filed. The first annual reports had been filed. The aggregate value of 51 estates appraised, was \$327,708.19, and the estimated value of property not appraised was \$4,000. In 46 cases attorneys represented the executor or administrator, in 13 cases the heirs or devisees, and in 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,594.50 were allowed for executors or administrators and \$3,122 for attorneys. In all cases the claims were paid in full.

The estates of 106 deceased persons were pending July 1, 1937. A number 54 have been pending less than 1 year, 22 from 1 to 2 years, 13 from 2 to 3 years, 13 from 3 to 4 years, and 4 from 4 to 5 years. In 38 cases there was a will and in 68 cases deceased was intestate. In 99 cases bond was required of the executor or administrator and 95 bonds have been kept good. In 7 cases no bond was required. In 90 cases the inventory was filed within 30 days, in 9 cases after 60 days, and in 7 cases no inventory was filed. The appraised value of 99 estates is \$556,634 and the estimated value of property not appraised, is \$11,850. In 11 cases first annual reports have been filed. In 95 cases such reports have not been filed. An attorney represented the executor or administrator in 99 cases, the heirs or devisees in 6 cases, and in 1 case the report does not show that an attorney appeared for anyone.

There were 4 guardianship estates of minors or other incompetents closed in the year. In 1 case final report was filed within 1 year after letters of guardianship were issued, in 1 from 1 to 2 years, in 1 from 5 to 10 years, and 1 longer than 10 years. Of these estates, 2 were of minors and 2 of insane persons. In 1 case a guardian was appointed for the person of the ward. The value of these estates, as reported is \$17,500. Four guardians were required to post bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 1 case no inventory was filed. In these cases 9 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 3 cases, in 1 case for the ward, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$25 were allowed for guardians and for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 47 guardianship estate cases pending July 1, 1937. Of these 11 have been pending less than 1 year, 8 from 1 to 2 years, 6 from 2 to 3 years, 12 from 3 to 4 years, 4 from 4 to 5 years, 2 from 5 to 10 years, and 4 longer than 10 years. These were estates of 34 minors and 13 insane persons. A guardian was appointed for the person of the ward in 30 cases. The value of these estates, as reported, is \$90,371. In 46 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 30 cases, after 30 days in 6 cases, and in 11 cases no inventory was filed. In these cases 46 annual reports had been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 40 cases, in no case for the ward, and in 7 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$147 have been allowed for guardians and \$100 for attorneys. Wards' funds have been properly preserved and cared for in all cases.

#### POTTAWATOMIE COUNTY

Area, 848 square miles; population, 14,838; assessed value, \$23,304,974. Report made by Hon. Frank Brooks, probate judge for 5½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. Four juvenile cases were heard within the year and 1 was pending. There were no habeas corpus cases, 5 orders were granted in district court cases, and 1 proceeding in aid of execution within the year. One adoption proceeding was had and 4 insanity cases were heard within the year.

There were estates of 41 deceased persons were closed within the year. In 5 cases final report was filed within 1 year after letters of administration were issued, in 23 from 1 to 2 years, in 2 from 2 to 3 years, in 2 from 3 to 4 years, in 1 from 4 to 5 years, in 5 from 5 to 10 years, and in 2 after 10 years. In 18 cases there was a will and in 23 cases decedent was intestate. In 28 cases bond was required of the executor or administrator and all bonds were kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 13 cases and after 60 days in 6 cases. Twenty-seven first annual reports had been filed. The aggregate value of 39 estates, as appraised, was \$440,378.46, and the estimated value of property not appraised was \$4,943.75. In 32 cases attorneys represented the executor or administrator, the heirs or devisees were represented in any case, and in 9 cases the report does not show that an

attorney appeared for anyone. Fees amounting to \$3,658.78 were allowed for executors or administrators and \$2,146.75 for attorneys. In 35 cases the estates paid claims in full.

The estates of 77 deceased persons were pending July 1, 1937. Of these 51 have been pending less than 1 year, 14 from 1 to 2 years, and 2 to 3 years. In 32 cases there was a will and in 45 cases deceased was intestate. In 49 cases bond was required of the executor or administrator and all bonds have been kept good. In 28 cases no bond was required. In 53 cases inventory was filed within 60 days, in 12 cases after 60 days, and in 12 cases no inventory was filed. The appraised value of 60 estates is \$383,595.27, and the estimated value of property not appraised is \$39,650. In 6 cases first annual reports have been filed. An attorney represented the executor or administrator in 52 cases, the heirs or devisees were not represented in any case, and in 1 case the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of minors or other incompetent persons closed within the year. In both cases the final report was filed within 1 year and letters of guardianship were issued. Of these estates 1 was of a minor and 1 of an insane person. In both cases a guardian was appointed for the person under the ward. The value of these estates, as reported, is \$480. Both guardians were required to give bond and both bonds have been kept good. In 1 case inventory was filed within 30 days and in 1 case no inventory was filed. In these cases four annual reports have been filed. An attorney appeared for the guardian in 1 case and in no case for the ward. In 1 case the report does not show that an attorney appeared for anyone. No fees were allowed for guardians or attorneys. In both cases the funds of the wards were accounted for and disbursed.

There were no guardianship estate cases pending July 1, 1937.

#### PRATT COUNTY

Area, 720 square miles; population, 12,398; assessed value, \$26,370,750.

Report made by Hon. E. R. Barnes, probate judge for 11½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed part time. Twelve juvenile cases were heard within the year and 2 were pending. There were no habeas corpus cases. Six orders were made in district court cases, and no proceedings in aid of execution within the year. Five adoption proceedings were had and 4 insane persons were heard within the year.

The estates of 28 deceased persons were closed within the year. In 15 cases the final report was filed within 1 year after letters of administration were issued, in 15 from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 4 to 5 years, and in 3 from 5 to 10 years. In 19 cases there was a will and in 9 cases the decedent was intestate. In 16 cases bond was required of the executor or administrator and all bonds were kept good. In 12 cases no bond was required. The inventory was filed within 60 days in 8 cases, after 60 days in 12 cases, and in 1 case no inventory was filed. Four first annual reports had been filed. The aggregate value of 26 estates, as appraised, was \$784,368.26, and the estimated value of property not appraised was \$2,000. In all cases attorney represented the executor or administrator but the heirs or devisees were not represented in any case. Fees amounting to \$2,075 were allowed for executors or administrators and \$2,615 for attorneys. In 27 cases the estates paid claims in full.

estates of 87 deceased persons were pending July 1, 1937. Of this number have been pending less than 1 year, 15 from 1 to 2 years, 13 from 2 years, 4 from 3 to 4 years, 3 from 4 to 5 years, and 17 from 5 to 10 years. In 40 cases there was a will and in 36 cases deceased was intestate. In 40 cases was required of the executor or administrator and all bonds have been good. In 47 cases no bond was required. In 24 cases the inventory was within 60 days, in 36 cases after 60 days, and in 27 cases no inventory was filed. The appraised value of 56 estates is \$1,778,090.20. In 18 cases first annual reports have been filed and in 69 cases such reports have not been filed. Attorney represented the executor or administrator in 87 cases and the heirs or devisees in 7 cases.

There were 9 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 year after letters of guardianship were issued, in 1 from 1 to 2 years, in 1 from 4 to 5 years, in 1 from 5 to 10 years, in 1 case there was no final report, and 1 was automatically dismissed. Of these estates, 8 were of minors and 1 of another incompetent person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$52,740.32. Nine guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 2 cases, after 30 days in 3 cases, and in 4 cases no inventory was filed. In these cases 15 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in all cases and in no case for the ward. \$1,000 were allowed for guardians. In all cases the funds of the wards were properly accounted for and disbursed.

There were 17 guardianship estate cases pending July 1, 1937. Of these 11 have been pending from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, and 10 from 5 to 10 years. These were estates of 15 minors and 2 insane persons. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$96,674.39. In all cases was required of the guardian and all bonds were kept good. An inventory was filed within 30 days in 3 cases, after 30 days in 7 cases, and in 7 cases no inventory was filed. In these cases 37 annual reports had been filed. Investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in all cases and in no case for the ward. Wards' funds have been properly preserved and cared for in all cases.

#### RAWLINS COUNTY

Area, 1,080 square miles; population, 6,987; assessed value, \$9,206,465. Report made by Hon. M. H. Bird, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. There is 1 juvenile officer by special appointment. One juvenile case was heard within the year. There were no habeas corpus cases, no orders were made in district court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had and 2 insanity cases were heard within the year.

Estates of 29 deceased persons were closed within the year, 10 of which were foreign transcripts. In 1 case the final report was filed within 1 year after letters of administration were issued, in 13 from 1 to 2 years, in 4 from 2 to 3 years, and in 1 from 3 to 4 years. In 12 cases there was a will and in 7 cases

decendent was intestate. In 15 cases bond was required of the executor and in 14 cases bonds had been kept good. In 4 cases no bond was required. The inventory was filed within 60 days in 17 cases, after 60 days in 1 case, and in 1 case no inventory was filed. Two first annual reports have been filed. The aggregate value of 18 estates, as appraised, was \$51,960.43. The estimated value of property, not appraised, was \$75,523. In 16 cases the report represented the executor or administrator, in 1 case the heir or devisee. In 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$923.70 were allowed for executors or administrators and \$378.30 for attorneys. In 15 cases the estates paid claims in full.

The estates of 44 deceased persons were pending July 1, 1937, 20 of which were foreign transcripts. Of this number 15 have been pending less than 1 year, 11 from 1 to 2 years, 7 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, and 4 from 5 to 10 years. In 15 cases there was a will and in 29 cases the deceased was intestate. In 37 cases bond was required of the executor or administrator and all bonds have been kept good. In 5 cases no bond was required. In 29 cases the inventory was filed within 60 days, in 7 cases after 60 days, and in 6 cases no inventory was filed. The appraised value of the estates was \$114,790.62, and the estimated value of property not appraised is \$75,523. In 6 cases first annual reports have been filed. An attorney represented the executor or administrator in 28 cases, the heirs or devisees were not represented in any case, and in 14 cases the report does not show that an attorney appeared for anyone.

There were 6 guardianship estates of minors or other incompetent persons pending within the year. In 1 case the final report was filed within 1 year after the appointment of guardianship were issued, in 3 from 2 to 3 years, in 1 from 3 to 4 years, and in 1 from 4 to 5 years. Of these estates 3 were of minors, 2 of insane persons, and another incompetent person. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$7,766.76. In all cases guardians were required to give bond and all bonds have been kept good. An inventory was filed within 30 days in 4 cases and in 2 cases no inventory was filed. In these cases 10 annual reports have been filed. Investment of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 3 cases and in no case for the ward. In 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$120 were allowed for guardians and \$120 for attorneys. In 6 cases the wards were properly accounted for and disbursed.

There were 36 guardianship estate cases pending July 1, 1937, 1 of which was a foreign transcript. Of these 7 had been pending less than 1 year, 11 from 1 to 2 years, 7 from 2 to 3 years, 8 from 3 to 4 years, 3 from 4 to 5 years, and 2 from 5 to 10 years. These were estates of 28 minors and 7 insane persons. In all cases a guardian was appointed for the person of the ward in 26 cases and in 10 cases no guardian was appointed. The value of these estates, as reported, was \$371.39. In 28 cases bond was required of the guardian and all bonds have been kept good. In 7 cases no bond was required. An inventory was filed within 30 days in 10 cases, after 30 days in 3 cases, and in 22 cases no inventory was filed. In these cases 22 annual reports have been filed. The investment of the ward is supervised by the court in 22 cases. An attorney appeared for the guardian in 22 cases and in no case for the ward. In 13 cases the re-

how that an attorney appeared for anyone. Fees amounting to \$94 have been allowed for guardians and \$320 for attorneys. The wards' funds have been properly preserved and cared for in 28 cases.

### RENO COUNTY

Area, 1,260 square miles; population, 56,216; assessed value, \$92,671,213. Report made by Hon. A. B. Leigh, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. A juvenile officer is employed, 42 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, 12 orders were made in district court cases, and no proceedings in aid of execution within the year.

Ten adoption proceedings were had and 10 insanity cases were heard within the year.

Estates of 61 deceased persons were closed within the year. In 1 case the report was filed within 1 year after letters of administration were issued, from 1 to 2 years, in 7 from 2 to 3 years, in 2 from 3 to 4 years, in 1 from 5 years, and in 4 from 5 to 10 years. In 31 cases there was a will and in 30 decedent was intestate. In 38 cases bond was required of the executor or administrator and all bonds had been kept good. In 23 cases no bond was required. The inventory was filed within 60 days in 38 cases, after 60 days in 1 case, and in 1 case no inventory was filed. Four first annual reports had been filed. The aggregate value of 60 of these estates, as appraised, was \$621,400. In 59 cases attorneys represented the executor or administrator, in no case were the heirs or devisees represented, and in 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,884.50 were paid for executors or administrators and \$10,935.40 for attorneys. In all cases the estates paid claims in full.

Estates of 234 deceased persons were pending July 1, 1937. Of these cases 22 have been pending less than 1 year, 22 from 1 to 2 years, 13 from 2 to 3 years, 12 from 3 to 4 years, 13 from 4 to 5 years, 43 from 5 to 10 years, and 50 longer than 10 years. In 117 of these there was a will and in 117 cases decedent was intestate. In 153 cases bond was required of the executor or administrator and all bonds were kept good. In 81 cases no bond was required. In 94 cases inventory was filed within 60 days, in 68 after 60 days, and in 72 cases no inventory was filed. The appraised value of 194 of these estates is \$1,677,579.37 and the estimated value of property not appraised is \$2,000. In 26 cases first annual reports have been filed and in 208 cases such reports had not been filed. In every case an attorney represented the executor or administrator in every case and the heirs or devisees were not represented in any case.

There were 16 guardianship estates of minors or other incompetents closed within the year. In 3 cases final report was filed within 1 year after guardian was appointed, in 2 from 1 to 2 years, in 2 from 3 to 4 years, in 1 from 4 to 5 years, in 1 from 5 to 10 years, and in 7 longer than 10 years. Of these estates, 1 were of minors, 1 of insane, and 4 of incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$41,061.74. Thirteen guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case, after 30 days in 5 cases, and in 10 cases no inventory was filed. In these 18 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the

guardian in 12 cases and in no case for the ward. In 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$557.50 were allowed for guardians and \$557.50 for attorneys. In all cases the wards were properly accounted for and disbursed.

There were 334 guardianship estate cases pending July 1, 1937. Of these, 15 had been pending less than 1 year, 15 from 1 to 2 years, 23 from 2 to 3 years, 17 from 3 to 4 years, 17 from 4 to 5 years, 98 from 5 to 10 years, and 105 more than 10 years. These were estates of 284 minors, 35 insane persons and 15 other incompetents. A guardian was also appointed for the person of the ward in every case. The value of these estates, as reported, is \$363,475.04. In all cases bond was required of the guardian and all bonds have been kept good. In 11 cases no bond was required. An inventory was filed within 30 days in 38 cases, after 30 days in 42 cases, and in 254 cases no inventory had been filed. In these cases 502 annual reports had been filed. The investment of the ward is supervised by the court in every case. An attorney appeared for the guardian in 330 cases and in no case for the ward. In 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,513.20 were allowed for guardians and \$1,513.20 for attorneys. The wards' funds have been properly preserved and cared for in 134 cases.

#### REPUBLIC COUNTY

Area, 720 square miles; population, 15,044; assessed value, \$28,505,140. Report made by Hon. Henry Van Natta, probate judge for 18 years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed. Eleven juvenile cases were heard within the year and 1 was pending. There were no habeas corpus orders made in district court cases, and no proceedings in aid of execution within the year. Three adoption proceedings were had and 6 cases were heard within the year.

The estates of 42 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration issued, in 24 from 1 to 2 years, in 2 from 2 to 3 years, in 1 from 4 to 5 years, in 4 from 5 to 10 years, and in 1 after 10 years. In 25 cases there was a will and in 17 cases decedent was intestate. In 33 cases bond was required of the executor or administrator and all bonds were kept good. In 9 cases no bond was required. The inventory was filed within 60 days in 37 cases, after 60 days in 4 cases, and in 1 case no inventory was filed. Three first annual reports had been filed. The aggregate value of 41 estates, as appraised, was \$5,181.60. In 18 cases attorneys represented the executor or administrator, in 2 cases the heirs or devisees, and in 23 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,310.25 were allowed for executors and administrators and \$1,581.60 for attorneys. In all cases the estate claims in full.

The estates of 39 deceased persons were pending July 1, 1937, all of which have been pending less than 1 year. In 18 cases there was a will and in 21 cases decedent was intestate. In 36 cases bond was required of the executor or administrator and all bonds have been kept good. In 3 cases no bond was required. In 30 cases the inventory was filed within 60 days, in 5 cases after 60 days, and in 4 cases no inventory was filed. The appraised value of the estates is \$267,127.98. First annual reports have not been filed in any of the 4 cases.



represented the executor or administrator in 20 cases, the heirs or next of kin in 2 cases, and in 19 cases the report does not show that an attorney appeared for anyone.

There were 15 guardianship estates of minors or other incompetents closed within the year. In 2 cases the final report was filed within 1 year after letters of guardianship were issued, in 2 from 1 to 2 years, in 6 from 5 to 10 years, and 5 longer than 10 years. Of these estates, 10 were of minors, 4 of insane, and 1 of another incompetent person. In 11 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$15,933.22. Guardians were required to give bond and all bonds have been kept good. Inventory was filed within 30 days in 6 cases, after 30 days in 3 cases, and in 6 cases no inventory was filed. In these cases 27 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 3 cases, in no case for the ward, and in 12 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$567.64 were allowed for guardians and \$15 for attorneys. In all cases the funds of the wards were properly accounted for and preserved.

There were 9 guardianship estate cases pending July 1, 1937, all of which had been pending less than 1 year. These were estates of 5 minors, 3 insane persons, and 1 other incompetent. A guardian was appointed for the person of the ward in 7 cases. The value of these estates, as reported, is \$14,741.79. In all cases bond was required of the guardian and all bonds were kept good. An inventory was filed within 30 days in 5 cases and in 4 cases no inventory was filed. No annual reports had been filed. The investment of funds of the ward has been supervised by the court in 6 cases. An attorney appeared for the guardian in 3 cases and in no case for the ward. In 5 cases the report does not show that an attorney appeared for anyone. The wards' funds have been properly accounted for and cared for in 7 cases.

#### RICE COUNTY

Area, 720 square miles; population, 17,247; assessed value, \$47,120,665. Report made by Hon. H. G. Doddridge, probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed except by appointment when needed. No juvenile case was heard within the year. There were no habeas corpus orders made in district court cases, and no proceedings in aid of writs were heard within the year. Eight adoption proceedings were had and 5 insanity cases were heard within the year.

Estates of 44 deceased persons were closed within the year. In 4 cases the final report was filed within 1 year after letters of administration were issued, in 2 from 1 to 2 years, in 5 from 2 to 3 years, in 5 from 3 to 4 years, in 5 from 4 to 5 years, in 3 from 5 to 10 years, and in 3 after 10 years. In 15 cases there was a will and in 29 cases decedent was intestate. In 35 cases bond was required of the executor or administrator and all bonds were kept good. In 1 case no bond was required. The inventory was filed within 60 days in 23 cases, after 60 days in 11 cases, and in 10 cases no inventory was filed. Two annual reports had been filed. The aggregate value of 35 of these estates, as appraised, was \$373,586, and the estimated value of estates not appraised was \$1,668.14. In 18 cases attorneys represented the executor or administrator,

in 1 case the heir or devisee, and in 26 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,196.55 were paid to executors or administrators and \$1,110 for attorneys. In 39 cases claims were paid in full and in 5 cases the estates did not pay claims in full.

Estates of 175 deceased persons were pending July 1, 1937. Of these 44 have been pending less than 1 year, 17 from 1 to 2 years, 10 from 2 to 3 years, 10 from 3 to 4 years, 7 from 4 to 5 years, 34 from 5 to 10 years, and 10 longer than 10 years. In 106 of these there was a will and in 69 cases the decedent was intestate. In 94 cases bond was required of the executor or administrator and in 81 cases bonds were kept good. In 81 cases no bond was required. In 53 cases the inventory was filed within 60 days, in 23 cases after 60 days, and in 99 cases no inventory was filed. The appraised value of 78 of the estates is \$1,101,992.87, and the estimated value of property not appraised is \$896.32. In 18 cases first annual reports have been filed and in 157 cases no reports had not been filed. An attorney represented the executor or administrator in 28 cases, the heirs or devisees in 3 cases, and in 147 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetent persons within the year. In 1 case final report was filed within 1 to 2 years, 2 from 2 to 3 years, 1 from 3 to 4 years, 1 from 4 to 5 years, 1 from 5 to 10 years, and 1 longer than 10 years. A guardian was appointed and in 2 from 5 to 10 years. Of these estates 1 was of a minor and 2 of incompetent persons. In 2 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$1,101,992.87. All guardians were required to give bond and all bonds have been kept good. No inventory was filed in any case. In these cases 1 annual report had been filed. Investment of funds of the ward has been supervised by the court in every case. The report does not show that an attorney appeared for anyone. No fees were allowed for guardians or attorneys. In every case the report shows that the wards were properly accounted for and disbursed.

There were 155 guardianship estate cases pending July 1, 1937. Of these 14 had been pending less than 1 year, 14 from 1 to 2 years, 6 from 2 to 3 years, 7 from 3 to 4 years, 3 from 4 to 5 years, 47 from 5 to 10 years, and 10 longer than 10 years. These were estates of 144 minors, 6 insane persons, 10 incompetent persons. A guardian was also appointed for the person of the ward in 130 cases. The value of these estates, as reported, is \$215,381.63. In 130 cases bond was required of the guardian and in 144 cases bond has been kept good. In 7 cases no bond was required. An inventory was filed within 30 days in 3 cases, after 30 days in 7 cases, and in 144 cases no inventory had been filed. In these cases 92 annual reports had been filed. The investment of funds of the ward is supervised by the court in 16 cases and in 139 cases the ward is supervised by the guardian. An attorney appeared for the guardian in 16 cases and in no cases for the ward. In 139 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,028.50 were paid to guardians and \$72 for attorneys. The wards' funds have been properly accounted for and supervised and cared for in 5 cases.

#### RILEY COUNTY

Area, 617 square miles; population, 20,811; assessed value, \$29,790,000.

Report made by Hon. Chas. F. Johnson, probate judge for 8½ years. In the past year had been no defalcations by guardians, executors, or administrators. No fees were allowed for guardians or attorneys. Two juvenile officers are employed part time and 38 juvenile

within the year. There were no habeas corpus cases, 5 orders were made in district court cases, and no proceedings in aid of execution within the year. Exemption proceedings were had and 13 insanity cases were heard within the

estates of 39 deceased persons were closed within the year. In 3 cases an annual report was filed within 1 year after letters of administration were made, in 29 from 1 to 2 years, in 3 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, and in 2 from 5 to 10 years. In 21 cases there was a will and in 18 cases decedent was intestate. In 31 cases bond was required of the executor or administrator and all bonds were kept good. In 8 cases no bond was required. The inventory was filed within 60 days in 32 cases and after 60 days in 7 cases. Six first annual reports had been filed. The aggregate value of these estates, as appraised, was \$353,030.20, and the estimated value of property not appraised was \$1,625. In 14 cases attorneys represented the executor or administrator, in 5 cases the heirs or devisees, and in 25 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$54.52 were allowed for executors or administrators and \$987.22 for attorneys. In all cases the estates paid claims in full.

Of the estates of 188 deceased persons were pending July 1, 1937. Of this number 10 have been pending less than 1 year, 40 from 1 to 2 years, 21 from 2 to 3 years, 13 from 3 to 4 years, 14 from 4 to 5 years, 30 from 5 to 10 years, and 4 from more than 10 years. In 91 cases there was a will and in 97 cases decedent was intestate. In 154 cases bond was required of the executor or administrator and all bonds have been kept good. In 34 cases no bond was required. In 135 cases the inventory was filed within 60 days, in 30 after 60 days, and in 23 cases no inventory was filed. The appraised value of 64 estates is \$1,915,019.92, and the estimated value of property not appraised is \$9,684.50. In 78 cases first annual reports have been filed, 65 were not yet due, and 45 have not been filed. An attorney represented the executor or administrator in 27 cases, the heirs or devisees in 17 cases, and in 161 cases the report does not show that an attorney appeared for anyone.

There were 6 guardianship estates of minors closed within the year. In 4 cases an annual report was filed within 2 to 3 years after letters of guardianship were made, and in 2 from 5 to 10 years. In 5 cases a guardian was appointed for the care of the ward. The value of these estates, as reported, is \$4,431.85. Five cases were required to give bond and all bonds have been kept good. In 1 case no bond was required. The inventory was filed within 30 days in 3 cases and in 3 cases no inventory was filed. In these cases 15 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 5 cases and in 2 cases there were no funds. An attorney appeared for the ward in 1 case, in no case for the ward, and in 5 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$85 were allowed for guardians and \$25 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

Of the estates were 143 guardianship estate cases pending July 1, 1937. Of this number 12 had been pending less than 1 year, 22 from 1 to 2 years, 7 from 2 to 3 years, 5 from 3 to 4 years, 6 from 4 to 5 years, 61 from 5 to 10 years, and 3 from more than 10 years. These were estates of 103 minors, 21 insane persons, and 19 other incompetents. A guardian was appointed for the person of the ward in 137 cases. The value of these estates, as reported, is \$593,659.96. In

141 cases bond was required of the guardian and all bonds were kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 22 cases, after 30 days in 22 cases, and in 51 cases the report does not show that an inventory was filed. In these cases 571 annual reports had been filed. The investment of funds of the ward is supervised by the court in 142 cases. An attorney appeared for the guardian in 12 cases, for the ward in 3 cases. In 131 cases the report does not show that an attorney appeared for anyone. Amounting to \$3,253.15 have been allowed for guardians and \$732.50 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### ROOKS COUNTY

Area, 900 square miles; population, 9,028; assessed value, \$13,941,580.

Report made by Hon. H. E. Lenherd, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 8 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, 1 case made in a district court case, and no proceedings in aid of execution within the year. One adoption proceeding was had and 8 insanity cases were heard within the year.

Estates of 44 deceased persons were closed within the year. In 3 cases the final report was filed within 1 year after letters of administration were issued, in 24 from 1 to 2 years, in 4 from 2 to 3 years, in 5 from 3 to 4 years, in 4 to 5 years, in 5 from 5 to 10 years, and in 1 after 10 years. In 25 cases there was a will and in 19 cases decedent was intestate. In 26 cases bond was required of the executor or administrator and all bonds had been kept good. In 18 cases no bond was required. The inventory was filed within 60 days in 18 cases, and after 60 days in 8 cases. Forty-four first annual reports have been filed. The aggregate value of these estates, as appraised, was \$360,240. The estimated value of estates not appraised was \$6,045. In 36 cases the report represented the executors or administrators, in 1 case the heir or devisee. In 8 cases the report does not show that an attorney appeared for anyone. Amounting to \$3,098.05 were allowed for executors or administrators and \$500.05 for attorneys. In 42 cases the estates paid claims in full and in 2 cases the estates did not pay claims in full.

Estates of 92 deceased persons were pending July 1, 1937. Of these 33 had been pending less than 1 year, 12 from 1 to 2 years, 7 from 2 to 3 years, 14 from 3 to 4 years, 6 from 4 to 5 years, 15 from 5 to 10 years, and 1 from more than 10 years. In 42 of these there was a will and in 50 cases decedent was intestate. In 64 cases bond was required of the executor or administrator and in 63 cases bonds were kept good. In 28 cases no bond was required. In 17 cases the inventory was filed within 60 days, in 17 cases after 60 days, and in 1 case no inventory was filed. The appraised value of 91 of these estates was \$1,326,262.38, and the estimated value of property not appraised is \$1,326,262.38. In 33 cases first annual reports have been filed and in 59 cases such reports have not been filed. An attorney represented the executor or administrator in 3 cases, the heirs or devisees in 3 cases, and in 16 cases the report does not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents within the year. In 2 cases the final report was filed within 1 year. A guardian was appointed, in 3 from 1 to 2 years, in 1 from 2 to 3 years,

from 5 to 10 years. Of these estates, 2 were of minors, 3 of insane, and 2 of incompetent persons. No guardian was appointed for the person of the ward in any case. The value of these estates, as reported, is \$3,825. All guardians are required to give bond and all bonds have been kept good. The inventory was filed within 30 days in every case. In these cases 9 annual reports have been filed. Investment of funds of the ward has been supervised by the court in every case. An attorney appeared for the guardian in 4 cases, for the ward in 1 case, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$225 were allowed for guardians and \$100 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 67 guardianship estate cases pending July 1, 1937. Of these, 20 have been pending less than 1 year, 12 from 1 to 2 years, 10 from 2 to 3 years, 10 from 3 to 4 years, 3 from 4 to 5 years, 11 from 5 to 10 years, and 4 longer than 10 years. These were estates of 59 minors, 4 insane persons, and 4 other incompetents. A guardian was also appointed for the person of the ward in 19 cases. The value of these estates, as reported, is \$82,185.77. In 65 cases bond was required of the guardian and all bonds had been kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 52 cases, after 30 days in 11 cases, and in 4 cases no inventory had been filed. In these cases 52 annual reports had been filed. The investment of funds of the ward is supervised by the court in 56 cases and in 11 cases they are not supervised by the court. An attorney appeared for the guardian in 48 cases, in 4 cases for the ward, and in 19 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,251 were allowed for guardians and \$2,035 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### RUSH COUNTY

Area, 720 square miles; population, 9,069; assessed value, \$15,608,550. Report made by Hon. Paul J. Warden, probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed. There was 1 juvenile case heard within the year. There were no habeas corpus cases, no orders were made in circuit court cases, and no proceedings in aid of execution within the year. There was 1 insanity case heard within the year.

The estates of 71 deceased persons were closed within the year. In 12 cases the final report was filed within 1 to 2 years after letters of administration were issued, in 4 from 2 to 3 years, in 2 from 3 to 4 years, in 2 from 5 to 10 years, and in 51 after 10 years. In 26 cases there was a will and in 45 cases decedent was intestate. In 38 cases bond was required of the executor or administrator and in 14 cases bonds had been kept good. In many cases there was no record showing whether or not bonds had been kept good. In 33 cases no bond was required. The inventory was filed within 60 days in 33 cases, after 60 days in 1 case, and in 36 cases no inventory was filed. Thirteen first annual reports have been filed. The aggregate value of 29 estates, as appraised, was \$185,478, and the estimated value of property not appraised was \$29,543.99. In 7 cases attorneys represented the executor or administrator, in 4 cases the heirs or devisees, and in 61 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$175 were allowed for executors or administrators and \$652.50 for attorneys. In 22 cases the estates paid claims in full.

The estates of 96 deceased persons were pending July 1, 1937. Of these, 20 have been pending less than 1 year, 9 from 1 to 2 years, 9 from 2 to 3 years, 9 from 3 to 4 years, 3 from 4 to 5 years, 12 from 5 to 10 years, and 34 longer than 10 years. In 41 cases there was a will and in 55 cases there was no will. In 64 cases bond was required of the executor or administrator and in 46 cases bonds have been kept good. In 32 cases no bond was required. In 38 cases the inventory was filed within 60 days, in 15 after 60 days, and in 43 cases no inventory was filed. The appraised value of 24 estates, is \$411,405 and the estimated value of property, not appraised is \$119,405. In 21 cases the first annual reports have been filed. An attorney represented the executor or administrator in 7 cases, the heirs or devisees in 4 cases, and in 85 cases the report does not show that an attorney appeared for anyone.

There were 28 guardianship estates of minors closed within the year. In 15 cases final report was filed within 5 to 10 years after letters of guardianship were issued and in 24 cases longer than 10 years. In 24 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$3,979.06. Twenty-four guardians were required to give bond and 7 cases have been kept good. In many cases there was no record. In 4 cases no bond was required. The inventory was filed within 30 days in 1 case, after 30 days in 1 case, and in 26 cases no inventory was filed. In these cases 34 annual reports have been filed. An attorney appeared for the guardian in 2 cases and in 26 cases the report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. The report does not show whether or not the funds of the wards were properly accounted for and disbursed.

There were 169 guardianship estate cases pending July 1, 1937. Of these, 14 had been pending less than 1 year, 5 from 1 to 2 years, 15 from 2 to 3 years, 10 from 3 to 4 years, 9 from 4 to 5 years, 36 from 5 to 10 years, and 75 longer than 10 years. These were estates of 155 minors, 5 insane persons, and 9 other incompetents. A guardian was appointed for the person of the ward in 144 cases. The value of these estates, as reported, is \$51,670.06. In 151 cases bond was required of the guardian and in 90 cases bonds have been kept good. In 18 cases there were no records. In 18 cases no bond was required. An inventory was filed within 30 days in 25 cases, after 30 days in 40 cases, and in 10 cases no inventory was filed. In these cases 154 annual reports have been filed. In 100 reports the report does not show whether or not the funds of the ward are supervised by the court. An attorney appeared for the guardian in 26 cases, in no case for the ward, and in 143 cases the report does not show that an attorney appeared for anyone. A fee amounting to \$335 was allowed guardian. The report does not show that the ward's funds have been properly preserved and cared for in 1 case. In many cases there were no funds.

#### RUSSELL COUNTY

Area, 900 square miles; population, 12,472; assessed value, \$32,020,877.

Report made by Hon. J. D. Steinle, probate judge for 4½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed regularly and no juvenile cases were heard within the year. There were no habeas corpus cases, 11 orders were made in district court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had and 8 insanity cases were heard within the year.

ates of 16 deceased persons were closed within the year. In 3 cases the report was filed within 1 year after letters of administration were issued, from 1 to 2 years, in 1 from 3 to 4 years, and in 1 from 4 to 5 years. In 3 cases there was a will and in 8 cases decedent was intestate. In 13 cases bond was required of the executor or administrator and all bonds had been kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 14 cases and after 60 days in 2 cases. Two first annual reports had been filed. The aggregate value of these estates, as appraised, was \$503,502.25, and the estimated value of estates not appraised was \$106,675. In 13 cases attorneys represented the executor or administrator, in no cases were the heirs or devisees represented, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$6,361.77 were allowed for executors or administrators and \$5,561 for attorneys. In every case the estates were paid in full.

ates of 107 deceased persons were pending July 1, 1937. Of these cases, 10 have been pending less than 1 year, 21 from 1 to 2 years, 12 from 2 to 3 years, 5 from 3 to 4 years, 5 from 4 to 5 years, 17 from 5 to 10 years, and 1 longer than 10 years. In 56 of these there was a will and in 51 cases deceased was intestate. In 82 cases bond was required of the executor or administrator and all bonds were kept good. In 25 cases no bond was required. In 58 cases inventory was filed within 60 days, in 24 after 60 days, and in 25 cases no inventory was filed. The appraised value of 82 of these estates is \$879,785.83, and the estimated value of property not appraised is \$72,411.12. In 12 cases annual reports have been filed and in 95 cases such reports had not been filed. An attorney represented the executor or administrator in 39 cases, the heirs or devisees in 1 case, and in 68 cases the report does not show that an attorney appeared for anyone.

There were 11 guardianship estates of minors or other incompetents closed during the year. In 1 case final report was filed within 1 year after guardian was appointed, in 1 from 1 to 2 years, in 1 from 4 to 5 years, in 3 from 5 to 10 years, and in 5 longer than 10 years. Of these estates, 7 were of minors, 3 of which included 1 of an incompetent person. In 9 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$35,-

All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases, after 30 days in 4 cases, and in 7 cases no inventory was filed. In these cases 59 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 10 cases. An attorney appeared for the guardian in 5 cases and in no case for the ward. In 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$348.20 were allowed for guardians and attorneys. In every case the funds of the wards were properly accounted for and disbursed.

There were 130 guardianship estate cases pending July 1, 1937. Of these 130 cases 10 have been pending less than 1 year, 13 from 1 to 2 years, 10 from 2 to 3 years, 3 from 3 to 4 years, 9 from 4 to 5 years, 32 from 5 to 10 years, and 42 longer than 10 years. These were estates of 104 minors, 25 insane persons, and 1 incompetent. A guardian was also appointed for the person of the ward in 10 cases. The value of these estates, as reported, is \$130,042.69. In 129 cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 30 cases,

after 30 days in 18 cases, and in 82 cases no inventory had been filed. In these cases 355 annual reports had been filed. The investment of funds for the ward is supervised by the court in 122 cases and in 8 cases they are supervised by the court. An attorney appeared for the guardian in 9 cases and in no case for the ward. In 121 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$905.15 were allowed for clerks and \$534 for attorneys. The wards' funds have been properly preserved and cared for in every case.

#### SALINE COUNTY

Area, 720 square miles; population, 29,235; assessed value, \$52,204,600.

Report made by Hon. Will F. Miller, probate judge for 12½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed part time. Thirty-two juvenile cases were heard within the year and 15 were pending. There were no habeas corpus cases, 8 orders were made in district court cases, and no proceedings for execution within the year. Twelve adoption proceedings were had and 10 insanity cases were heard within the year.

The estates of 69 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were issued, in 55 from 1 to 2 years, in 5 from 2 to 3 years, in 2 from 3 to 4 years, and in 1 from 4 to 5 years. In 30 cases there was a will and in 39 cases the deceased was intestate. In 50 cases bond was required of the executor or administrator and all bonds were kept good. In 19 cases no bond was required. Inventory was filed within 60 days in 46 cases and after 60 days in 23 cases. Five first annual reports had been filed. The aggregate value of these estates as appraised, was \$646,190.72. In 40 cases attorneys represented the executor or administrator, in 3 cases the heirs or devisees, and in 29 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$17,256.95 were allowed for executors or administrators and \$7,358.60 for attorneys. In 59 cases the estates paid claims in full.

The estates of 204 deceased persons were pending July 1, 1937. Of this number, 86 have been pending less than 1 year, 64 from 1 to 2 years, 22 from 2 to 3 years, 15 from 3 to 4 years, and 5 from 4 to 5 years. In 90 cases there was a will and in 114 cases deceased was intestate. In 147 cases bond was required of the executor or administrator and all bonds have been kept good. In 57 cases no bond was required. In 118 cases the inventory was filed within 60 days, in 44 cases after 60 days, and in 42 cases no inventory was filed. The appraised value of 160 estates is \$1,817,017.44. In 12 cases first annual reports have been filed and in 192 cases such reports have not been filed. Attorneys represented the executor or administrator in 142 cases, the heirs or devisees in 24 cases, and in 62 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetent persons closed within the year. In 2 cases final report was filed within 1 to 2 years after letters of guardianship were issued and in 1 from 3 to 4 years. Of these 1 was of a minor and 2 of insane persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as appraised, is \$1,200. Three guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 1 case and in 2



inventory was filed. In these cases 4 annual reports have been filed. An attorney appeared for the guardian in 1 case and for the ward in 2 cases. Fees amounting to \$35 were allowed for attorneys. In 1 case the funds of the wards were properly accounted for and disbursed.

There were 96 guardianship estate cases pending July 1, 1937. Twenty-five cases are insane cases where the individual owned no property, but commitment was necessary. Of these, 30 had been pending less than 1 year, 33 from 1 to 2 years, 14 from 2 to 3 years, 5 from 3 to 4 years, 1 from 4 to 5 years, 8 from 5 to 10 years, and 5 longer than 10 years. These were estates of 51 minors, 35 insane persons, and 10 other incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$343,353.17. In 78 cases bond was required of the guardian and all bonds were kept good. In 18 cases no bond was required. An inventory was filed within 30 days in 5 cases, after 30 days in 11 cases, and in 80 cases no inventory was filed. In these cases 101 annual reports had been filed. The investment of funds of the ward is supervised by the court in 2 cases. An attorney appeared for the guardian in 12 cases, in 46 cases for the ward, and in 43 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$10,375 have been allowed for guardians and \$9,320 for attorneys. The wards' funds have been properly preserved and cared for in 58 cases.

#### SCOTT COUNTY

Area, 720 square miles; population, 3,692; assessed value, \$6,472,815.

Report made by Hon. James H. Force, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed and no juvenile cases were heard within the year. There was 1 habeas corpus case in which writ was denied, 1 order was made in a district court case, and there were no proceedings in aid of execution within the year. No adoption proceedings were had and 2 insanity cases were heard within the year.

Estates of 8 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were issued, in 3 from 1 to 2 years, in 1 from 3 to 4 years, in 2 from 4 to 5 years, and in 1 from 5 to 10 years. In 2 cases there was a will and in 6 cases decedent was intestate. In 7 cases bond was required of the executor or administrator and all bonds were kept good. In 1 case no bond was required. The inventory was filed within 60 days in every case. Five first annual reports had been filed. The aggregate value of these estates, as appraised, was \$33,110.94, and the estimated value of estates not appraised was \$2,560. In every case attorneys represented the executor or administrator and in no cases were the heirs or devisees represented. Fees amounting to \$200 were allowed for executors or administrators and \$395 for attorneys. In 6 cases the estates paid claims in full and in 2 cases the estates did not pay claims in full.

Estates of 23 deceased persons were pending July 1, 1937. Of these cases, 9 have been pending less than 1 year, 6 from 1 to 2 years, 2 from 2 to 3 years, 2 from 4 to 5 years, 2 from 5 to 10 years, and 2 longer than 10 years. In 14 of these there was a will and in 9 cases deceased was intestate. In 16 cases bond was required of the executor or administrator and all bonds were kept good. In 7 cases no bond was required. In 18 cases the inventory was filed

within 60 days, in 4 cases after 60 days, and in 1 case no inventory was filed. The appraised value of 22 of these estates is \$111,307.62, and the estimated value of property not appraised is \$8,100. In 8 cases first annual reports have been filed and in 15 cases such reports have not been filed. An attorney represented the executor or administrator in every case and the heirs or devisees were not represented in any case.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 13 guardianship estate cases pending July 1, 1937. Of these 1 had been pending less than 1 year, 5 from 2 to 3 years, 1 from 3 to 4 years, 4 from 4 to 5 years, 4 from 5 to 10 years, and 1 longer than 10 years. There were estates of 11 minors, 1 insane person, and 1 other incompetent. A guardian was also appointed for the person of the ward in every case. The value of these estates, as reported, is \$18,147. In every case bond was required of the guardian and in 12 cases bond has been kept good. An inventory was filed within 30 days in 10 cases and after 30 days in 3 cases. In these cases first annual reports had been filed. The investment of funds of the ward is supervised by the court in every case. An attorney appeared for the guardian in every case and in no case for the ward. In 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$291.60 were allowed for guardians and \$490 for attorneys. The wards' funds have been properly preserved and cared for in 12 cases.

#### SEDGWICK COUNTY

Area, 1,008 square miles; population, 129,609; assessed value, \$193,164,388.

Report made by Hon. Clyde M. Hudson, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. Three juvenile officers are employed. There were 6 juvenile cases heard within the year and 20 were pending. There was 1 habeas corpus case in which the writ was allowed, no orders were made in district court cases, and 1 proceeding in aid of execution within the year. Seventy-nine adoption proceedings were had and 124 insanity cases were heard within the year.

The estates of 209 deceased persons were closed within the year. In 26 cases the final report was filed within 1 year after letters of administration were issued, in 125 from 1 to 2 years, in 19 from 2 to 3 years, in 11 from 3 to 4 years, in 6 from 4 to 5 years, in 18 from 5 to 10 years, and in 4 after 10 years. In 108 cases there was a will and in 67 cases decedent was intestate. In 108 cases bond was required of the executor or administrator and all bonds were kept good. In 101 cases no bond was required. The inventory was filed within 30 days in 120 cases and after 60 days in 89 cases. Twenty first annual reports had been filed. The aggregate value of 200 estates, as appraised, was \$3,622,107.12, and the estimated value of property not appraised was \$62,352.72. In 200 cases attorneys represented the executor or administrator, in 15 cases the heirs or devisees, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$32,231.88 were allowed for executors or administrators and \$35,689.09 for attorneys. In 206 cases the estates paid claims in full.

The estates of 304 deceased persons were pending July 1, 1937, all of which have been pending less than 1 year. In 172 cases there was a will and in 132

es deceased was intestate. In 189 cases bond was required of the executor or administrator and all bonds have been kept good. In 115 cases no bond was required. In 128 cases the inventory was filed within 60 days, in 65 cases after 60 days, and in 111 cases no inventory was filed. The appraised value of 189 estates is \$2,865,329.44 and the estimated value of property not appraised is \$75. In 189 annual reports have not been filed in any case. An attorney represented the executor or administrator in 296 cases, the heirs or devisees were not represented in any case, and in 8 cases the report does not show that an attorney appeared for anyone.

There were 49 guardianship estates of minors or other incompetents closed within the year. In 10 cases final report was filed within 1 year after letters of guardianship were issued, in 18 from 1 to 2 years, in 3 from 2 to 3 years, in 3 from 3 to 4 years, in 1 from 4 to 5 years, in 4 from 5 to 10 years, and in 10 longer than 10 years. Of these estates, 33 were of minors, 6 of insane, and 10 of other incompetent persons. In 7 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$62,130.64. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 13 cases, after 30 days in 9 cases, and in 27 cases no inventory was filed. In these cases 94 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 42 cases, for the ward in 43 cases, and in 6 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$870 were allowed for guardians and \$2,340 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 75 guardianship estate cases pending July 1, 1937, all of which had been pending less than 1 year. These were estates of 61 minors, 1 insane person, and 13 other incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$68,821.39. In 74 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. An inventory was filed within 30 days in 27 cases, after 30 days in 8 cases, and in 40 cases no inventory was filed. In these cases, 1 annual report had been filed. The investment of funds of the ward is supervised by the court in 35 cases. An attorney appeared for the guardian in 35 cases, in no case for the ward, and in 11 cases the report does not show that an attorney appeared for anyone. A fee amounting to \$25 was allowed for the guardian. The wards' funds have been properly preserved and cared for in all cases.

#### SEWARD COUNTY

Area, 648 square miles; population, 7,052; assessed value, \$11,216,406.

Report made by Hon. Avis King Lacy, probate judge protem since May 1, 1937, who is acting for Hon. L. A. Etzold, probate judge for 11½ years. There have been no defalcations by guardians, executors, or administrators within the year. Two juvenile officers are employed. Fourteen juvenile cases were heard within the year and 13 were pending. There were no habeas corpus cases, no appeals were made in district court cases, and no proceedings in aid of execution within the year. Five adoption proceedings were had and 4 insanity cases were heard within the year.

The estates of 10 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were

issued, in 5 from 1 to 2 years, in 3 from 2 to 3 years, and in 1 from 4 to 5 years. In 7 cases there was a will and in 3 cases decedent was intestate. In 7 cases bond was required of the executor or administrator and all bonds were kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 6 cases and after 60 days in 4 cases. Eight first annual reports have been filed. The aggregate value of 9 estates, as appraised, was \$110,363.22 and the estimated value of property, not appraised, was \$458.71. In 7 cases a person represented the executor or administrator, the heirs or devisees were represented in any cases, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$875 were allowed for executors and administrators and \$957.35 for attorneys. In 9 cases the estates paid costs in full.

The estates of 100 deceased persons were pending July 1, 1937. Of these, 9 have been pending less than 1 year, 10 from 1 to 2 years, 4 from 2 to 3 years, 5 from 3 to 4 years, 5 from 4 to 5 years, 29 from 5 to 10 years, and 38 longer than 10 years. In 43 cases there was a will and in 57 cases decedent was intestate. In 67 cases bond was required of the executor or administrator and 30 bonds have been kept good. In 33 cases no bond was required. In 33 cases the inventory was filed within 60 days, in 21 after 60 days, and in 46 cases no inventory was filed. The appraised value of 61 estates is \$79,726.66 and the estimated value of property, not appraised, is \$170, and in many cases the estate was not evaluated. In 23 cases first annual reports have been filed and in 77 cases such reports have not been filed. An attorney represented the executor or administrator in 52 cases, the heirs or devisees in 1 case, and in 47 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetent persons pending within the year. In 1 case final report was filed within 1 year after letters of guardianship were issued, in 1 from 1 to 2 years, and in 1 after 10 years. Of these estates, 1 was of a minor and 2 of insane persons. In 2 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$2,099.03. Two guardians were required to give bond and both have been kept good. In 1 case no bond was required. The inventory was filed within 30 days in 2 cases and in 1 case no inventory was filed. In these 3 cases 5 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 1 case. An attorney appeared for the guardian in 2 cases, in 2 cases for the wards, and in 1 case the report does not show that an attorney appeared for anyone. A fee amounting to \$5 was allowed for an attorney in 1 case. In 2 cases the funds of the wards were properly accounted for and disbursed.

There were 103 guardianship estate cases pending July 1, 1937. Of these, 4 had been pending less than 1 year, 5 from 1 to 2 years, 2 from 3 to 4 years, 23 from 4 to 5 years, 23 from 5 to 10 years, and 66 longer than 10 years. Of these were estates of 90 minors, 7 insane persons, and 6 other incompetent persons. A guardian was appointed for the person of the ward in 81 cases. The value of these estates, as reported, is \$79,726.66. In 97 cases bond was required of the guardian and in 28 cases bond has been kept good. In 6 cases no bond was required. An inventory was filed within 30 days in 15 cases, after 30 days in 13 cases, and in 75 cases no inventory was filed. In these cases 55 annual reports had been filed. The investment of funds of the ward is supervised by the court in 30 cases. An attorney appeared for the guardian in 33 cases, in

the ward, and in 70 cases the report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. The wards' estates have been properly preserved and cared for in 5 cases.

## SHAWNEE COUNTY

area, 558 square miles; population, 94,427; assessed value, \$118,381,348. The report made by Hon. Roy N. McCue, probate judge for 2½ years. There were 1 defalcation by guardian, executor, or administrator within the year, amounting to \$91, which at the time of the report had not yet been recovered. The juvenile officers are employed. There were 169 juvenile cases heard in the year. No juvenile cases were pending for hearing but approximately 100 cases are under court jurisdiction. There were no habeas corpus cases, no appeals were made in district court cases, and no proceedings in aid of execution in the year. Forty-six adoption proceedings were had and 116 insanity cases were heard within the year.

The estates of 99 deceased persons were closed within the year. In 17 cases the final report was filed within 1 year after letters of administration were issued, in 69 from 1 to 2 years, in 5 from 2 to 3 years, in 3 from 3 to 4 years, in 2 from 4 to 5 years, in 3 from 5 to 10 years, and in 1 after 10 years. In 56 cases there was a will and in 43 cases decedent was intestate. In 66 cases bond was required of the executor or administrator and all bonds were kept good. In 33 cases no bond was required. The inventory was filed within 60 days in 100 cases, after 60 days in 51 cases, and in 3 cases no inventory was filed. Forty-first annual reports had been filed. The aggregate value of 98 estates, as appraised, was \$1,205,425.60. In 42 cases attorneys represented the executor or administrator, the heirs or devisees were not represented in any case, and in 57 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$33,068.75 were allowed for executors or administrators and \$13,000 for attorneys. In 96 cases the estates paid claims in full.

The estates of 505 deceased persons were pending July 1, 1937, and 21 original transcripts. Of this number 145 have been pending less than 1 year, 77 from 1 to 2 years, 36 from 2 to 3 years, 49 from 3 to 4 years, 31 from 4 to 5 years, 103 from 5 to 10 years, and 64 longer than 10 years. In 257 cases there was a will and in 248 cases deceased was intestate. In 323 cases bond was required of the executor or administrator and all bonds were kept good. In 182 cases no bond was required. In 211 cases the inventory was filed within 60 days, in 187 after 60 days, and in 107 cases no inventory was filed. The appraised value of 381 estates is \$4,241,530.96. In 188 cases first annual reports had been filed and in 317 cases such reports have not been filed. An attorney represented the executor or administrator in 46 cases, the heirs or devisees in 100 cases, and in 457 cases the report does not show that an attorney appeared for anyone. In addition to these cases, there were 69 original proceedings, all of which had been pending less than 1 year. In every case there was a will. The value of real estate amounts to \$316,920 and personal property, \$103,975.

There were 36 guardianship estates of minors or other incompetents closed in the year. In 9 cases final report was filed within 1 year after letters of guardianship were issued, in 3 from 1 to 2 years, in 6 from 2 to 3 years, in 2 from 3 to 4 years, in 4 from 4 to 5 years, in 5 from 5 to 10 years, and in 8 longer than 10 years. Of these estates, 15 were of minors, 20 of insane persons, and 1 of another incompetent person. In all cases a guardian was appointed

for the person of the ward. The value of these estates, as reported, was \$296.69. Thirty-six guardians were required to give bond and all has been kept good. The inventory was filed within 30 days in 12 cases, within 30 days in 19 cases, and in 5 cases no inventory was filed. In these cases annual reports have been filed. Investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the ward in 11 cases and in no case for the ward. In 25 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,595.16 have been allowed for guardians and \$880.76 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 552 guardianship estate cases pending July 1, 1937. Of these, 82 had been pending less than 1 year, 82 from 1 to 2 years, 37 from 2 to 3 years, 65 from 3 to 4 years, 37 from 4 to 5 years, 163 from 5 to 10 years, and 108 longer than 10 years. These were estates of 351 minors and 201 orphans. A guardian was appointed for the person of the ward in 508 cases. The value of these estates, as reported, is \$618,727.85. In 508 cases bond was required of the guardian and in all cases bond has been kept good. In 10 cases no bond was required. An inventory was filed within 30 days in 12 cases, after 30 days in 270 cases, and in 88 cases no inventory was filed. In these cases 1407 annual reports had been filed. The investment of funds of the ward is supervised by the court in 394 cases. An attorney appeared for the guardian in 127 cases, in 4 cases for the ward, and in 425 cases for no one. It does not show that an attorney appeared for anyone. Fees amounting to \$22,559.84 have been allowed for guardians and \$5,162.16 for attorneys. In all wards' funds have been properly preserved and cared for in 193 cases.

#### SHERIDAN COUNTY

Area, 900 square miles; population 6,038; assessed value, \$8,305,000.

Report made by Hon. N. W. McWilliams, probate judge for the year. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed, 1 juvenile case was heard within the year. There were no habeas corpus cases, 2 orders were granted in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had and no insanity cases were heard within the year.

Estates of 10 deceased persons were closed within the year. In 10 cases the final report was filed within 1 to 2 years after letters of administration were issued, in 1 from 2 to 3 years, in 1 from 3 to 4 years, and 1 from 5 to 6 years. In 4 cases there was a will and in 6 cases decedent was intestate. Bond was required of the executor or administrator and all bond has been kept good. In 3 cases no bond was required. The inventory was filed within 30 days in 8 cases and after 60 days in 2 cases. Two first annual reports have been filed. The aggregate value of these estates, as appraised, was \$31,997.50, and the estimated value of estates not appraised was \$31,997.50. Attorneys represented the executor or administrator, in 1 case the ward, in 3 cases the ward, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$495 were allowed for executors or administrators and \$280 for attorneys. In 6 cases the estates paid claims in full, in 4 cases the estates did not pay claims in full.

ates of 27 deceased persons were pending July 1, 1937. Of these cases 14 been pending less than 1 year, 8 from 1 to 2 years, 2 from to 3 years, from 3 to 4 years. In 11 of these there was a will and in 16 cases decedent was intestate. In 21 cases bond was required of the executor or administrator and all bonds were kept good. In 6 cases no bond was required. In 11 cases the inventory was filed within 60 days, in 11 cases after 60 days, and in 5 cases no inventory was filed. The appraised value of 23 of these estates is \$75,000, and the estimated value of property not appraised is \$99,832.50. In 11 cases first annual reports have been filed and in 21 cases such reports had not been filed. An attorney represented the executor or administrator in 19 cases, the executor or devisees in 2 cases, and in 8 cases the report does not show that an attorney appeared for anyone.

There were 2 guardianship estates of minors or other incompetents closed within the year. No final report was filed in either case. Of these estates, 1 was of a minor and the other of an insane person. No guardian was appointed in either case. The person of the ward in either case. The value of these estates, as reported, is \$200. One guardian was required to give bond and bond has been kept good. No inventory was filed in either case. No annual reports have been filed. Investment of funds of the ward has been supervised by the court in both cases. The report does not show that an attorney appeared for anyone in either case. No fees were allowed for guardians or attorneys.

There were 10 guardianship estate cases pending July 1, 1937. Of these, 1 had been pending less than 1 year, 3 from 2 to 3 years, 4 from 3 to 4 years, 1 from 5 to 10 years, and 1 longer than 10 years. These were estates of 8 minors and 2 other incompetents. A guardian was also appointed for the person of the ward in 7 cases. The value of these estates, as reported, is \$11,350. In 9 cases bond was required of the guardian and all bonds had been kept good. In 1 case no bond was required. An inventory was filed within 30 days in 5 cases and after 30 days in 3 cases, and in 2 cases no inventory had been filed. In 11 cases 24 annual reports had been filed. The investment of funds of the ward is supervised by the court in 8 cases and in 2 cases they are not supervised by the court. An attorney appeared for the guardian in 1 case, in 1 case for the ward, and in 9 cases the report does not show that an attorney appeared for anyone. No fees were allowed for guardians or attorneys. The wards' property has been properly preserved and cared for in every case.

#### SHERMAN COUNTY

Area, 1,080 square miles; population, 6,466; assessed value, \$9,180,223. Report made by Hon. Bryan Beaderstadt, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. There were no habeas corpus cases, 2 orders were made in detainer court cases, and no proceedings in aid of execution within the year. Adoption proceedings were had and 7 insanity cases were heard within the year.

Estates of 9 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were issued, from 1 to 2 years, and in 1 from 4 to 5 years. In 3 cases there was a will and in 6 cases decedent was intestate. In 7 cases bond was required of the executor or administrator and in all cases bond had been kept good. In 2 cases

no bond was required. The inventory was filed within 60 days in 5 after 60 days in 4 cases. One first annual report had been filed. The value of these estates, as appraised, was \$46,312.53, and the estimated estates not appraised, was \$250. In all cases attorneys represented the or administrator and in no cases were the heirs or devisees represented amounting to \$1,051.19 were allowed for executors or administrators and for attorneys. In 8 cases the estates paid claims in full and in 1 case did not pay claims in full.

Estates of 37 deceased persons were pending July 1, 1937. Of these 10 have been pending less than 1 year, 12 from 1 to 2 years, 1 from 2 to 3 years, 3 from 4 to 5 years, 8 from 5 to 10 years, and 3 longer than 10 years. In 16 of these there was a will and in 21 cases deceased was intestate. In all cases bond was required of the executor or administrator and all bonds have been kept good. In 12 cases no bond was required. In 21 cases the inventory was filed within 60 days, in 8 cases after 60 days, and in 8 cases no inventory was filed. The appraised value of 29 of these estates is \$150,504.16 and the estimated value of property not appraised is \$82,385. In 5 cases first annual reports have been filed and in 32 cases such reports had not been filed. In all cases an attorney represented the executor or administrator in 36 cases, the heirs or devisees were not represented in any case, and in 1 case the report does not show that an attorney appeared for anyone.

There were 4 guardianship estates of minors or other incompetents pending within the year. In 1 case final report was filed within 1 year after appointment, in 1 from 3 to 4 years, and in 2 cases no final report had been filed. Of these estates, 1 was of a minor and 3 of insane persons. In every case a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$5,596.94. Three guardians were required to give bonds and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 2 cases no inventory was filed. In these cases 2 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 2 cases. An attorney appeared for the guardian in 3 cases and in 1 case for the ward. In 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$30.23 were allowed for guardians and attorneys. In 3 cases the funds of the wards were properly accounted for and disbursed.

There were 53 guardianship estate cases pending July 1, 1937. Of these 10 had been pending less than 1 year, 7 from 1 to 2 years, 4 from 2 to 3 years, 3 from 3 to 4 years, 2 from 4 to 5 years, 22 from 5 to 10 years, and 7 longer than 10 years. These were estates of 37 minors, 13 insane persons, and 3 incompetents. A guardian was also appointed for the person of the ward in all cases. The value of these estates, as reported, is \$55,100.74. In 44 cases bond was required of the guardian and in 42 cases bond has been kept good. In 13 cases no bond was required. An inventory was filed within 30 days in 39 cases, after 30 days in 8 cases, and in 39 cases no inventory was filed. In these cases 138 annual reports had been filed. The investment of funds of the wards was supervised by the court in 31 cases and in 22 cases they are not supervised by the court. An attorney appeared for the guardian in 28 cases, for the ward in 3 cases, and in 25 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,684.48 were allowed for guardians and attorneys. The wards' funds have been properly preserved and care has been taken in 46 cases.



## SMITH COUNTY

area, 900 square miles; population, 11,365; assessed value, \$19,641,497. Report made by Hon. Chas. Buell, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. Juvenile officers are employed and no juvenile cases were heard within the year. There were no habeas corpus cases, no orders were made in district court, and no proceedings in aid of execution within the year. Three adoption proceedings were had and 6 insanity cases were heard within the year.

The estates of 30 deceased persons were closed within the year. In 4 cases final report was filed within 1 year after letters of administration were granted, in 20 from 1 to 2 years, in 3 from 2 to 3 years, and in 3 from 3 to 4 years. In 14 cases there was a will and in 16 cases decedent was intestate. In 14 cases bond was required of the executor or administrator and in 14 cases bonds had been kept good. In 8 cases no bond was required. The inventory was filed within 60 days in 21 cases, after 60 days in 7 cases, and in 2 cases no inventory was filed. Thirty first annual reports had been filed. The aggregate value of these estates, as appraised, was \$299,404.60. In 1 case an attorney represented the executor or administrator, the heirs or devisees were not represented in any case, and in 29 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$761.50 were allowed for executors and administrators and \$125 for attorneys. In all cases the estates paid claims in full.

The estates of 34 deceased persons were pending July 1, 1937. Of this number 30 have been pending less than 1 year, 3 from 1 to 2 years, and 1 from 2 to 3 years. In 20 cases there was a will and in 14 cases deceased was intestate. In 10 cases bond was required of the executor or administrator and all bonds had been kept good. In 14 cases no bond was required. In 27 cases the inventory was filed within 60 days and in 7 cases after 60 days. The appraised value of 33 estates is \$323,830, and the estimated value of property not appraised is \$3,300. In 2 cases first annual reports have been filed and in 32 cases reports have not been filed. An attorney represented the executor or administrator in 3 cases, the heirs or devisees were not represented in any case, and in 31 cases the report does not show that an attorney appeared for anyone. There was 1 guardianship estate of an incompetent person closed within the year. The final report was filed within 1 year after letters of guardianship were granted. A guardian was appointed for the person of the ward. The value of the estate, as reported, is \$140. The guardian was required to give bond and it has been kept good. The inventory was filed within 30 days. In this case 1 annual report has been filed. There were no funds to be accounted for or disbursed.

There were 29 guardianship estate cases pending July 1, 1937. Of these 7 have been pending less than 1 year, 5 from 1 to 2 years, 5 from 2 to 3 years, 3 from 3 to 4 years, 6 from 5 to 10 years, and 3 longer than 10 years. These were estates of 20 minors, 7 insane persons, and 2 other incompetents. A guardian was appointed for the person of the ward in 28 cases. The value of these estates, as reported, is \$20,451. In 29 cases bond was required of the guardian and all bonds were kept good. An inventory was filed within 30 days in 16 cases, after 30 days in 4 cases, and in 9 cases no inventory was filed. In these cases 74 annual reports had been filed. The investment of funds of the ward

is supervised by the court in 19 cases. An attorney appeared for the guardian in 6 cases, for the ward in 3 cases, and in 21 cases the report does not show that an attorney appeared for anyone. No fees were allowed for guardian attorneys. The report does not show whether or not the wards' funds have been properly preserved and cared for.

#### STAFFORD COUNTY

Area, 792 square miles; population, 10,500; assessed value, \$24,117,320.

Report made by Hon. F. R. Seely, probate judge for 2½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. Eight juvenile cases were heard within the year and 6 were pending. There were no habeas corpus cases, none were made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had and 5 insanity cases were pending within the year.

The estates of 40 deceased persons were closed within the year. In 19 the final report was filed within 1 year after letters of administration were issued, in 21 from 1 to 2 years, in 8 from 2 to 3 years, in 2 from 3 to 4 years, in 1 from 5 to 10 years, in 2 after 10 years. In 26 cases there was a will and in 14 cases decedent was intestate. In 17 cases bond was required of the executor or administrator and all bonds were kept good. In 23 cases no bond was required. The inventory was filed within 60 days in 32 cases, after 60 days in 8 cases, and in 3 cases no inventory was filed. Sixteen first annual reports have been filed. The aggregate value of 37 estates, as appraised, was \$342,000, the estimated value of property not appraised was \$441,600. In 38 cases attorneys represented the executor or administrator, in no cases were the executor or devisees represented, and in 2 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$11,380 were allowed to executors or administrators and \$12,660 for attorneys. In 39 cases the report shows claims paid in full.

The estates of 46 deceased persons were pending July 1, 1937. Of these 17 have been pending less than 1 year, 6 from 1 to 2 years, 1 from 2 to 3 years, 3 from 3 to 4 years, 5 from 4 to 5 years, 3 from 5 to 10 years, and 1 longer than 10 years. In 28 cases there was a will and in 18 cases decedent was intestate. In 25 cases bond was required of the executor or administrator and all bonds have been kept good. In 21 cases no bond was required. In 19 cases the inventory was filed within 60 days, in 11 after 60 days, and in 16 no inventory was filed. The appraised value of 45 estates is \$1,014,254, the estimated value of property not appraised is \$906,396. In 16 cases first annual reports have been filed and in 30 cases such reports have not been filed. In all cases an attorney represented the executor or administrator in all cases and the executor or devisees were not represented in any case.

There were 2 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 to 2 years after letters of guardianship were issued and in 1 longer than 10 years. Of these estates 1 was of a minor and 1 of an insane person. In both cases a guardian was appointed for the person of the ward. The value of these estates reported, is \$21,000. One guardian was required to give bond and bond has been kept good. In 1 case no bond was required. The inventory was filed within 30 days in 1 case and in 1 case no inventory was filed. In these cases

al reports have been filed. Investment of funds of the ward has been supervised by the court in 1 case. An attorney appeared for the guardian in case, in no case for the ward, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$30 were allowed for guardians and \$10 for attorneys. In both cases the funds of the wards were properly accounted for and disbursed.

There were 18 guardianship estate cases pending July 1, 1937. Of these 5 had been pending less than 1 year, 8 from 1 to 2 years, 3 from 3 to 4 years, and from 5 to 10 years. These were estates of 11 minors, 2 insane persons, and other incompetents. A guardian was appointed for the person of the ward in 16 cases. The value of these estates, as reported, is \$84,850. In 17 cases bond was required of the guardian and all bonds were kept good. In 1 case bond was required. An inventory was filed within 30 days in 9 cases and in 9 cases no inventory was filed. In these cases 22 annual reports had been filed. The investment of funds of the ward is supervised by the court in 7 cases and in some cases there were no investments. An attorney appeared for the guardian in 8 cases, in no case for the ward, and in 10 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$700 have been allowed for guardians and \$460 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### STANTON COUNTY

Area, 672 square miles; population, 1,516; assessed value, \$4,581,926.

Report made by Hon Wayne Gaskill, probate judge for 4 months. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. There were no juvenile cases heard within the year. There were no habeas corpus cases, no orders were made in strict court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had and no insanity cases were heard within the year.

The estate of 1 deceased person was closed within the year. The final report was filed within 1 to 2 years after letter of administration was issued. The decedent was intestate. Bond was required of the executor or administrator and bond had been kept good. The inventory was filed within 60 days. The first annual report had been filed. The aggregate value of this estate, as appraised, was \$5,391. An attorney represented the executor or administrator and the heirs or devisees were not represented in any case. A fee amounting to \$45 was allowed for executors or administrators and \$50 for attorneys. The estate paid claims in full.

The estates of 3 deceased persons were pending July 1, 1937, all of which have been pending from 1 to 2 years. In 2 cases there was a will and in 1 the deceased was intestate. In 2 cases bond was required of the executor or administrator and bonds have been kept good. In 1 case no bond was required. In 1 case the inventory was filed within 60 days and in 2 after 60 days. The appraised value of these estates is \$33,228.48. In 3 cases first annual reports have been filed. An attorney represented the executor or administrator in 3 cases and the heirs or devisees were not represented in any case.

There were no guardianship estates of minors or other incompetents closed within the year.

There were 2 guardianship estate cases pending July 1, 1937. One had been pending less than 1 year and 1 from 5 to 10 years. These estates of 1 minor and 1 insane person. A guardian was appointed for son of the ward in both cases. The value of these estates, as reported, was \$5,169.68. In 2 cases bond was required of the guardian and both bonds kept good. The inventory was filed within 30 days in both cases. Annual reports had been filed. The investment of funds of the wards supervised by the court in either case. An attorney appeared for the guardian in both cases and in no case for the ward. No fees were allowed for attorneys. The wards' funds have been properly preserved and accounted for in both cases.

#### STEVENS COUNTY

Area, 729 square miles; population, 3,705; assessed value, \$8,827,848.

Report made by Hon. J. B. Porter, probate judge for 6 months. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed, and no juvenile cases were heard within the year. There were no habeas corpus cases, no orders were made in court cases, and no proceedings in aid of execution within the year. Two partition proceedings were had and no insanity cases were heard within the year.

The estates of 8 deceased persons were closed within the year. In the final report was filed within 1 to 2 years after letters of administration were issued, in 1 from 2 to 3 years, in 1 from 3 to 4 years, and in 1 from 5 to 6 years. In 2 cases there was a will and in 6 cases decedent was intestate. In 6 cases bond was required of the executor or administrator, and all bonds kept good. In 2 cases no bond was required. The inventory was filed within 60 days in 7 cases and after 60 days in 1 case. Five first annual reports have been filed. The aggregate value of 7 estates, as appraised, was \$11,600 and the estimated value of property not appraised was \$7,020. In 7 cases attorneys represented the executor or administrators, in no cases were the heirs or devisees represented, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$650 were allowed for executors or administrators and \$390 for attorneys. In 6 cases the estates paid the fees in full.

The estates of 17 deceased persons were pending July 1, 1937. Of this number, 11 have been pending less than 1 year, 5 from 1 to 2 years and 1 from 2 to 3 years. In 3 cases there was a will and in 14 cases decedent was intestate. In 16 cases bond was required of the executor or administrator and all bonds have been kept good. In 1 case no bond was required. In 14 cases the inventory was filed within 60 days, in 1 after 60 days, and in 2 cases no inventory was filed. The appraised value of 15 estates is \$3,542 and the estimated value of property not appraised is \$1,542. In 2 cases annual reports have been filed and in 15 cases such reports have not been filed. An attorney represented the executor or administrator in 14 cases. Heirs or devisees were not represented in any case, and in 3 cases the report does not show that an attorney appeared for anyone.

There were no guardianship estates of minors or other incompetent persons within the year.

There were no guardianship estate cases pending July 1, 1937.

## SUMNER COUNTY

area, 1,188 square miles; population, 26,678; assessed value, \$50,986,353.

Report made by Hon. Chas. P. Hangen, probate judge for 15½ years. There have been no defalcations by guardians, executors, or administrators within the year.

One juvenile officer is employed and 28 juvenile cases were heard within the year. There were no habeas corpus cases, no orders were made in district court cases, and no proceedings in aid of execution within the year. Five partition proceedings were had and 22 insanity cases were heard within the year.

The estates of 55 deceased persons were closed within the year. In 7 cases final report was filed within 1 year after letters of administration were issued, in 37 from 1 to 2 years, in 2 from 2 to 3 years, in 3 from 3 to 4 years, in 1 from 5 to 10 years, and in 3 after 10 years. In 33 cases there was a will and in 22 cases decedent was intestate. In 37 cases bond was required of the executor or administrator and in 35 cases bond has been kept good. In 18 cases no bond was required. The inventory was filed within 60 days in 38 cases and after 60 days in 17 cases. Six first annual reports had been filed. The aggregate value of these estates, as appraised, was \$518,768.65. In 51 cases attorneys represented the executor or administrator, in 1 case the heir or devisee, and in 3 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,567.41 were allowed for executors or administrators and \$6,000 for attorneys. In 53 cases the estates paid claims in full.

The estates of 201 deceased persons were pending July 1, 1937. Of this number 67 have been pending less than 1 year, 38 from 1 to 2 years, 20 from 2 to 3 years, 13 from 3 to 4 years, 15 from 4 to 5 years, 39 from 5 to 10 years, and 9 longer than 10 years. In 125 cases there was a will and in 76 cases decedent was intestate. In 127 cases bond was required of the executor or administrator and 109 bonds have been kept good. In 74 cases no bond was required. In 102 cases the inventory was filed within 60 days, in 60 cases after 60 days, and in 39 cases no inventory was filed. The appraised value of 160 estates is \$2,730,708, and the estimated value of property not appraised is \$187,000.

In 53 cases first annual reports have been filed and in 148 cases such reports have not been filed. An attorney represented the executor or administrator in 180 cases, the heirs or devisees in 6 cases, and in 20 cases the report does not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetents closed within the year. In 2 cases final report was filed within 1 year after letters of guardianship were issued, in 2 from 1 to 2 years, in 1 from 2 to 3 years, in 1 from 3 to 4 years, and in 1 from 5 to 10 years. Of these estates, 4 were of minors, 1 of insane, and 2 of other incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as appraised, is \$41,678. Seven guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 4 cases no inventory was filed. In these cases 1 annual report has been filed. Disbursement of funds of the ward has been supervised by the court in 5 cases. An attorney appeared for the guardian in 4 cases and in no case for the ward. In 19 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$2,500 were allowed for guardians and \$800 for attorneys. In all cases the funds of the wards were properly accounted for and disbursed.

There were 135 guardianship estate cases pending July 1, 1937. Of these 105 had been pending less than 1 year, 18 from 1 to 2 years, 8 from 2 to 3 years, 15 from 3 to 4 years, 15 from 4 to 5 years, 30 from 5 to 10 years, and 10 longer than 10 years. These were estates of 105 minors, 15 insane persons and 15 other incompetents. A guardian was appointed for the person of the ward in all cases. The value of these estates, as reported, is \$397,553. In 105 cases bond was required of the guardian and all bonds were kept good. In 105 cases bond was required. An inventory was filed within 30 days in 13 cases, within 30 days in 5 cases, and in 117 cases no inventory was filed. In these 137 cases annual reports had been filed. The investment of funds of the ward was supervised by the court in 98 cases. An attorney appeared for the guardian in 137 cases, in 1 case for the ward, and in 51 cases the report does not show whether an attorney appeared for anyone. Fees amounting to \$1,822.78 have been allowed for guardians and \$1,701.50 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### THOMAS COUNTY

Area, 1,080 square miles; population, 6,908; assessed value, \$9,864,000.

Report made by Hon. O. A. Snell, probate judge for 4½ years. There have been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. There were 2 juvenile cases heard within the year. There were no habeas corpus cases, no orders were made in dissolution of marriage cases, and no proceedings in aid of execution within the year. One proceeding was had and 3 insanity cases were heard within the year.

The estates of 24 deceased persons were closed within the year. In 10 cases the final report was filed within 1 to 2 years after letters of administration were issued, in 2 from 2 to 3 years, in 2 from 3 to 4 years, in 3 from 4 to 5 years, in 1 from 5 to 10 years, and in 3 after 10 years. In 8 cases there was no will and in 16 cases decedent was intestate. In 21 cases bond was required of the executor or administrator and all bonds were kept good. In 3 cases no bond was required. The inventory was filed within 60 days in 20 cases, after 60 days in 3 cases, and in 1 case no inventory was filed. Twenty-one first annual reports had been filed. The aggregate value of 23 estates, as appraised, was \$16,800 and the estimated value of property not appraised was \$16,800. In 20 cases attorneys represented the executor or administrator, in 5 the heirs or next of kin, and in 1 case the report does not show that an attorney appeared for anyone. Fees amounting to \$625 were allowed for executors or administrators and \$640 for attorneys. In all cases the estates paid claims in full.

The estates of 61 deceased persons were pending July 1, 1937. Of these 40 have been pending less than 1 year, 14 from 1 to 2 years, 11 from 2 to 3 years, 4 from 3 to 4 years, 3 from 4 to 5 years, 2 from 5 to 10 years, and 1 longer than 10 years. In 21 cases there was a will and in 40 cases decedent was intestate. In 52 cases bond was required of the executor or administrator and all bonds have been kept good. In 9 cases no bond was required. In 53 cases the inventory was filed within 60 days, in 1 after 60 days, and in 7 cases no inventory was filed. The appraised value of 60 estates was \$630,976.87, and the estimated value of property not appraised is \$4,000. In 40 cases first annual reports have been filed and in 50 cases such reports have not been filed. An attorney represented the executor or administrator in 40 cases.

heirs or devisees were not represented in any case, and in 6 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 2 to 3 years after letters of guardianship were issued, in 2 from 3 to 4 years, and in 2 longer than 10 years. Of these estates, 3 were of minors and 2 of other incompetent persons. In 4 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$18,600. Five guardians were required to give bond and 4 bonds have been kept good. The inventory was filed within 30 days in 4 cases and after 30 days in 1 case. In these cases 5 annual reports have been filed. An attorney appeared for the guardian in 5 cases and in 1 case for the ward. A fee of \$65 was allowed an attorney. In all cases the funds of the wards were properly accounted for and disbursed.

There were 35 guardianship estate cases pending July 1, 1937. Of these, 2 have been pending less than 1 year, 2 from 1 to 2 years, 8 from 2 to 3 years, 3 from 3 to 4 years, 1 from 4 to 5 years, 12 from 5 to 10 years, and 7 longer than 10 years. These were estates of 33 minors and 2 other incompetents. A guardian was appointed for the person of the ward in 32 cases. The value of these estates, as reported, is \$73,950. In 33 cases bond was required of the guardian and all bonds have been kept good. In 2 cases no bond was required. An inventory was filed within 30 days in 24 cases, after 30 days in 8 cases, and in 3 cases no inventory was filed. In these cases 21 annual reports had been filed. The investment of funds of the ward is supervised by the court in 27 cases. An attorney appeared for the guardian in 26 cases, in no case for the ward, and in 5 cases the report does not show that an attorney appeared for anyone. The report does not show whether or not the wards' funds have been properly expended and cared for.

#### TREGO COUNTY

Area, 900 square miles; population, 6,293; assessed value, \$10,133,134. Report made by Hon. Walter F. Swiggett, probate judge for 4½ years. There have been no defalcations by guardians, executors, or administrators within the year. No juvenile officer is employed, 8 juvenile cases were heard within the year, and 1 was pending. There were no habeas corpus cases, 1 order made in a district court case, and no proceedings in aid of execution within the year. No adoption proceedings were had and 3 insanity cases were heard within the year.

Estates of 16 deceased persons were closed within the year. In 10 cases the final report was filed within 1 to 2 years after letters of administration were issued, in 2 from 2 to 3 years, in 1 from 3 to 4 years, in 2 from 5 to 10 years, and in 1 after 10 years. In 4 cases there was a will and in 12 cases decedent intestate. In 14 cases bond was required of the executor or administrator and in 9 cases bonds had been kept good. In 2 cases no bond was required. An inventory was filed within 60 days in 13 cases, after 60 days in 2 cases, and in 1 case no inventory was filed. Sixteen first annual reports had been filed. The aggregate value of 15 of these estates, as appraised, was \$392,950. In 4 cases attorneys represented the executor or administrator, in no cases were the heirs or devisees represented, and in 12 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$5,085 were allowed for executors or administrators and \$815 for attorneys. In all cases the estates were paid in full.

Estates of 59 deceased persons were pending July 1, 1937. Of these have been pending less than 1 year, 4 from 1 to 2 years, 5 from 2 to 4 from 3 to 4 years, 2 from 4 to 5 years, 17 from 5 to 10 years, and than 10 years. In 23 of these there was a will and in 36 cases deceased testate. In 43 cases bond was required of the executor or administrator. In 32 cases bonds were kept good. In 16 cases no bond was required. In 16 cases the inventory was filed within 60 days, in 9 cases after 60 days, in 13 cases no inventory was filed. The appraised value of 56 of these estates was \$607,990. In 13 cases first annual reports have been filed and in 46 cases no reports had not been filed. An attorney represented the executor or administrator in 9 cases, the heirs or devisees in 3 cases, and in 50 cases the report does not show that an attorney appeared for anyone.

There were 7 guardianship estates of minors or other incompetent persons pending within the year. In 1 case final report was filed within 1 year after the ward was appointed, in 1 from 4 to 5 years, in 1 from 5 to 10 years, and in 5 cases more than 10 years. Of these estates, 4 were of minors, 2 of insane, and 1 of an incompetent person. In 2 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$30,700. All guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 3 cases and in 4 cases no inventory was filed. In these cases 161 annual reports have been filed. Investment of funds of the ward has been supervised by the court in every case. The report does not show that an attorney appeared for anyone. Fees amounting to \$235 were allowed for guardians and no fees were allowed attorneys. In every case the wards were properly accounted for and disbursed.

There were 18 guardianship estate cases pending July 1, 1937. Of these had been pending less than 1 year, 1 from 1 to 2 years, 2 from 2 to 3 years, 7 from 3 to 4 years, 7 from 5 to 10 years, and 5 longer than 10 years. There were 13 estates of 13 minors, 3 insane persons, and 2 other incompetents. A guardian was also appointed for the person of the ward in 6 cases. The value of these estates, as reported, is \$62,216. In 17 cases bond was required of the guardian and in 16 cases bond has been kept good. In 1 case no bond was required. In 11 cases inventory was filed within 30 days in 3 cases, after 30 days in 4 cases, and in 11 cases no inventory had been filed. In these cases 64 annual reports have been filed. The investment of funds of the ward is supervised by the court in 11 cases and in 2 cases they are not supervised by the court. An attorney appeared for the guardian in 3 cases, for the ward in 2 cases, and in 13 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$900 were allowed for guardians and \$130 for attorneys. The wards' funds have been properly preserved and cared for in 17 cases.

#### WABAUNSEE COUNTY

Area, 804 square miles; population, 10,047; assessed value, \$19,063,500.

Report made by Hon. H. R. Williams, probate judge for 4½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed part time. There were 6 juveniles heard within the year. There were no habeas corpus cases, no orders made in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had. One insanity case was heard within the year.



the estates of 62 deceased persons were closed within the year. In 3 cases annual report was filed within 1 year after letters of administration were granted, in 44 from 1 to 2 years, in 7 from 2 to 3 years, in 2 from 3 to 4 years, from 5 to 10 years, and in 4 after 10 years. In 30 cases there was a will and in 32 cases decedent was intestate. In 49 cases bond was required of the executor or administrator and all bonds were kept good. In 13 cases no bond was required. The inventory was filed within 60 days in 42 cases, after 60 days in 16 cases, and in 5 cases no inventory was filed. Six first annual reports had been filed. The aggregate value of 57 estates, as appraised, was \$847,450.97, and the estimated value of property not appraised was \$5,370. In 9 cases attorneys represented the executor or administrator, in 7 cases the heirs or decedent, and in 51 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,998.28 were allowed for executors or administrators and \$2,959.25 for attorneys. In 54 cases the estates paid claims in full. There were 110 deceased persons whose estates were pending July 1, 1937. Of this number 3 have been pending less than 1 year, 19 from 1 to 2 years, 8 from 2 to 3 years, 9 from 3 to 4 years, 6 from 4 to 5 years, 17 from 5 to 10 years, and 18 longer than 10 years. In 56 cases there was a will and in 54 cases decedent was intestate. In 78 cases bond was required of the executor or administrator and all bonds have been kept good. In 32 cases no bond was required. In 77 cases inventory was filed within 60 days, in 12 after 60 days, and in 21 cases no inventory was filed. The appraised value of 92 estates is \$1,299,334.31, and the estimated value of property not appraised is \$43,992.64. In 26 cases first annual reports have been filed and in 84 cases such reports have not been filed. Attorneys represented the executor or administrator in 18 cases, the heirs or decedent in 13 cases, and in 89 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates of minors closed within the year. In 1 annual report was filed within 1 to 2 years after letters of guardianship were granted, in 2 from 5 to 10 years, and in 2 longer than 10 years. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$2,922. Five guardians were required to give bond and all bonds have been kept good. The inventory was not filed in any case. In these 2 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 2 cases. An attorney appeared for the guardian in 1 case, in no case for the ward, and in 4 cases the report does not show that an attorney appeared for anyone. No fees were allowed guardians or attorneys. In all cases the funds of the wards were properly accounted for and used.

There were 67 guardianship estate cases pending July 1, 1937. Of these 8 have been pending less than 1 year, 19 from 1 to 2 years, 9 from 2 to 3 years, 7 from 3 to 4 years, 2 from 4 to 5 years, 8 from 5 to 10 years, and 14 longer than 10 years. These were estates of 41 minors, 15 insane persons, 7 other incompetents, and 4 were trust estates. A guardian was appointed for the person of the ward in 52 cases. The value of these estates, as reported, is \$79,823. In 52 cases bond was required of the guardian and all bonds were kept good. In 15 cases no bond was required. An inventory was filed within 30 days in 16 cases, after 30 days in 2 cases, and in 49 cases no inventory was filed. In 138 cases 138 annual reports had been filed. The investment of funds of the wards has been supervised by the court in 31 cases. An attorney appeared for the

guardian in 5 cases, in 1 case for the ward, and in 61 cases the reports show that an attorney appeared for anyone. A fee amounting to \$100 was allowed for a guardian. The wards' funds have been properly preserved for in 57 cases.

#### WALLACE COUNTY

Area, 900 square miles; population, 2,314; assessed value, \$4,678,300.

Report made by Hon. George Cox, probate judge for 20½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed. No juvenile cases were heard within the year, there were no habeas corpus cases, no orders were made in court cases, and no proceedings in aid of execution within the year. Adoption proceedings were had and 2 insanity cases were heard within the year.

The estate of 1 deceased person was closed within the year. A report was filed within 1 to 2 years after the letter of administration was issued. The decedent was intestate. A bond was required of the executor or administrator and has been kept good. The inventory was filed within 60 days. The first annual report has been filed. The aggregate value of this estate appraised, was \$2,650. An attorney represented the executor or administrator. The heir or devisee was not represented. Fees amounting to \$80 were allowed for the executor or administrator and \$25 for attorneys. The claims in full.

The estates of 9 deceased persons were pending July 1, 1937. Of these, number, 4 have been pending less than 1 year, 3 from 1 to 2 years, 1 from 3 years, and 1 from 4 to 5 years. In 5 cases there was a will and in 4 cases the deceased was intestate. In 5 cases bond was required of the executor or administrator and all bonds have been kept good. In 4 cases no bond was required. In 7 cases the inventory was filed within 60 days, in 1 case after 60 days and in 1 case no inventory was filed. The appraised value of these estates was \$29,241. First annual reports have not been filed in any cases. An attorney represented the executor or administrator in 8 cases, the heirs or devisees were not represented in any cases, and in 1 case the report does not show whether an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetent persons within the year. In 2 cases the final report was filed within one year. Letters of guardianship were issued and in 1 longer than 10 years. Of these estates 1 was of a minor, 1 of insane, and 1 other incompetent person. No guardian was not appointed for the person of the ward in any case. The value of these estates, as reported, is \$5,706. Three guardians were required to give bonds. All bonds have been kept good. The inventory was filed within 30 days in 1 case and after 30 days in 2 cases. In these cases 1 annual report has been filed. Investment of funds of the wards has been supervised by the court. An attorney appeared for the guardian in all cases and in no case for the ward. Fees amounting to \$177.40 were allowed for guardians and \$7.50 for attorneys. In all cases the funds of the wards were properly accounted for and no claims in full.

There were 10 guardianship estate cases pending July 1, 1937. Of these, 1 had been pending from 1 to 2 years, 2 from 2 to 3 years, 2 from 3 to 4 years, 1 from 5 to 10 years, and 4 longer than 10 years. These were 6 estates of minors and 2 insane persons. A guardian was appointed for the person of the ward in 9 cases. The value of these estates, as reported, is \$13,000.

ases the estates consisted of real estate not appraised. In 10 cases bond required of the guardian and all bonds were kept good. An inventory was within 30 days in 6 cases, after 30 days in 2 cases, and in 2 cases no inventory was filed. In these cases 15 annual reports had been filed. An attorney appeared for the guardian in 4 cases, in no case for the ward, and in 6 the report does not show that an attorney appeared for anyone. Fees amounting to \$30 have been allowed for guardians and \$175 for attorneys. The funds have been properly preserved and cared for in nearly every case.

## WASHINGTON COUNTY

, 900 square miles; population, 17,504; assessed value, \$32,289,504. Report made by Hon. R. L. Rust, probate judge for 6½ years. There had been no defalcations by guardians, executors, or administrators within the year. One juvenile officer is employed and 1 juvenile case was heard within the year. There were no habeas corpus cases, 3 orders were made in district cases, and no proceedings in aid of execution within the year. Two probate proceedings were had and 7 insanity cases were heard within the year. Estates of 35 deceased persons were closed within the year. In 9 cases an annual report was filed within 1 year after letters of administration were granted, in 16 from 1 to 2 years, in 3 from 2 to 3 years, in 1 from 3 to 4 years, in 1 from 4 to 5 years, in 3 from 5 to 10 years, and in 2 after 10 years. In 16 there was a will and in 19 cases decedent was intestate. In 30 cases bond required of the executor or administrator and all bonds were kept good. In 4 cases no bond was required. The inventory was filed within 60 days in 28 cases and after 60 days in 7 cases. Five first annual reports had been filed. Aggregate value of 34 estates, as appraised, was \$227,475.76, and the estimated value of property not appraised was \$72,610. In 15 cases attorneys represented the executor or administrator, in no cases were the heirs or dependents represented, and in 20 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$3,666.75 were allowed for executors and administrators and \$2,038 for attorneys. In all cases the estates paid claims

of estates of 71 deceased persons were pending July 1, 1937. Of this number 13 have been pending less than 1 year, 13 from 1 to 2 years, 4 from 2 to 3 years, 2 from 3 to 4 years, 2 from 4 to 5 years, 5 from 5 to 10 years, and 2 longer than 10 years. In 49 cases there was a will and in 22 cases deceased was intestate. In 56 cases bond was required of the executor or administrator and in 15 cases no bond was required. In 61 cases the inventory was filed within 60 days, in 5 after 60 days, and in 5 cases no inventory was filed. The appraised value of 66 estates is \$642,235.63, and the estimated value of property not appraised is \$177,117.50. In 13 cases first annual reports have been filed and in 58 cases such reports have not been filed. An attorney represented the executor or administrator in 13 cases, the heir or ward in 1 case, and in 58 cases the report does not show that an attorney appeared for anyone.

There were 5 guardianship estates of minors closed within the year. In 1 annual report was filed within 3 to 4 years after letters of guardianship were granted, in 1 from 5 to 10 years, in 1 longer than 10 years, and in 2 cases final reports had not yet been filed. In 2 cases a guardian was appointed for the care of the ward. The value of these estates, as reported, is \$7,185.50. Five

guardians were required to give bond and all bonds have been kept good. The inventory was filed within 30 days in 4 cases and in 1 case no inventory was filed. In these cases 9 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. The reports show that an attorney appeared for anyone. A fee amounting to \$1,971.13 was allowed a guardian. In all cases the funds of the wards were properly preserved and disbursed.

There were 42 guardianship estate cases pending July 1, 1937. Of these 42 cases 1 had been pending less than 1 year, 4 from 1 to 2 years, 2 from 3 to 4 years, 13 from 4 to 5 years, 13 from 5 to 10 years, and 14 longer than 10 years. There were estates of 25 minors, 14 insane persons, and 3 other incompetent persons. A guardian was appointed for the person of the ward in 31 cases. The value of these estates, as reported, is \$72,961.01. In 41 cases bond was required of the guardian and all bonds were kept good. In 1 case no bond was required. The inventory was filed within 30 days in 19 cases, after 30 days in 6 cases and in 17 cases no inventory was filed. In these cases 184 annual reports have been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 9 cases, in no case for the ward, and in 33 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,971.13 have been allowed for guardians and \$730.75 for attorneys. The wards' funds have been properly preserved and cared for in all cases.

#### WICHITA COUNTY

Area, 720 square miles; population, 2,235; assessed value, \$5,222,740.

Report made by Hon. Maggie Gilmore, probate judge for 2½ years. There had been no defalcations by guardians, executors, or administrators within the year. No juvenile officers are employed and no juvenile cases were heard within the year. There were no habeas corpus cases, no orders were granted in district court cases, and no proceedings in aid of execution within the year. No adoption proceedings were had and no insanity cases were heard within the year.

The estates of 3 deceased persons were closed within the year. In 1 case the final report was filed within 1 year after letters of administration were issued and in 2 from 1 to 2 years. In 2 cases there was a will and in 1 case the decedent was intestate. In 3 cases bond was required of the executor or administrator and all bonds were kept good. The inventory was filed within 30 days in 2 cases and in 1 case no inventory was filed. Two first annual reports had been filed. The aggregate value of 2 estates, as appraised, was \$1,200.00. In 3 cases attorneys represented the executor or administrator and the devisees were not represented in any case. Fees amounting to \$255 were allowed for executors or administrators and \$255 for attorneys. In 2 cases the estates paid the claims in full.

The estates of 12 deceased persons were pending July 1, 1937. Of these 12 cases 5 have been pending less than 1 year, 6 from 1 to 2 years, and 1 from 2 to 3 years. In 1 case there was a will and in 11 cases deceased was intestate. In 12 cases bond was required of the executor or administrator and all bonds have been kept good. In 10 cases the inventory was filed within 60 days and in 2 cases no inventory was filed. The appraised value of 10 estates was \$79.10. In 4 cases first annual reports have been filed and in 8 cases

have not been filed. An attorney represented the executor or administrator in all cases and the heirs or devisees were not represented in any case. There were no guardianship estates of minors or other incompetents closed in the year.

There were 5 guardianship estate cases pending July 1, 1937. Of these 4 have been pending from 1 to 2 years and 1 from 2 to 3 years. These were estates of 4 minors and 1 other incompetent. A guardian was appointed for each person of the ward in all cases. The value of these estates, as reported, is \$10,000. In 5 cases bond was required of the guardian and all bonds were kept good. An inventory was filed within 30 days in 1 case and in 4 cases no inventory was filed. In these cases 5 annual reports have been filed. The investment of the funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in all cases and in no cases for the ward. The wards' funds have been properly preserved and cared for in all cases.

### WILSON COUNTY

Area, 576 square miles; population, 19,037; assessed value, \$25,318,283. The annual report made by Hon. J. Harlan Blackburn, probate judge for 6 months. There had been no defalcations by guardians, executors, or administrators in the year. One juvenile officer is employed and 15 juvenile cases were closed within the year. There were no habeas corpus cases, no orders were granted in district court cases, and no proceedings in aid of execution within the year. One adoption proceeding was had and 11 insanity cases were heard in the year.

The estates of 44 deceased persons were closed within the year. In 7 cases the final report was filed within 1 year after letters of administration were granted, in 23 from 1 to 2 years, in 4 from 2 to 3 years, in 3 from 3 to 4 years, in 2 from 4 to 5 years, in 4 from 5 to 10 years, and in 2 after 10 years. In 29 cases there was a will and in 15 cases decedent was intestate. In 31 cases bond was required of the executor or administrator and all bonds were kept good. In 13 cases no bond was required. The inventory was filed within 60 days in 32 cases, after 60 days in 6 cases, and in 6 cases no inventory was filed. Six annual reports had been filed. The aggregate value of 38 estates, as appraised, was \$361,817.96, and the estimated value of property not appraised was \$4,323.24. In 27 cases attorneys represented the executor or administrator, in 1 case the heir or devisee, and in 17 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$4,503.11 were allowed for executors or administrators and \$5,136.25 for attorneys. In 40 cases the estates paid claims in full.

The estates of 178 deceased persons were pending July 1, 1937. Of this number 4 have been pending less than 1 year, 17 from 1 to 2 years, 12 from 2 to 3 years, 6 from 3 to 4 years, 3 from 4 to 5 years, 40 from 5 to 10 years, and 56 more than 10 years. In 79 cases there was a will and in 99 cases deceased was intestate. In 141 cases bond was required of the executor or administrator and all bonds have been kept good. In 37 cases no bond was required. In 117 cases the inventory was filed within 60 days, in 19 after 60 days, and in 42 cases no inventory was filed. The appraised value of 134 estates is \$1,552,167.53, and the estimated value of property not appraised is \$25,252.15. In 33 cases first annual reports have been filed and in 145 cases such reports have not been filed. An attorney represented the executor or administrator in 97 cases, the heirs or

devises in 4 cases, and in 80 cases the report does not show that an attorney appeared for anyone.

There were 14 guardianship estates of minors or other incompetents closed within the year. In 1 case final report was filed within 1 year after death, 1 from 1 to 2 years, 3 from 2 to 3 years, 1 from 3 to 4 years, 1 from 5 to 10 years, and in 4 longer than 10 years. Of these estates, 1 of minors, 2 of insane, and 1 of another incompetent person. In 4 cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$25,199.35. Fourteen guardians were required to give bonds, and all bonds were kept good. The inventory was filed within 30 days in 18 cases, after 30 days in 3 cases, and in 7 cases no inventory was filed. In the 28 annual reports have been filed. Investment of funds of the ward supervised by the court in all cases. An attorney appeared for the ward in 5 cases, in no case for the ward, and in 9 cases the report does not show an attorney appeared for anyone. Fees amounting to \$750 were allowed for guardians and \$280 for attorneys. In all cases the funds of the ward were properly accounted for and disbursed.

There were 110 guardianship estate cases pending July 1, 1937. Of these had been pending less than 1 year, 11 from 1 to 2 years, 11 from 2 to 3 years, 8 from 3 to 4 years, 5 from 4 to 5 years, 40 from 5 to 10 years, and 19 longer than 10 years. These were estates of 74 minors, 31 insane persons, and 5 incompetents. A guardian was appointed for the person of the ward in 10 cases. The value of these estates, as reported, is \$110,038.48. In 10 cases bond was required of the guardian and all bonds were kept good. In 10 cases no bond was required. An inventory was filed within 30 days in 18 cases, within 30 days in 3 cases, and in 89 cases no inventory was filed. In these 100 annual reports had been filed. The investment of funds of the ward supervised by the court in 73 cases. An attorney appeared for the guardian in 10 cases, in no case for the ward, and in 77 cases the report does not show an attorney appeared for anyone. Fees amounting to \$5,111.84 have been allowed for guardians and \$1,743.41 for attorneys. The wards' funds have been properly preserved and cared for in 80 cases.

#### WOODSON COUNTY

Area, 504 square miles; population, 8,246; assessed value, \$11,814,814.

Report made by Hon. D. S. Bell, probate judge for 2½ years. There has been 1 defalcation by guardian, executor, or administrator within the year. This amounted to \$724.44 and has not yet been received. One juvenile is employed, 8 juvenile cases were heard within the year and none were pending. There were no habeas corpus cases, no orders were made in district cases, and no proceedings in aid of execution within the year. Four proceedings were had and 4 insanity cases were heard within the year.

Estates of 21 deceased persons were closed within the year. In 1 case final report was filed within 1 year after letters of administration were granted, in 12 from 1 to 2 years, in 3 from 2 to 3 years, in 2 from 4 to 5 years, in 1 from 5 to 10 years, and in 2 after 10 years. In 12 cases there was a will, and in 9 the decedent was intestate. In 12 cases bond was required of the executor or administrator and all bonds had been kept good. In 9 cases no bond was required. The inventory was filed within 60 days in 7 cases, after 60 days in 14 cases.

and in 2 cases no inventory was filed. Twenty first annual reports had been filed. The aggregate value of 18 of these estates, as appraised, was \$41,000, and the estimated value of estates not appraised was \$38,170. In 17 cases attorneys represented the executor or administrator, in 1 case the heir represented the estate, and in 4 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$667.55 were allowed for executors or administrators, and \$694 for attorneys. In 20 cases the estates paid claims in full and in 1 case the estates did not pay claims in full.

Of 55 deceased persons were pending July 1, 1937. Of these cases, 14 have been pending less than 1 year, 14 from 1 to 2 years, 8 from 2 to 3 years, 3 from 3 to 4 years, 3 from 4 to 5 years, 7 from 5 to 10 years, and 1 longer than 10 years. In 31 of these there was a will and in 24 cases deceased was intestate. In 35 cases bond was required of the executor or administrator. In 35 cases the bond was kept good and in 19 cases no bond was required. In 33 cases the report was filed within 60 days, in 18 cases after 60 days, and in 4 cases no report was filed. The appraised value of 44 of these estates is \$198,451.91, and the estimated value of property not appraised is \$260,109. In 18 cases first annual reports have been filed and in 37 cases such reports had not been filed. An attorney represented the executor or administrator in 44 cases, the heirs or next of kin in 3 cases, and in 11 cases the report does not show that an attorney appeared for anyone.

There were 3 guardianship estates of minors or other incompetents closed during the year. In 1 case final report was filed within 4 to 5 years after guardian was appointed, and in 2 cases from 5 to 10 years. Of these estates, 2 of minors, and 1 of an insane person. In 2 cases a guardian was appointed the person of the ward. The value of these estates, as reported, is \$3,071. Guardians were required to give bond, and all bonds have been kept good. Inventory was filed after 30 days in 2 cases and in 1 case no inventory was filed. In these cases 18 annual reports have been filed. Investment of funds of the ward has been supervised by the court in 2 cases. The report does not show that an attorney appeared for anyone. Fees amounting to \$200 were allowed for guardians. In all cases the funds of the wards were properly accounted for and disbursed.

There were 47 guardianship estate cases pending July 1, 1937. Of these 12 have been pending less than 1 year, 8 from 1 to 2 years, 3 from 2 to 3 years, 3 from 3 to 4 years, 5 from 4 to 5 years, 10 from 5 to 10 years, and 6 longer than 10 years. These were estates of 30 minors and 17 insane persons. A guardian was also appointed for the person of the ward in 29 cases. The value of these estates, as reported, is \$92,245.72. In 37 cases bond was required of the guardian and all bonds had been kept good. In 10 cases no bond was required. An inventory was filed within 30 days in 5 cases, after 30 days in 8 cases, and in 13 cases no bond was required. In these cases 92 annual reports had been filed. Investment of funds of the ward is supervised by the court in 36 cases and in 11 cases they are not supervised by the court. An attorney appeared for the ward in 19 cases and in no cases for the ward. In 28 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,515 were allowed for guardians and \$285 for attorneys. The wards' funds have been properly preserved and cared for in 43 cases.

## WYANDOTTE COUNTY

Area, 153 square miles; population, 147,133; assessed value, \$115,1

Report made by Hon. Henry Meade, probate judge for 12½ year had been no defalcations by guardians, executors, or administrators year. Three juvenile officers are employed. There were 294 juvenile heard within the year and 172 were pending. There were no habeas cases, no orders were made in district court cases, and no proceedings of execution within the year. Fifty-six adoption proceedings were had insanity cases were heard within the year.

The estates of 206 deceased persons were closed within the year. In the final report was filed within 1 year after letters of administration issued, in 143 from 1 to 2 years, in 9 from 2 to 3 years, in 1 from 3 to 4 years, in 8 from 4 to 5 years, in 14 from 5 to 10 years, and in 5 after 10 years. In 112 cases there was a will and in 94 cases decedent was intestate. In 109 cases bond was required of the executor or administrator and all bonds were kept good. In 36 cases bond was not required. The inventory was filed within 60 days in 147 cases, after 60 days in 51 cases, and in 8 cases no inventory was filed. Six first annual reports had been filed. The aggregate value of the estates, as appraised, was \$1,127,040. In 127 cases attorneys represented the executor or administrator, in 1 case the heir or devisee, and in 79 cases no attorney appeared. The report does not show that an attorney appeared for anyone. Fees amounting to \$20,115.79 were allowed for executors or administrators and \$15,856.80 for attorneys. In 195 cases the estates paid claims in full.

The estates of 537 deceased persons were pending July 1, 1937. Of the number 236 have been pending less than 1 year, 132 from 1 to 2 years, 50 from 2 to 3 years, 50 from 3 to 4 years, 63 from 4 to 5 years, and 19 from 5 to 10 years. In 257 cases there was a will and in 280 cases decedent was intestate. In 429 cases bond was required of the executor or administrator and in 108 cases no bond was required. In 263 cases the inventory was filed within 60 days, in 150 after 60 days, and in 124 cases no inventory was filed. The appraised value of 493 estates is \$2,340,116. In 127 cases first annual reports have been filed and in 504 cases such reports have not been filed. An attorney represented the executor or administrator in 396 cases, heirs or devisees were not represented in any case, and in 141 cases the report does not show that an attorney appeared for anyone.

There were 58 guardianship estates of minors or other incompetent persons closed within the year. In 10 cases final report was filed within 1 year after letters of guardianship were issued, in 9 from 1 to 2 years, in 5 from 2 to 3 years, in 2 from 3 to 4 years, in 2 from 4 to 5 years, in 13 from 5 to 10 years, and in 1 longer than 10 years. Of these estates, 41 were of minors, 12 of insane persons, and 5 of other incompetent persons. In all cases a guardian was appointed for the person of the ward. The value of these estates, as reported, is \$119,720. In seven cases guardians were required to give bond and all bonds were kept good. In one case no bond was required. The inventory was filed within 30 days in 30 cases, after 30 days in 10 cases, and in 38 cases no inventory was filed. In these cases 205 annual reports have been filed. Investment of funds of the ward has been supervised by the court in all cases. An attorney appeared for the guardian in 19 cases, in 2 cases for the ward, and in 38 cases the report does not show that an attorney appeared for anyone. Fees amounting to



2.95 were allowed for guardians and \$1,875.90 for attorneys. In 57 cases funds of the wards were properly accounted for and disbursed. There were 238 guardianship estate cases pending July 1, 1937. Of these, 36 have been pending less than 1 year, 55 from 1 to 2 years, 50 from 2 to 3 years, 25 from 3 to 4 years, 25 from 4 to 5 years, 15 from 5 to 10 years, and 15 longer than 10 years. These were estates of 192 minors, 26 insane persons, and 20 incompetent persons. A guardian was appointed for the person of the ward in 236 cases. The value of these estates, as reported, is \$250,644.25. In 236 cases bond was required of the guardian and all bonds were kept good. In 2 cases bond was required. An inventory was filed within 30 days in 96 cases, after 30 days in 17 cases, and in 125 cases no inventory was filed. In these cases 175 annual reports had been filed. The investment of funds of the ward is supervised by the court in all cases. An attorney appeared for the guardian in 159 cases, in no case for the ward, and in 79 cases the report does not show that an attorney appeared for anyone. Fees amounting to \$1,106.71 have been allowed for guardians and \$4,150 for attorneys. The wards' funds have been properly accounted for and cared for in all cases.

### SUMMARY FOR THE STATE AS A WHOLE

From the reports sent to us by the probate judges of the state of the business transacted in those courts within the year ending June 30, 1937, and pending herein on July 1, 1937, we have prepared the following summary for the state as a whole:

Reports from 105 counties show 6 defalcations by guardians, executors, or administrators within the year, amounting in the aggregate to \$5,490.41; that full-time and 19 part-time juvenile officers are employed, and in some instances juvenile officers were called only when needed; that 2,683 juvenile cases and 19 habeas corpus cases were heard, 259 orders were made in cases pending in the district court, 8 proceedings in aid of execution, 515 adoption proceedings, and 1,103 insanity hearings were had within the year. Estates of deceased persons closed within the year ending June 30, 1937: Reports from 104 counties (Greeley not having any cases closed) show that estates of deceased persons were closed within the year, 35 of which were original transcripts. In 647 cases the final report was filed within 1 year after letters of administration were issued, in 2,419 cases from 1 to 2 years, in 362 cases from 2 to 3 years, in 197 cases from 3 to 4 years, in 132 cases from 4 to 5 years, in 273 cases from 5 to 10 years, and in 185 cases longer than 10 years. In 1,981 cases the decedent left a will and in 1,981 cases decedent died intestate. Bond was required of the executor or administrator in 2,873 cases, and of these 1,342 are reported as having been kept good. Bond was not required in 1,342 cases. In 2,934 cases the inventory was filed within 60 days after letters of administration were issued, in 1,003 cases after 60 days, and in 278 cases no inventory was filed. The aggregate appraised value of the property of these estates was \$40,777,413.91, and the estimated value of the estates not appraised was \$14,862,322.68. In 1,406 cases first annual reports were filed. In 2,505 cases an attorney appeared for the executor or administrator, in 284 cases an attorney represented the heirs or devisees, and in 1,681 cases no attorney is shown as having represented any party in the case. In 3,763 of the estates the

claims filed were paid in full, and in 452 cases the property in the estates was insufficient to pay claims in full. The report shows fees aggregating \$358,202.65 paid to executor or administrator, and \$358,202.65 to attorneys representing executors, administrators, heirs or devisees.

Estates of deceased persons pending July 1, 1937. Reports from 15 counties (Decatur not reporting) show estates of 11,668 deceased persons on July 1, 1937, 45 of which were foreign transcripts and 69 were cases reported recently that no data given. Of these 4,469 had been pending less than 1 year, 1,879 from 1 to 2 years, 984 from 2 to 3 years, 720 from 3 to 4 years, 4 to 5 years, 1,613 from 5 to 10 years, and 1,263 over 10 years. In 6,117 cases reported as pending the decedent had left a will, and in 5,437 he was intestate. In 7,748 cases the executor or administrator had given bond, and in 3,806 cases the bond was reported as having been kept good, and in 3,806 cases no bond had been required. In 6,665 of these cases the inventory was filed within 30 days after letters of administration were issued, in 2,364 cases later than 60 days, and in 2,525 cases no inventory has been filed. The aggregate value of the estates as shown by the appraisement is \$100,567,337.11, and the aggregate value of property of the estates not appraised is \$16,589,846.85. In 2,364 first annual reports had been filed and in 9,177 cases such reports had not been filed. In 6,207 cases an attorney represented the executor or administrator, in 628 cases an attorney represented heirs or devisees, and in 4,997 cases no attorney is shown as representing anyone.

Guardianship estates closed within the year ending June 30, 1937. Reports from 90 counties show that 831 guardianship estates (of minors, insane persons, or other incompetent persons) were closed within the year ending June 30, 1937, 2 of which were foreign transcripts. Reports received from 15 counties show that 2 report nothing on such estates, or specifically report that no such estates had been closed within the year. (See Table IV for counties which report nothing or did not report such estates as closed.) Of such estates reported as closed within the year, 129 had been pending less than one year, 117 from 1 to 2 years, 69 from 2 to 3 years, 40 from 3 to 4 years, 39 from 4 to 5 years, 193 from 5 to 10 years, and 242 longer than 10 years. Of these estates 170 were of minors, 170 of insane persons, and 94 of other incompetents. In 795 cases the guardian was appointed for the person of the ward as well as for the estate, and in 203 cases the guardian was not appointed for the person of the ward. The aggregate value of these estates is reported as \$2,126,868.88. In 795 cases bond was required of the guardian, and in 749 cases the bond was reported as having been kept good, and in 34 cases no bond was required. In 265 of these cases an inventory was filed within 30 days, in 159 cases after 30 days, and in 265 cases no bond was reported as having been filed. There were 2,615 annual reports filed. In 665 cases the investments of the ward by the guardian were reported as having been supervised by the court. In 330 cases an attorney represented the guardian, and in 96 cases as representing the ward. Total fees allowed guardians is reported as \$39,371.69, and allowed attorneys \$23,787.49. In 778 cases the wards funds were reported as having been properly accounted for and disbursed.

Guardianship estate cases pending July 1, 1937. From reports received from all of the probate judges in the state (except the counties of Pottawatomie, and Stevens which show no pending cases) there were

of guardianship estates of minors, insane and other incompetent persons on July 1, 1937, 2 of which were foreign transcripts. Of these 1,173 been pending less than 1 year, 992 from 1 to 2 years, 785 from 2 to 3 years, from 3 to 4 years, 450 from 4 to 5 years, 2,240 from 5 to 10 years, and 2,185 than 10 years. These were estates of 6,393 minors, 1,286 insane persons, 27 of other incompetent persons. A guardian was also appointed for the ward in 6,650 cases. The aggregate value of the property of estates was reported as \$16,041,310.19. The reports showed that the guardian gave bond in 8,139 cases and that the bonds had been kept good in cases. No bond had been required in 367 cases. An inventory had been in 2,225 cases within 30 days after the appointment of the guardian and in cases more than 30 days after the appointment. No inventory had been in 4,974 cases. In these cases, 15,980 annual reports have been filed. The reports show that the investments of the guardians for the ward are supervised by the court in 5,620 cases. An attorney is shown as representing the guardian in 3,447 cases and as representing the ward in 249 cases. In 4,973 cases no attorney is shown as representing any of the parties. Aggregate fees amounting to \$255,250.62 have been allowed to guardians and \$89,074.57 to attorneys. In 1,446 cases the reports show the wards' funds have been kept intact and properly accounted for.

NOTE.—The "Summary" tables will appear in the next issue of the BULLETIN.)





Sec. 562,

U. S. P.

**PA**

Topeka

Permit

---

PRINTED BY KANSAS STATE PRINTING PLANT

W. C. AUSTIN, STATE PRINTER

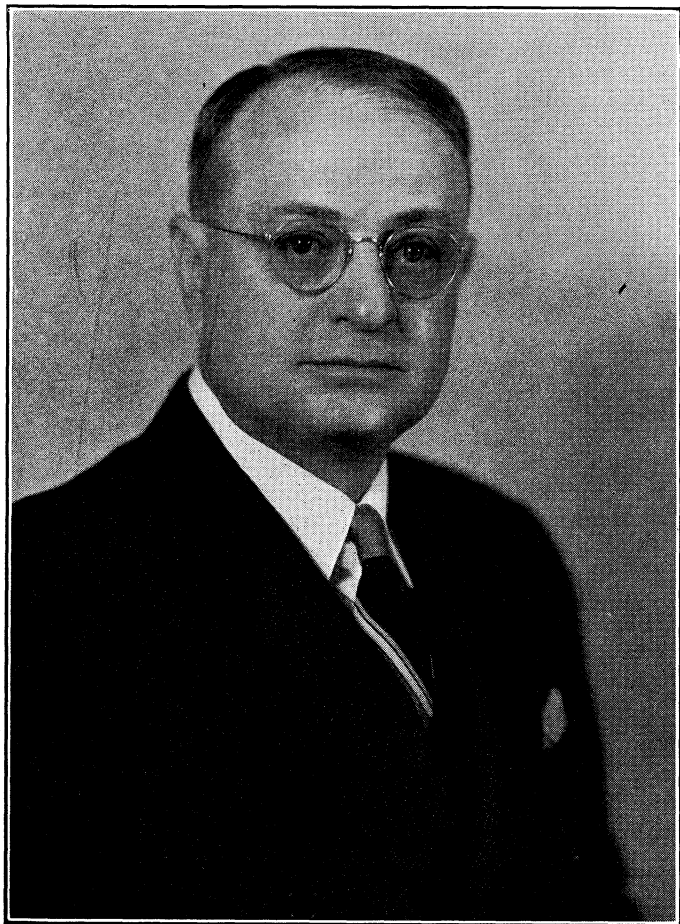
TOPEKA 1937

17-1967

# KANSAS JUDICIAL COUNCIL BULLETIN

, 1938

PART 1—TWELFTH ANNUAL REPORT



SAMUEL E. BARTLETT

## MEMBERS OF THE JUDICIAL COUNCIL

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER.....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
RAY H. BEALS.....	St. John
Judge Twentieth Judicial District.	
KIRKE W. DALE.....	Arkansas
Chairman Senate Judiciary Committee.	
HARRY W. FISHER.....	Fort Scott
Chairman House Judiciary Committee.	
CHARLES L. HUNT.....	Concord
ROBERT C. FOULSTON.....	Wichita
CHESTER STEVENS .....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTH CENTRAL KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the state.

For the improvement of our Judicial System and efficient functioning.



## TABLE OF CONTENTS

	PAGE
rd .....	4
e Code, Tentative Draft.....	6
Article 1. Probate Courts .....	6
Article 2. Jurisdiction .....	7
Article 3. Homestead and Family Allowances.....	9
Article 4. Descent of Property.....	10
Article 5. Wills .....	12
Article 6. Letters Testamentary and of Administration.....	15
Article 7. Estates of Nonresidents.....	17
Article 8. Estates of Intestates Without Heirs.....	18
Article 9. Partnership Estates .....	19
Article 10. Bonds .....	19
Article 11. Management of Estates.....	20
Article 12. Accounting and Distribution.....	25
Article 13. Guardianship .....	27
Article 14. Estates of Convicts.....	29
Article 15. Testamentary Trusts .....	29
Article 16. Commitment and Care of Insane Persons.....	31
Article 17. Adoption of Children .....	33
Article 18. Probate Procedure .....	33
, Probate Courts .....	52

## FOREWORD

---

Mr. Samuel E. Bartlett, whose portrait appears as the frontispiece of this issue, is a graduate of our K. U. law school, and for about thirty years has been actively engaged in the practice of law at Ellsworth. His "hobby" is the study of legal questions, particularly those relating to property, our statutes relating to the descent of property, to wills, and to the administration of the estates of intestate decedents and under wills, and upon estates of minors and other persons under guardianship, and subjects closely related thereto. Many of the articles written by him on some phase of this general branch of the law have been printed in previous issues of our BULLETIN, in the Journal of the Kansas Bar Association, and in other legal publications. At our request he attended meetings of our Council when questions relating to those subjects were under consideration. His contributions to our discussions always were of great value. Last September, when we definitely started to work to rewrite the statutes of the law of estates of decedents and wards, primarily to remove procedural provisions from the sections and then to write a code of probate procedure, we induced Mr. Bartlett to do the work necessary to put that into tentative form, and to assist us in perfecting it to be presented to the legislature. Much of his labors have been considered at several meetings of the Council, and he has been consuming about ten days. He found the task assigned to him to be an enormous one. His work has included: (1) The examination of the existing statutes on probate law and procedure. (2) The examination and analysis of all Kansas cases on the subject, including federal cases and cases from other Kansas statutes. (3) The examination of the probate statutes of other states, Canada and England. Recent revisions in other states having a system similar to our own were given special study. (4) The examination and writing of more than 1,500 cases construing probate statutes of other states. (5) A statement of the Kansas probate statutes in the light of the decision of the Supreme Court, procedural provisions omitted, and a draft of a separate code of probate procedure. (6) The section-by-section examination of the work by members of the Council, as well as by other lawyers and probate judges, with suggestions, criticisms and amendments. (7) Revising the draft of the proposed code, including both law and procedure. (8) And further study and revision with the Council, and completion of the proposed code as published in this issue of the BULLETIN.

---

We invite constructive criticism of this tentative draft as published. We hope lawyers, judges of the probate courts, judges of the district courts, and others who read it, will be free to write to the Council, or to any of its members, or to Mr. Bartlett, any suggestions or criticisms they have to the whole, or to any specific provision therein. We make no claim of perfection in all its parts, and no doubt we will make some modifications on our own motion as a result of further study. Mr. Franklin Corrick, Reporter of Statutes, and Mr. Fred Gulick, his assistant, have consented to go

ke suggestions. Perhaps it will receive the attention of a group of attorneys at the State Bar Association at its meeting in May, and of other bar associations throughout the state. Suggestions from all these sources will be considered by the Council and by Mr. Bartlett before the finished product is presented to the legislature. We hope its merits will warrant its prompt enactment into law.

Changes on the size of a BULLETIN make it impossible for us to include in this issue a detailed discussion of the tentative draft. Generally speaking, the substance of the law has not been changed except in the relatively few instances in which changes seemed obviously to be proper. That part of the work largely consisted in combining, revising and clarifying the law. More changes will be made in the procedural provisions, where the principal purposes have been to make the law as simple a code of procedure as possible, insuring to heirs, beneficiaries under wills and creditors an opportunity to be heard on contested matters, and a more just and equitable administration upon estates of decedents and wards.

Sections 275 of the tentative draft include everything worth while in the provisions it is designed to supplant, and also a few sections pertaining to the estates of absent persons. Two sections, G. S. 1935, 22-132 and 22-256, which are desirable to be retained in some form, are not included in the draft for the reason that they are not applicable to property acquired by descent, but place them under wills leaves them open to the construction of not only gifts to deeds. They properly belong in a property act. A general act relating to property is now being formulated by the Commission on Uniform Laws in conjunction with the American Law Institute. In our next issue we plan to discuss this, and possibly suggest an act embodying such provisions of it as we think would be helpful in this state, including matters dealt with in the two sections above mentioned.

---

are including in this issue the tables made from reports collected from probate judges as of the date of July 1, 1937, omitted from our December issue. These and other tables and summaries, compiled from reports collected from probate judges and previously published, demonstrate what many have known, that the probate courts constitute an exceedingly important part of our judicial system. They show that in practically every county in the state a large amount of property is being administered, the value of which is often in excess of the amounts involved in the district court of the county. Legal questions arising in the handling of these estates are just as important and frequently as difficult of solution as those which arise in the district court. Yet these courts, and the work they are required to perform, and the attention in which it has been done heretofore, have received less serious attention than has the work of any of our courts. Our present efforts are to make these courts more useful to our people.

## PRACTICE AND PROCEDURE IN PROBATE COURTS

AN ACT to clarify, rearrange, consolidate, supplement, and revise the laws relating to probate courts, the practice and procedure therein, descent and distribution, homesteads, allowances, wills and the probate and contest proceedings, administration, guardianships, commitments, and adoptions, to establish a probate code, and to repeal all of chapter 5; all of article 11, chapter 19, Laws of 1903; all of article 11, chapter 20; all of chapters 38-105, 38-106, 38-107, 38-117, 38-118, 38-119; all of chapter 38; all of article 2, chapter 39; all of article 20, chapter 60; all of article 7, chapter 67; sections 76-1203 to 76-1217, inclusive; sections 76-1225, 76-1226 and 76-1229 of the General Statutes of Kansas of 1903; chapter 218, chapter 219, and chapter 220, Laws of Kansas of 1937; and other laws inconsistent herewith:

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. *Definitions.* As used in this act the term "probate court" means the judge of the probate court when that meaning is necessary to effect the general purpose of the provisions of this act. As used in this act, unless the context otherwise indicates, the word "representative" includes executors, administrators, administrators with the will annexed, administrator *de bonis non*, and guardians; the word "fiduciary" includes representatives, trustees, and surviving partners administering their trusts.

### ARTICLE 1.—PROBATE COURTS

SEC. 2. *Election; term; bond.* There shall be elected in each county a probate judge, who shall hold his office two years, and who, before he enters upon the duties of his office, shall execute to the state of Kansas a bond, in the sum of not less than two thousand dollars nor more than five thousand dollars, with two or more sufficient sureties, or by a surety company duly authorized to do business in this state, the amount to be fixed and the bond to be approved by the board of county commissioners, and filed in office of county clerk. The bond is conditioned for the faithful performance of the duties required of him by law for the faithful application and payment of all moneys and effects coming into his hands in the execution of the duties of his office.

SEC. 3. *Clerks and compensation.* The probate judge shall be the clerk of the probate court, and shall have such clerical assistants as may be authorized by law. He may appoint in writing one of such assistants as deputy clerk. The probate judge shall receive only such compensation as may be provided by law.

SEC. 4. *Vacancy in office.* If a vacancy occur in the office of probate judge, the governor shall appoint some suitable person to fill such vacancy until the next election, when a successor shall be elected according to law.

SEC. 5. *Probate judge pro tem.* The probate judge may appoint some suitable person, who shall be an elector of the county, to act as probate judge *pro tem* during the absence or incapacity of the probate judge. When any person is a party to a probate proceeding, or of his attorney of record, is the clerk of the district court showing that the probate judge is insane, or that he is interested or has been counsel in the subject matter of the probate proceeding, the probate judge shall not act in the case.

g, the clerk of the district court shall appoint a probate judge pro tem, shall be a member of the bar, to act as probate judge.

6. *Qualification of probate judge pro tem.* The probate judge pro tem shall take and subscribe to the same oath as required of the probate judge. When such selection is made by the clerk of the district court, such oath, with a transcript of the proceedings for the appointment of such probate judge pro tem, shall be filed in the probate court.

7. *Insanity of probate judge.* If the probate judge is duly and finally adjudged insane or incapacitated to act by reason of mental disability, the probate judge pro tem trying the case shall certify such adjudication to the clerk, who shall thereupon declare the office of such probate judge vacant and appoint a new probate judge by appointment. The probate judge pro tem trying the case while insane or mental incapacity shall not be eligible for such appointment.

8. *Not to deal in assets, or be counsel.* No judge, clerk, deputy clerk, or employee of any probate court shall directly or indirectly invest or deal in real property or securities involved in any proceeding over which such court has jurisdiction; nor shall he be counsel or attorney in any action or proceeding brought before or against any devisee, legatee, heir, creditor, representative, or ward, of whom or whose estate, claim, or accounts such court has jurisdiction. Except in matters relating to commitments, none of them shall give counsel or prepare any paper nor shall any of them draw or prepare any paper relating to any matter which is or may be brought before such court, except orders, judgments, decrees, executions, warrants, certificates, commissions, citations, or subpoenas issued out of such court.

9. *Delivery and completion of records.* Whenever the term of office of a probate judge expires he shall deliver to his successor all books, records, and papers in his possession relating to his office. Willful failure to do so within ten days after demand by his successor shall constitute contempt. Whenever records, books and papers, or any of them, belonging to the probate court, have been delivered to the judge by his predecessor in an unfinished or incomplete condition, and it shall be necessary for the business of his court that the same be completed, the said judge shall proceed at once with the completion of the said records, as far as possible; and his predecessor shall be liable on his official bond for the expense of the completion of such records for his term.

#### ARTICLE 2.—JURISDICTION

10. *Jurisdiction.* The probate courts shall be courts of record, and, in their respective counties, shall have original jurisdiction:

To admit last wills and testaments to probate.

To grant and revoke letters testamentary and of administration.

To direct and control the official acts of executors and administrators, settle their accounts, and order the distribution of estates.

To divide partnership estates as provided in this act.

To determine the heirs, devisees, and legatees of decedents.

To appoint and remove guardians for minors and incompetent persons, and make all necessary orders, relating to their estates, to direct and control their official acts, and settle their accounts.

To hear and determine cases of habeas corpus.

8. Of trusts and trust powers created by will admitted to probate point and remove trustees for such trusts, to make all necessary orders to their estates, to direct and control their official acts, and to settle their accounts.

9. Of trusts and trust powers created by written instrument other than will, in favor of persons subject to guardianship, to appoint and remove trustees for such trusts, to make all necessary orders relating to their estates, and to control their official acts, and to settle their accounts: *Provided*, That paragraphs 8 and 9 shall not affect the jurisdiction of district courts in such cases.

10. To appoint trustees of estates of convicts imprisoned in the penitentiary, to make all necessary orders relating to their estates, to direct and control their official acts of such trustees, and to settle their accounts.

11. To appoint trustees of estates of absentees, to make all necessary orders relating to their estates, to direct and control their official acts, and to settle their accounts.

12. To hold inquests respecting insane persons, and commit insane persons to hospitals for the insane, or elsewhere, for their care and treatment.

13. To have power and authority to enforce its orders or judgments, and to process or procedure appropriate for that purpose.

14. To exercise such equitable powers as may be necessary and proper to dispose of any matter properly before the court.

15. And shall have and exercise such other jurisdiction as may be conferred on the court by statutes pertaining to particular subjects.

SEC. 11. *Powers.* Probate courts, in addition to their general powers, shall have power:

1. To compel the attendance of witnesses, to examine them on oath, and to preserve order during proceedings before them.

2. To issue subpoenas, citations, executions, and attachments, to render orders and render judgments and decrees, and to issue process to enforce orders, to issue commissions to take depositions of witnesses either within or without the state in any matter pending before them: *Provided*, That in any case in which matter notice of the taking of depositions shall be given as provided by law.

3. To compel throughout the state the performance of any duty imposed upon any fiduciary appointed by or accounting to such courts.

4. To adjourn any hearing with or without terms: *Provided*, That whenever adjournment is made the adjournment shall be only for cause.

5. To correct, modify, or amend their records to conform to the facts.

6. To vacate or modify their orders, judgments, and decrees procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect.

7. To order any fiduciary to surrender and deliver property to his heirs or to distribute it.

8. To authorize and confirm contracts made by fiduciaries for the payment of attorneys, auditors, accountants, and experts.

9. To punish for contempt.

SEC. 12. *Seal.* Each probate court shall have a seal with which all orders issuing therefrom shall be authenticated; which seal shall be provided by the county commissioners, and shall contain the following words, viz.: ‘

\_\_\_\_\_ county, Kansas"—naming the county for which such seal is  
led.

. 13. *No terms.* There shall be no terms of the probate court. It shall  
en for the transaction of business at the county seat at all reasonable  
Hearings may be had at such other places in the county as the court  
deem advisable.

. 14. *Process.* All writs, orders, and other process of the probate court  
be issued and directed to the sheriff of the proper county where such  
is to be served: *Provided*, That in the absence or nonattendance of the  
, or where he is a party, the probate court may appoint any suitable  
a of the county and swear him as a special sheriff for the service of any  
process.

. 15. *Books of record.* The following books shall be kept by the pro-  
court:

An appearance docket, in which shall be listed under the name of the  
ent, ward, insane person, or other person involved, all documents per-  
g thereto and in the order filed. Such list shall show the nature of the  
ent, the date of the filing thereof, shall give a reference to the volume  
age of any other book in which any record shall have been made of such  
ent, and shall state the charge therefor.

A claims docket, in which shall be listed under the title of the estate all  
s filed against such estate. It shall show the number of the claim, the  
of the filing, the name of the claimant, the amount of the claim, and the  
of the adjudication, and the amounts allowed and disallowed.

A general index, in which files pertaining to estates of decedents shall be  
ed under the name of the decedent, those pertaining to guardianships  
the name of the ward, those pertaining to insane persons under the name  
h person, those pertaining to adoption of children under both the name  
dopted name of the child, and those pertaining to wills deposited pur-  
to section 55 under the name of the testator. After the name of each  
all be shown the file number, the book and page of the appearance docket  
ch the documents pertaining to such file are listed, and the date of filing  
first document.

An index to each book of record.

Books of record, kept for that purpose in which the following documents  
be recorded by the probate court: (1) all wills admitted to probate.  
l elections filed; (3) all letters of appointment issued; (4) all certificates  
pointment filed; (5) all bonds filed; (6) all orders, judgments, and de-  
including inheritance tax orders. (7) such other documents as the court  
etermine.

### ARTICLE 3.—HOMESTEAD AND FAMILY ALLOWANCES

. 16. *Homestead.* A homestead to the extent of one hundred and sixty  
of land lying without or of one acre lying within, the limits of an in-  
ated city, occupied by the intestate and family, at the time of the  
's death, as a residence, and continued to be so occupied by the surviv-  
ouse and children, after such death, together with all the improvements  
e same, shall be wholly exempt from distribution under any of the laws  
s state, and from the payment of the debts of the intestate, but it shall

not be exempt from sale for taxes thereon, or for the payment of obligations contracted for the purchase thereof, or for the erection of improvements thereon, or for the payment of any lien given thereon by the joint contract of husband and wife. The title to the homestead property of a decedent shall pass the same as title to other of his property.

SEC. 17. *Partition of homestead.* If the intestate left a spouse and child, and the spouse again marry, the homestead may be partitioned when the children arrive at the age of majority.

SEC. 18. *Allowances to spouse and minor children.* When a resident of this state dies, testate or intestate, the surviving spouse shall be allowed the benefit of such spouse and the minor children of the decedent from the personal property of which the decedent was possessed or to which he was entitled at the time of death, the following:

(1) The wearing apparel, family library, pictures, musical instruments, furniture and household goods, utensils and implements used in the home, automobile, and provisions and fuel on hand necessary for the support of the spouse and minor children for one year.

(2) Other personal property, not exceeding an appraised value of seven hundred fifty dollars. If the appraised value, above any liens thereon, of such other personal property does not amount to seven hundred fifty dollars, the balance shall be paid in money. If there be no minor children, the property shall belong to the spouse; if there be minor children and no spouse, the property shall belong to the minor children. The selection shall be made by the spouse living, otherwise by the guardian of the minor children.

SEC. 19. *Election no waiver.* The surviving spouse, by electing to take under the will of the decedent or by consenting thereto, does not waive the right to such allowance, unless it clearly appears from the will that the purpose therein made for such spouse was intended to be in lieu of such allowance.

#### ARTICLE 4.—DESCENT OF PROPERTY

SEC. 20. *Children defined.* The word "children" as used in this article means natural children, including a posthumous child, and children adopted by the father or mother provided by law, and includes illegitimate children when applied to the mother and child, and also when applied to father and child where the father has notoriously recognized the child as his, or has recognized the child in writing, or when the fact that he is the father of the child has been determined on his lifetime in any action or proceeding involving that question in a court of competent jurisdiction.

SEC. 21. *Descent of property.* Subject to any homestead rights, and to any personal property or other property rights allowed by statute to the surviving spouse and to the family or children of a resident of this state who dies testate, and subject to the rights of creditors of decedent and costs of administration, the property owned by a decedent at the time of his death shall descend by descent as provided in this article.

SEC. 22. *Surviving spouse.* If the decedent left a surviving spouse and no children, all the property shall pass to the surviving spouse.

SEC. 23. *Surviving spouse and children.* If the decedent left a surviving spouse and a child, or children, one half of such property shall pass to the surviving spouse and the other half to the child or children.



living spouse and the other half to the surviving child, or in equal shares to the children, and to the living children, if any, of a previously deceased child, and the shares of the children of such deceased child shall pass to them in equal parts.

c. 24. *Half of realty to spouse.* Also, the surviving spouse shall be entitled to receive one half of all real property to which the decedent at any time during the marriage was seized or possessed and to the disposition whereof the surviving spouse shall not have consented in writing, or by a will, or an election as provided by law to take under a will, except of such real property as has been devised on execution, or order of sale issued out of any court of competent jurisdiction: *Provided*, That the surviving spouse shall not be entitled to any interest under the provisions of this section in any real estate to which such decedent in his lifetime made a conveyance, when such spouse at the time of the conveyance is not and never has been a resident of this state during the continuance of the marriage relation.

c. 25. *No spouse or children.* If the decedent leaves no surviving spouse or children, but leaves a surviving parent, or surviving parents, either by nature or by adoption, all of his property shall pass to such surviving parent, or in equal shares to such surviving parents.

c. 26. *No spouse, children or parents.* If the decedent leaves no surviving spouse, children, or parents, the respective shares of his property which would have passed to the parents, had all of them been living, shall pass to the heirs of such parents respectively (excluding their respective spouses), the same as it would have passed had each of such parents owned it at the time of his death and died intestate.

c. 27. *Limitation on descent.* In computing degrees of relationship by descent for the purpose of the passing of property of an intestate decedent, each generation in the ascending or descending line shall be counted as one degree. One half of such property shall pass to a person farther removed from the decedent than the fourth degree, as so computed. In all cases of descent the right of a living person to have the property, or a share of it, pass to him, shall be determined as above provided, but the property shall pass directly from the decedent to the person entitled to receive it.

c. 28. *What law governs.* Real property situated in this state, owned by an intestate decedent who is a nonresident of this state at the time of his death, shall pass by descent in the same manner as though he were a resident of this state at the time of his death. The personal property of such a decedent shall pass by descent under the laws of the place of his residence at the time of his death.

c. 29. *Advancement.* Property which had been given by an intestate decedent by way of an advancement to one to whom the decedent's property, or a part of it, would pass by descent, shall be counted as a part of the distributable share of such property to such person, and to that extent shall be taken into account in determining the estate to be distributed among those to whom it passes by descent, but if such advancement exceeds the amount to which such person would be entitled under statutes of descent he shall not be required to refund any portion of it.

SEC. 30. *Rights of aliens to transmit and inherit.* All aliens eligible for citizenship under the laws of the United States may transmit and inherit real property, or any interest therein, in this state, in the same manner and to the same extent as citizens of the United States. All other aliens may transmit and inherit real property, or any interest therein, in this state, in the same manner and to the extent and for the purpose prescribed by any treaty existing between the government of the United States and the nation or country of which such alien is a citizen or subject, and not otherwise.

SEC. 31. *Sale of realty when alien not permitted to take.* Whenever the heir or devisee of a decedent under section 30 an heir or devisee cannot take real property in this state, the probate court shall order a sale of said real property to be made in the same manner provided by law for probate sales of real property, and the proceeds of such sale shall be distributed to such heir or devisee in lieu of such property.

SEC. 32. *Incapacity to inherit.* No person, otherwise qualified to take real property by descent, shall have capacity to do so if he be convicted of killing the person whose property is the subject of the killing, or conspiring to kill the person whose property is the subject of descent.

SEC. 33. *Escheat.* If an intestate decedent leaves no person entitled to take his property by descent, as provided in this article, it shall escheat to and become the property of the state of Kansas.

#### ARTICLE 5.—WILLS

SEC. 34. *Testamentary power.* Any person, of full age and sound mind, under no undue influence, being the owner of property, or having an interest of any description therein, may will the same to any person, subject to the rights of creditors and to the provisions of this article.

SEC. 35. *Limitation on testamentary.* No spouse shall will away from the other more than half of his property. But either may consent in writing, executed in the presence of two witnesses, that the other may will more than one half thereof from the one so consenting.

SEC. 36. *Execution and attestation.* Every will, except an oral will provided in section 38, shall be in writing, and signed at the end thereof by the party making the same, or by some other person in his presence and at his express direction, and shall be attested and subscribed in the presence of such party by two or more competent witnesses, who saw the testator sign or scribe or heard him acknowledge the same.

SEC. 37. *Competency of witnesses.* If a witness to a will is competent at the time of his attestation, his subsequent incompetency shall not prevent the admission to probate of such will.

SEC. 38. *Nuncupative will.* An oral will made in the last sickness shall be valid in respect to personal property, if reduced to writing and subscribed by two competent, disinterested witnesses within thirty days after the speaking of the testamentary words, when the testator called upon some person present at the time the testamentary words were spoken to bear testimony to the disposition as his will.

SEC. 39. *Will executed without state.* A last will and testament executed without this state in the mode prescribed by the law, either of the place

executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state: *Provided*, Said last will and testament is in writing and subscribed by the testator.

SEC. 40. *Devise or bequest to witness.* A beneficial devise or bequest made by a will to a subscribing witness thereto shall be void, unless there be two other competent subscribing witnesses who are not beneficiaries thereunder. If such witness would have been entitled to any share of the testator's estate in the absence of a will, then so much of such share as will not exceed the value of the devise or bequest shall pass to him from the part of the estate included in the void devise or bequest.

SEC. 41. *Preparation by principal beneficiary.* If it shall appear that any will was written or prepared by the sole or principal beneficiary in such will, or, at the time of writing or preparing the same, was the confidential agent or legal adviser of the testator, or who occupied at the time any other position of confidence or trust to such testator, such will shall not be held to be valid unless it shall affirmatively appear that the testator had read or knew the contents of such will, and had independent advice with reference thereto.

SEC. 42. *Probate essential.* No will shall be effectual to pass real or personal estate unless it shall have been duly admitted to probate.

SEC. 43. *Offered within one year.* No will of a testator who died while a resident of this state shall be effective to pass property unless it is offered for probate within one year after the death of the testator and is duly admitted to probate.

SEC. 44. *Liability for withholding will.* One having possession of the will of a testator who died while a resident of this state, or who knows of such will and has free access to it for the purpose of probate, and withholds it from probate for more than one year after the death of the testator, shall be barred from all rights under the will, and shall be liable to those beneficiaries under the will who did not have such possession or such knowledge and access for any loss they sustain by reason of the fact that the will had not been offered for probate.

SEC. 45. *Manner of revocation.* No will in writing shall be revoked or altered otherwise than by some other will in writing; or by some other writing subscribed by the testator declaring such revocation or alteration and executed with the same formalities with which the will itself was required by law to be executed; unless such will be burnt, torn, canceled, obliterated or destroyed, with the intent and for the purpose of revoking the same, by the testator himself or by another person in his presence by his direction and consent. Nothing in this section shall prevent the revocation implied by law from subsequent change in the condition or circumstances of the testator.

SEC. 46. *Marriage and birth of child.* If after making a will the testator marries and has a child by birth or adoption, the will is thereby revoked.

SEC. 47. *Nonintentional omission of child.* When any testator shall omit to provide in his will for any of his children, or for the issue of any deceased child, and it shall appear from the will that such omission was not intentional, and was made by mistake or accident, such child, or the issue of such child,

shall have the same share in the estate of the testator as if he had died testate, but for the purpose of contribution such share shall be considered as a bequest or devise.

SEC. 48. *Revocation of second will not revivor of first.* If the testator make a second will, the revocation of the second will shall not revive the first will, unless it appears by the terms of such revocation that it was his intention to revive the first will, or unless after such revocation he shall cause to be published his first will.

SEC. 49. *Election of spouse.* The surviving spouse, who shall not have consented in the lifetime of the testator to his will as provided by law, shall make an election whether he will take under the will or take what he is entitled to under the law of descents and distributions; but he shall not be entitled to both. If the survivor fail to consent or make an election, he shall take under the law of descents and distributions.

SEC. 50. *After-acquired property.* All property acquired by the testator after making his will shall pass thereby in like manner as if possessed at the time when he made his will, unless a different intention appears from the will.

SEC. 51. *Devise passing whole.* Every devise of real estate shall pass the whole estate of the testator therein, unless it clearly appears by the will that he intended a less estate to pass.

SEC. 52. *Issue of relative.* If a devise or bequest be made to any person who is a relative or an adopted child of the testator, and such blood relative or adopted child dies before the testator, leaving issue who survive the testator, such issue shall take the same estate which said devisee or legatee would have taken if he had survived, unless a different disposition is made or required by the will.

SEC. 53. *Chargeable with debts.* If the testator's personal property is insufficient for the payment of the debts, any undevise real property, except as to the payment of debts, shall be chargeable therewith, unless the will provides for payment otherwise.

SEC. 54. *Contribution.* When any specific devise or bequest shall be made from the devisee or legatee for the payment of the debts of the testator, the other devisees and legatees shall contribute their respective proportions to the loss to the person from whom the estate is taken.

SEC. 55. *Deposit.* A will enclosed in a sealed wrapper upon which is endorsed the name and address of the testator, the day when and the person to whom it is delivered, may be deposited in the probate court of the county where the testator resides. The court shall give a certificate of its deposit and shall retain such will. During the testator's lifetime, such will shall be delivered only to him or upon his written order witnessed by at least two subscribing witnesses. After the testator's death the court shall open the will in public and retain the same. Notice shall be given to the executor and the beneficiaries named therein and to such other persons as the court may desire. If the proper venue is in another court the will shall be transmitted to that court, but before such transmission a true copy thereof shall be made and retained in the court in which the will was deposited.

SEC. 56. *Delivery.* After the death of a testator the person having c

is will shall deliver it to the court which has jurisdiction thereof. Every person who willfully neglects or refuses to deliver a will after being duly ordered to do so, shall be guilty of contempt of court. He shall be further liable to the action of any party aggrieved for the damages which may be sustained by such neglect or refusal.

#### ARTICLE 6.—LETTERS TESTAMENTARY AND OF ADMINISTRATION

SEC. 57. *Letters testamentary.* Letters testamentary shall be granted to the executor, if any be named in the will, if he is legally competent and shall accept the trust; otherwise letters of administration shall be granted with will annexed.

SEC. 58. *Minor as executor.* When a person appointed executor is under the age of twenty-one years at the time of proving the will, administration may be granted with the will annexed during his minority, unless there be another executor who will accept the trust, in which case the estate shall be administered by such other executor until the minor shall arrive at full age, when he may be admitted as joint executor with the former.

SEC. 59. *Executor of an executor.* The executor of an executor shall have the same authority, as such, to administer the estate of the first testator; but on the death of the sole or surviving executor of any last will, administration of the estate of the first testator not already administered, may be granted with the will annexed, to such person as the court shall think proper to appoint.

SEC. 60. *Powers before letters granted.* No executor named in a will shall, before letters testamentary are granted, have any power to dispose of any part of the estate of the testator, except to pay funeral charges, nor to interfere in any manner with such estate, further than is necessary for its preservation.

SEC. 61. *To whom administration granted.* Administration of the estate of a person dying intestate shall be granted to one or more of the persons hereinafter mentioned, suitable and competent to discharge the trust, and in the following order: (1) The surviving spouse or next of kin or both, as the court may determine, or some person or persons selected by them or any of them. (2) If all such persons are incompetent or unsuitable, or do not accept, administration may be granted to one or more of the creditors, or to a nominee or nominees thereof. (3) Whenever the court determines that it is for the best interest of the estate and all persons interested therein, administration may be granted to any other person, whether interested in the estate or not.

SEC. 62. *Residence of domiciliary administrator.* In cases of domiciliary administration letters of administration shall in no case be granted to a nonresident of this state; and when a domiciliary administrator shall become a resident, the probate court shall revoke his letters.

SEC. 63. *Appointment of Agent.* Every nonresident appointed representative in this state shall, before entering upon the duties of his trust, appoint in writing an agent residing in the county where the appointment is made, and shall by such writing consent that the service of any notice or process made upon said agent shall have the same force and effect as if made upon the representative personally within said county and state. Such writing shall state the correct address of such agent and shall be filed in the probate court where such appointment is made.

SEC. 64. *Qualification.* Every executor or administrator, before upon the duties of his trust, shall take and subscribe to an oath to perform faithfully and impartially and to the best of his ability discharge all duties of his trust according to law; and, except as herein otherwise provided, shall give bond as provided by law in such amount as the court directs, with sufficient sureties, conditioned upon the faithful discharge of all duties of his trust.

SEC. 65. *Effect of will on administration.* If, after the appointment of an administrator, a will is admitted to probate, the powers of such administrator shall cease, and he shall proceed to a final accounting. The new executor or administrator with the will annexed shall continue the administration.

SEC. 66. *Administrator de bonis non.* If the authority of the sole executor or administrator terminates before the estate is fully administered, a new administrator shall be appointed to administer the estate ready administered. Such successor shall have the same powers and duties as his predecessor.

SEC. 67. *Termination of authority not to invalidate acts.* All the acts of a representative as such, before the termination of his authority, shall be valid to all intents and purposes as if such representative had continued to execute the duties of his trust.

SEC. 68. *Effect of resignation.* The acceptance of such resignation or the appointment of another administrator shall not affect the liability of the former executor or administrator, or his sureties, previously incurred.

SEC. 69. *Notice of appointment.* An executor or administrator, or a special administrator, shall within thirty days after his appointment or qualification cause notice of his appointment to be published in some newspaper of the county authorized by law to publish legal notices, which notice shall be published for three consecutive weeks. A new administrator shall give notice of his appointment in the same manner. If notice of appointment shall not be published within the time herein prescribed, the court shall order such notice to be published; but such order shall not exempt the executor or administrator or his sureties from liability which they would otherwise incur by reason of failure to give notice within the time herein first prescribed.

SEC. 70. *Notice to consular representative.* When it appears in the administration of an estate of a decedent or ward that subjects, citizens or residents of any foreign country are or may be interested as heirs, devisees, legatees or otherwise, the court before whom the matter is pending shall give notice by mail to the consular representative of such country for this state of the pendency of such matter and the probable interest of such foreign citizens, subjects, and nationals therein, if such consular representative has filed his name and address in such court: *Provided*, That the failure to give such notice shall not effect the validity of any proceeding.

SEC. 71. *Special administrator.* At any time while an estate is being administered upon, the court, for good cause and without removing the executor or administrator, may appoint a special administrator for a specific period of time or to perform duties respecting specific effects of the decedent, or for the performance of some particular acts. The duties of such special administrator shall be clearly stated in the order of appointment. If the court deems

he may be required to give bond in such sum as the court shall fix. He shall make such reports as the court may order, and shall make a complete account at the termination of his duties.

#### ARTICLE 7.—ESTATES OF NONRESIDENTS

72. *Wills proved elsewhere.* Authenticated copies of wills executed and proved outside of this state according to the laws in force in the place where made, relative to any property in this state, may be admitted to probate and proved in the probate court of any county in this state where any part of such property may be situated; and such authenticated copies so admitted and proved shall have the same validity as wills made in this state in conformity with the laws thereof.

73. *Administration.* The estate of a nonresident decedent shall be administered in the same manner as an estate of a resident decedent. Upon payment of the expenses of administration, of the debts and other items hereunto due and of the inheritance taxes, the residue of the personal property shall be transmitted to the domiciliary executor or administrator to be disposed of according to the will; or the court may direct it to be distributed according to the terms of the will applicable thereto, or if the terms of the will be not applicable thereto, where there be no will, it shall be distributed according to the law of the decedent's domicile. The real estate not sold in the course of administration shall be distributed according to the terms of the will applicable thereto, or if the terms of the will be not applicable thereto, or if there be no will, it shall be distributed according to the laws of this state.

74. *Foreign representatives.* Upon the filing for record in the probate court of the proper county of an authenticated copy of his letters or other evidence of his authority and a certificate that the same are still in force, a foreign representative appointed by a court of competent jurisdiction in another state or country may assign, extend, release, satisfy, or foreclose any mortgage, judgment, or lien or collect any debt secured thereby belonging to the estate represented by him. Real estate acquired by a foreign representative on foreclosure or execution sale shall be held, sold, mortgaged, or leased pursuant to the laws of the state of origin.

75. *Innocent purchaser.* The title of any purchaser in good faith, without knowledge of a will, to any land situated in this state, derived from the estate of any person not a resident of this state at the time of his death, shall not be defeated by the production of the will of such decedent unless such will shall be offered for probate in this state within one year from the death of the testator.

76. *Foreign executor or administrator sue and be sued.* An executor or administrator duly appointed in any other state or country may sue or be sued in any court in this state, in his capacity of executor or administrator, in the same manner and under like restrictions as a nonresident may sue or be sued.

## ARTICLE 8.—ESTATES OF INTESTATES WITHOUT HEIR

SEC. 77. *Administration.* The estate of an intestate decedent known heirs shall be administered in the same manner as the estate of other intestate decedent except as herein otherwise provided. The administrator shall as expeditiously as possible convert the personal property, money, and collect the rents, income, and profits from the real property, no one claims as heir, devisee, or legatee within one year after the appointment of the administrator, the administrator shall sell the real property to close the estate as other estates are closed and pay the net proceeds to the state treasurer.

SEC. 78. *Disposition of proceeds.* The state school-fund commissioners shall invest and handle this money as other moneys of the state school fund, that it shall be kept as a temporary fund until ten years after it has been first received, at which time it shall be covered into the perpetual fund of the state, provided no one in the meantime has established a claim thereto as heir, devisee or legatee.

SEC. 79. *Claimants.* Any person who claims as heir of such decedent shall present his claim to the probate court within ten years after the appointment and qualification of the administrator or such claim shall be forever barred. If he establishes his claim it shall be allowed by the court. The court shall determine which of several claimants have established their claim and the share of the estate to which each is entitled. If at the time of such determination the estate is in the hands of the administrator, the same shall be delivered to those adjudged entitled thereto, less claims previously paid and costs of administration. If the proceeds of the estate have been delivered to the state treasurer, the school-fund commissioners shall pay to the claimant entitled thereto the sum or share of the estate the court has adjudged him entitled to receive. No interest shall be allowed or paid thereon.

SEC. 80. *Subsequent claimants.* If another or others later, but within ten years after the appointment and qualification of the administrator, claim as heirs of such decedent and are thereafter adjudged to be heirs of the decedent and entitled to the said estate or some part thereof, and the said estate or proceeds or some part thereof shall have been delivered or paid to the state treasurer, claims were earlier adjudged, neither the state nor the school-fund commissioners shall be liable to such claimants for moneys previously paid or adjudged to be heirs of the decedent; but the later claimants who were duly established shall have a cause of action in the district court against the earlier claimants whose claims were established to determine the rights of the respective parties.

SEC. 81. *Duty of attorney general and county attorney.* The state attorney shall appear as a party to all such proceedings. The county attorney shall represent the decedent and the administrator. He shall diligently protect and conserve the estate for the benefit of the state school fund, scrutinize all claims due the estate against it, and diligently defend against all such claims. Claimants shall bear the burden of proving their claims by clear and convincing evidence. The expenses incurred by the county attorney shall be paid by the county. The attorney general may appear and assist the county attorney, or may take charge in lieu of the county attorney. Expenses incurred by the attorney



be paid from the appropriations from his office. No attorneys' fees shall be allowed or paid from the estate to anyone representing the state or the administrator. The state may institute any proceeding deemed necessary or proper in the handling of such estate and defend any proceeding instituted by it.

#### ARTICLE 9.—PARTNERSHIP ESTATES

82. *Management.* The property of a partnership dissolved by the death of any of its members shall be delivered over to the surviving partner, who may be disposed to undertake the management thereof agreeably to the provisions of a bond which he shall give as provided by law. Upon the giving of such bond he shall use due diligence in closing the affairs of the late partnership, applying the property thereof toward the payment of the partnership debts, and render an account upon oath to the probate court whenever by it there-required of all the partnership affairs, including the property owned by the late firm and the debts due thereto, as well as what may have been paid to the surviving partner toward the partnership debts, and what may still be due and owing herefor, and pay over within one year, unless a longer time be allowed by the probate court, to the executor or administrator his proportion of the same, if any there be, beyond satisfying the partnership debts.

83. *When administrator takes charge.* In case the surviving partner, who has been duly cited for that purpose, shall neglect or refuse to give the bond required by law, the executor or administrator of the estate of the deceased partner, in giving a bond as provided by law, shall take the whole of the partnership estate into his possession, and shall be authorized to use the same as the survivor in collecting the debts due the late firm if necessary, and with the partnership property pay the debts due from the late firm with as much expedition as possible, and return or pay the surviving partner his proportion of the net proceeds, if there be any.

84. *Sale of assets.* An executor or administrator having the whole of the partnership estate in his possession, as herein provided, may sell the assets thereof at public or private sale as provided by law, and may in any event sell the interest of the deceased partner therein in the manner aforesaid. The surviving partner shall be an eligible purchaser.

85. *Accounting.* The person executing the trust, whether surviving partner or executor or administrator, shall have the same duty to account and render his account adjudicated as in the case of ordinary administration; and the person shall be subject to the same liabilities, remedies, and penalties in reference thereto as an ordinary administrator.

#### ARTICLE 10.—BONDS

86. *Condition.* Every fiduciary except as otherwise provided in this article shall execute and file with the court a bond, with good and sufficient surety, in such sum as the court may direct, which sum shall not be less than ten per cent of the value of the personal property which shall come into his possession, conditioned upon the faithful discharge of all the duties of his office and proper accounting and distribution of all property which shall come into his possession.

SEC. 87. *Approval and prosecution.* All such bonds shall run to the State of Kansas. They shall be subject to the approval of the probate court and shall not be approved until the court is fully satisfied as to the sufficiency of the sureties. In case of breach of any condition thereof, an action on the bond may be prosecuted in the name and for the benefit of any person interested.

SEC. 88. *Joint or separate bonds.* When two or more persons are appointed joint representatives, the court may approve a separate bond for all.

SEC. 89. *Request of testator.* When by the terms of any last will and testament the testator shall express a wish that the executor, testamentary guardian, or administrator named therein shall execute the same or the trust created by or contained in the will without giving bond, no bond shall be required by the probate court, for sufficient cause, deems it proper to require it; but the court may, at any subsequent period, upon the application of any party interested, or upon its own motion, require bond to be given.

SEC. 90. *Increase or reduction of bond.* The court, on its own motion or upon petition of any interested person, may for good cause require a fiduciary to file a new or additional bond, upon which his accounts shall be based, and if approved the liability of the sureties on such new or additional bond shall be limited to the property then in the possession of the representative or thereafter acquired by him. Whenever the court shall find that the bond of a fiduciary is larger than necessary, it may, by order, reduce the bond thereon to the proper amount. It may, by like order, cancel any bond which appears to be unnecessary.

SEC. 91. *Discharge of surety.* The court shall, upon petition of a surety, and after notice, require a fiduciary to settle his account and file a new bond. If such account be approved, such petitioning surety shall be discharged of his liability thereafter accruing. The fiduciary shall file a new bond, approved by the court, and if he fail or refuse to do so he shall be removed.

## ARTICLE 11.—MANAGEMENT OF ESTATE

### A. INVENTORY AND APPRAISEMENT

SEC. 92. *Inventory.* Within thirty days from the date of his appointment, unless a longer time has been granted by the court, the representative shall make and return to the court an inventory, verified by affidavit, of all the estate of the decedent or ward which shall come into his possession or knowledge. Such property shall be classified therein as follows: (1) Real estate, with plat or survey description, and if a homestead, so designated as such. (2) The statutory allowances classified according to section 2401 of the estate of a decedent leaving spouse or minor children; otherwise, personal property, furniture, household goods, and wearing apparel. (3) Corporation stock, described by certificate numbers. (4) Bonds, mortgages, notes, and other securities, with evidence of debt, described by name of debtor, recording data, and date of identification. (5) All other personal property accurately identified. If the decedent was a member of a copartnership, the inventory shall include a separate inventory of the whole of the partnership estate and of the proportional share therein.

SEC. 93. *Appraisement.* If the inventory lists no property other than that

United States, no appraisalment shall be required; otherwise the property shall be appraised at its full and fair value as of the date of death or date of appointment of guardian, by three disinterested persons appointed by the court.

Within sixty days after appointment, unless a longer time has been ordered by the court, the appraisers shall state opposite each item the value thereof, and forthwith deliver such inventory and appraisalment, certified under oath, to the representative who shall return it to the probate court.

94. *Supplementary inventory and appraisalment.* Whenever property of any kind, not mentioned in the inventory that has been made, comes to the knowledge or possession of a representative, he shall make an inventory thereof and cause such property to be appraised, and the inventory and appraisalment to be returned within thirty days after the discovery thereof.

95. *Discharged debt to be included.* The discharge or bequest, in a will, of any debt or demand of a testator against any executor named in his will, or against any other person, shall not be valid as against the creditors of the testator, but shall be construed only as a specific bequest of such debt or demand; and the amount thereof shall be included in the inventory of the testator and effects of the deceased, and shall, if necessary, be applied to the payment of his debts, and if not necessary for that purpose, shall be paid in the same manner and proportion as other specific legacies.

96. *Debt of executor to be included.* The naming of any person as executor in a will shall not operate as a discharge or bequest of any just claim of the testator had against such executor, but such claim shall be included in the inventory of the credits and effects of the deceased in the inventory; and the executor shall be liable for the same as for so much money in his hands at the time the debt or demand became due, and he shall apply and distribute the same for the payment of debts and legacies, and among the next of kin, as part of the personal estate of the deceased.

#### B. COLLECTION OF ASSETS

97. *Duties of fiduciary.* No fiduciary shall make a profit by the investment of the estate, nor suffer loss by the decrease or destruction without his fault, of any part of the estate, and he shall account for the excess when he sells for more than the appraisement and shall not be responsible for the loss when he sells at a price as if such sale appears to be beneficial to the estate. He shall not be responsible for any loss happening by the insolvency of any purchaser, or his death, or for any sale duly made according to law, if he proceeded with due diligence in taking surety, and has used due diligence to collect thereon. He shall not be accountable for debts due the decedent or ward which remain unpaid or neglected without fault on his part, but where he neglects or unreasonably fails to raise money by collecting debts or selling property, or neglects to invest the money in his hands and by reason thereof the value of the estate is lessened, or unnecessary costs, interest, or penalties accrue, or the persons interested suffer loss, the same shall be deemed waste and the fiduciary shall be charged in his account with the damages sustained. He shall not purchase any claim against the estate nor shall he purchase directly or indirectly or be interested in the purchase of any property sold by him.

SEC. 98. *Liability for conversion.* If any person embezzles or in his own use any of the personal estate of a decedent or ward, such person shall be liable for double the value of the property so embezzled or converted.

SEC. 99. *Annual crops.* The emblements or annual crops raised on land and whether severed or not from the land of the deceased at the death, shall be deemed personal assets in the hands of the executor or administrator and shall be administered and accounted for as such.

SEC. 100. *Compromise with debtor.* Whenever it appears for the best interest of the estate, the representative may, on order of the court, make a reasonable compromise with any debtor or other obligator.

SEC. 101. *Foreclosure of mortgage.* An executor or administrator shall have the same right to foreclose a mortgage or collect the debt secured by a mortgage as the decedent would have had if living and he may complete any suit for foreclosure commenced by such decedent.

SEC. 102. *Realty acquired.* When a foreclosure sale or a sale of real estate for the recovery of a debt due the estate is had, or redemption is made, the executor or administrator shall receive the money paid and execute a deed of necessary satisfaction or release. If bid in by the executor or administrator, the real estate shall be treated as personal property, but any sale or lease of real estate pursuant to article 18. If not so sold or leased the realty, or if sold or leased the proceeds, shall be assigned or distributed to the same persons as if the same were the same proportions as if it had been a part of the personal estate of the decedent.

#### C. CLASSIFICATION AND PAYMENT OF DEMANDS

SEC. 103. *Classification of demands.* All demands against the estate of a deceased person shall be classified and the executor or administrator shall, in allowance and classification, shall make payment thereof from the assets of the estate in the following order: (1) Necessary funeral expenses. (2) Expenses of last sickness, wages of servants during the last sickness. (3) Expenses of administration. (4) Debts having preference by laws of the United States and by the laws of this state. (5) Judgments rendered against the decedent in his lifetime; but if any such judgments shall be liens upon the real estate of the deceased and the estate shall be insolvent, such judgments shall be paid without reference to the order of the judgments except the classes of demands mentioned in subsections 1 and 2 of this section shall have precedence of judgments. (6) All other demands duly proved.

No preference shall be given in the payments of any demand over another demand of the same class, nor shall a debt due and payable be paid with preference over debts not due.

SEC. 104. *When payment may be made.* If any executor or administrator shall not, within nine months after having given notice of his appointment, have notice of demands against the estate of the deceased which will be due to him to represent it insolvent, he may after the expiration of said nine months proceed to pay the debts due from the estate, according to their classification.

SEC. 105. *How proceeds applied.* The proceeds arising from the sale or lease of real estate of a decedent shall be applied to the payment of the debts and expenses thereof, the payment of any mortgage or other liens

ing to their priorities so far as they operate as a lien thereon at the time of the decedent's death, and the balance thereof shall be deemed assets in the hands of the executor or administrator, to be accounted for as such.

#### D. SALE OR OTHER DISPOSITION OF ASSETS

SEC. 106. *Possession.* The executor or administrator shall have a right to possession of all the property of the decedent, except the homestead and allowances to the surviving spouse and minor children. He shall collect the debts and earnings thereon until the estate is settled or until delivered by order of the court to the heirs, devisees, and legatees. He shall keep in tenantable repair the buildings and fixtures under his control and protect the same by insurance. He may by himself or with the heirs or devisees maintain an action to recover the possession of the real estate or to quiet title to the same.

SEC. 107. *Sale of personal property.* The executor or administrator shall, at such time as the court may order, sell the whole of the personal property belonging to the estate: *Provided*, That such personal property as is specifically bequeathed shall not be sold until the court by its orders, shall have determined the residue of the personal estate, subject to the payment of debts, to be insufficient for the payment of debts of the estate and costs of administration, and direct the personal property specifically bequeathed to be sold: *And provided further*, That whenever the court shall find that the sale of such property, or any part thereof, is not necessary for the payment of debts, legacies, or costs of administration, it may, in its discretion, order such property not sold.

SEC. 108. *Specially bequeathed property.* The property specially bequeathed shall be delivered to the legatee entitled thereto, he securing the redelivery thereof, on demand, to the executor or administrator; otherwise the same shall remain in the hands of the executor or administrator, to be distributed as may be required by law.

SEC. 109. *Division in kind.* If a division of any personal property cannot be made in kind to those entitled thereto, a sale thereof may be had and the proceeds distributed according to the rights of those entitled to distribution.

SEC. 110. *Refund.* If after the payment of legacies or distributions it becomes necessary that the same or any part thereof be refunded for the payment of debts, the amount necessary to be refunded shall be apportioned among the legatees and distributees according to the amount received by them, except that specific legacies shall not be required to be refunded unless the residue be insufficient to satisfy such debts.

SEC. 111. *Lease.* The administrator or executor may lease real property in possession for a term of not more than one year. He, together with the heirs, and devisees, may lease such property for a term longer than one year, and they may execute an oil, gas and mining lease for such property. The proceeds from any lease, by whatever name called, shall be received by the executor or administrator as income from such property.

SEC. 112. *Sale of realty.* Whenever the personal property is insufficient to satisfy the allowances to the spouse and minor children, necessary funeral expenses, expenses of last sickness, taxes, debts, and bequests charged upon the estate of a decedent, or whenever it shall be determined by the court that

a sale or lease of any real estate of a decedent subject thereto is for the interests of the estate and of the persons interested in such real estate. The real estate may be sold or leased. The proceeds of any such sale or lease may be available for distribution shall be distributed to the same persons in the same shares as if it had remained real estate.

SEC. 113. *What realty included.* The real estate liable to be sold or leased shall include all that the deceased may have conveyed with intent to defraud his creditors, and all other rights and interests in lands and tenements not exempt by law: *Provided*, That lands so fraudulently conveyed shall not be taken from anyone who purchased them for a valuable consideration in good faith, and without knowledge of the fraud, and no claim to the real estate so fraudulently conveyed shall be made unless within two years after the death of the grantor.

SEC. 114. *Sale of part or whole.* If it shall appear that it is necessary to sell some part of the real estate, and that by such partial sale the interests of the estate, or some specific part thereof, would be greatly injured, then the whole of the estate or such part thereof as is necessary and most beneficial to the interest of all concerned therein may be sold.

SEC. 115. *Provisions of will control.* If there should be in the last will of the deceased any disposition of his estate for the payment of his debts, or any provision that may require or induce a distribution of the assets in any manner different from that which the law would otherwise prescribe, the assets shall be distributed accordingly so far as the same can be done consistently with the rights of the creditors.

SEC. 116. *Sale under will.* If a will authorizes the executor to sell the real estate, he, or an administrator with will annexed, may exercise such authority without any order of the probate court, unless the will provides otherwise.

SEC. 117. *Bond to prevent sale.* No real estate of the decedent shall be sold to pay debts if any party interested shall give a good and sufficient bond with two sureties, approved by the probate court for the benefit of creditors, conditioned upon the payment of decedent's debts, and costs of administration.

SEC. 118. *Sale to pay legacy.* When a testator gives a legacy by will, and the real estate is effectual to charge real estate, and his personal property shall be insufficient to pay such legacy, together with his debts and the costs of administration, the executor or administrator with the will annexed may sell his real estate for that purpose, as prescribed herein for the payment of debts.

SEC. 119. *Platting real estate.* Whenever it is for the best interest of the estate of a decedent or ward, real estate may, with the approval of the probate court, be platted by the representative.

SEC. 120. *Specific performance.* When any person legally bound to make a conveyance or lease dies before making the same, or when any ward is bound to make a conveyance or lease, the representative of the estate may, upon order of the court and with its approval make the conveyance or lease to the person entitled thereto.

## ARTICLE 12.—ACCOUNTING AND DISTRIBUTION

121. *Duration of administration.* Every executor and administrator shall have one year from the date of his appointment for the settlement of the estate.

An administrator *de bonis non* shall have such time not exceeding one year as the court may determine. For cause shown the period herein limited may be extended by the court, not exceeding one year at a time. The executor or administrator shall not be disqualified thereafter in any way, unless relieved, but he shall not be relieved from any loss, liability, or penalty incurred by his failure to settle the estate within the time limited.

122. *Duty to account.* Every executor or administrator shall present a true and correct account of his administration within the time limited and make application to the court to settle and allow his account and to assign the estate to the persons entitled thereto. He shall also account at such other times as the court may require.

123. *Time for distribution.* If upon any settlement it appears that there is sufficient money to satisfy all the demands against an estate, the executor or administrator may on order of the court make payment of legacies and distribution of shares, except that specific legacies shall be first satisfied; but the executor or administrator shall be compelled to pay legacies or make distribution within one year from the date of his qualification unless ordered to the contrary by the court and until bond and security be given by the legatee or distributee to refund his due proportion of any demand which may afterward be established against the estate and the cost attending the recovery thereof.

124. *Compensation and expenses.* Every representative shall be allowed his necessary expenses incurred in the execution of his trust, and shall receive such compensation for his services and those of his attorneys as shall be just and reasonable; but where a decedent by will makes provision for the compensation of his executor, that shall be taken as his full compensation. At any time during administration the representative may apply to the court for an allowance upon his compensation and upon attorney's fees. Whenever any person named as executor in a will or codicil defends it, or prosecutes any proceedings in good faith and with just cause, for the purpose of having it admitted to probate, whether successful or not, or if any person successfully opposes the allowance of any will or codicil, he shall be allowed out of the estate his necessary expenses and disbursements in such proceedings together with compensation for his services and those of his attorneys as the court shall deem just and proper.

125. *Accounting on resignation.* A representative may resign his trust at any time, but his resignation shall not be operative until the court shall have examined and allowed his final account and shall have made an order admitting such resignation.

126. *Removal for incapacity.* Whenever a representative is or becomes incompetent, or unsuitable, and incapable of discharging his trust, or has mismanaged the estate, or has failed to perform any duty imposed by law or by any order of the court, or has absconded, the court may remove him.

127. *Accounting on disability.* Whenever a sole or the last surviving representative dies, or is adjudged insane or otherwise mentally incompetent,

his representative, upon appointment, shall file an account and petition for the settlement and allowance thereof and, if proper, for distribution of the estate. If the estate has not been fully administered, the surety shall not be discharged until a successor has been appointed and qualified and receipted for the property administered.

SEC. 128. *Discharge.* Whenever any representative has paid or tendered to the persons entitled thereto all of the property in the estate, paid or tendered required to be paid by him and has filed proof thereof, and has complied with all the orders and decrees of the court and with the provisions of law relating thereto, otherwise fully discharged his trust, the court shall finally discharge him and his sureties. Whenever any bequest or devise to a testamentary trustee is made and the will contains no express waiver, the executor or administrator shall not be discharged until a trustee has qualified in a court of competent jurisdiction and until proof of such qualification and a receipt by the trustee have been filed. No executor or administrator who has received a judgment for death by wrongful act shall be discharged until he has filed a copy of the order, judgment or decree of distribution of the estate and such funds were recovered and vouchers from the persons entitled to the funds, or copies thereof certified by the clerk of such court.

SEC. 129. *Summary proceedings.* Whenever it is established that the value of a decedent, exclusive of the homestead and allowances to the spouse and minor children, does not exceed the amounts required for funeral expenses of last sickness, wages of servants during the last sickness, expenses of administration, debts having preference under the laws of the United States or this state, and taxes, the executor or administrator may by order of the court pay the same in the order named, and file his account with him for the settlement and allowance thereof. Thereupon the court, without notice, may adjust, correct, settle, allow or disallow such account, and if the account be allowed, summarily determine the heirs, legatees, devisees, and close the administration.

SEC. 130. *Unclaimed money.* If any part of the money on hand of an estate has been paid over because the person entitled thereto cannot be found, or he refuses to accept the same, or for any other good and sufficient reason, the court may order the executor or administrator to deposit the same with the county treasurer for the benefit of the common schools of the county: *Provided*, that if the person to whom said sum is ordered to be paid refuses to accept the same when it is tendered him by the executor or administrator, the court may, before or after the sum has been deposited, order the same to be paid or distributed to those who would be entitled thereto had the refusing legatee or distributee not been entitled to it. Upon application to the probate court within ten years after such deposit, and upon notice to the county treasurer and the county treasurer, the court may order the county treasurer to pay the same to the person entitled thereto. No interest shall be allowed on the same thereon, and if the deposit is not claimed within such time no recovery can be had.



## ARTICLE 13.—GUARDIANSHIP

SEC. 131. *Definition.* As used in this article, the term "incompetent person" includes insane person, lunatic, idiot, imbecile, distracted person, feeble-minded person, drug habitue, or an habitual drunkard, who is incapable of managing his person or estate.

SEC. 132. *Persons subject.* When it is necessary, the probate court shall appoint one or more persons suitable and competent to discharge the trust as guardians of the person or estate or both of any person who is a minor, or an incompetent person: *Provided*, Such person is a resident of the county, or, if a nonresident of this state has property in the county. No guardian of the person of any minor shall be appointed while proceedings for his care and custody are pending in any court of this state. Nothing herein contained shall abridge the power of any court to appoint a guardian *ad litem* to serve or protect the interest of any minor or incompetent person in any proceedings therein, nor abridge the rights of the father and mother, if suitable and competent, as the natural guardians of their minor children. When a person is of legal age by the laws of his domicile, but would, if domiciled here, be a minor under the laws of this state, a guardian of his estate may be appointed.

SEC. 133. *General provisions.* The father and mother are the natural guardians of the persons of their minor children. If either dies, or is incapable of acting, the natural guardianship devolves upon the other. The survivor may, by last will, appoint a guardian for any of the children, whether born at the time of making the will or afterwards, to continue during the minority of the child, or for a less time; and every such testamentary guardian shall have the same power and shall perform the same duties with regard to the person and estate of the ward, as natural guardians, subject to the provisions of the law. If without such will both parents be dead or disqualified to act as guardian, the probate court may appoint one. Although the parents are living and of sound mind, yet if the minor has property not derived from either of them, a guardian must be appointed to manage such property.

SEC. 134. *Guardian's duties.* A guardian shall be subject to the control and direction of the court at all times and in all things. A guardian of the person shall have charge of the person of the ward. A guardian of the estate shall (1) pay the reasonable charges for the support, maintenance and education of the ward in a manner suitable to his station in life and the value of the estate; but nothing herein contained shall release parents from obligations imposed by law as to the support, maintenance and education of their minor children; (2) pay all just and lawful debts of the ward and the reasonable charges incurred for the support, maintenance, and education of his wife and children, and upon order of the court for the support of any person unable to maintain a livelihood who is or may become legally entitled to support from the ward; (3) possess and manage the estate, collect all debts and claims in favor of the ward, or with the approval of the court compromise the same, and invest all funds, except such as may be currently needed for the debts and charges aforesaid and the management of the estate, in such securities as are proper for the investment of trust funds. Any person having a demand, other than in tort, against the estate of a ward, or against his guardian as such, may

present it to the probate court for determination, and upon proof thereof secure an order for its allowance and payment.

SEC. 135. *Original assets.* A guardian may retain, until maturity, security or investment which was a part of the trust estate as received even though such security or investment is not of the class considered proper for the investment of trust funds, unless circumstances are such as to require the guardian to dispose of such security or investment in the performance of his duties according to law. A guardian entitled to a distributive share of the assets of an estate or trust shall have the same right as other distributees or beneficiaries to accept or demand distribution in kind, and may retain security or investment so distributed to him as though it were a part of the original estate received by him.

SEC. 136. *Power to lease for three years.* A guardian of the estate may, subject to the approval of the court, lease for three years or less the real estate or use of any real estate of his ward whenever it appears to be for the best interest of the estate and the ward.

SEC. 137. *Sale, lease, or mortgage.* A guardian of the estate may, according to law to sell, lease for oil or gas or other minerals, or buy or lease for term of three years, or mortgage any real estate of a ward subject to the court's approval whenever the personal property is insufficient to pay his debts and charges against the estate, or to provide for the support, maintenance, education of the ward, his wife and children, or whenever it shall be determined that such sale, lease or mortgage is for the best interest of the ward.

SEC. 138. *Sale of inchoate right.* The guardian of the estate of a ward may, with or without notice, upon order of the probate court, sell, lease, mortgage, or lease any real estate, except the homestead, the title to which is in the other spouse: *Provided*, That no guardian's deed or other instrument executed by virtue of such order shall be valid unless the other spouse joins therein as one of the grantors thereof.

SEC. 139. *Extension of mortgage.* A guardian may, subject to the approval of the court, make an extension of an existing mortgage for a period of three years or less, if the extension agreement contains the same prepayment penalties and the rate of interest does not exceed the lowest rate in the market at the time extended.

SEC. 140. *No personal liability.* No guardian shall be liable personally for any mortgage note or by reason of the covenants in any instrument of conveyance duly executed by him in his representative capacity.

SEC. 141. *Accounting and settlement.* Except where expressly waived by the court, every guardian annually shall present a verified account covering the period from the date of appointment or the last account. At the termination of the guardianship, or upon the guardian's removal or resignation, his surety, or in the event of his death or disability, his representative or executor shall present a verified final account for the settlement and allowance of the guardian. Upon settlement of the final account, and upon delivery of the property to the person entitled thereto, the court shall discharge the guardian and his sureties.

SEC. 142. *Termination of guardianship.* A guardianship of a minor shall terminate upon his death or upon his attainment of legal age. The n

ward under guardianship as a minor only shall terminate the guardianship of the person, but not of his estate unless by such marriage the rights of marriage are thereby conferred. The guardianship of a ward, other than a minor, shall terminate upon his death or upon his restoration to capacity. Whenever there is no further need of any guardianship the court may terminate it.

c. 143. *Estate less than five hundred dollars.* If the estate of a ward is less than five hundred dollars, and the ward be a minor, the court may in its discretion, without the appointment of a guardian, or the giving of bond, authorize the deposit thereof in a savings bank, payable to the legal guardian appointed or to the ward upon his attaining the age of majority; or the court may authorize the payment or delivery thereof to the natural guardian of the minor, or to the person by whom the minor is maintained, or to the ward himself.

c. 144. *Living trusts for persons subject to guardianship.* The same proceedings may be had with reference to trustees of trusts created by written instrument, other than by will, in favor of persons subject to guardianship, as may be had relative to guardians of the estates of such persons; and such trustees shall be subject to the provisions of law relative to guardians.

#### ARTICLE 14.—ESTATES OF CONVICTS

c. 145. *Appointment of trustee.* The probate court may appoint a trustee of the estate of any person imprisoned in the penitentiary to take charge of and manage his property. Whenever any person shall be imprisoned under a sentence of imprisonment for life, his property shall be administered as if he were naturally dead. Upon the completion of the administration the residue of the property, if any, shall be paid and delivered to the trustee of his estate.

c. 146. *Provisions applicable thereto.* The provisions relating to the estates of incompetents, guardians thereof, and their powers, duties, and liabilities in connection therewith shall govern in the estates of imprisoned convicts, trustees thereof, and their powers, duties, and liabilities in connection therewith. Upon the death of the imprisoned convict or his lawful discharge from his imprisonment, the trustee shall settle his accounts as required of a guardian upon the death or restoration of an incompetent person.

#### ARTICLE 15.—TESTAMENTARY TRUSTS

c. 147. *Testamentary trusts.* Every trustee to whom any property shall be devised or bequeathed in trust for, or in whom as trustee any trust shall be created in any manner in favor of or for the benefit of another person by the will of a decedent, or who may be appointed by any probate court to execute the provisions of any will which creates a trust without naming a trustee, shall give effect to the same as provided by law in the probate court having jurisdiction of the probate of the will.

c. 148. *Duties.* (1) Such trustee shall make and return to the probate court within such time as the court shall direct, a true inventory of all the property so devised or bequeathed. (2) He shall annually render an account of the trust estate in his hands, of the management, disposition, and annual income thereof, unless excused by the court. (3) He shall faithfully execute the trust under the direction of the court according to the true intent and

meaning thereof. (4) He shall adjust and settle his accounts with such person at the expiration of his trust and pay and deliver to the person entitled to all balances in money or property in his possession and for which he is acting as trustee.

SEC. 149. *When trust declined.* Any person appointed trustee by will who shall refuse to give the bond required or neglect to do so for twenty days after receiving notice that such bond is required shall be deemed to have declined such trust.

SEC. 150. *Refusal to act.* If any trustee appointed in any will not containing a provision for perpetuating the trust shall refuse to accept the same, shall resign, be removed or die, or if a trust be created by the will of a person who shall be therein named to execute such trust, a trustee may be appointed by the probate court, after notice to the persons interested in such trust. Every trustee so appointed by the court shall be bound by the provisions of this article in the same manner and to the same extent as though appointed by will, and the estate so given in trust shall vest in such trustee in like manner, to all intents and purposes, as the same vested in the original trustee named in such will, and he may demand, sue for and recover from any person holding the same any and all property belonging to such trust.

SEC. 151. *Resignation.* Any trustee so appointed by will or by the court may, upon a request in writing, be permitted to resign the trust if the court shall think it expedient.

SEC. 152. *Removal.* Any trustee who shall become disqualified by infancy or incapacity, or who shall be evidently unsuitable to perform his duties as such trustee, or who shall neglect or refuse to comply with the provisions of this article shall be removed by the court after notice to such trustee and to other parties interested.

SEC. 153. *Powers.* The probate court, on application of any such person or any person interested, may, after notice to all parties in interest, authorize and require such trustee to sell any property so held in trust in such manner as the court may direct and to invest the proceeds of such sale in such manner as will be most for the interest of all concerned therein; and such court may from time to time make such orders and decrees as it may deem just and reasonable in relation to the sale, management, investment and disposition of such trust property and to the settlement of the accounts of such trustee, but no such order shall be made in violation of the terms of the trust.

SEC. 154. *Accounting.* Upon rendering any account to the court of his trusteeship, the testamentary trustee shall produce for examination before the court, all securities, evidences of deposits, and investments reported by him, which shall be described in such account in sufficient detail so that the same may be readily identified, and the court shall ascertain whether such securities, evidences of deposits, and investments correspond with such account.

SEC. 155. *Trusts created by foreign will.* Trusts created by the will of a nonresident decedent relating to real estate situated in this state shall be executed and administered in the same manner as trusts created by the will of a resident decedent.

## ARTICLE 16.—COMMITMENT AND CARE OF INSANE PERSONS

c. 156. *Definitions.* As used in this article, unless the context otherwise indicates: (1) The term "insane person" means any person who is so far deranged in his mind as to endanger health, person or property; or any person who is so far disordered in his mind as to render him a proper person for care and treatment in a hospital for insanity or mental diseases: *Provided*, That no person idiotic from birth or whose mental development was retarded prior to the age of puberty, and no person afflicted with simple epilepsy shall be regarded as insane, unless the manifestations thereof are such as to endanger health, person, or property. (2) The word "patient" means any person for whose commitment as an insane person proceedings have been instituted or completed. (3) The term "state hospital" includes the Topeka state hospital for the insane, the Osawatimie state hospital for the insane, the Larned state hospital for the insane, the Parsons state hospital for epileptics, and the Winfield state training school.

c. 157. *Temporary detention.* No person who has not been adjudged insane shall by reason of his insanity be restrained of his liberty: *Provided*, that he may be temporarily detained for a reasonable time, not exceeding ten days, pending a judicial determination of his mental condition.

c. 158. *Admission to hospital.* Any person adjudged to be insane may be committed to a state hospital. In case of commitment the probate court shall make an application in the manner prescribed by the state board of administration for the admission of the patient to a state hospital and shall furnish the board with a transcript of the proceedings. The state board shall determine whether the patient shall be admitted and, in case of admission, shall designate the hospital to which admission shall be made. Thereupon the court shall issue to the sheriff or any other person a warrant in duplicate committing the patient to the custody of the superintendent of the proper state hospital. The probate court, at the time of the inquest, shall inquire into the pecuniary condition of the patient and those bound by law to support him, and shall transmit to the superintendent a statement showing the assets and liabilities of the patient and of those bound by law to support him. Every patient committed shall be designated as either a private or county patient.

c. 159. *Release before commitment.* Before the delivery of the warrant of commitment, the court may release an insane patient to any person who shall give a bond to the state in such amount as the court may direct, conditioned upon the care and safekeeping of the patient; but no person against whom a criminal proceeding is pending, or who is dangerous to the public, shall be so released.

c. 160. *Detention.* Upon delivery of an insane patient to the state hospital to which he has been committed, the superintendent thereof shall file the duplicate warrant and endorse his receipt upon the original which shall be filed in the court of commitment. After such delivery, the patient shall be under the care, custody, and control of the board of administration or be discharged by it or by a court of competent jurisdiction. Whenever a patient is paroled, discharged, transferred to another institution, dies, escapes,

or is returned, the hospital having charge of the patient shall file notice in the probate court of the patient's residence. Whenever a patient in hospital is duly adjudged not to be insane he shall be discharged therefrom.

SEC. 161. *Duty to support.* The following shall be bound by law to support persons adjudged to be insane: spouses, parents, and children. The maintenance, care, and treatment of such person shall be paid by the guardian of his estate, or by any person bound by law to support him, or by the county. In case of payment by the county it may recover the amount paid from the estate of such person or from any person bound by law to support such person. The state may recover the sum of five dollars per week, to be applied to the maintenance, care, and treatment of a patient in a state hospital, from the estate of such person, or from any person bound by law to support such person: *Provided*, If no proceeding is instituted or claim filed for such compensation within one year after the date of the patient's death, the real estate of the decedent shall be free from any lien on account thereof.

SEC. 162. *Discharge.* Authority to discharge patients from state hospital for the insane is vested in the board of administration, but may be delegated to the superintendent, under such regulations as the board may adopt. Discharge charges may be made for any of the following reasons: (1) The patient is no longer insane. (2) He has been restored to capacity. (3) He is capable of caring for himself. (4) Friends of the patient request his discharge and in the judgment of the superintendent no evil consequences are likely to follow his discharge. (5) There is no prospect of further improvement and the room occupied by him is needed for others. Authority is also vested in the board to discharge patients on parole. No patient who is violent, dangerous or unusually filthy or filthy shall be released or returned to any county not provided with suitable facilities for the proper care of the patient. No patient who has not been restored to capacity, or who is charged with a criminal offense, shall be released until at least ten days after notice that he is to be released has been transmitted to the probate court of patient's residence. The probate court on receipt of such information shall transmit the information to the county attorney.

SEC. 163. *Criminal prosecutions.* Whenever it appears in a court of law that a defendant in a criminal proceeding is insane, the court may suspend the trial and refer the defendant to the probate court of the county for examination under the provisions of this act. Whenever a defendant in a criminal proceeding has been examined in the probate court, pursuant to an order of a court of law, the probate court shall transmit its findings and return the defendant to the court of law, unless otherwise ordered.

SEC. 164. *Penalty for unlawful acts.* Whoever for a corrupt consideration or advantage, or through malice, shall make or join in making, or aid in the making of any false petition, report, or verdict, or shall knowingly or recklessly make any false representation for the purpose of causing such petition, report, or verdict to be made, shall be guilty of a misdemeanor, and punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year.

## ARTICLE 17.—ADOPTION OF CHILDREN

sec. 165. *Who may adopt.* Any adult resident of the state may adopt a child in the manner herein provided; but one spouse cannot without the consent of the other adopt a minor child.

sec. 166. *Written consents required.* Before any minor child is adopted, consents must be given to such adoptions: (1) By the child sought to be adopted if the child is over fourteen years of age. (2) By the living parents of the child or by the mother of an illegitimate child except as hereinafter provided. (3) By one of the parents if the other has failed to support the child for two consecutive years or is incapable of giving such consent. (4) By the parent or person awarded the custody of the child during minority by a court decree. (5) By the parent or person awarded the custody of the child during minority by reason of dependence or by reason of the unfitness of the child or both parents. (6) By the legal guardian of the person of the child if the parents are dead or have failed to support the child for two consecutive years. (7) By the proper authority of any charitable institution or agency established or authorized by the laws of this state to care for children when such institution or agency has acquired custody and legal control of the child during minority. All such consents shall be in writing, acknowledged to have been freely and voluntarily made, and shall be duly witnessed.

sec. 167. *Effect of adoption.* Any child adopted as herein provided shall have the surname of the person by whom the child is adopted, and shall be entitled to the same rights of person and property as a child of the person adopting the child. The person so adopting such child shall be entitled to exercise all the rights of a parent and be subject to all the liabilities of that position.

sec. 168. The probate court shall report the adoption to the state registrar for vital statistics.

## ARTICLE 18.—PROBATE PROCEDURE

## A. PLEADINGS

sec. 169. *Pleading.* Every application in a probate proceeding, unless made by agreement, hearing or trial, shall be by petition signed and verified by or on behalf of the petitioner. No defect in form shall impair substantial rights; and no defect in the statement of jurisdictional facts actually existing shall invalidate any proceedings.

sec. 170. *Petition.* Every petition in a probate proceeding shall state: (1) the name, residence, and address of the petitioner; (2) the interest of the petitioner and his right to apply to the court; (3) the jurisdictional facts; (4) the facts, in ordinary and concise language, showing that the petitioner is entitled to the relief sought; and (5) a prayer for relief.

sec. 171. *Petition for Administration.* A petition for administration shall state: (1) the name, residence, and date and place of death, of the decedent; (2) the names, ages, residences, and addresses of the heirs of the decedent so far as known or can with reasonable diligence be ascertained; (3) the general character and probable value of the real and personal property; (4) and (5) the name, residence and address of the person for whom letters are prayed.

SEC. 172. *Petition for probate of will.* A petition for the probate of a will shall, in addition to the requirements of a petition for administration, shall state: (1) the names, ages, residences, and addresses of the devisees and legatees, as far as known or can with reasonable diligence be ascertained; and (2) the name, residence, and address of the person, if any, named as executor. A petition for the probate of a lost or destroyed will shall contain a statement of the facts in support of the will.

SEC. 173. *Petition for guardianship.* A petition for the appointment of a guardian shall state: (1) the name, residence, and address of the person for whom a guardian is sought; (2) the date and place of his birth; (3) if the person is a minor, the names, residences, and address of his parents, or if they are dead or have abandoned the minor, the names, residences, and addresses of his custodians and of any person named as testamentary guardian; (4) if the person is unmarried and not a minor, the names, residences, and addresses of his nearest kindred; (5) if he be married, the name, residence, and address of his spouse; (6) the reasons for the guardianship; (7) the general character of the property; (8) the probable value of his real and personal property; (9) whether the appointment is for his person or estate, or both; and (10) the names, residences, and addresses of the proposed guardians.

#### B. PARTIES

SEC. 174. *Who may petition for probate or administration.* Any person interested in the estate, at any time after the death of the testator or intestate, may petition for the probate of his will or for administration.

SEC. 175. *Who may petition for guardianship.* Any person may petition for the appointment of a guardian for the person or estate of any person who is to be subject to guardianship: *Provided*, That the petition of any person claiming priority shall have priority in the order named over that of any other person: (1) a minor over the age of fourteen years, if of sound intellect; (2) a person of sound mind; and (3) testamentary guardians.

#### C. PROBATE PROCEEDINGS

SEC. 176. *Commencement of proceeding.* A probate proceeding shall be commenced in the probate court by filing a petition and causing it to be set for hearing. When a petition is filed the court shall fix the time and place for the hearing thereof. When a petition is filed for the appointment of a representative, the court may appoint the proposed representative or some other suitable person, with or without bond, to conserve the estate until a hearing is had and a representative is appointed.

SEC. 177. *Guardian ad litem.* The court may appoint a guardian ad litem in a probate proceeding to represent and defend a party thereto who is under disability.

SEC. 178. *No abatement.* No probate proceedings commenced by a representative shall abate by reason of the termination of his authority.

SEC. 179. *Filing proceedings in other county.* A duly certified copy of a probate proceeding in this state may be filed and recorded in the probate court of any other county of the state, and when so filed shall have the same effect in such other county as in the county of origin.



180. *Venue.* Proceedings for the probate of a will or for administration shall be had in the county of the legal residence of the decedent at the time of his death; if the decedent was not a resident of this state, proceedings shall be had in any county wherein he left any estate to be administered. Proceedings for the appointment of a guardian of the person may be had in the county of the ward's residence or where he may be found. Proceedings for the appointment of a guardian of his estate shall be had in the county of the ward's residence; if he be a nonresident of this state, proceedings may be had in any county in which any of his property is situated. Such proceedings first commenced shall extend to all of the property of the decedent or ward in this state. If proceedings are instituted in more than one county, they shall continue except in the county where first commenced until final determination of venue. If the proper venue be determined to be in another county, the clerk, after making and retaining a true copy of the entire file, shall transmit the original to the proper county.

#### D. NOTICE

181. *Notice fixed by court.* When notice of any probate proceedings required by law or deemed necessary by the court and the manner of giving notice shall not be directed by law the court shall order notice to be given to persons interested in such manner and for such length of time as it shall deem reasonable. Any required notice may be waived in writing by any competent person or by any representative or trustee.

182. *Notice by publication and mailing.* When notice of hearing is required by any provision of this act by specific reference to this section, such notice shall be published once a week for three consecutive weeks in some newspaper of the county authorized by law to publish legal notices. The first publication shall be had within ten days after the order fixing the time and place of the hearing; and within three days after the first published notice the clerk shall mail or cause to be mailed a copy of the notice to each heir, devisee, and legatee whose name and address are known to him.

183. *Form of notice.* Notice of any hearing, if such is required, shall be in substantially the following form:

County of Kansas,.....County, ss. In the probate court of said county and state. In the matter of the estate of (name of decedent or person whose disability, with a specific designation which it is). Notice of Hearing. State of Kansas to (names of persons to whom notice is given), and all persons concerned.

You are hereby notified that a petition has been filed in said court by (name of petitioner and capacity in which he appears), praying for (state nature of relief and the nature of the judgment, order or other relief sought), and you are hereby required to file your written defenses thereto on or before the..... day of....., 19....., at.....o'clock.....M. of said day, in said court, at which time and place said cause will be heard. Should you fail therein, judgment by default decree will be entered in due course upon said petition. Witness my hand and seal of said city of.....in said county and state this.....day of.....,19.....

.....Petitioner.

184. *Proof of service.* Proof by affidavit of service in all cases requiring publication, mailing, or otherwise, shall be filed before the hearing. No defect in any notice nor in the service thereof, not affecting substantial rights of the parties, shall invalidate any proceedings after such notice and the proof of service thereof shall have been approved by the court.

SEC. 185. *Notice for probate or administration.* When a petition for probate of a will or for administration is filed, the court shall fix the place for the hearing thereof, notice of which shall be given pursuant to section 182 unless the court shall make an order to the contrary. If no order of the court not required to be given pursuant to section 182, shall order notice thereof to be given, unless waived, by personal service upon persons interested as heirs, devisees, and legatees at least ten days before the date of hearing. When the state is a proper party the notice shall be given upon the attorney general and the county attorney of the county.

SEC. 186. *Waiver of notice.* When a petition is filed for the probate of a will or for administration, if all the parties interested as heirs, devisees, and legatees enter their appearance in writing, waive the notice otherwise required, and consent to an immediate hearing, a hearing may in the discretion of the court be had as if notice had been given.

SEC. 187. *Notice for guardianship.* If a petition for guardianship of the person is filed by the person for whom a guardian is sought, or by a parent, custodian, or testamentary guardian, the court may hear the same with or without notice. In all other cases, personal service shall be made upon the ward. If the ward is a spouse, custodian, testamentary, natural guardian, notice shall be given to the persons and to such of the nearest kindred and in such manner as the court may direct. If he be an inmate of any hospital notice by mail shall be given to the superintendent thereof. If he be a nonresident, notice shall be given in the manner otherwise provided in this act.

#### E. HEARINGS AND EVIDENCE

SEC. 188. *Hearings and rules of evidence.* Trials and hearings in probate proceedings shall be by the court unless otherwise provided by law. The termination of any issue of fact or controverted matter on the hearing in a probate proceeding shall be in accordance with the rules of evidence applicable in civil cases by the code of civil procedure.

SEC. 189. *No default judgment.* No default judgment or decree shall be rendered in a probate proceeding; and no final order, judgment, or decree shall be vacated, or modified after the expiration of three months from the rendition thereof, except for fraud.

SEC. 190. *Hearing for probate of will.* On the hearing of a petition for probate of a will at least two of the subscribing witnesses shall be examined if they are within the state and competent and able to testify. Other witnesses may be admitted to prove the capacity of the testator at the time of the execution of the will, and the due execution of the will; and as evidence of such facts the court may admit proof of the handwriting of the testator and of the signatures of the witnesses. Any heir, devisee, or legatee may prosecute or oppose the probate of any will. If the instrument is not allowed as the last will and if it should be administered, the court shall grant administration to the persons entitled thereto.

SEC. 191. *Oral will.* No oral will shall be admitted to probate unless it has been presented for probate within six months after the death of the testator.

SEC. 192. *Hearing on will in opposition.* If, after a petition for probate of a will has been filed, another instrument in writing purporting to be a

or codicil shall be presented, proceedings shall be had for the probate of and thereupon the hearing on the petition theretofore filed shall be turned to the time fixed for the hearing of the subsequent petition. At the time proof shall be had upon all of such wills, codicils, and all matters arising thereto, and the court shall determine which of such instruments, if any, should be allowed as the last will.

193. *Will presented after probate of will.* If, after a will has been admitted to probate, a later instrument in writing purporting to be the last will of the decedent shall be presented, proceedings shall be had for the probate thereof, and notice of the hearing thereof shall be given to the devisees and legatees named in the will admitted to probate in addition to the heirs, and the devisees and legatees named in the will or codicil presented for probate. If the court admits the later will or codicil to probate, the order so admitting such will shall operate as a revocation of the order admitting the earlier will to probate so far as is necessary to give effect to the later will or codicil.

194. *Granting of letters.* Upon the admission of the will to probate, the court shall appoint an executor or administrator with will annexed and the amount of his bond as required by law, if such be required. If any person appointed does not qualify within ten days, the court may with or without cause grant letters to another or others. Upon the filing of the oath and bond required by law, letters shall issue.

195. *Hearing for probate of lost will.* No lost or destroyed will shall be established unless it is proved to have remained unrevoked nor unless its contents are clearly and distinctly proved. When such will is established the contents thereof shall be distinctly stated, certified by the court, and filed and recorded. Letters shall issue thereon as in the case of other wills.

196. *Petition for admission of foreign probated will.* When a copy of a will executed outside this state and the probate thereof, duly authenticated, shall be presented by the executor or any other person interested in the will, and a petition for the probate thereof, the court shall fix the time and place for the hearing of the petition, notice of which shall be given pursuant to section 1.

197. *Hearing for admission of foreign probated will.* If, upon the hearing, it appears to the satisfaction of the court that the will has been duly executed and admitted to probate outside this state, and that it was executed in conformity to the law of the place in which it was made, or in which the decedent was at the time domiciled, or in conformity with the laws of this state, the will shall be admitted to probate, which probate shall have the same force and effect as the original probate of a domestic will.

198. *Record of order setting aside foreign will.* If such will shall later be set aside according to the law of the place where it was originally proved, a duly authenticated copy of the final decree setting aside the will may be admitted to record in this state in the same manner and effect as the authenticated copy of said will was admitted to probate, and when so admitted to record shall have the same force and effect as a like will as to a domestic will.

199. *Hearing for administration.* On the hearing of a petition for administration and proof thereof, the court shall appoint an administrator and

fix the amount of his bond, as required by law. If the person appointed neglects for ten days after written notice of such appointment, served as the court may direct, to file the oath and bond required by law, such neglect shall be deemed a refusal to serve and the court, with or without notice, may appoint such other person or persons as may be entitled to administer such estate.

#### F. ELECTION AND SELECTION

**SEC. 200. *Election.*** When a will is admitted to probate the court shall forthwith transmit to the surviving spouse a certified copy thereof. If the surviving spouse shall be deemed to have renounced and refused to elect to take under the will unless he shall have filed in the probate court an instrument in writing to accept the provisions of such will after the expiration of one month from the date of the probate of the will. For good cause shown the court may permit an election within such further time as the court may determine.

**SEC. 201. *Election in case of incapacity.*** If the surviving spouse is insane or incapacitated to act by reason of mental disability, it shall be the duty of the court to appoint some competent person as commissioner to ascertain the value of the provision made by will in lieu of the value of the estate secured by statute and the value of the rights secured by the will. The commissioner shall make his report to the court in writing verified by affidavit. Thereupon the court shall make such election for such spouse as is more valuable or advantageous to the spouse, which election shall be deemed as effectual as if made by the spouse when fully competent.

**SEC. 202. *Selection of homestead and allowances.*** After the inventory and appraisement have been filed, the surviving spouse, or in case there is no surviving spouse, the children may petition the court to set apart the homestead, and the personal property allowed in section 18. The petition of minor children shall be by their guardian or next friend. Such petition shall show the names of the parties and relationship of the parties, a description of the homestead claimed, the personal property selected, and the appraised value thereof. The court may be heard with or without notice. Upon proof of the petition, the court shall set apart such homestead and personal property. The property so set apart shall be delivered by the executor or administrator to the person entitled thereto, and shall not be treated as assets in his hands, but the value thereof to the homestead shall be included in the final decree of distribution.

#### G. DEMANDS OF CREDITORS

**SEC. 203. *Notice to creditors.*** The notice of appointment to be given by an executor or administrator shall be to the creditors, heirs, devisees, and all others concerned. It shall state the date of appointment, the qualifications of the executor or administrator, and shall notify the creditors to exhibit their demands against the estate within nine months from the date of the first published notice provided by law, and that if their demands be not thus exhibited they shall be forever barred.

**SEC. 204. *Exhibition of demands and hearing thereon.*** Any person claiming a demand against the estate of a decedent by filing his petition shall be allowed an allowance in the proper probate court. The petition shall contain a statement of all effects to which the estate is entitled. The court shall from time

deems advisable, and must at the request of the executor or administrator, at the request of any creditor having exhibited his demand, fix the time and place for the hearing of such demands, notice of which shall be given. In the adjudication of any demand, the court shall enter its judgment allowing or disallowing it. Such judgment shall show the date of adjudication, the amount allowed, and the amount disallowed. Judgment relating to contingent demands shall state the nature of the contingency.

EC. 205. *Exhibition by revivor or action.* Any action pending against any person at the time of his death, which by law survives against the executor or administrator, shall be considered a demand legally exhibited against such estate from the time such action shall be revived. Any action commenced against such executor or administrator after the death of the decedent shall be considered a demand legally exhibited against such estate from the time of filing the original process on such executor or administrator. The judgment-ditor shall file a certified copy of the judgment in the proper probate court within thirty days after said judgment becomes final.

EC. 206. *Nonclaim statute.* All demands against a decedent's estate, whether due or to become due, whether absolute or contingent, including any demand arising from or out of any statutory liability of decedent or on account of or arising from any liability as surety, guarantor, or indemnitor, not extended as required by this act within nine months after the date of the first published notice to creditors as herein provided, shall be forever barred from payment: *Provided:* (1) The provisions of the testator's will requiring the payment of a demand exhibited later shall control; and (2) no creditor shall have any claim against or lien upon the real property of a decedent, other than a lien of record prior to his death, unless an executor or administrator of the estate has been appointed, or such creditor shall have filed his claim in the probate court, within one year after the death of the decedent.

EC. 207. *Demands not due.* The court may allow demands, which are payable at a future day, at the then present value thereof, or the court may order the executor or administrator to retain in his hands sufficient funds to satisfy the same upon maturity; or if the heirs, devisees, or legatees offer to give bond to a creditor for the payment of his demand according to the terms thereof, the court may order such bond to be given in satisfaction of such demand.

EC. 208. *Hearing on contingent demands.* Contingent claims or demands against an estate shall be heard and determined by the court in accord with the rights of the parties respecting such claims and in such manner as not to delay the closing of the estate, if that can be done with justice to the parties.

EC. 209. *Secured demands.* When a claimant holds any security for his claim, it may be allowed, conditioned upon the claimant surrendering the security or exhausting the security; it shall be allowed for the full amount found to be due if the security has been surrendered, or for any remaining amount not to be due if the security has been exhausted.

EC. 210. *Encumbered assets.* When any assets of the estate are encumbered by mortgage, pledge, or otherwise, the executor or administrator may satisfy such encumbrance or any part thereof, whether or not the holder of the encumbrance has filed a claim, if it appears to be for the best interest of the

estate and if the court, with or without notice, shall have so ordered, such payment shall increase the share of the devisee, legatee, or heir to receive such encumbered assets, unless otherwise provided in the will.

SEC. 211. *Continuation of business.* Upon a showing of advantage to the estate the court, with or without notice, may authorize a representative to continue and operate any business of a decedent or ward for the benefit of the estate, under such conditions, restrictions, regulations and requirements as the court may determine. No debts incurred or contracts entered into shall involve the estate beyond the assets used in such business immediately prior to the death of the decedent or the appointment of a guardian for the estate of the ward.

#### H. PERSONAL PROPERTY

SEC. 212. *Sale of personal property.* A petition for the sale of the personal property of a decedent may be heard with or without notice. The petition shall describe the property, and direct whether it shall be sold at private sale or public auction. No sale of personal property shall be made at private sale for less than three fourths the appraised value.

SEC. 213. *Notice of sale at public auction.* In all sales at public auction the executor or administrator shall give notice containing a description of the property to be sold, and stating the time, terms, and place of sale by advertisement for ten days in some newspaper, authorized to publish legal notices in the county where the sale is to be had.

SEC. 214. *Credit may be given.* In all sales of personal property, the court may authorize credit to be given by the executor or administrator not exceeding one year from the date of his appointment and qualification. When credit is given, notes or bonds with approved sureties shall be taken from the executor or administrator.

SEC. 215. *Report of sale.* Within thirty days after any public sale of personal property the executor or administrator shall make due report thereof verified by his affidavit to the probate court. Such report shall include proof of proper notice of such sale, if at public auction, and, if a clerk employed for such sale, shall be accompanied by a sale bill signed by the clerk.

#### I. SETTLEMENT AND DETERMINATION OF DESCENT

SEC. 216. *Partial distribution.* A partial distribution of an estate may be made before final settlement, in the manner and upon the notice provided for final distribution. A decree of partial distribution shall be final as to the persons entitled to such distribution and as to their proportions of the estate, unless such decree includes only specific bequests.

SEC. 217. *Petition and notice of final settlement.* The petition of the executor or an administrator for a final settlement and accounting, and the notice of termination of the persons entitled to the estate of a decedent, shall, in addition to other requirements, contain: (1) a statement of the account; (2) names, residences, and addresses of the heirs, devisees, and legatees; (3) a description of the real estate and the interest of the decedent therein at the time of his death; and (4) the nature and character of the respective claims of the heirs, devisees, and legatees of the decedent. Notice of the settlement thereof shall be given pursuant to section 182.

218. *Hearing and decree.* On the hearing, unless otherwise ordered the executor or administrator shall, and other persons may, be examined relative to the account and the distribution of the estate. All questions as to advancements made, or alleged to have been made, by the intestate to any heir shall be ascertained and determined by the court at the time of settlement, and every advancement shall be specified in the decree distributing and assigning the estate. For the purpose of determining what proportion any one who has received an advancement is entitled to, the court shall ascertain the value of the entire residue of such estate, by ordering an appraisal or in such other manner as it may deem best. If all the taxes payable by the estate have been paid so far as there are funds to pay them and the account is correct, it shall be settled and allowed; if the account is incorrect, it shall be corrected and then settled and allowed. Upon such settlement and allowance the court shall name the heirs, devisees, and legatees entitled to the estate and assign the same to them by its decree. The decree shall name the heirs, devisees, and legatees, describe the property, and state the proportion or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all of the heirs be ascertained. No final decree shall be entered until after the determination and payment of estate and inheritance taxes.

219. *Opening judgment.* A party against whom a judgment or decree has been rendered in proceedings to determine the persons entitled to the real estate of a decedent, without other service than publication in a newspaper, may at any time within one year after the date of the judgment or decree have the same opened or set aside and be let in to defend. Before such judgment or decree shall be opened or set aside the respondent shall give notice to the petitioner of his intention to make such application, and shall file a full answer to the petition or other pleading, pay all costs of such proceeding if the court require them to be paid, and shall make it appear to the satisfaction of the court, by affidavit, that during the pendency of the proceeding he had no notice thereof in time to appear in court and make his defense; but the judgment on any property, the subject of the judgment or decree sought to be opened or set aside, which in consequence of said judgment or decree shall have been passed to a purchaser in good faith, shall not, after the expiration of six months, be affected by any proceedings under this section. The adverse party, on the hearing of an application to open or set aside such judgment or decree provided by this section, shall be allowed to present counter affidavits to show that during the pendency of such proceeding the respondent had notice thereof in time to appear in court and make his defense.

#### J. SALE, LEASE AND MORTGAGE OF REALTY

220. *Definitions.* As used in this article, the word "lease" unless the context otherwise indicates, means a lease for more than three years, or an oil lease or other mineral lease; the word "mortgage" includes an extension of an existing mortgage, subject to the provisions of section 139.

221. *Lease for three years or less.* A petition for the lease of the real estate of a decedent, or of a ward for a term of three years or less, may be filed with or without notice. The court may direct the representative to execute the lease whenever it appears to be for the best interest of the estate or the persons interested in such real estate.

SEC. 222. *Petition.* (1) An executor or administrator may file a petition to sell real estate of a decedent. The petition shall state the facts constituting the reasons for the application and describe the real estate to be sold. It may include all the real estate of the decedent subject to sale or any part thereof. (2) A guardian may file a petition to sell, lease, or mortgage the real estate of a ward. The petition shall state the facts constituting the reasons for the application and describe the real estate to be sold, leased, or mortgaged. It may include all the real estate of the ward subject to sale, lease, mortgage, or any part or parts thereof. It may apply in that alternative for authority to sell, lease, or mortgage.

SEC. 223. *Notice and hearing.* Notice of the hearing shall briefly state the nature of the application made by the petition and shall be given pursuant to section 182. At the hearing and upon proof of the petition, the court shall give full power to order the sale, lease, or mortgage of all the real estate described in the petition, or to order the sale, lease, or mortgage of one or more parts thereof: *Provided*, That such order shall be within the terms of the application made by the petition. The probate court, with the consent of the mortgagee, may order the sale of real estate subject to mortgage, but such consent shall not release the estate of the decedent or ward, should a deficit later appear.

SEC. 224. *Order.* (1) In all cases the order shall describe the real estate to be sold, leased, or mortgaged, and may designate the sequence in which several tracts shall be sold, leased, or mortgaged, subject to the provisions of this act. (2) An order for sale shall direct whether the real estate shall be sold at private sale or public auction. If at private sale it shall direct that the real estate shall not be sold for less than three fourths of the appraised value. If at public auction it shall direct the place or places of sale. It shall direct whether the sale be for cash, for cash and deferred payments, or deferred payments. *Provided*, That in decedent's estates the payment shall not be deferred for more than one year from the date of the appointment and qualification of the executor or administrator making the sale. In all cases the order shall specify the time of payment, the interest on deferred payments, and the manner in which the payments shall be secured. (3) An order to lease shall specify the terms of the lease, and that it shall not be made for less than three fourths of the appraised value of the leasehold interest. The order shall direct whether the lease be for cash, for cash and deferred payments, or deferred payments. It shall specify the time of payment, the interest on deferred payments, and the manner in which the payments shall be secured. (4) An order to mortgage shall fix the maximum amount of principal, the maximum rate of interest, the earliest and latest date of maturity, and shall direct the purpose for which the proceeds shall be used. (5) An order for sale, lease, or mortgage shall remain in force until terminated by the court, but no private sale or lease shall be made after one year from the date of the order unless the real estate or leasehold interest therein shall have been reappraised under order of the court within three months preceding the sale or lease.

SEC. 225. *Additional bond.* The court may require any representative to give an additional bond before such sale, lease, or mortgage, or before the hearing thereon, to give an additional bond to secure the further assets arising from the sale, lease, or mortgage of such real estate.



cc. 226. *Appraisement.* Before any representative shall sell any real estate at private sale he shall have it appraised by three disinterested persons appointed by the court and of the county in which at least part of it lies. Before he shall lease any real estate, he shall in like manner have the leasehold interest therein appraised. The appraisers shall appraise the said real estate, leasehold interest therein, as the case may be, at its full and fair value, and shall deliver such appraisement certified by them under oath to the representative.

cc. 227. *Sale at public auction.* In all sales at public auction the representative shall give notice thereof containing a particular description of the real estate to be sold, and by stating the time, terms and place of sale, by advertisement at least three weeks in some newspaper, authorized to publish notices, of the county in which the real estate is situated. If the tracts to be sold are contiguous and lie in more than one county, notice may be given in any one of the counties. The sale may be made in either of such counties.

cc. 228. *Report and confirmation.* (1) The representative shall make a written report of his proceedings to the court, with the certificate of appraisement in case of appraisement is required, proof of publication in case sale is made at public auction, which report shall state that he did not directly or indirectly acquire any beneficial interest in the said real estate, or the lease thereof, or mortgage thereof, as the case may be, and that he is not interested in the real estate sold, leased, or mortgaged, except as stated in his report. (2) The court, after having duly examined the report and being satisfied that the sale, lease, or mortgage has been in all respects made in conformity to law and order, shall confirm the same and order the representative to execute a deed, lease, or mortgage to the person entitled thereto. The instrument shall refer to the order for sale, lease, or mortgage by its date, and the instrument by which it was made, and shall transfer to the grantee, lessee, or mortgagee all the right, title, and interest of the decedent or ward in the premises granted by the instrument, discharged from liability for his debts, except encumbrances assumed.

cc. 229. *Specific performance.* Upon the filing of a petition by any person claiming to be entitled to a conveyance from a decedent or ward bound by contract to make a conveyance, or by the representative, or by any person interested in the estate or claiming an interest in such real estate or contract, setting forth a description of the real estate and the facts upon which such claim for conveyance is based, the court shall fix the time and place for the hearing thereof, upon such notice as provided by section 13. Upon proof of the petition, the court may order the representative to execute and deliver a deed of conveyance upon performance of the contract.

cc. 230. *Title of purchaser.* The deed or other instrument of the representative executed pursuant to section 54 or section 55 shall be received in all cases as presumptive evidence that the representative in all respects observed the directions and complied with the requisites of law, and shall vest title to the real estate granted in the party receiving the same in like manner as if conveyed by the decedent in his lifetime or conveyed, leased, or mortgaged by the representative as if of full age and sound mind.

cc. 231. *Real estate commission.* The court may in its discretion, after

notice to all parties in interest, allow a real estate commission, but such allowance shall be passed upon by the court prior to the sale.

SEC. 232. *Payment of title documents.* The court shall have authority to allow payment for certificate or abstract of title or policy of title insurance in connection with the sale of any real estate.

#### K. ESTATES OF ABSENTEES

SEC. 233. *Appointment of trustee.* When any person having an interest in any property in this state disappears and is absent from his last place of residence without being heard of after diligent inquiry, and the necessity for the appointment of a trustee appears, the probate court may determine the date the absentee was last heard of and appoint a trustee to take charge of the property.

SEC. 234. *Duties of trustee.* The trustee shall under the direction of the probate court administer said property as a trusteeship with full power to take possession of all property of the absentee wherever situated, to collect all debts due the absentee, and with the approval of the court in each case to pay debts owing by the absentee, and to pay over the proceeds of such part of said property, or the income thereof, as may be necessary for the maintenance and support of the spouse and minor children, if any, of the absentee. If the personal property of said estate be not sufficient to pay all debts owing by the absentee, or to provide for the maintenance and support of his spouse and minor children, the trustee may sell so much of the real estate, as provided for the sale thereof by representatives of estates, as may be necessary to pay said debts and to maintain and support said spouse and minor children.

SEC. 235. The court may by order direct the trustee to make search for the absentee: (1) By inserting in one or more suitable periodicals a notice requiring information from any person having knowledge of the absentee's whereabouts. (2) By notifying officers of justice and public welfare agencies at appropriate locations of the absentee's disappearance. (3) By engaging the services of an investigation agency. (4) By such other means and methods as the court may determine. The expenses of such search shall be taxed as costs and paid out of the property of the absentee.

SEC. 236. *Administration of absentee's estate.* After such person for whose estate a trustee has been appointed has been absent from his last known place of residence for a continuous period of seven years under such circumstances that a presumption of death arises from his disappearance and absence, the property of the absentee in this state may be administered as if he were deceased, subject to the provisions of this act.

SEC. 237. *Contents of petition.* The petition for the appointment of a trustee for an absentee's estate shall state, in addition to other requirements, the following: (1) The jurisdictional facts peculiar to such application. (2) The name and last known place of residence of the absent person, and when he disappeared therefrom. (3) That he has been continuously absent therefrom and has not been heard of after diligent inquiry. (4) The names, ages, residences, and addresses of those who would have an interest in his property were said absentee deceased, and the nature of their respective interests, and their relationship to the absent person. (5) That the absentee

's whereabouts is unknown to such persons. (6) The necessity for the appointment of a trustee.

SEC. 238. *Parties and notice.* All persons who have an interest in said property were said absentee deceased, together with the said absentee, shall be parties to said proceeding. Notice of the hearing of the petition shall be given to the absentee and other parties by publication and mailing pursuant to section 182. The court may require further and additional notice to be given.

SEC. 239. *Hearing and order.* Upon proof of the petition and for good cause shown the court may find that the absentee was last heard of on a date certain and that the appointment of a trustee is necessary. Thereupon the appointment shall be made.

SEC. 240. *Further hearing.* After the lapse of two years from the date of determination provided for in section 239 and the lapse of seven years from date of disappearance as therein determined, the court may, upon notice of time and place of the hearing being given pursuant to section 182, proceed to take further evidence and thereafter to make a final determination therein, declaring that all the interest of the absentee in his property has now ceased and devolved upon others, by reason of his failure to appear and make claim, as if he were dead. The hearing and determination may take place before the lapse of seven years from the date of disappearance upon the presentation of satisfactory evidence of the absentee's death.

SEC. 241. *Claim of absentee barred.* No action shall be brought by an absentee to recover any portion of his property after the final finding provided for in section 240.

SEC. 242. *Final decree.* Upon the entry by the court of its final finding as prescribed in section 240, proceedings may be had for the administration of the absentee's estate or the probate of his will, as if he were dead. The trustee shall make his final account, and upon the approval thereof and the delivery of the estate to the executor or administrator, the trustee and his sureties shall be discharged. Upon the final settlement of the estate by the executor or administrator, the property then remaining shall pass and be distributed to those persons who would be entitled thereto under the laws of descent and distribution of this state had the absentee died intestate; or, in case the absentee leaves no person otherwise legally entitled to probate under the laws of this state, the remaining property shall pass and be distributed according to the terms of the will, as of the date as determined by the court on said final finding. The due execution of the will and of the distribution of said property shall be determined by the court administering the trusteeship, and shall be final and binding upon all persons, including the absentee.

#### L. GUARDIANSHIP

SEC. 243. *Counsel.* At the hearing of a petition for the commitment of an insane person and the appointment of a guardian thereof, or for the appointment of a guardian of an incompetent person or his estate, such person shall have the right to be present and shall be represented by counsel. If none be selected in his behalf, the court shall appoint suitable counsel to represent him. The hearing shall not proceed until the person is represented by counsel.

SEC. 244. *Trial by jury.* Trial by jury, if a demand therefor is made by an

interested party or on his behalf prior to the hearing, shall be had in proceeding for the commitment of an insane person and the appointment of a guardian thereof, or for the appointment of a guardian of an incompetent person. The jury shall consist of six persons, one of whom shall be a duly licensed doctor of medicine, to be selected by the court, other members of the jury shall be selected, and the jury shall be empaneled, and sworn, and the trial shall proceed until a verdict is returned, in accordance with the rules prescribed in the code of civil procedure, except that no peremptory challenges shall be exercised as to the doctor of medicine.

SEC. 245. *Form of verdict of insanity.* The verdict in insanity proceedings shall be in substantially the following form:

We, the undersigned jurors, having heard the evidence, find that said \_\_\_\_\_ is insane and a fit person to be sent to the state hospital for the treatment of the insane; that he is a resident of the state of Kansas, county of \_\_\_\_\_ that \_\_\_\_\_ disease is of \_\_\_\_\_ duration, dating from the first \_\_\_\_\_ toms of this attack; that the cause is supposed to be \_\_\_\_\_; that \_\_\_\_\_ disease is \_\_\_\_\_ hereditary; that he \_\_\_\_\_ subject to epilepsy; \_\_\_\_\_ does \_\_\_\_\_ manifest homicidal or suicidal tendencies.

SEC. 246. *Form of verdict of incompetency.* The verdict in incompetency proceedings shall be in substantially the following form:

We, the undersigned jurors, having heard the evidence, find that \_\_\_\_\_ is (here say insane, a lunatic, an idiot, an imbecile, a distracted person, a feeble-minded person, a drug habitue, or an habitual drunkard, as the case may be), and incapable of managing his affairs, and that it is not for the best interest of \_\_\_\_\_ that a guardian should be appointed (here say for his person or estate, as the jury may find).

SEC. 247. *Hearing by commission.* Unless a jury shall have been drawn, the court shall appoint a commission of two duly licensed doctors of medicine to assist at the hearing. The commissioners and the court shall make a report of their findings. In case the hearing is for the commitment of an insane person, the report shall be in duplicate and on such forms as may be prescribed by the state board of administration, one of which shall be filed with the court and the other shall be transmitted to the board of administration.

SEC. 248. *Judgment and appointment.* The court may render judgment on the verdict or findings, set them aside, order another trial or hearing, or continue the proceedings. If the court adjudges that the person is insane or incompetent and that a guardian ought to be appointed, the court shall appoint one or more suitable persons as guardians of the person or of estate or of both. Upon the filing of a bond in such amount as the court may direct and an oath administered to law, letters of guardianship shall be granted. If there be no proper bond, the court may waive the filing of a bond, but if the guardian receives or is entitled to any property, he shall immediately file a report thereof and a bond in such amount as the court may direct. If a guardian dies, resigns, or is removed, the court, with or without notice, may appoint a successor.

SEC. 249. *Transfer of venue.* When the residence of a ward shall have been changed to another county in the state and it is for the best interest of the ward or his estate, the venue may be transferred to such other county as the court may direct. The filing of a petition by any person interested in the ward or in his estate shall fix the time and place for the hearing thereof, notice of which shall be given, as provided in section 13. Upon proof of the petition a

transfer of venue is for the best interest of the ward or his estate, and upon settlement and allowance of the guardian's accounts to the time of such hearing the court, after making and retaining a true copy of the entire file, shall transmit the original file to the court of such other county in which all subsequent proceedings shall be had.

*c. 250. Restoration to capacity.* Any person who has been adjudged incompetent or incompetent as herein provided, or his guardian, or any other person interested in him or his estate may petition the court in which he was so adjudged or to which the venue has been transferred to be restored to capacity: *Provided*, A petition for the restoration to capacity of a patient committed to a state hospital shall not be filed within six months after the patient's admission thereto nor oftener than once every six months. Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given to the superintendent thereof if he is in the control of or has not been discharged from a state hospital, and to other persons and in such manner as the court may direct. Any person may oppose such restoration. Upon hearing of the petition and proof that such person has been restored to capacity and is capable of managing his person and estate, the court shall adjudge him restored to capacity. If the venue has been transferred no proceedings need be had in the court from which the venue was transferred.

*c. 251. Notice for accounting.* The court may on its own motion, or upon petition of the guardian or any person interested in the ward or his estate fix the time and place for the hearing of any account, notice of which shall be given. Whenever any funds have been received from the veteran's administration, notice by mail shall be given to the regional office having charge thereof.

*c. 252. Hearing on accounting.* On the hearing, unless otherwise ordered, the guardian shall, and other persons may, be examined. If the account be correct, it shall be settled and allowed. The order of settlement and allowance shall show the amount of the personal property remaining. Upon settlement of the final account, and upon delivery of the property on hand to the person committed thereto, the court shall discharge the guardian and his sureties.

#### M. COMMITMENT OF INSANE PERSONS

*c. 253. Institution of proceedings.* Any reputable citizen may file in the state court of the county of the patient's residence or presence a petition for the commitment of the person as an insane patient to the state hospital. The petition shall state the name, residence, and address of the patient and of his nearest relatives, the reasons for the application, and the names of two witnesses by whom the truth of the petition may be proved. The court may appoint a duly licensed doctor of medicine to make an examination.

*c. 254. Notice and process.* The trial or hearing shall be held at such time and place and upon notice to such persons and served in such manner as the court may determine. Unless the patient shall be brought before the court without a writ, or it appears to the court that the condition of the patient is such as to render it manifestly improper that the patient be brought before the court, the court shall issue a writ directed to the sheriff, or any proper officer, commanding the patient to be brought before the court for the hearing.

In no case shall the hearing be had until the patient shall be notified by the court may determine.

SEC. 255. *Appointment of guardian.* If the patient is adjudged insane, the court may appoint a guardian of his estate: *Provided*, Such proceeding shall be had in the county having venue of appointment, if such appointment is made, the terms of the application made by the petition, and the notice of appointment therefor has been duly given.

SEC. 256. *Transfer.* Whenever the residence of the patient is found to be in another county, the court of commitment shall transmit to the court of such county a transcript of the proceedings, including the return of the warrant from the superintendent, and all subsequent proceedings relating to the case shall be in the probate court of said county. The court of commitment shall also transmit to such court a statement of the expenses incurred inquest, confinement, commitment, and conveyance of the patient to the court of detention. If the probate court to which such claim is transmitted denies the same, it shall transmit the claim to the state board of administration which shall determine the question of residence and certify its findings to the court. If the claim be not paid within thirty days after such certification, action may be maintained thereon by the claimant county in the probate court of the claimant county against the debtor county.

SEC. 257. *Costs.* In each proceeding the court shall allow and order paid as a part of the costs thereof: to the examining physician the sum of .....dollars for his services, to each commissioner the sum of .....dollars per day for his services, to the patient's counsel, when appointed by the court, the sum of .....dollars per day, and the actual and necessary traveling expenses of each. Other fees shall be allowed and paid as are allowed for similar services in other cases. In case of a county patient, the costs shall be paid by the county. In case of a private patient, the costs shall be paid from his estate or by those bound by law to support him, as the court may determine. If the patient is found to be sane, the court may for good cause shown require the costs to be paid by the petitioner.

SEC. 258. *Order of restoration.* When notice is received from the superintendent of a state hospital by the court of the patient's residence that the patient has been discharged as restored to capacity, the court shall order that the patient has been restored to capacity.

#### N. ADOPTION OF CHILDREN

SEC. 259. *Venue and petition.* Proceedings for the adoption of a child may be had in the probate court of any county in which a petition for adoption is filed. The petition shall state: (1) The name, residence and address of the petitioner. (2) The name, date and place of birth, and age of the child. (3) The financial condition of the petitioner and of the child. (4) Whether one or both parents are living; and the name, residence and address of those living so far as known to the petitioner: *Provided*, The names of parents may be omitted if the child is under custody for the support and minority of the state board of administration or an institution or agency established or authorized by the laws of this state to care for children.

SEC. 260. *Procedure after the petition filed.* All written consents

the adoption shall be filed before the hearing. When the petition is filed the court shall fix the time and place for the hearing thereof, and order notice of the hearing to be given, in such manner as the court shall direct, to such persons as have not given their written consent to the adoption. The court shall issue citation to the child or any parent or custodian of the child to appear before the court at the hearing for examination relative to the adoption of the child.

c. 261. *Hearing and decree.* If the court shall find from the testimony of the petition has been proved, that all required written consents to the adoption have been freely and voluntarily made and duly executed, that the petitioner is a fit and proper person and financially able to assume the relation of parent of such child, and that the adoption of the child by the petitioner is in the best interest and will promote the welfare of the child, the court shall order the adoption to be made and decree the child to be the child of the petitioner. All costs of the proceeding shall be paid by the petitioner.

#### O. CITATION AND DISCLOSURE PROCEEDINGS

c. 262. *Citation to issue.* If any person neglects or refuses to perform an act or judgment of a probate court, other than for the payment of money, he shall be guilty of a contempt of court; and the court shall issue a citation requiring him at an early day therein to be appointed to appear before the court and show cause, if any he has, why he should not be punished for contempt. If, after personal service of citation by an officer or other person, such person shall not on the day appointed appear before the court, or if it appears to the court that he is secreting himself to avoid the process of the court or is about to leave the county for that purpose, the court may issue an attachment commanding the officer to whom it is directed to bring such person before the court to answer for contempt.

c. 263. *Execution.* Orders for the payment of money may be enforced by execution, or otherwise, as judgments in the district court are enforced.

c. 264. *Disclosure proceedings.* Upon the filing of a petition by a representative or any person interested in the estate, alleging that any person has concealed, converted, embezzled, or disposed of any property belonging to the estate of a decedent, or that any person has possession or knowledge of any will or codicil of a decedent, or of any instruments in writing relating to the estate of such decedent or ward, the court, upon such notice as it may direct, may order such person to appear before it for disclosure. Refusal to appear or submit to examination, or failure to obey any lawful order based thereon shall constitute contempt of court.

c. 265. *Inspection and Copies.* The books and records of the probate court shall be open to inspection by all persons at all times. The court shall cause to be made a certified or authenticated copy of any document on file or of record and pay therefor. The court, in making certified or authenticated copies of the letters of appointment is authorized upon request to certify further when such is the fact, that the letters so certified stand unrevoked at the date of the certificate; and such certificate shall be prima facie evidence of such fact.

## P. APPEALS

SEC. 266. *Appealable orders.* An appeal to the district court may be from any of the following orders, judgments, decrees, and decisions of the probate court: (1) An order admitting, or refusing to admit, a will to probate. (2) An order appointing, or refusing to appoint, or removing, or refusing to remove, a representative other than a special administrator. (3) An order appointing, or refusing to appoint, or removing, or refusing to remove, a trustee. (4) An order setting apart, or refusing to set apart, a homestead or other property, or making or refusing to make an allowance of exempt property for a spouse and minor children. (5) An order determining, or refusing to determine, venue; an order transferring, or refusing to transfer, venue. (6) An order allowing, or disallowing a demand in whole or in part when the amount in controversy exceeds fifty dollars. (7) An order authorizing, or refusing to authorize, the sale, lease, or mortgage of real estate; an order confirming, or refusing to confirm, the sale, lease, or mortgage of real estate. (8) Judgments for or against a party. (9) An order directing, or refusing to direct, a conveyance of real estate or a contract. (10) An order directing, or refusing to direct, the payment of a legacy or distributive share. (11) An order allowing, or refusing to allow, an account of a representative or any part thereof. (12) An order allowing, or refusing to allow, an account of a trustee or any part thereof. (13) An order or decree of partial or final distribution. (14) An order compelling, or refusing to compel, a legatee or distributee to refund. (15) An order directing, or refusing to direct an allowance, for the expenses of a representative or administrator. (16) An order vacating a previous appealable order, judgment, decree, or decision; an order refusing to vacate a previous appealable order, judgment, decree, or decision alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or mistake. (17) A decree determining, or refusing to determine, the heirs, devisees, legatees. (18) An order adjudging a person in contempt. (19) An order adjudging, or refusing to adjudge, a person incompetent. (20) An order admitting, or refusing to commit a patient to a state hospital. (21) An order granting or denying restoration to capacity. (22) An order decreeing, or refusing to decree, an adoption. (23) A final decision of any matter arising within the jurisdiction of the probate court.

SEC. 267. *Venue.* Such appeal shall be to the district court of the county of the probate court which made the order, judgment, decree, or decision appealed from, except that an appeal taken from any order, judgment, decree, or decision (other than one determining or refusing to determine venue or transferring or refusing to transfer venue) made before the transfer of venue may be taken to the district court of the county to which the transfer was made.

SEC. 268. *Time for appeal.* Such appeal may be taken by any person aggrieved within thirty days after the making of such order, judgment, or decision: *Provided*, That an appeal may be taken within nine months from the making of an order admitting, or refusing to admit, a will to probate. In an appeal from an order admitting, or refusing to admit, a will to probate, after the transfer has been filed in the district court, the order appealed from and the notice of appeal shall be served upon all interested parties not personally served with the appeal was taken, as in civil actions in the district court. Other parties may be made parties thereto by the service of such order and notice.



269. *Requisites.* To render the appeal effective: (1) The appellant serve upon the adverse party or his attorney of record, or upon the pro- judge, for the adverse party who did not appear, a written notice of appeal ring the order, judgment, decree, or decision appealed from, and file such of appeal in the probate court with proof of service thereof verified by idavit. (2) The appellant, other than the state or municipality or a ry appealing on behalf of the estate, shall file in the probate court a n such sum and with such sureties as may be fixed and approved by the e court, conditioned that he will prosecute the appeal and pay all sums, es, and costs that may be adjudged against him. (3) Whenever a party d faith gives due notice of appeal and omits through mistake to do any act necessary to perfect the appeal, the district court may permit an ment on such terms as may be just.

270. *Transcript.* When an appeal has been effected, the probate court ransmit to the district court a complete transcript of the proceedings per- g to the matter in which the appeal is taken.

271. *Effect of appeal.* Such appeal shall suspend the operation of the judgment, decree, or decision appealed from until the appeal is de- ed or the district court shall otherwise order.

272. *Trial on appeal.* Upon the filing of the transcript the district court be possessed of the cause and shall proceed to hear and determine the anew. The district court may allow or require any pleading to be led, render judgment on the pleadings, or dismiss the appeal. All appeals than those from the allowance or disallowance of a demand, adjudging using to adjudge a person incompetent, and committing or refusing to it a patient to a state hospital, shall be tried by the court without a jury, the court orders the whole issue, or some specific question of fact n, to be tried by a jury or referee.

273. *Certification to probate court.* The clerk of the district court shall a transcript of the proceedings and judgment of the district court to the e court, which shall proceed in accordance therewith.

#### Q.—RULES OF COURT

274. *Rules may be promulgated.* Appropriate rules of court not incon- with the provisions of this act may be promulgated by the supreme court ulate the practice in matters covered by this act in case that court deems ssary.

this will be added appropriate sections repealing existing sections and ding the effective date of the act so as not to interfere with vested rights ending business.

TABLE I.—Probate courts, miscellaneous information, year ending June 30, 1937

COUNTRY.	Judge.	Time judge has served.		Defalcations since July 1, 1936, by guardian, executor, or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus cases since July 1, 1936.	Orders made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity hearings.
		Yrs.	Mos.	No.	Amount.	Full time.	Part time.						
Allen.....	A. M. Dunlap.....		6	0	.....	0	1	7	0	0	0	3	11
Anderson.....	I. H. Spohn.....	8	6	0	.....	1	0	15	0	3	0	2	9
Atchison.....	F. P. Wertz.....	4	6	0	.....	1	0	11	0	0	0	3	14
Barber.....	Geo. C. Hilkey.....		6	0	.....	0	0	2	2	4	0	2	5
Barton.....	H. A. Hall.....	28	6	0	.....	0	1	1	0	3	0	5	8
Bourbon.....	I. A. Stanton.....		6	0	.....	1	0	11	0	0	0	2	10
Brown.....	Dale Bailey.....		6	0	.....	1	0	9	0	0	0	7	11
Buler.....	W. N. Calkins.....	3	6	0	.....	0	0	22	0	0	0	6	13
Chase.....	A. E. Johnson.....	2	6	0	.....	1	0	0	0	1	0	1	7
Chautauqua.....	R. E. Rathbun.....		6	0	.....	0	0	0	0	1	0	1	3
Cherokee.....	Walter Largen.....	4	6	0	.....	1	0	26	0	0	0	8	16
Cheyenne.....	Florence Curry.....	1	2	0	.....	1	0	7	0	0	0	8	12
Clark.....	F. P. Annon.....	2	6	0	.....	0	0	11	0	3	3	0	5
Clay.....	Frank H. Meek.....	4	6	0	.....	1	0	3	0	6	2	3	10
Cloud.....	E. W. Thompson.....	12	6	0	.....	2	0	3	0	0	0	0	8
Coffey.....	W. A. Starlipper.....		6	0	.....	0	0	4	0	0	0	1	12
Comanche.....	M. M. Cosby.....	19	6	0	.....	0	0	2	0	2	0	1	2
Cowley.....	Ellis Fink.....	3	6	0	.....	2	0	99	0	0	0	16	28
Crawford.....	Robert W. Colburn.....	16	6	0	.....	1	1	12	0	5	0	4	36
Decatur.....	Raph McLaughlin.....	2	6	0	.....	1	0	3	0	1	0	2	3
Dickinson.....	D. W. Nickles.....	4	6	1	\$2,468.00	2	0	22	0	5	0	8	18
Doniphan.....	John R. Bell.....	6	6	0	.....	1	0	52	4	2	0	4	15
Douglas.....	L. H. Menger.....	16	6	0	.....	1	1	11	0	0	0	2	10
Edwards.....	L. L. Anderson.....	5	6	0	.....	0	2	3	0	0	0	3	6
Elk.....	W. M. Gibbons.....	2	6	0	.....	0	0	0	0	2	0	6	6
.....	.....	4	6	0	.....	1	0	1	0	0	0	0	8

COUNTY.	Judge.	Time judge has served.		Defalcations since July 1, 1936, by guardian, executor, or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus cases since July 1, 1936.	Orders made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity hearings.
		Yrs.	Mos.	No.	Amount.	Full time.	Part time.						
Geary.....	Dave Rankin.....	6	6	1	\$456.97	2	0	11	0	0	0	3	5
Gove.....	George F. Turner.....	10	6	0	.....	0	0	1	0	1	0	1	0
Graham.....	E. L. McClure.....	12	6	0	.....	1	0	5	0	1	0	3	2
Grant.....	Myrtie Newby.....	6	6	0	.....	0	0	2	0	0	0	0	1
Gray.....	Edith M. Johnston.....	6	6	0	.....	0	0	0	0	0	0	4	1
Greeley.....	J. G. Bidlen.....	4	6	0	.....	0	0	0	0	2	0	1	1
Greenwood.....	B. M. Beyer.....	6	6	0	.....	1	0	9	1	0	0	3	15
Hamilton.....	D. P. Hofton.....	2	6	0	.....	0	0	2	0	4	0	0	3
Harper.....	D. C. Hawk.....	26	6	0	.....	2	0	15	0	6	0	2	1
Harvey.....	W. G. Adams.....	6	6	0	.....	0	0	52	0	1	0	5	6
Haskell.....	Lawrence G. Meairs.....	15	6	0	.....	0	0	0	0	0	0	0	1
Hodgeman.....	Hugh Roberts.....	2	6	0	.....	1	0	3	0	1	0	1	1
Jackson.....	Jesse L. Hayden.....	6	6	0	.....	0	0	0	0	10	0	4	17
Jefferson.....	Arthur Ferris.....	2	6	0	.....	0	0	2	0	1	0	2	7
Jewell.....	Frank Kissinger.....	6	6	0	.....	0	0	9	0	1	0	2	7
Johnson.....	Bert Rogers.....	2	6	0	.....	0	1	4	0	0	0	7	15
Kearny.....	Luella Stutzman.....	6	6	0	.....	1	0	3	0	2	0	0	3
Kingman.....	L. W. Kahler.....	10	6	0	.....	1	0	5	0	0	0	2	5
Kiowa.....	Harry Paxton.....	2	6	0	.....	1	0	1	0	3	0	0	1
Labette.....	Leonard Rude, Sr.....	6	6	0	.....	1	0	39	0	0	0	7	15
Lane.....	J. A. Radford.....	8	6	0	.....	0	0	0	0	0	0	1	1
Leavenworth.....	Sam Parisa.....	2	6	0	.....	1	0	259	6	4	0	16	19
Lincoln.....	A. Ariman.....	34	6	0	.....	1	0	4	0	3	0	1	3
Linn.....	Owen E. Root.....	4	6	1	\$250.00	0	0	12	1	2	0	5	8
Logan.....	Winnie Seitz.....	8	6	0	.....	0	0	1	0	0	0	0	2
Lyon.....	Robert H. Hudkins.....	4	6	1	1,500.00	1	0	9	0	25	0	11	13
Marion.....	Jay E. Hargett.....	8	6	0	.....	0	0	0	0	1	0	4	8
Marshall.....	P. R. Pullaine.....	4	6	0	.....	0	0	9	0	4	0	4	8
McPherson.....	J. J. Heidebrecht.....	12	6	0	.....	2	0	0	0	1	0	8	12
Meade.....	Florilla DeCov.....	12	6	0	.....	0	1	2	0	18	0	7	10
										0	0	2	4

TABLE I.—CONTINUED. Miscellaneous information, year ending June 30, 1937

County.	Judge.	Time judge has served.		Defalcations since July 1, 1936, by guardian, executor, or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus cases since July 1, 1936.	Orders made in district court cases.	Pro-ceedings in aid of ex-ecution.	Number of adoption pro-ceedings.	Number of insanity hear-ings.
		Yrs.	Mos.	No.	Amount.	Full time.	Part time.						
Miami.....	C. E. Rossman.....	12	6	0	.....	2	.....	17	0	3	0	2	14
Mitchell.....	J. M. Rodgers.....	6	6	0	.....	2	.....	11	2	6	0	3	7
Montgomery.....	Earl L. Bailey.....	2	6	0	.....	0	3	438	0	0	0	16	47
Morris.....	W. T. Williams.....	6	6	0	.....	0	0	3	0	4	0	3	5
Morton.....	Jennie M. Smallwood.....	7	6	0	.....	0	0	0	0	0	0	0	0
Namaha.....	L. S. Slocum.....	16	6	0	.....	0	0	7	0	2	0	2	4
Neosho.....	L. C. Swan.....	.....	6	0	.....	2	0	19	0	0	0	1	7
Ness.....	J. C. M. Anderson.....	4	6	0	.....	1	0	2	0	0	0	0	5
Norton.....	W. A. Hendrickson.....	4	6	0	.....	1	0	1	0	3	0	1	5
Osage.....	Geo. E. Ramskill.....	2	6	0	.....	0	1	3	0	0	0	2	5
Osborne.....	James W. Bell.....	4	6	0	.....	1	0	2	0	0	0	3	9
Ottawa.....	G. R. King.....	4	6	0	.....	5†	0	2	0	1	0	1	3
Pawnee.....	W. H. Goddard.....	2	6	0	.....	0	0	2	0	3	0	2	13
Phillips.....	Fred Kelly.....	2	6	0	.....	0	0	1	0	0	0	2	6
Pottawatomie.....	Frank Brooks.....	4	6	0	.....	1	0	4	0	5	1	1	4
Pratt.....	E. R. Barnes.....	11	6	0	.....	0	1	12	0	6	0	5	4
Rawlins.....	M. H. Bird.....	4	6	0	.....	0	0	1	0	0	0	2	2
Reno.....	A. B. Leigh.....	4	6	0	.....	1	0	42	0	12	0	10	10
Republic.....	Henry Van Natta.....	18	6	0	.....	0	0	11	0	11	0	3	6
Rice.....	H. G. Doddridge.....	.....	6	0	.....	0	1	1	0	4	0	8	5
Riley.....	Charles F. Johnson.....	8	6	0	.....	0	2	38	0	5	0	6	13
Rooks.....	H. E. Lenherd.....	2	6	0	.....	1	0	8	0	0	0	1	8
Rush.....	Paul J. Warden.....	6	6	0	.....	0	0	1	0	0	0	1	1
Russell.....	J. D. Steine.....	4	6	0	.....	0	1	0	0	11	0	0	0

TABLE I—CONCLUDED. Miscellaneous information, year ending June 30, 1937

COUNTY.	Judge.	Time judge has served.		Defalcations since July 1, 1936, by guardian, executor, or administrator.		Juvenile officers.		Number juvenile cases.	Habeas corpus cases since July 1, 1936.	Orders made in district court cases.	Proceedings in aid of execution.	Number of adoption proceedings.	Number of insanity hearings.
		Yrs.	Mos.	No.	Amount.	Full time.	Part time.						
Scott.....	James H. Force.....	4	6	0	.....	0	0	0	1	1	0	0	2
Sedgwick.....	Clyde M. Hudson.....	4	6	0	.....	3	0	616	1	0	1	79	124
Seward.....	L. A. Etzold.....	11	6	0	.....	2	0	14	0	0	0	5	4
	(Avis King Lacey, Judge pro tem.)												
Shawnee.....	Roy N. McCue.....	2	6	1	\$91.00	3	0	169*	0	0	0	46	116
Sheridan.....	N. F. McWilliams.....	4	6	0	.....	1	0	1	0	2	0	0	0
Sherman.....	Bryan Beaderstadt.....	2	6	0	.....	0	1	2	0	2	0	0	7
Smith.....	Charles Buell.....	4	6	0	.....	0	0	0	0	0	0	3	6
Stafford.....	F. R. Seely.....	2	6	0	.....	1	0	8	0	0	0	0	5
Stanton.....	Wayne Gaskill.....	0	4	0	.....	1	0	0	0	0	0	1	0
Stevens.....	J. B. Porter.....	0	6	0	.....	0	0	0	0	0	0	2	0
	Charles P. Hangen.....												
Sumner.....	O. A. Snell.....	15	6	0	.....	1	0	28	0	0	0	5	22
Thomas.....	Walter F. Swiggett.....	4	6	0	.....	1	0	2	0	0	0	1	3
Trego.....	H. R. Williams.....	4	6	0	.....	0	1	6	0	1	0	0	0
Wabunsee.....	George Cox.....	20	6	0	.....	1	0	0	0	0	0	0	2
Wallace.....	R. L. Rust.....												
Washington.....	Margie Gilmore.....	6	6	0	.....	1	0	1	0	3	0	2	7
Wichita.....	J. Harlan Blackburn.....	2	6	0	.....	0	0	0	0	0	0	0	0
Wilson.....	D. S. Bell.....	0	6	0	.....	1	0	15	0	0	0	1	11
Woodson.....	Henry Meade.....	2	6	1	724.44	1	0	8	0	0	0	4	4
Wyandotte.....		12	6	0	.....	3	0	294	0	0	0	56	87
Totals.....		.....	.....	6	\$5,490.41	76	19	2,683	19	259	8	515	1,103

\* 900 juvenile cases under court jurisdiction.

† 5 probation officers, none of whom receive pay.

TABLE II.—Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1937

COUNTIES.	Number of cases.....	Final report filed within 1 year after letters of administration issued..	Pending 1 to 2 years.....	Pending 2 to 3 years.....	Pending 3 to 4 years.....	Pending 4 to 5 years.....	Pending 5 to 10 years....	Pending longer than 10 years.....	Number of cases with wills.....	Number of cases without wills.....	Number of bonds filed...	Number of bonds kept good.....	No bonds filed.....	Inventory in 60 days.....	Inventory after 60 days..	No inventory.....
Allen.....	42	1	24	6	2	3	4	2	24	18	28	27	14	18	24	0
Anderson.....	57	9	28	7	5	1	3	4	25	32	34	33	23	26	10	21
Archison.....	52	7	23	7	2	6	4	3	14	14	25	25	27	29	20	3
Barber.....	21	1	10	2	3	0	4	1	13	13	16	16	5	9	3	9
Barton.....	78	11	35	8	6	2	13	3	51	27	43	43	35	60	17	1
Bourbon.....	29	9	14	3	0	1	2	0	17	12	16	16	13	19	7	3
Brown.....	44	2	38	3	0	1	0	0	24	20	27	27	17	30	6	8
Butler.....	56	15	27	1	4	2	7	0	26	30	39	39	17	19	14	23
Chase.....	10	0	8	0	0	0	0	0	6	4	7	7	3	5	4	1
Chautauque.....	8	5	3	0	0	0	0	0	3	5	5	5	3	3	2	3
Cherokee.....	49	14	22	2	3	3	2	3	24	25	29	29	20	43	3	3
Cherokee.....	8	0	3	0	3	3	1	0	7	7	7	7	1	5	2	1
Cherokee.....	6	0	5	1	0	0	0	0	3	3	6	6	0	3	3	0
Clark.....	51	29	15	2	3	0	1	0	32	39	39	39	12	43	7	1
Clay.....	53	15	26	1	4	1	3	3	30	23	40	40	13	44	9	0
Cloud.....	25	5	17	0	0	3	0	0	11	12	12	12	13	22	3	0
Coffey (6 foreign transcripts).....	9	2	7	0	0	0	0	0	4	2	4	4	5	7	1	1
Comanche.....	83	25	42	6	1	6	0	2	33	57	57	57	26	39	44	0
Cowley.....	81	31	36	1	4	1	6	1	50	43	57	57	24	71	8	2
Crawford.....	24	4	13	0	1	0	5	1	10	14	19	19	5	20	3	1
Decatur.....	77	15	50	5	6	3	2	0	28	52	52	52	25	56	15	6
DeKalb.....	51	2	29	6	3	1	3	6	25	25	34	34	17	47	4	0
DeKalb (10 foreign transcripts).....	51	2	29	6	3	1	3	6	25	25	34	34	17	47	4	0



TABLE II.—CONTINUED. Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1937

COUNTIES.														
	No inventory.....	Inventory after 60 days..	Inventory in 60 days.....	No bonds filed.....	Number of bonds kept good.....	Number of bonds filed...	Number of cases without wills.....	Number of cases with wills.....	Pending longer than 10 years.....	Pending 5 to 10 years....	Pending 4 to 5 years.....	Pending 3 to 4 years.....	Pending 2 to 3 years.....	Pending 1 to 2 years.....
	Final report filed within 1 year after letters of administration issued..	Number of cases.....												
Lane.....	5	57	4	4	1	1	0	5	0	0	0	0	0	5
Leavenworth.....	99	40	57	51	48	48	32	20	2	1	3	1	2	37
Lincoln.....	48	7	41	11	21	37	28	20	0	5	3	3	5	29
Linn.....	43	3	40	12	29	31	19	24	2	0	0	4	8	18
Logan.....	2	0	2	0	2	2	1	1	0	0	0	0	0	1
Lyon.....	57	13	15	16	41	41	24	33	2	4	1	3	5	33
Marion.....	55	10	43	9	46	46	28	27	1	3	2	1	5	33
Marshall.....	76	5	67	30	46	46	23	53	3	7	1	1	3	61
McPherson.....	95	26	66	21	74	74	55	40	5	10	3	6	9	58
Meade.....	12	1	11	5	7	7	7	5	0	1	0	1	2	8
Miami (9 foreign transcripts).....	57	9	48	14	43	43	30	27	0	2	0	0	6	31
Mitchell.....	60	15	43	17	42	43	41	19	2	3	2	4	5	44
Montgomery.....	68	20	47	17	38	51	28	40	0	0	3	4	6	33
Morris.....	53	11	42	17	36	36	27	26	2	0	3	1	7	31
Morton.....	1	0	1	0	1	1	0	1	0	0	0	0	0	1
Nemaha.....	50	14	35	22	28	28	26	24	3	2	1	1	10	20
Neosho.....	56	8	34	19	37	37	30	26	0	0	2	5	3	40
Ness.....	20	2	18	2	18	18	11	9	0	0	1	1	1	17
Norton.....	22	3	13	5	17	17	9	13	0	1	2	4	4	9
Osage.....	52	14	37	14	38	38	20	32	5	4	2	2	6	29
Osborne.....	33	8	25	7	26	26	24	9	0	0	1	2	1	26
Ottawa.....	35	3	32	2	33	33	21	14	0	3	1	3	4	21
Pawnee.....	9	2	27	3	6	6	3	6	0	0	0	0	1	8
Phillips.....	52	46	46	13	39	39	29	23	2	3	2	3	3	32
Pottawatomie.....	41	5	39	13	38	38	23	18	0	0	0	0	2	23



[illegible]

TABLE II.—CONTINUED. Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1937

COUNTIES	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator.	Attorney represented heirs or devisees.....	No attorney.....	Estates paid claims in full.....	Estates did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Allen.....	\$436,235.18	\$38,081.50	38	34	0	8	38	4	\$5,154.60	\$3,307.90
Anderson.....	176,978.27	101,303.82	57	14	13	42	47	10	2,572.80	3,026.76
Atchison.....	410,903.91	200,502.83	7	30	30	21	49	3	7,205.80	4,125.00
Barber.....	308,747.37	41,000.00	3	15	12	1	19	2	5,680.00	3,919.70
Barton.....	1,469,419.08	1,708.00	9	25	2	53	72	6	7,903.98	12,139.33
Bourbon.....	158,570.00	.....	1	17	1	11	24	5	1,599.47	1,459.08
Brown.....	392,583.47	.....	19	8	2	34	30	14	4,370.00	2,460.00
Butler.....	1,344,235.60	3,750.00	7	56	0	0	51	5	4,380.32	9,671.79
Chase.....	15,450.35	40,771.92	4	3	0	6	9	1	239.00	1,860.50
Chautauqua.....	13,398.11	.....	1	5	0	3	8	0	.....	200.00
Cherokee.....	91,166.17	50.00	3	7	0	42	42	7	446.95	355.00
Cheyenne.....	92,694.25	.....	2	7	1	0	8	0	470.80	350.80
Clark.....	63,223.18	.....	0	6	0	0	6	0	210.00	650.00
Clay.....	333,078.12	40,925.14	7	20	1	31	45	6	5,633.19	2,435.61
Cloud.....	510,101.57	9,342.05	11	16	3	37	50	3	5,792.23	1,944.00
Coffey.....	118,658.68	44,040.00	25	14	0	11	22	3	938.78	1,138.00
Comanche.....	113,324.82	1,502.50	8	9	0	0	9	0	425.00	485.00
Cowley.....	1,032,515.00	21,026.00	83	69	46	14	79	4	16,388.00	17,601.00
Crawford.....	429,787.62	36,650.00	65	49	8	31	76	5	4,991.75	2,372.50
Decatur.....	290,270.46	13,100.00	2	18	1	6	22	2	3,767.58	2,025.00
Dickinson.....	438,871.19	449,142.35	72	35	5	42	65	12	15,011.10	6,903.80
Doniphan.....	452,188.72	2,640.00	51	23	7	28	48	13	4,922.00	9,215.60

COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator.	Attorney represented heirs or devisees.....	No attorney.....	Estates paid claims in full.....	Estates did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Ellis.....	\$394,794.93	.....	34	14	0	20	34	0	\$1,760.00	\$1,358.00
Ellsworth.....	544,549.95	\$29,508.36	2	31	3	1	32	0	1,723.05	1,700.00
Finey.....	199,561.42	.....	4	21	0	1	17	5	1,256.64	1,362.80
Ford.....	510,000.00	16,000.00	3	29	0	7	32	4	2,755.88	3,298.43
Franklin.....	426,662.46	124,438.00	4	31	0	31	59	3	2,829.59	1,563.71
Geary.....	493,775.83	.....	3	33	0	0	27	6	4,470.00	4,921.50
Gove.....	79,752.68	.....	2	5	0	12	12	5	1,170.00	60.00
Graham.....	106,496.38	.....	2	4	0	9	11	2	1,69.09	185.00
Grant.....	15,000.00	15,000.00	0	1	0	0	1	0	.....	7.00
Gray.....	189,151.57	.....	0	10	0	0	9	1	1,650.17	735.00
Greeley.....	744,605.72	.....	0	0	0	38	43	1	24,298.50	548.00
Greenwood.....	53,973.00	40,485.00	0	1	0	16	10	7	606.36	65.00
Hamilton.....	452,953.88	.....	38	32	0	6	36	2	1,345.00	3,670.00
Harper.....	666,519.00	22,411.30	82	51	11	35	76	10	5,342.00	8,245.00
Harvey.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Haskell.....	34,840.43	2,250.00	7	2	0	5	6	1	335.00	100.00
Hodgeman.....	79,526.67	8,738.00	1	10	0	1	9	2	400.00	665.00
Jackson.....	386,612.95	180,092.06	18	40	4	29	63	6	10,075.38	3,097.50
Jefferson.....	323,678.35	.....	32	15	2	17	30	3	3,011.39	672.00
Jewell.....	235,068.79	209,576.50	9	21	5	20	38	3	7,298.19	1,659.70
Johnson.....	839,715.70	.....	29	57	5	2	59	0	16,065.70	25,182.50
Kearny.....	2,476.00	500.00	1	1	0	0	1	0	.....	15.00
Kingman.....	516,308.45	19,018.00	5	32	1	8	39	1	1,858.23	1,290.00
Kiowa.....	383,527.05	.....	4	18	0	0	18	0	.....	1,960.00
Labette.....	293,031.78	7,501.30	7	28	3	29	57	0	2,556.67	1,900.00

TABLE II.—CONTINUED. Summary, probate courts. Estates of deceased persons closed within the year ending June 30, 1937

COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator.	Attorney represented heirs or devisees.....	No attorney.....	Estates paid claims in full.....	Estates did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Lanc.....	\$38,780.21	\$65,000.00	2	0	0	5	5	0	\$550.00	\$9,223.55
Leavenworth.....	408,373.05	211,275.80	4	51	2	47	88	11	13,613.17	2,088.82
Lincoln.....	904,786.24	12,500.00	48	19	3	28	24	24	2,590.76	775.00
Linn.....	306,192.00	1,215.00	43	13	9	28	40	3	3,354.00	50.00
Logan.....	1,215.00		0	1	0	1	2	0	55.00	
Lyon.....	838,172.61	653,668.80	47	54	1	3	55	2	14,652.50	11,625.00
Marion.....	562,085.19		17	24	4	31	53	2	3,156.52	2,384.51
Marshall.....	852,319.79	1,340.00	4	33	0	43	48	28	6,307.41	3,140.00
McPherson.....	1,814,635.16		8	65	6	28	93	2	16,307.14	17,465.27
Meade.....	68,400.11		3	12	9	0	8	4	700.00	790.00
Miami.....	134,338.04	256,336.65	6	4	2	51	56	1	1,385.76	189.00
Mitchell.....	580,118.51		3	10	4	50	58	2	2,110.00	455.00
Montgomery.....	149,565.64	178,012.64	4	61	8	7	13	55	3,157.06	4,025.63
Morris.....	718,413.37		0	33	1	20	49	4	7,222.07	4,820.00
Morton.....	6,488.20		0	1	1	0	1	0	96.00	200.00
Nemaha.....	182,952.61	252,010.00	14	27	5	23	46	4	1,956.10	2,365.00
Neosho.....	362,032.55		0	18	38	38	49	7	6,876.53	4,807.50
Ness.....	67,783.00	73,124.00	0	10	1	10	40	0	1,876.24	1,492.35
Norton.....	166,021.30		2	22	0	0	21	1	1,682.46	3,007.39
Osage.....	154,430.74	214,131.70	0	34	0	18	49	3	5,591.29	1,049.50
Osborne.....	146,501.74		0	0	0	33	33	0	1,085.73	390.00
Ottawa.....	317,208.10		22	18	1	16	33	2	4,230.79	1,007.50
Paynee.....	86,896.58	4,000.00	1	7	0	9	9	0	388.65	1,250.00
Phillips.....	327,708.19		11	46	7	2	52	6	3,394.50	3,122.00
Pottawatomie.....	440,378.46	4,943.75	27	32	0	9	35	0	3	

COUNTIES.	Value of estates as appraised.....	Estimated value of estates not appraised...	Number First Annual reports.....	Attorney represented executor or administrator.	Attorney represented heirs or devisees.....	No attorney.....	States paid claims in full.....	States did not pay claims in full.....	Total fees allowed for executors or administrators.....	Total fees allowed for attorneys.....
Riley.....	\$353,030.20	\$1,625.00	6	14	5	25	39	0	\$2,154.52	\$987.22
Rooks.....	360,241.74	6,045.00	44	36	1	8	42	2	3,098.05	2,005.00
Rush.....	185,665.78	29,543.99	13	7	4	61	22	49	175.00	652.50
Russell.....	503,502.25	106,675.00	2	13	0	3	16	0	6,361.77	5,561.00
Saline.....	646,190.72	.....	5	40	3	29	59	10	17,256.95	7,358.62
Scott.....	33,110.94	2,560.00	5	8	0	0	6	2	200.00	395.00
Sedgwick.....	3,622,107.12	62,352.72	20	208	15	1	206	3	32,231.88	35,689.09
Seward.....	110,363.22	458.71	8	7	0	3	9	1	875.00	957.35
Shawnee.....	1,205,425.60	.....	45	42	0	57	96	3	33,068.75	13,040.00
Sheridan.....	31,175.00	31,997.50	2	7	1	3	6	4	495.00	280.00
Sherman.....	46,312.53	250.00	1	9	0	0	8	1	1,051.19	1,025.00
Smith.....	299,404.60	.....	30	1	0	29	30	0	761.50	125.00
Stafford.....	342,173.00	441,600.00	16	38	0	2	39	1	11,380.00	12,660.00
Stanton.....	5,391.00	.....	1	1	0	0	1	0	45.00	50.00
Stevens.....	11,663.00	7,020.00	5	7	0	1	6	2	650.00	390.00
Sunmer.....	518,768.65	.....	6	51	1	4	53	2	3,567.41	6,492.10
Thomas.....	200,307.50	16,800.00	21	23	5	1	24	0	625.00	2,640.00
Trego.....	392,950.00	.....	16	4	0	12	16	0	5,085.00	815.00
Wabausee.....	847,450.97	5,370.00	6	9	7	51	54	8	1,998.28	2,959.25
Wallace.....	2,650.00	.....	1	1	0	0	1	0	80.00	25.00
Washington.....	227,475.76	72,610.00	5	15	0	20	35	0	3,666.75	2,038.00
Wichita.....	3,000.00	.....	2	3	0	0	2	1	525.00	255.00
Wilson.....	361,817.96	4,323.24	6	27	1	17	40	4	4,503.11	5,136.25
Woodson.....	41,462.40	38,170.00	20	17	1	4	20	1	667.55	694.00
Wyandotte.....	1,127,040.00	.....	6	127	1	79	195	11	20,115.79	15,856.53
Totals.....	\$40,777,413.91	\$14,862,322.68	1,406	2,505	284	1,681	3,763	452	\$474,189.50	\$358,202.65

TABLE III.—Summary, probate courts. Estates of deceased persons pending July 1, 1937

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Was there a will?		Number that gave bond.	Number bonds kept good.	No bond.
								Yes.	No.			
Allen.....	150	47	22	14	16	14	27	78	72	113	113	37
Anderson.....	80	39	14	12	6	5	4	39	41	46	38	34
Arlington.....	74	24	0	0	0	0	0	37	37	47	47	27
Barber.....	38	26	6	3	1	1	1	20	18	24	15	14
Barton.....	146	66	16	7	10	8	23	82	64	84	82	62
Bourbon.....	149	60	30	19	5	8	14	105	44	83	75	66
Brown.....	132	57	29	18	16	7	3	73	59	88	86	44
Builer.....	24	68	35	16	9	12	54	124	90	127	127	87
Chase.....	33	18	2	5	3	2	3	22	11	16	4	17
Chautauqua.....	41	18	12	11	0	0	0	13	28	31	31	10
Cherokee.....	159	79	41	20	10	5	3	68	91	106	104	53
Cheyenne.....	35	15	3	3	3	2	2	19	16	27	24	8
Clark (17 foreign transcripts).....	49	32	6	1	2	0	7	34	15	21	11	28
Clay.....	68	41	10	4	6	1	6	37	31	45	45	23
Cloud.....	178	56	27	13	13	3	40	111	67	115	111	63
Coffey.....	73	23	12	3	7	5	1	29	44	53	47	20
Comanche.....	15	15	0	0	0	0	0	10	5	7	7	8
Cowley.....	153	92	28	10	11	10	2	94	59	95	95	58
Crawford.....	232	75	27	12	7	14	53	119	113	164	164	68
Decatur.....												
Dickinson.....	143	77	20	14	4	8	17	99	44	91	91	52
Doniphan.....	132	47	22	12	9	8	28	71	61	89	89	43
Douglas.....	126	70	26	12	7	5	6	86	40	74	74	52
Edwards.....	37	17	5	5	3	4	3	25	12	24	24	13
Elk.....	63	27	6	6	4	4	8	27	36	40	40	23
Ellis.....	92	39	17	1	7	7	21	59	33	47	42	45
Ellsworth.....	69	29	16	5	14	3	2	41	28	36	36	33

TABLE III.—Continued. Summary, probate courts. Estates of deceased persons pending July 1, 1901.

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Was there a will?		Number that gave bond.	Number bonds kept good.	No bond.
								Yes.	No.			
Geary.....	60	37	13	4	1	4	1	39	21	36	36	24
Gove.....	19	0	8	3	0	0	5	10	9	11	10	8
Graham.....	28	10	5	8	2	2	1	16	12	21	21	7
Grant.....	9	2	4	2	0	3	1	2	7	7	6	2
Gray.....	31	8	12	5	2	0	0	16	15	20	20	11
Greeley (5 foreign transcripts).....	38	12	6	8	1	1	10	32	6	5	3	33
Greenwood.....	129	49	24	11	9	11	21	62	67	91	62	38
Hamilton.....	39	6	7	4	1	1	10	16	23	25	21	14
Harper.....	59	44	6	3	0	2	4	30	29	40	39	19
Harvey.....	213	63	53	15	12	16	44	119	94	139	139	74
Haskell.....	7	2	2	2	1	0	0	2	5	5	5	2
Hodgeman.....	26	8	7	2	2	5	1	8	18	22	19	4
Jackson.....	314	46	28	24	16	28	82	163	151	223	223	91
Jefferson.....	99	33	13	9	3	4	9	51	48	64	62	35
Jewell.....	97	33	16	7	4	4	19	56	41	71	71	26
Johnson.....	257	65	52	35	19	19	46	142	115	156	154	101
Kearny.....	30	13	7	4	2	1	3	14	16	19	19	11
Kingman.....	63	35	10	2	4	0	10	40	23	34	29	29
Kiowa.....	30	15	4	6	1	2	2	8	22	24	25	5
Labette.....	207	39	24	19	9	7	64	115	92	126	96	81
Lane.....	14	6	5	0	1	1	1	6	8	10	10	4
Leavenworth.....	220	95	38	25	15	11	32	122	98	135	132	85
Lincoln.....	80	33	13	8	4	6	11	37	52	67	66	22
Linn.....	70	17	11	9	4	5	15	45	25	49	49	21
Logan.....	11	7	4	0	0	0	0	3	8	9	9	2
Lyon.....	295	72	39	28	19	19	46	167	128	186	186	109
Marion.....	148	54	21	14	14	10	29	78	70	103	103	45
Marshall.....	222	71	44	17	13	10	50	138	84	144	143	78
McPherson.....	245	64	32	14	14	15	43	134	111	177	177	67
Meade.....	37	16	6	5	1	1	7	26	11	21	17	16

TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1937

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Over 10 years.	Was there a will?		Number that gave bond.	Number bonds kept good.	No bond.
									Yes.	No.			
Miami.....	124	54	24	15	13	4	14	0	64	60	91	91	33
Mitchell.....	113	65	23	14	2	2	2	0	32	81	76	70	37
Montgomery.....	654	105	40	29	34	27	100	319	325	320	412	232	242
Morris.....	67	39	9	10	5	1	2	1	33	34	47	47	20
Morton.....	14	3	6	3	2	0	0	0	8	6	7	7	7
Nemaha.....	170	50	39	19	9	13	30	10	111	59	102	101	68
Neosho.....	85	53	13	4	2	4	8	1	49	36	57	57	28
Ness.....	44	17	5	3	4	3	11	1	21	23	34	34	10
Norton.....	75	33	12	9	6	5	7	3	47	28	44	44	31
Osage.....	134	54	31	15	9	9	13	3	89	45	92	92	42
Osborne.....	104	42	15	7	8	5	17	10	31	73	87	86	17
Ottawa.....	85	47	10	5	5	3	11	4	32	53	73	73	19
Pawnee.....	40	24	8	5	3	0	0	0	22	18	20	18	20
Phillips.....	106	54	22	13	13	4	0	0	38	68	99	95	7
Pottawatomie.....	77	51	14	12	0	0	0	0	32	45	49	49	28
Pratt.....	87	35	15	13	4	3	17	0	51	36	40	40	47
Rawlins (2 foreign transcripts).....	42	15	11	7	3	2	4	0	15	27	37	37	5
Reno.....	234	81	22	13	12	13	43	50	117	117	153	153	81
Republic.....	39	29	0	0	0	0	0	0	18	21	36	36	3
Rice.....	175	44	17	10	10	7	34	53	106	69	94	81	81
Riley.....	188	66	40	21	13	14	30	4	91	97	154	154	34
Rooks.....	92	33	12	7	14	6	15	5	42	50	64	64	28
Rush.....	96	20	9	9	9	3	12	34	41	55	64	46	32
Russell.....	107	46	21	12	5	5	17	1	56	51	82	82	25
Saline.....	204	86	64	34	15	5	0	0	90	114	147	147	57
Scott.....	23	9	6	2	0	2	2	2	14	9	16	16	7
Sedgwick.....	304	304	0	0	0	0	0	0	172	122	187	187	115
Seward.....	100	6	10	4	5	5	29	28	43	27	30	30	33



TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1937

COUNTIES.	Number cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	Over 10 years.	Was there a will?		Number that gave bond.	Number bonds kept good.	No bond.
									Yes.	No.			
Sherman.....	37	10	12	0	1	3	8	3	16	21	25	25	12
Smith.....	34	30	3	1	0	0	0	0	20	14	20	20	14
Stafford.....	46	27	6	1	3	5	3	1	28	18	25	25	21
Stanton.....	3	0	3	0	0	0	0	0	2	1	2	2	1
Stevens.....	17	11	5	1	0	0	0	0	3	14	16	16	1
Sumner.....	201	67	38	20	13	15	39	9	125	76	127	109	74
Thomas.....	61	24	14	11	4	3	2	3	21	40	52	52	9
Trego.....	59	25	4	5	4	2	17	2	23	36	43	32	16
Wabunsee.....	110	33	19	8	9	6	17	18	56	54	78	73	32
Wallace.....	9	4	3	1	0	1	0	0	5	4	5	5	4
Washington.....	71	43	13	4	2	2	5	2	49	22	56	56	15
Wichita.....	12	5	6	1	0	0	0	0	1	11	12	12	0
Wilson.....	178	44	17	12	6	3	40	56	79	99	141	141	37
Woodson.....	55	16	8	8	6	3	7	1	31	24	36	35	19
Wyandotte.....	537	236	132	37	50	63	19	0	257	280	429	429	108
Totals.....	11,554	4,469	1,879	984	720	626	1,613	1,263	6,117	5,437	7,748	7,287	3,806
Foreign transcripts.....	45												
Original proceedings.....	69*												
Total cases.....	11,668												

\* Cases filed too recently for data to be given.

TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1937

COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Value of estates not appraised.	Number first annual reports.	No first annual reports filed.	Did attorney represent:		No attorney.
								Executor or admin.?	Heirs or devisees?	
Allen.....	59	68	23	\$1,007,108.28	\$103,082.26	51	99	81	3	69
Anderson.....	35	5	40	376,992.89	100.00	5	75	12	8	67
Atchison.....	28	4	42	166,632.20	348,295.74	2	72	16	12	57
Barber.....	21	7	10	248,599.24	14,851.36	0	38	26	0	12
Barton.....	103	17	26	3,383,117.58	149,861.25	22	124	40	1	106
Bourbon.....	78	23	48	699,102.43	.....	2	147	72	0	77
Brown.....	61	28	43	598,099.22	.....	26	106	12	5	115
Butler.....	45	43	126	3,690,571.80	538,478.00	35	179	214	13	0
Chase.....	19	11	3	430,636.09	10,443.00	7	26	8	4	24
Chautauqua.....	19	6	16	59,078.35	6,064.93	10	31	30	3	11
Cherokee.....	124	11	24	553,670.94	.....	7	152	19	0	140
Cheyenne.....	25	6	4	337,728.90	500.00	8	27	35	2	0
Clark.....	13	9	27	291,729.11	.....	3	46	27	0	22
Clay.....	50	11	7	463,870.66	978,327.01	12	56	31	1	37
Cloud.....	120	47	11	2,316,740.09	52,143.07	59	119	31	4	145
Coffey.....	61	9	3	108,521.49	228,705.00	24	49	46	0	27
Comanche.....	11	1	3	158,724.01	1,277.33	1	14	13	0	9
Cowley.....	68	66	19	2,086,358.00	160,900.00	29	124	121	86	32
Crawford.....	140	41	51	1,111,178.82	249,633.00	33	199	98	29	133
Decatur.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dickinson.....	92	34	17	1,007,229.13	1,297,051.83	45	98	24	9	117
Doniphan.....	108	14	10	1,542,655.60	5,200.00	47	85	65	38	63
Douglas.....	86	33	7	1,161,059.40	.....	15	111	124	0	2
Edwards.....	24	7	6	454,034.72	115,946.00	12	25	35	3	38
Elk.....	57	5	1	809,371.77	409,546.67	16	47	25	3	2
Ellis.....	69	19	4	1,402,782.49	.....	23	69	93	0	60

COUNTIES.	Inventory filed within 60 days.	Inventory filed 60 days.	No inventory filed.	Value of estates appraised.	Value of estates not appraised.	Number first annual reports.	No first annual reports filed.	Did attorney represent:		No attorney.
								Executor or admin.?	Heirs or devisees?	
Geary.....	44	8	8	\$760,326.38	\$41,613.00	4	56	59	2	1
Gove.....	14	3	2	164,137.99	11,000.00	14	5	11	1	8
Graham.....	20	3	5	115,455.95	8,100.00	2	26	11	0	17
Grant.....	7	1	1	71,153.11	.....	0	9	7	0	2
Gray.....	19	11	1	293,445.32	.....	3	28	31	0	0
Greeley.....	6	1	31	146,195.00	17,460.00	1	37	13	0	25
Greenwood.....	87	23	19	1,368,400.31	7,220.02	32	97	27	6	102
Hamilton.....	19	9	11	106,868.00	24,970.00	12	27	1	1	28
Harper.....	53	5	1	769,895.63	.....	12	47	55	1	4
Harvey.....	128	34	51	2,480,329.00	150,382.00	63	150	141	17	71
Haskell.....	4	2	1	43,655.78	19,700.00	0	7	7	0	0
Hodgeman.....	13	10	3	267,906.95	4,600.00	3	23	25	10	1
Jackson.....	179	87	48	1,252,111.14	911,123.36	103	211	183	40	131
Jefferson.....	51	35	13	1,072,591.88	10,500.00	53	46	40	12	53
Jewell.....	60	26	11	413,379.56	617,340.75	29	68	45	3	52
Johnson.....	154	44	59	5,346,750.59	12,338.34	51	206	255	47	2
Kearny.....	16	9	5	356,204.23	.....	8	22	19	0	11
Kingman.....	43	17	3	699,018.85	217,200.00	15	48	46	2	17
Kiowa.....	22	2	6	301,685.22	4,250.00	9	21	27	1	3
Labette.....	89	49	69	1,233,558.36	22,910.50	22	185	86	8	120
Lane.....	9	3	2	95,084.57	6,000.00	6	8	2	3	11
Leavenworth.....	78	44	98	310,819.94	1,078,795.91	20	200	97	8	122
Lincoln.....	71	13	5	854,251.84	.....	26	63	26	3	63
Linn.....	54	15	1	483,884.97	37,700.00	40	30	23	7	47
Logan.....	10	1	0	58,305.00	34,185.64	1	10	11	0	0
Lyon.....	81	34	180	2,569,865.26	1,685,903.91	94	201	225	0	70
Marion.....	100	32	16	2,036,621.21	.....	56	92	87	11	61
Marshall.....	173	31	18	3,116,280.00	19,389.00	64	158	92	9	129
McPherson.....	167	52	26	3,091,318.16	21,200.00	46	199	180	10	85
Meade.....	21	9	7	1,147,727.11	2,550.00	11	26	31	15	6

TABLE III.—CONTINUED. Summary, probate courts. Estates of deceased persons pending July 1, 1937

COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Value of estates not appraised.	Number first annual reports.	No first annual reports filed.	Did attorney represent:			No attorney.
								Executor or admin.?	Heirs or devisees?		
Miami.....	115	9	0	\$545,106.96	\$590,391.14	27	97	7	4		114
Mitchell.....	78	19	16	875,670.34	3,500.00	1	112	16	2		97
Montgomery.....	287	153	214	3,613,262.36	1,988,935.61	96	558	404	27		250
Morris.....	46	8	13	486,132.99	.....	1	66	55	0		12
Morton.....	6	7	1	71,218.57	.....	1	13	8	5		6
Nemaha.....	132	28	10	1,076,230.49	1,203,199.20	82	88	107	30		63
Neosho.....	53	9	23	593,736.20	1,200.00	19	66	5	5		80
Ness.....	30	9	5	185,897.00	37,533.00	7	37	13	1		31
Norton.....	59	12	4	643,329.81	53,500.00	9	66	75	0		0
Osage.....	104	17	13	450,547.78	410,876.00	52	82	72	0		62
Osborne.....	70	16	18	538,773.79	11,400.00	10	94	1	0		103
Ottawa.....	69	14	2	790,292.81	.....	40	45	38	1		47
Pawnee.....	29	5	6	627,981.37	.....	5	35	39	0		1
Phillips.....	90	9	7	556,634.00	11,850.00	11	95	99	6		5
Pottawatomie.....	53	12	12	383,595.27	39,650.00	6	71	52	0		25
Pratt.....	24	36	27	1,778,090.20	.....	18	69	87	7		0
Rawlins.....	29	7	6	114,790.62	202,933.88	6	36	28	0		14
Reno.....	94	68	72	1,677,579.37	2,000.00	26	208	234	0		0
Republic.....	30	5	4	267,127.98	.....	0	39	20	2		19
Rice.....	53	23	99	1,101,992.87	104,896.32	18	157	28	3		14
Riley.....	135	30	23	1,915,019.92	9,684.50	78	110	27	17		161
Roos.....	74	17	1	1,326,262.38	13,113.50	33	59	76	3		16
Rush.....	38	15	43	412,327.74	119,405.00	21	75	7	4		85
Russell.....	58	24	25	879,785.83	72,411.12	12	95	39	1		68
Saline.....	118	44	42	1,817,017.44	.....	12	192	142	24		62
Scott.....	18	4	1	111,307.62	8,100.00	8	15	23	0		0
Sedgewick.....	128	65	111	2,865,329.44	8,750.00	0	304	296	0		8

TABLE III.—CONCLUDED. Summary, probate courts. Estates of deceased persons pending July 1, 1937

COUNTIES.	Inventory filed within 60 days.	Inventory filed after 60 days.	No inventory filed.	Value of estates appraised.	Value of estates not appraised.	Number first annual reports.	No first annual reports filed.	Did attorney represent:		No attorney.
								Executor or admin.?	Heirs or devisees?	
Sherman.....	21	8	8	\$150,504.16	\$83,385.00	5	32	36	0	1
Smith.....	27	7	0	323,830.00	3,300.00	2	32	3	0	31
Stafford.....	34	11	1	1,014,254.00	906,396.00	16	30	46	0	0
Stanton.....	1	2	0	33,228.48	.....	3	0	3	0	0
Stevens.....	14	1	2	37,505.76	.....	2	15	14	0	3
Sumner.....	102	60	39	2,730,708.00	187,592.00	53	148	180	6	20
Thomas.....	53	1	7	630,976.87	460.00	11	50	55	0	6
Trego.....	47	9	3	607,990.00	.....	13	46	9	3	50
Wabunsee.....	77	12	21	1,299,334.31	43,992.64	26	84	18	13	89
Wallace.....	7	1	1	29,241.00	.....	0	9	8	0	1
Washington.....	61	5	5	642,235.63	177,117.50	13	58	13	1	58
Wichita.....	10	0	2	51,879.10	.....	4	8	12	0	0
Wilson.....	117	19	42	1,552,167.53	25,252.15	33	145	97	4	80
Woodson.....	33	18	4	198,451.91	260,109.00	18	37	44	3	11
Wyandotte.....	263	150	124	2,340,116.00	.....	33	504	396	0	141
Totals.....	6,665	2,364	2,525	\$100,567,337.11	\$16,589,846.85	2,377	9,177	6,207	628	4,997

TABL IV.—Guardianship estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1937

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Allen.....	9	1	3	0	2	1	1	1	6	1	2	9	0	\$42,583.79
Anderson.....	6	2	1	0	0	0	3	0	4	1	1	4	2	7,712.00
Archison.....	9	0	0	3	4	0	0	2	8	1	0	9	0	10,166.40
Barber.....	1	0	0	0	0	0	1	0	1	0	0	1	0	500.00
Barton.....	10	1	0	0	0	2	2	5	9	1	0	10	0	36,175.57
Bourbon.....	2	0	0	0	0	0	2	0	2	0	0	2	0	1,089.66
Brown.....	7	3	0	2	0	0	2	0	2	1	4	7	0	4,237.00
Butler.....	30	9	6	2	1	3	4	5	15	6	9	18	12	279,036.54
Chase (1 foreign)	2	0	0	1	0	0	1	0	2	0	0	2	0	3,892.70
Chautauqua.....														
Cherokee.....	5	1	0	1	0	0	0	3	4	1	0	4	1	5,360.75
Cheyenne.....	4	0	2	0	0	0	1	1	3	1	0	3	1	20,106.96
Clark.....	2	0	0	1	0	1	0	0	0	2	0	2	0	14,839.33
Clay.....	10	1	0	1	2	0	3	3	7	3	0	10	0	6,850.00
Cloud.....	4	1	2	0	0	0	0	1	2	1	1	4	0	5,507.57
Coffey.....														
Comanche.....														
Cowley.....	13	2	1	1	0	3	0	6	9	2	2	13	0	32,620.00
Crawford.....	5	0	0	0	0	0	1	5	4	1	1	5	1	19,509.50
Decatur.....								2	4	1	0	1	4	6,565.40
Dickinson.....	25	1	2	1	0	3	5	13	20	4	1	12	13	36,943.41
Doniphan.....	7	2	2	0	0	0	1	0	4	3	0	7	0	1,060.00
Douglas.....	2	0	0	1	0	0	2	0	2	0	0	2	0	864.88
Edwards.....	7	0	0	2	0	0	3	2	6	1	0	7	0	5,117.69
Elk.....	4	0	0	0	0	0	3	1	4	0	0	3	1	3,104.00
Ellis.....	1	1	0	0	0	0	0	0	1	0	0	0	1	990.00
Ellsworth.....	5	1	0	0	0	0	1	1	2	0	0	0	2	4,050.46

COUNTRIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Geary.....	9	0	2	1	1	2	1	2	5	4	0	0	9	\$49,841.81
Gove.....	1	0	0	1	0	0	0	0	1	0	0	0	1	.....
Graham.....	1	0	0	0	0	0	1	0	1	0	0	1	0	.....
Grant.....	2	0	2	0	0	0	0	0	1	0	1	2	0	7,325.78
Gray.....														.....
Greeley.....	7	1	1	0	0	0	3	2	4	1	2	7	0	7,137.70
Greenwood.....	3	0	0	1	0	0	1	1	2	1	0	3	0	1,350.00
Hamilton.....	11	1	0	1	0	1	2	6	10	1	0	2	9	41,800.00
Harper.....	21	0	1	5	0	0	7	8	15	6	0	1	20	42,733.00
Harvey.....														.....
Hastell.....														.....
Hodgeman.....	9	0	0	1	1	0	4	3	4	5	0	9	0	33,114.10
Jackson.....	1	0	0	0	0	0	1	0	0	1	0	1	0	605.00
Jefferson.....	15	0	1	1	1	0	5	7	13	1	1	15	0	8,342.36
Jewell.....														.....
Johnson.....	3	0	1	1	0	0	1	0	2	1	0	3	0	8,450.00
Kearny.....	2	1	0	0	0	0	0	1	1	1	0	2	0	10,273.00
Kingman.....	3	0	1	0	0	0	1	1	3	0	0	3	0	26,747.00
Kiowa.....	3	1	0	0	0	1	1	0	3	0	0	3	0	12,391.25
Labette.....	9	3	1	0	0	0	3	2	6	2	1	9	0	4,236.00
Lane.....														.....
Leavenworth.....	28	4	7	1	1	1	8	6	19	5	4	22	6	33,245.48
Lincoln.....	4	2	1	1	0	0	0	0	2	1	1	3	1	22,958.31
Linn.....	26	5	4	0	1	0	8	8	12	10	4	24	2	39,830.00
Logan.....														.....
Lyon.....	15	1	3	0	0	0	8	3	11	2	2	15	0	88,485.78
Marion.....	12	3	1	0	0	1	2	5	7	1	4	12	0	55,279.09
Marshall.....	2	0	1	0	0	0	0	1	1	0	1	1	1	4,095.00
McPherson.....	13	0	0	0	0	0	5	8	12	0	1	12	1	58,996.74
Meade.....	3	1	0	0	0	0	1	1	1	1	1	3	0	1,700.00







TABLE IV.—CONTINUED. Guardian estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1937

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where ward's funds supervised by court.	Did attorney represent—		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?			
Allen.....	9	9	0	4	5	0	31	9	3	0	\$450.00	\$45.00	9
Anderson.....	5	5	0	0	0	6	15	4	2	0	135.00	10.00	4
Atchison.....	9	9	0	2	2	5	27	9	0	0	10.00	.....	9
Barber.....	1	1	0	0	0	1	1	0	1	1	.....	25.00	1
Barton.....	10	10	0	1	0	9	28	3	1	0	40.00	.....	10
Bourbon.....	2	2	0	0	1	1	14	2	0	0	.....	.....	2
Brown.....	7	7	0	0	0	7	13	5	2	1	212.00	.....	6
Butler.....	27	27	3	6	6	18	30	30	30	0	189.00	4,469.66	30
Chase.....	2	2	0	1	0	1	6	2	0	0	.....	.....	2
Chautauqua.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cherokee.....	5	5	0	2	0	3	8	5	0	0	.....	.....	5
Cheyenne.....	4	4	0	1	2	1	14	4	4	1	1,372.55	1,092.50	4
Clark.....	2	2	0	1	0	0	6	2	2	0	202.00	33.00	2
Clay.....	10	10	0	0	0	10	47	10	0	0	762.15	.....	10
Cloud.....	4	4	0	1	3	0	8	1	1	0	68.75	80.00	4
Coffey.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Comanche.....	13	13	0	10	2	1	48	12	5	3	9.00	100.00	13
Cowley.....	6	6	0	1	0	5	44	6	1	1	288.97	50.00	6
Crawford.....	5	5	0	2	0	3	13	5	3	0	162.50	122.50	5
Decatur.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dickinson.....	24	24	1	11	10	4	142	19	5	0	955.58	275.22	24
Doniphan.....	7	7	0	7	0	0	17	7	0	0	350.00	.....	7
Douglas.....	2	2	0	0	2	0	8	2	2	0	.....	.....	2
Edwards.....	7	7	0	1	5	1	37	6	4	0	406.24	56.67	7

TABLE IV.—CONTINUED. Guardian estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1937

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?			
Ellis.....	1	1	0	0	0	1	2	1	1	0	25.00	25.00	1
Ellsworth.....	2	2	0	0	1	1	9	1	1	1	50.00	50.00	2
Finney.....	7	7	0	1	2	4	13	7	2	0	\$101.00	\$101.00	6
Ford.....	11	11	0	2	4	5	34	8	1	0	10.00	10.00	11
Franklin.....													
Geary.....	9	9	0	3	6	0	21	8	8	0	116.10	212.99	9
Gove.....	1	1	0	0	0	1	0	0	1	0			0
Graham.....	1	1	0	1	0	0	0	1	1	0		21.15	1
Grant.....	2	2	0	0	2	0	1	2	2	0	45.00	45.00	2
Gray.....													
Greeley.....	4	4	3	3	0	4	14	7	0	0	125.00		7
Greenwood.....	2	2	1	1	0	2	10	2	2	0			3
Hamilton.....	11	11	0	10	1	0	56	11	3	0	650.00	525.00	10
Harper.....	21	21	0	3	0	18	81	0	8	1	1,150.00	900.00	15
Harvey.....													
Haskell.....													
Hodgeman.....	8	8	1	1	3	5	79	9	4	3	1,240.00	830.00	9
Hutchinson.....	1	1	0	1	0	0	6	1	0	0	167.00		1
Jefferson.....	14	13	1	4	0	11	17	8	3	1	100.00	181.00	10
Jewell.....													
Johnson.....	3	3	0	3	0	0	4	3	3	1	135.00	600.20	3
Kearny.....	2	2	0	1	1	0	14	1	0	1	10.00	10.00	1
Kingman.....	3	3	0	1	0	2	5	2	3	0			2
Kiowa.....	3	3	0	3	0	0	1	3	3	0		100.00	3
Lafayette.....	9	9	0	1	0	8	32	9	1	0		15.25	9

TABLE IV.—CONTINUED. Guardian estates (of minors, insane, or other incompetent persons) closed within the year ending June 30, 1937

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?			
Lane.....	26	26	2	3	1	24	91	27	10	1	\$1,907.48	\$440.00	28
Leavenworth.....	4	4	0	2	2	0	24	4	1	1	200.63	5.00	4
Lincoln.....	26	26	0	17	7	2	95	26	4	5	2,725.00	385.00	26
Linn.....													
Logan.....													
Lyon.....	13	13	2	0	0	15	53	15	6	5	3,815.00	98.75	15
Marion.....	12	12	0	5	4	3	74	12	3	0	483.75	95.00	12
Marshall.....	2	2	0	0	2	0	2	1	2	1	195.00	400.00	2
McPherson.....	13	13	0	6	2	5	25	8	11	2	75.00	415.00	12
Meade.....	3	3	0	3	0	0	6	3	3	0		30.00	3
Miami.....	5	5	0	4	0	1	30	4	5	5	138.22		4
Mitchell.....	11	11	4	2	0	13	4	14	1	0			13
Montgomery.....	16	2	1	11	1	5	20	6	8	0	1,534.12	196.00	17
Morris.....	24	24	0	10	10	4	8	6	1	1	25.00	25.00	21
Morton.....													
Nemaha.....	11	11	0	3	4	4	104	11	6	6	450.00	2,960.00	11
Neosho.....	10	10	0	0	2	8	9	10	1	0	790.00	750.00	10
Ness.....	4	4	0	3	0	1	7	4	2	0	50.00	130.00	4
Norton.....	4	4	0	3	0	0	10	4	4	0	59.10	25.00	4
Osage.....	11	11	1	6	3	3	16	12	5	1	250.00	167.94	12
Osborne.....	7	7	0	1	0	6	7	5	1	0	250.00	50.00	7
Ottawa.....	5	3	0	0	0	5	7	2	1	2			5
Pawnee.....	7	7	0	2	1	4	40	0	2	1		219.00	7
Phillips.....	4	4	0	3	0	1	9	4	3	0	25.00	75.00	4
Pottawatomie.....	2	2	0	1	0	1	4	0	1	0			2
Pratt.....	9	9	0	2	3	4	15	9	9	0	1,000.00		9

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?			
Riley.....	5	5	1	3	0	3	15	4	1	0	\$85.00	\$25.00	6
Rooks.....	7	7	0	7	0	0	9	7	4	1	225.00	100.00	7
Rush.....	24	7	4	1	1	26	34	0	2	0	.....	.....	0
Russell.....	11	11	0	3	1	7	59	10	5	0	348.20	215.00	11
Saline.....	3	3	0	1	0	2	4	0	1	2	.....	35.00	1
Scott.....	49	49	0	13	9	27	94	49	42	43	870.00	2,340.00	49
Sedgwick.....	2	2	1	2	0	1	5	1	2	2	.....	5.00	2
Seward.....	36	36	0	12	19	5	190	36	11	0	4,595.54	880.76	36
Shawnee.....	1	1	1	0	0	2	0	1	0	0	.....	.....	0
Sheridan.....	3	3	1	2	0	2	2	2	3	0	30.23	3.00	3
Sherman.....	1	1	0	1	0	0	1	0	0	0	.....	.....	0
Smith.....	1	1	1	0	1	1	9	1	1	0	30.00	10.00	2
Stafford.....	1	1	1	0	1	1	.....	.....	.....	.....	.....	.....	.....
Stanton.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Stevens.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sumner.....	7	7	0	3	0	4	1	5	4	0	2,500.00	800.00	7
Thomas.....	5	4	0	4	1	0	5	0	5	1	.....	65.00	5
Trego.....	7	7	0	3	0	4	161	7	0	0	235.00	.....	7
Wabunsee.....	5	5	0	0	0	5	2	2	1	0	.....	.....	5
Wallace.....	3	3	0	1	2	0	1	3	3	0	177.40	7.50	3
Washington.....	5	5	0	4	0	1	9	5	0	0	37.00	.....	5
Wichita.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Wilson.....	14	14	0	4	3	7	28	14	5	0	750.00	280.00	14
Woodson.....	3	3	0	0	2	1	18	2	0	0	200.00	.....	3
Wyandotte.....	57	57	1	10	10	38	205	58	19	2	2,252.95	1,875.90	57
Totals.....	795	749	34	265	159	405	2,615	665	330	96	\$39,371.69	\$23,787.49	778

TABLE V.—Guardianship estates of minors, insane and incompetent persons pending July 1, 1937

COUNTIES.	Number of cases.	Less than one year.	1 to 2 year.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompt.	Yes.	No.	
Allen.....	118	15	14	12	13	6	39	19	81	28	9	112	6	\$135,677.36
Anderson.....	35	4	5	4	1	4	10	7	19	7	9	27	8	114,611.89
Atchison.....	21	0	0	0	0	0	0	0	12	5	4	21	0	17,640.30
Barber.....	9	0	0	0	0	0	3	0	5	3	1	9	0	9,935.75
Barton.....	117	18	10	12	12	6	41	18	104	13	0	117	0	157,009.31
Bourbon.....	74	11	5	9	4	5	19	21	53	13	8	17	57	54,260.54
Brown.....	42	3	10	9	4	1	8	7	24	5	13	33	9	57,085.28
Butler.....	165	20	26	11	11	6	69	22	137	13	15	165	0	253,714.20
Chase.....	39	6	7	8	4	1	7	6	33	3	3	39	0	67,262.16
Chautauqua.....	7	7	0	0	0	0	0	0	0	6	1	2	5	200.00
Cherokee.....	113	25	17	25	7	2	16	21	70	29	14	73	40	65,643.00
Cherokee.....	29	1	4	3	1	2	10	8	26	3	0	21	8	27,980.27
Clark.....	30	9	5	2	1	1	13	8	30	9	0	36	3	39,953.88
Clay.....	80	14	16	8	5	4	14	19	54	19	7	78	2	193,939.71
Cloud.....	114	13	8	8	11	8	34	32	72	25	17	107	2	244,394.73
Coffey.....	93	10	11	7	7	1	27	30	69	17	7	84	9	93,897.39
Comanche.....	4	3	1	0	0	0	0	0	2	2	0	4	0	2,250.00
Cowley.....	121	18	22	13	9	7	31	21	87	17	17	120	1	398,645.00
Crawford.....	312	29	25	20	14	13	117	94	255	40	17	283	29	665,278.87
Decatur.....	45	3	7	7	4	1	9	14	33	3	9	28	17	45,977.15
Dickinson.....	221	20	15	12	14	14	83	63	149	38	34	87	134	1,008,531.80
Doniphan.....	77	13	16	2	2	2	7	5	31	16	0	42	5	44,124.98
Douglas.....	75	13	16	11	10	22	3	0	54	18	3	23	52	62,992.23
Edwards.....	42	7	3	6	3	0	15	8	32	9	1	32	10	111,947.59
Elk.....	32	3	8	2	3	2	8	6	26	5	1	29	3	35,026.76
Ellis.....	19	19	0	0	0	0	0	0	13	6	0	13	6	8,755.54
Ellsworth.....	36	4	7	9	5	1	3	7	28	7	1	24	12	46,723.43

COUNTIES.	Number of cases.	Less than one year.	1 to 2 years.	2 to 3 years.	3 to 4 years.	4 to 5 years.	5 to 10 years.	More than 10 years.	Was ward a minor, insane or other incompetent person?			Was guardian appointed for person of ward?		Value of guardianship estates.
									Minor.	Insane.	Incompet.	Yes.	No.	
Geary.....	58	9	7	7	7	5	16	7	44	10	4	1	57	\$158,496.93
Gove.....	30	0	2	5	4	3	14	2	29	1	0	1	29	37,128.20
Graham.....	11	2	0	0	1	0	3	4	6	4	1	6	5	37,450.00
Grant.....	5	0	0	0	1	0	1	1	3	2	0	4	1	33,450.00
Gray.....	29	4	8	5	1	1	8	2	16	2	11	28	1	61,311.57
Greeley.....	6	0	1	1	1	0	3	0	3	3	0	4	2	8,800.00
Greenwood.....	228	17	18	5	7	5	48	128	191	30	7	193	35	211,801.06
Hamilton.....	24	3	1	6	2	0	7	5	18	5	1	24	0	211,877.00
Harper.....	58	7	12	11	2	0	14	11	39	16	3	24	34	100,739.14
Harvey.....	143	19	9	14	13	7	46	35	95	33	15	0	143	515,546.00
Haskell.....	16	2	3	2	2	1	6	0	12	3	1	12	4	34,906.70
Hodgeman.....	19	6	0	0	0	1	9	3	13	6	0	15	4	19,675.35
Hodgson.....	55	7	13	8	2	1	13	11	43	9	3	50	5	99,574.17
Jefferson.....	79	9	11	12	6	3	19	19	53	21	5	78	1	148,882.16
Jewell.....	70	15	8	5	8	3	21	10	38	22	10	63	7	89,787.64
Johnson.....	183	18	26	16	16	14	45	48	158	23	2	183	0	1,568,711.80
Kearny.....	8	2	1	0	0	1	3	1	7	0	0	8	0	9,337.43
Kiama.....	66	3	8	2	7	8	28	10	55	11	0	51	15	151,829.56
Kiowa.....	15	3	3	2	1	1	3	2	13	2	0	15	0	67,876.59
Labette.....	170	14	12	12	15	11	70	36	140	20	10	170	0	63,757.15
Lane.....	3	2	0	0	0	0	0	1	0	2	1	1	2	11,550.00
Leavenworth.....	147	20	25	19	9	11	40	23	96	44	7	108	39	284,312.97
Lincoln.....	74	8	3	10	6	6	23	18	51	20	3	41	33	227,052.69
Linn.....	34	8	1	3	4	1	11	6	17	17	0	33	1	74,087.00
Logan.....														
Lyon.....	131	19	19	7	10	2	39	35	86	27	18	131	0	547,729.97
Marion.....	184	16	23	14	8	8	59	56	154	16	14	178	6	181,426.37
Marshall.....	155	12	15	11	9	10	49	49	115	33	7	149	149	307,208.70
McPherson.....	186	19	12	20	14	11	62	48	157	17	12	168	18	706,418.79
Meade.....	21	4	2	1	1	1	9	3	17	1	3	5	16	18,731.78







TABLE V.—CONTINUED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1937

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?				
Allen.....	99	93	19	22	29	67	155	45	39	0	79	\$1,580.46	\$1,917.86	52
Anderson.....	32	28	3	8	2	25	113	12	6	0	29	6,468.00	100.00	11
Atchison.....	16	16	5	2	0	19	21	17	3	3	18	.....	.....	16
Barber.....	8	5	1	1	0	8	0	1	5	0	4	.....	.....	3
Barton.....	117	117	0	9	5	103	269	39	33	0	84	2,110.00	1,372.00	91
Bourbon.....	69	65	5	11	12	51	223	72	10	0	64	700.00	.....	74
Brown.....	41	38	1	4	5	33	137	12	4	1	37	1,354.40	65.00	13
Butler.....	164	164	1	2	9	154	137	165	165	0	0	2,945.00	210.00	163
Chase.....	33	25	6	7	2	30	67	12	1	0	38	.....	.....	11
Chautauqua.....	5	5	2	0	0	7	0	1	5	1	1	.....	.....	0
Cherokee.....	104	101	9	7	2	104	277	36	8	0	105	2,155.10	.....	31
Cheyenne.....	29	29	0	11	6	12	25	1	9	0	20	.....	.....	1
Clark.....	35	18	4	6	2	31	8	15	25	1	13	2,270.00	60.00	16
Clay.....	80	79	0	8	4	68	105	49	14	0	66	2,840.00	404.25	69
Cloud.....	112	108	2	35	32	47	439	94	10	9	95	3,555.45	443.04	110
Coffey.....	82	70	11	38	13	42	196	28	20	0	73	4,242.35	203.00	26
Comanche.....	4	4	0	2	0	2	1	4	3	1	0	.....	.....	4
Cowley.....	120	120	1	80	40	1	300	112	71	43	50	9,500.00	7,180.00	118
Crawford.....	311	311	1	10	9	293	637	282	52	3	260	6,220.53	4,713.40	158
Decatur.....	44	41	1	11	4	30	146	28	17	2	27	515.50	10.00	41
Dickinson.....	220	220	1	88	83	50	1,182	137	46	1	175	23,440.48	1,992.88	183
Doniphan.....	47	47	0	42	1	4	37	36	11	1	36	725.00	350.00	47
Douglas.....	66	66	9	30	29	16	71	65	61	0	14	18.00	.....	73
Edwards.....	41	41	0	4	10	4	111	30	17	0	25	2,539.00	842.17	34
Elk.....	32	32	0	22	5	5	66	32	10	1	22	506.80	223.00	32
Ellis.....	15	15	4	9	0	10	0	0	0	0	19	.....	.....	10

COUNTIES.	Number of cases kept bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?				
Geary.....	57	57	1	11	19	28	141	39	29	0	29	\$2,525.82	\$793.62	41
Gove.....	30	30	0	1	0	29	36	25	13	0	17	.....	15.00	29
Graham.....	11	10	0	2	3	6	27	6	4	0	7	2,383.82	350.00	5
Grant.....	5	5	0	1	1	3	2	4	3	0	2	421.23	25.00	2
Gray.....	28	28	1	25	2	2	44	19	16	0	13	3,456.41	297.50	18
Greeley.....	2	1	4	0	2	4	1	1	0	0	6	.....	.....	1
Greenwood.....	221	166	7	29	19	180	298	122	39	18	185	2,887.55	1,379.50	104
Hamilton.....	16	14	8	7	6	11	16	11	8	0	16	.....	.....	9
Harper.....	53	50	5	37	18	3	152	47	46	3	12	1,120.00	305.00	51
Harvey.....	142	142	1	31	18	94	363	6	77	1	65	5,292.50	6,560.00	104
Haskell.....	15	15	1	8	2	6	33	10	5	0	11	725.00	255.00	15
Hodgeman.....	19	16	0	16	3	0	43	14	15	0	4	75.00	225.00	14
Jackson.....	54	54	1	10	14	31	117	52	10	2	44	1,990.00	355.00	55
Jefferson.....	75	72	4	42	21	16	269	50	20	7	57	3,051.75	461.00	57
Jewell.....	69	69	1	15	6	49	117	37	12	0	58	2,023.10	311.00	44
Johnson.....	166	166	17	72	23	88	140	177	171	11	11	2,718.79	3,146.70	180
Kearny.....	8	6	0	3	1	4	10	1	1	0	7	.....	.....	2
Kingman.....	66	66	0	36	14	16	106	36	44	0	22	.....	.....	41
Kiowa.....	15	15	0	3	1	11	41	14	9	0	6	502.50	125.00	15
Labette.....	169	169	1	14	5	151	157	169	31	0	139	1,625.00	340.00	169
Lane.....	3	3	0	0	1	2	3	1	0	0	3	.....	.....	3
Leavenworth.....	146	146	1	5	1	141	416	121	89	0	58	12,379.60	2,111.00	128
Lincoln.....	70	68	4	23	9	42	113	32	11	10	57	1,330.03	65.00	39
Linn.....	33	33	1	25	8	1	94	34	2	4	29	2,450.00	70.00	34
Logan.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lyon.....	127	127	4	7	1	123	286	131	67	5	59	8,750.07	2,254.75	131
Marion.....	182	182	2	20	14	150	630	181	151	0	33	3,418.12	1,670.40	184
Marshall.....	152	141	3	32	16	107	272	85	43	0	112	6,273.00	524.00	126
McPherson.....	183	179	3	29	14	143	227	134	120	0	66	5,193.50	4,532.70	154
Meade.....	21	17	0	13	4	4	64	15	16	1	5	460.00	225.00	15

TABLE V.—CONTINUED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1937

COUNTIES.	Number of cases bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?				
Miami.....	86	86	1	74	10	3	187	87	5	1	81	\$1,843.00	\$631.59	86
Mitchell.....	26	26	13	3	3	33	45	39	4	0	35	1,000.00	.....	39
Montgomery...	566	164	8	143	88	343	627	162	340	5	234	17,441.42	4,870.97	134
Morris.....	60	60	2	53	5	4	101	50	12	10	30	4,100.00	1,150.00	51
Morton.....	10	10	1	3	3	5	11	2	1	0	10	.....	.....	4
Nemaha.....	104	104	1	21	18	66	486	102	48	32	57	6,619.85	1,958.83	105
Neosho.....	82	81	3	11	4	70	171	82	2	2	82	1,613.92	1,033.00	82
Ness.....	66	66	1	43	9	15	113	48	5	0	62	2,100.00	80.00	57
Norton.....	52	52	2	12	17	25	136	52	54	0	0	1,767.63	474.44	53
Osage.....	61	61	5	25	18	23	202	49	13	1	52	2,404.45	1,131.45	36
Osborne.....	65	65	11	1	2	73	103	28	0	0	76	1,775.00	.....	30
Ottawa.....	45	45	4	9	9	31	127	20	5	0	44	1,218.60	80.00	41
Pawnee.....	25	25	1	5	7	14	78	7	9	0	17	826.60	375.00	25
Phillips.....	46	46	1	30	6	11	46	47	40	0	7	147.00	100.00	47
Pottawatomie..	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Pratt.....	17	17	0	3	7	7	37	17	17	0	0	.....	.....	17
Rawlins.....	28	28	7	10	3	22	22	22	22	0	13	94.00	320.00	28
Reno.....	323	323	11	38	42	254	502	334	330	0	0	4,148.59	1,513.20	134
Republic.....	9	9	0	0	0	4	0	6	4	0	5	.....	.....	7
Rice.....	148	144	7	4	7	144	92	16	16	0	139	2,028.50	72.00	5
Riley.....	141	141	2	70	22	51	571	142	12	3	131	3,253.15	732.50	141
Rooks.....	65	65	2	52	11	4	86	56	48	4	19	2,251.00	2,035.00	58
Rush.....	151	90	18	25	104	104	154	0	26	0	143	335.00	.....	1
Russell.....	129	129	1	30	18	82	355	122	9	0	121	905.05	534.00	130

TABLE V.—CONCLUDED. Guardianship estates of minors, insane and incompetent persons pending July 1, 1937

COUNTIES.	Number of cases kept bond given.	Was bond kept good?	No bond filed.	Inventory.			Number of annual reports filed.	Number cases where investment of ward's funds supervised by court.	Did attorney represent—		No attorney.	Total fees allowed guardian.	Total fees allowed attorneys.	Number cases ward's funds properly accounted for and disbursed.
				Filed within 30 days.	Filed after 30 days.	None filed.			Guardian?	Ward?				
Sherman.....	44	42	9	6	8	39	138	31	28	3	25	\$1,684.48	\$325.00	46
Smith.....	29	29	0	16	4	9	74	19	6	3	21	.....	.....	0
Stafford.....	17	17	1	9	0	9	22	7	8	0	10	700.00	460.00	18
Stanton.....	2	2	0	2	0	0	0	0	2	0	0	.....	.....	2
Stevens.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sumner.....	134	134	1	13	5	117	237	98	84	1	51	1,822.78	1,701.50	135
Thomas.....	33	33	2	24	8	3	21	27	26	0	9	.....	.....	0
Trego.....	17	16	1	3	4	11	64	16	3	2	13	1,900.00	130.00	17
Wabunsee.....	63	63	4	16	2	49	138	31	5	1	61	360.00	.....	57
Wallace.....	10	10	0	6	2	2	15	0	4	0	6	30.00	175.00	10
Washington.....	41	41	1	19	6	17	184	42	9	0	33	1,971.13	730.75	42
Wichita.....	5	5	0	1	0	4	5	5	5	0	0	.....	.....	5
Wilson.....	108	108	2	18	3	89	190	73	33	0	77	5,111.84	1,743.41	80
Woodson.....	37	37	10	5	8	34	92	36	19	0	28	1,515.00	285.00	43
Wyandotte.....	236	236	2	96	17	125	175	238	159	0	79	1,106.71	4,150.00	238
Totals.....	8,095	7,398	366	2,214	1,303	4,944	15,980	5,620	3,430	247	4,946	\$255,250.62	\$89,074.57	5,605

Sec.  
U. S.

Top  
Per

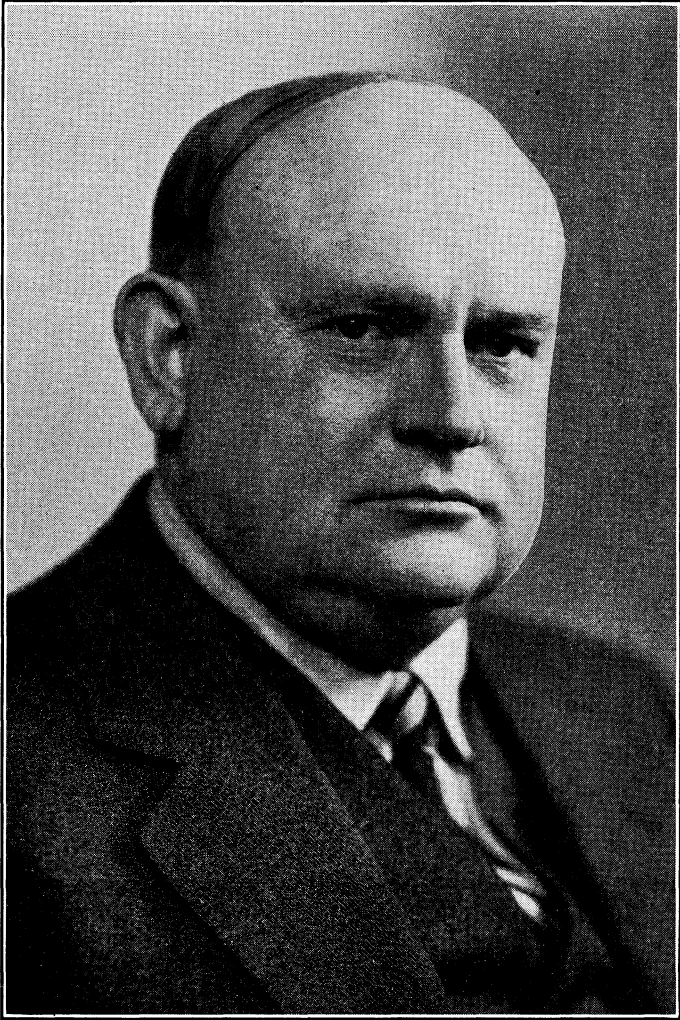
---

PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1938  
17-3664

# KANSAS JUDICIAL COUNCIL BULLETIN

, 1938

PART 2—TWELFTH ANNUAL REPORT



AUSTIN M. COWAN

## MEMBERS OF THE JUDICIAL COUNCIL

---

W. W. HARVEY, <i>Chairman</i> .....	Ashland
Justice of the Supreme Court.	
J. C. RUPPENTHAL, <i>Secretary</i> .....	Russell
Formerly Judge Twenty-third Judicial District.	
EDWARD L. FISCHER .....	Kansas
Judge First Division, Twenty-ninth Judicial District.	
EDGAR C. BENNETT .....	Marysville
Judge Twenty-first Judicial District.	
KIRKE W. DALE .....	Arkansas
Chairman, Senate Judiciary Committee.	
HARRY W. FISHER .....	Fort Smith
Chairman, House Judiciary Committee.	
CHARLES L. HUNT .....	Concord
ROBERT C. FOULSTON .....	Wichita
CHESTER STEVENS .....	Independence

### COÖPERATING WITH THE—

KANSAS STATE BAR ASSOCIATION,  
 SOUTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTHWESTERN KANSAS BAR ASSOCIATION,  
 NORTH CENTRAL KANSAS BAR ASSOCIATION,  
 LOCAL BAR ASSOCIATIONS OF KANSAS,  
 JUDGES OF STATE COURTS AND THEIR ASSOCIATIONS,  
 COURT OFFICIALS AND THEIR ASSOCIATIONS,  
 THE LEGISLATIVE COUNCIL,  
 MEMBERS OF THE PRESS,  
 OTHER ORGANIZATIONS, and leading citizens generally throughout the state.

For the improvement of our Judicial System and efficient functioning.

---

## TABLE OF CONTENTS

---

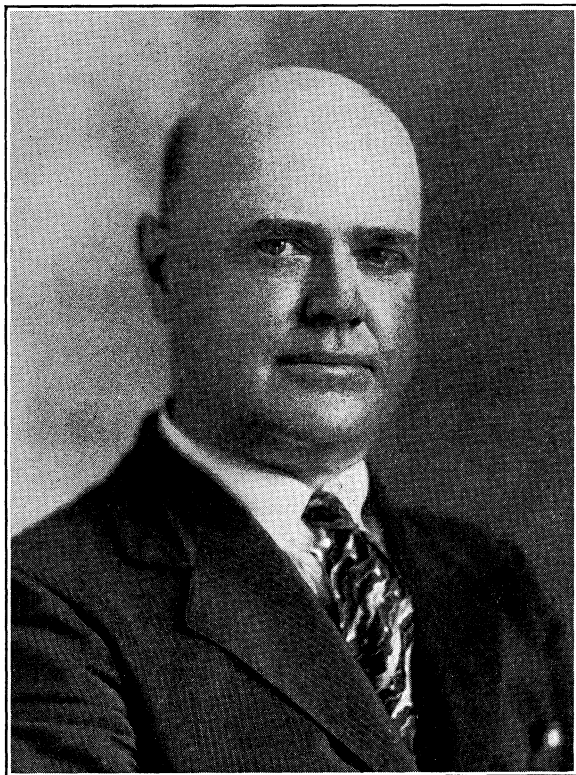
Ray H. Beals .....	
Foreword .....	
Some Observations on Instructions to the Jury. <i>By Austin M. Cowley</i> .....	
The Importance of Our Probate Courts. <i>By W. W. Harvey</i> .....	
Index to Our Reports and Bulletins. <i>By Charles L. Hunt</i> .....	



## RAY H. BEALS

1881-1938

and reared in Stafford county, his home was at St. John. Always and self-reliant, when he was ready to study law he rode his bicycle to Lawrence and entered Kansas University Law School, from which he was graduated in 1903, having worked at sundry tasks to pay his expenses. Returning to St. John to practice law, he was elected four times as county



RAY H. BEALS

...y, having previously served as assistant in that office, and at various times was city attorney of several of the cities in that county. He enjoyed general law practice, and was admitted to practice before the supreme court of the United States. In 1924 he was elected judge of the twentieth judicial district, composed of Barton, Rice and Stafford counties, where, owing to recent developments, there has been an unusual amount of important litigation; in August, 1933, he became a member of the Judicial Council. These

latter positions he held until his death, June 11, 1938. He was the Southwestern Kansas and of the State District Judges' Association of the Southwestern Kansas and State Bar Associations. He filled positions with honor and with unusual ability. He loved the law and its proper application to human activities and enterprises. No one equaled him in his familiarity with our statutes and decisions. Justice was one of his dominating qualities. He liked people, especially young people, and constantly sought to aid them. Always industrious and zealous in his work well, he was a valuable member of our Council. We will miss his friendly aid and his able co-worker.

## FOREWORD

---

In this issue of our BULLETIN we introduce a new member of the Judicial Council. On the passing of Judge Beals, the chief justice appointed as a member of the Council, Hon. Edgar C. Bennett, of Marysville, who, since May 1, 1932, has been judge of the district court of the twenty-first judicial district. Although a comparatively young man, Judge Bennett has won an outstanding name for himself as a jurist. He is interested in work of the character we have and do, and we are sure that he will make a valuable member of the Council.

---

On the frontispiece of this issue we have the portrait of Austin M. Cowan, who has just completed his year of service as president of the State Bar Association. We are favored also with an article by him on "Some Observations on Instructions to the Jury." Mr. Cowan is especially well qualified to write on this subject from a practicing lawyer's viewpoint. For more than a half-century of a century he has been in the active practice of law and has tried many cases in the state and federal courts. In fact, his practice has taken him to many of the judicial districts of state as well as to neighboring states, and his article comes to us from the viewpoint of a practicing lawyer and is therefore more valuable for that reason. We are sure that it will be read with interest and profit.

---

At the recent meeting of the Northwestern Kansas Bar Association at Salina, the chairman read a paper on "The Growing Importance of Our Probate Code." Excerpts from this paper which may be of interest to the people of Kansas are embodied in an article in this issue.

---

For some time we have been having an increasing number of inquiries for an index covering reports and bulletins of the Council. One is published in this issue. It is the work of Mr. Charles L. Hunt, of Concordia, who is the father of the Judicial Council idea in this state, and who has been working on it since it was created. The compilation of this index was an arduous task which he has performed with painstaking care. We trust it will be found useful.

---

A tentative draft of the probate code, published in our April BULLETIN, has received careful attention from many of the lawyers and groups of lawyers throughout the state, as we had hoped it would. We have received a number of suggestions from attorneys and groups of attorneys making constructive, helpful suggestions. These and such others as we received, together with our own

study of the subject, will receive careful attention of the members of the Council at a meeting to be held this month and also a meeting in September. It is to be hoped that we can get the draft revised in time for us to think it proper to present to the legislature so that it can be published in our October, or certainly in our December BULLETIN, together with citations pertaining to the separate sections.

---

We are collecting data from clerks of the district court, and from county courts this year, as well as from the supreme court. The reports are already coming in much more rapidly, and apparently coming with greater care than we have ever had heretofore. These reports are being summarized and tables prepared from them for publication in the next issue of our BULLETIN.

---

### Some Observations on Instructions to the Jury

By AUSTIN M. COWAN, of Wichita, Kan.

Lack of experience in a given field frequently appears to be the excuse for a dissertation on the subject. As I have never had occasion to instruct a jury, I necessarily feel that I am fully qualified to speak with authority on the matter.

While the code of civil procedure does not require that general instructions to the jury be in writing unless requested by either party, yet it has established a general rule in the state courts to instruct in writing. (R. S. 60-2909)

It seems to me that written instructions lack something in concreteness in their application to the particular facts of a case. Usually they contain abstract statements of the law. I have been surprised to find how often the instructions know the plaintiff from the defendant in a lawsuit, yet almost all of the instructions, as well as those given by the court, refer to the parties by name, out as "plaintiff" and "defendant." It would seem that a reference to the parties by name, or as "defendant Smith" or "plaintiff Jones," in a number of the instructions would assist in getting the jurors acquainted with the actual parties plaintiff and defendant.

The practice of copying the pleadings into the instructions as a part of the claims of the parties is likewise confusing to jurors. The better practice, in my opinion, is to abstract the pleadings, leaving out all unnecessary details, and then state the matters admitted and the points on which there is a conflict of evidence. It might be that under such a procedure some of the issues would be erroneously stated or omitted, but the district judge could submit this part of the instructions to counsel and ask for any suggestions to cure any defects in this respect. If counsel do not object, there is no right to complain thereafter. Oral instructions interspersed with written instructions certainly have the advantage of bringing to the jury the law in relation to the facts in the case, but oral instructions have other disadvantages which apparently outweigh the merits of that system. There is something about a written instruction that makes it cold and distant with relation to the case which has been enacted in the courtroom in the trial of a case. M

ve endeavored to draw a written instruction so that it would sound life-  
and real, but try as I may, the effort has been unsuccessful. Personally,  
ould like to see some of the district judges try instructing the juries orally.  
l the issues are not covered, counsel have an opportunity to correct the  
t on the deficiencies, if any, while the jurors are still in the jury box.  
his matter of requested instructions and objections by counsel brings us  
nother interesting phase of this subject, viz., the necessity of objecting.  
fifth subdivision of G. S. 60-2909 provides in part:

Before reading the instructions to the jury, the court shall, when requested,  
nit the same to counsel on either side and give counsel a reasonable time  
uggest modifications thereof."

rom this it would appear that an attorney is not required to suggest  
ifications unless he has requested submission of the instructions of the  
t to him for his perusal. However, there appear to be decisions of our  
t to the contrary. The same subdivision requires the court to give general  
uctions to the jury. For many years it was thought that it was the duty  
e court to instruct on all issues generally and failure so to do constituted  
ssible error, although no instructions had been requested by the com-  
ing party. (*Insurance Co. v. Despain*, 77 Kan. 654, l. c. 662; *Railway*  
*pany v. Woodson*, 79 Kan. 567.)

owever, if a party wished an instruction on a particular phase of the case  
as his duty to request it, and if he did not request it and the instructions  
e court covered it in a general way, there could be no error predicated  
ne instructions.

*Lambert v. Rhea*, 134 Kan. 10, the supreme court quoted from *Foley*  
 *Crawford*, 125 Kan. 252, and in addition thereto said:

Although plaintiffs complain that instructions were incomplete and should  
included some additional matter, they did not request or suggest any  
ions or modifications of those given. Plaintiffs stood by without making  
ctions, and not asking for modifications or additions they allowed the  
c and defendant to understand that they were satisfied with the charge.  
party thinks an instruction is not as full as it might be he should in-  
ess to the court point out the lack and request the additional matter, and  
fails to do this he has no right to complain."

oth in the *Lambert* case and the *Foley* case the complaint was that the  
uctions were incomplete and should have included some additional matter.  
objections, on appeal, did not appear to have been to errors in the  
uctions given.

*Williams v. Hanston State Bank*, 140 Kan. 260, the supreme court ap-  
to have gone further, for, after quoting from *Foley v. Crawford*, supra,  
*Lambert v. Rhea*, supra, it said:

he instructions appear to be correct so far as they pertain to the issues  
hich the case was tried by the parties. The failure of the defendant to ob-  
to the instructions, as given, or to suggest modifications of them, bars  
from complaining that additional instructions were not given, *or of those*  
." (Italics ours.)

us it would appear for the first time our supreme court adhered to the  
ine that failure to object to the instructions given precluded an appellant  
complaining of errors in those actually given by the trial court.

*Birdsong v. Meyers*, 141 Kan. 140, l. c. 143, the supreme court said:

"Moreover, the objection now raised to the instructions was not made at trial; and if the matter were more serious than it is, we cannot discern how a reversible error could be predicated upon it, since no request for alteration or modification or amplification of the instructions was raised for the trial court to consider before the case went to the jury. In *Skaer v. Bank*, 126 Kan. 538, 268 Pac. 801, this court, in discussing the statute governing instructions (R. S. 60-2909), said:

"The statute gives to counsel the right to inspect the instructions before they are given to the jury. If on inspection it is discovered that the instructions are not what counsel desires them to be, he has an opportunity to prepare special instructions to correspond with his wishes and submit them to the court with the request that they be given to the jury. Failure to do either of these things renders unavailing any complaint that the instructions were not as full and complete as they ought to have been."

"In *Williams v. Bank*, 140 Kan. 260, 36 P. 2d 84, it was said:

"The failure of the defendant to object to the instructions, or to suggest modifications of them, bars him from complaining that additional instructions were not given, or of those given."

"Sundry other criticisms of the instructions are urged on our attention, but the rule of trial practice just discussed sufficiently disposes of them."

The supreme court, however, failed to note that the doctrine set out in the case of *Skaer v. Bank*, 126 Kan. 538, was apparently changed on reconsideration in the same case under the title of *Skaer v. American National Bank*, 127 Kan. 682. The first opinion in the *Skaer* case was delivered July 7, 1928. The appellant (defendant below) had objected to instruction No. 3 of the court below, which referred to "accommodation to the parties" as being "misleading, ambiguous and prejudicial" and not sufficiently broad in its definition of what was meant by the word "parties." The judgment of the court below was affirmed on the basis of the quotation above set out in *Birdsong v. Meyer*. Petition for rehearing was filed both by the appellant and by *amici curiae* who were interested in the question of practice on the matter of the necessity of objecting to instructions. The rehearing was granted, and on March 9, 1929, the second opinion (127 Kan. 682) was delivered, reversing the case because of the error in instruction No. 3. Between the dates of the two opinions, the State Bar Association held its annual meeting in Hutchinson, Kan., on November 16 and 17, 1928. Due to the first decision in the *Skaer* case, the committee on amendments of laws submitted at that meeting a supplemental report in which it suggested that the fifth subdivision of the Revised Statutes, R. S. 60-2909, be amended by changing the period at the end of the section to a comma and adding the following:

"But the failure of counsel to request the reading of such instructions shall not cure any defect or error therein, nor shall such failure prevent the case from having any errors in said instructions reviewed by the appellate court." (Proceedings of the Bar Association, November, 1928, pages 37, 38.)

The report was adopted. There was some discussion on the floor of the association meeting, but much more discussion of the question outside. However, because of the reversal of the *Skaer* case in March, 1929, the matter of the proposed amendment was dropped, inasmuch as it was thought that the amendment was then unnecessary and that unless the instructions were shown to counsel by the trial court, parties were under no obligation to object to the same or suggest

tions. It would now appear that the supreme court has reached a different conclusion and that formal objections, as are made in the federal court, must be entered.

Of course, as said in *Lambert v. Rhea*, 134 Kan. 10, if the trial court has submitted its instructions to counsel in advance, fairness requires that counsel be known their objections and suggested changes. But I regret that the supreme court appears to have gone further and adopted the federal practice requiring counsel (where the instructions have not been submitted) to make objections and suggested modifications before the jury retires. I do not believe that such was the purpose of the code of 1909, which, in so many words, requires the trial court to give general instructions to the jury, which general instructions presumably must cover all the issues in the case.

In this connection it is interesting to note that prior to the adoption of the federal rules (except in the seventh circuit) in making objections to instructions given by the court, it was not necessary to give the reasons for the objections or to point out modifications or changes. It was sufficient to merely refer to that portion of the instructions to which the party objected. Now, under the new federal rules of civil procedure, while the objections to instructions need not be taken in the presence of the jury, they must be quite specific. Rule 51 reads:

"At the close of the evidence, or at such earlier time during the trial as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. The court shall instruct the jury on its proposed action upon the requests prior to their arguments to the jury, but the court shall instruct the jury after the arguments are completed. No party may assign as error the giving or the failure to give an instruction unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury."

I decry any adoption by our state court of the federal practice in this respect. It seems to me that the above Rule 51 is a step backwards into the land of unnecessary exceptions and objections. If the trial judge has any doubt about his instructions he can protect himself fully by presenting them to counsel before they are read to the jury, and then if counsel fail to make any objections or suggest modifications, counsel certainly are estopped to complain. To require counsel where instructions are not so submitted, to object is too technical. Query: If it is necessary to object to instructions of the court where the same are not presented to counsel before reading to the jury, must objections be made in the presence of the jury and before the jury retires? Clearly the objections should be made before the jury retires or otherwise objections and suggested modifications would be of no aid to the court. But whether the objections should be made in the presence of the jury, it would seem immaterial as the objections and suggested modifications are for the benefit of the court. A discussion of the question in the presence of the jury might be confusing. Where such discussions have taken place, the same are usually held in chambers. It may be that I have misinterpreted the recent decisions of our supreme court. I hope that I am in error in this respect, but I fear I am not.

Many, no doubt, have had the same experience which the writer had some

years ago in a neighboring state where the practice requires very special objections to instructions. It took us three fourths of a day to impanel and introduce the evidence, but it required two and one-half days, with the assistance of three stenographers, to make objections to the instructions considered necessary under the practice of that state. May we not come to a condition in this state?

If objections and requests for modification are necessary, then it is doubly important to prepare with care requested instructions. Such instructions perform a two-fold duty. In the first place, they set forth to the jury the views of counsel as to the law applicable to the facts, but in the second place they form a basis on which to claim error by the refusal of the court to give them. Generally, the same question can be raised either by an objection to the instructions given by the court or by a refusal of the court to give an instruction covering the point involved. Hence, if the point is difficult to express in an objection or if there is fear that the objection will be overlooked in the haste of the trial, it is well to prepare requested instructions on all important phases and then if the trial court refuses to give the requested instruction on a particular phase, the point can be raised on the refusal of the court to instruct, even though no objection has been made to the court's instructions on that point. In drafting requested instructions, it is good practice to cover each phase by a separate instruction, for if the requested instruction covers more than one phase, the danger of error in it is thereby increased. If a requested instruction is erroneous in part, the trial court is justified in refusing to give it. On the other hand, it is frequently advisable to cover the same point by several different forms of requests, as in this manner the views more favorable to the party requesting can be presented in successive requests. If a party makes a request which is incorrect and the court gives such requested instruction, such party, by appeal, cannot complain of the error.

It is not necessary that instructions submit to the jury for its determination a phase of the case as to which there is no dispute in the evidence which is conceded. (*Mitchell v. Derby Oil Company*, 117 Kan. 520.) It is proper to submit to the jury as an issue a phase on which there is no evidence, unless it be in the form of an instruction as to the duty of the jury in the failure of proof of a necessary element.

Sometimes there are two theories on which a case is submitted to the jury, such as express and implied warranty. In such a situation, even though the instruction on one theory is erroneous, yet if there is evidence to sustain the other theory and the instruction thereon is correct, the erroneous instruction becomes harmless in the absence of special findings of the jury to indicate the theory which it adopted. (*Thomas v. Warrensburg*, 92 Kan. 576.)

Time and effort carefully spent in preparing requested instructions pay greater dividends in the long run than the same amount of time and effort spent on any other phase of the case. If one has doubt as to the correctness of an instruction given, it is well to request the submission of a special question covering the same phase. The error of an incorrect instruction has many times been cured by the answer of the jury to a special question on the same matter.

Of all the phases of our civil code the matter of instructions as a



is probably the weakest. Something should be done to liven up the instructions, to make them more concrete and understandable to a jury. I have heard many judges speak with pride of the shortness of their instructions, but these short instructions frequently leave the jury in the dark as to important phases of the questions. Short instructions, like short briefs, are to be commended, but they are worse than none at all if they do not cover the issues fully, because they direct the jury's attention to certain features of the lawsuit without calling attention to the other phases. Such instructions tend to unduly emphasize certain matters involved.

The suggestions I have made are from a practitioner's viewpoint. I may be guilty of overemphasis as to the type of instructions complained of. I would not have the jury dominated by the court's instructions, but I would have the jury fully informed of all matters of law involved, presented in plain language and by illustrations which the jury can understand.

---

## The Importance of Our Probate Courts

By W. W. HARVEY

When our constitutional convention met at Wyandotte (now Kansas City), July, 1859, and formulated the constitution on which the state was admitted to the Union a year and a half later, it provided specifically for four classes of courts: *First*, the supreme court, of which there should be one for the entire state; *second*, district courts, of which five districts were created to serve the thirty-five counties then organized; *third*, probate courts, of which there should be one for each county; and *fourth*, justices of the peace courts, two for each township. In other words, the judicial setup was one court for the state at large, one court for a district composed of several counties, and two local courts. While jurisdiction of these respective courts was not definitely fixed in the constitution, it is clear the two local courts were designed for different classes of business; the probate courts generally for the administration upon estates, and justice of the peace courts for other immediate local needs, and statutes making that clear were soon enacted. It is worthy of note that the number and jurisdiction of justice of the peace courts was one of the half dozen most important questions discussed in the constitutional convention. This discussion disclosed that what was thought to be needed were local courts, open and available to the people at all times, for such matters as were not appropriate to take directly into the district court or the supreme court. While district courts have been increased in number and the practice now requires a sitting of the court in each county as often as once a month, local courts have caused the legislature to add to the duties of the probate court, or probate judge. A partial list of these added duties may be found in *Ex parte Johnson*, 12 Kan. 102, and *State, ex rel., v. Anderson*, 114 Kan. 297, and need not be repeated here. In addition to that, estates administered upon have become more numerous and more valuable, and the questions involved in them have become more numerous and intricate as the years pass and our civilization becomes more complex. On the other hand, the justice of the peace courts have been fading out of the picture as useful judicial units. In the cities of the state, having an aggregate population of 440,637, city courts

have been created and justice of the peace courts so reduced in jurisdiction as to put them out of business; and in thirty-two counties of the state, with a total population of 411,658, county courts have been created, under an optional statute, which makes the probate judge the judge of the county court. This statute does not limit the jurisdiction of justices of the peace but as a rule in those counties the justice of the peace business is taken over by the county court, with the result that justices of the peace courts in those counties have little or nothing to do. So, among almost half the population of our state justice of the peace courts are either specifically or practically eliminated and the remainder of the state only about fifteen percent of the number of justices of the peace are elected who could be chosen under our constitution.

This historical review discloses that the time is coming, indeed is coming in some counties, when it will be recognized that the wants and needs of the people as to local courts is for a well-equipped court in each county—by whatever name you choose—with jurisdiction to handle all the business now handled by probate court proper now handles, and also such matters now or formerly handled by justices of the peace.

It has been said that the probate court is fully as important to the people of a county as is the district court. Let us see what the figures show, as they are available. On July 1, of last year, there were pending in the probate courts of this state 11,544 estates of decedents in which the property being administered upon of the value of \$117,157,183. In only 10 of these estates separable controversies arose, any one of which would be comparable to an action in district court. In addition to that, in probate courts in this state there were pending at the same time 8,461 guardianship of property of the aggregate value of \$15,995,337, making a total of 19,995 estates pending, involving property of the aggregate value of \$133,152,520. At the same time there were pending in the district courts of the state 14,842 cases. We have no record of the value of the property involved in these cases. Some of them, of course, did not involve property, but from a lack of information of those matters we may safely say the amounts involved in the 20,005 estates pending in probate court greatly exceeded the amounts involved in the 14,842 cases pending in district courts, indeed, several times as much.

Another comparison, which at first thought may not be so obvious, may lead us to believe it to be true. If the people of any county in this state had to get along without the probate court of their county, or without the supreme court of the state, for a period, say of ten years or twenty-five years they could get along for that time better without the supreme court than they could without the probate court. The principal appellate function of a supreme court is to interpret constitutional and statutory provisions and pertinent general principles of law so they will apply uniformly throughout the state and to see that trials in the lower courts have been conducted in harmony with law. The state of Georgia had no supreme court for the first fifty years of its existence as a state. The circuit courts, with jurisdiction corresponding to our district courts, were the courts of last resort. We are told that for several years the people of the state did not find themselves seriously inconvenienced by this arrangement, but as the years passed it came about that some statutes were held valid by some of the circuit courts and invalid by others, and

principles of law were held to be applicable in some circuits and not in others. The result was, the laws of the state became a patchwork of circuits. For some time this was attempted to be remedied by a conference of circuit judges, but this proved to be insufficient; hence a supreme court was created. Obviously, had there been no probate courts for that length of time the hardships on the people would have been much greater. When death comes to an owner of property a suitable tribunal for the administration upon and the distribution of his estate is a present necessity.

Do not understand me to say the probate courts are more important than our district courts, or the supreme court. The functions of these three courts differ materially in some respects, so that comparison of relative importance, when all their respective functions are considered, is difficult. Each is a court of record, created by our constitution, and each has its special field of operation. The point I seek to make is that of the three courts of record the probate court is of no less importance to the citizens of every county than is either of the other two.

This brings us to a consideration of the importance of courts in our scheme of government. Because of its brevity and completeness I repeat a statement previously used. Our government, as we have organized and endeavor to maintain it, is designed to be of benefit to our people; our judicial system is a branch of our government; therefore it should be so constructed and operated to be as beneficial to our people as it is reasonably possible to make it. Every controverted question of consequence arising among our people respecting their domestic relations, their relations with other people and with the government and its several subdivisions, with respect to their contracts, their business transactions, their ownership, use, disposition of property, and its resolution, eventually find their way into the courts. An adequate judiciary requires a system of courts consisting of one or more trial courts in each county, open and available to the people at all times, presided over by a competent jurist, with adequate quarters and equipped with court officials, appropriate to enable it to transact the business presented to it with reasonable promptness. If there is more than one class of local courts their jurisdiction and functions should be clearly defined.

My view, in common with that of many others who have given it thought, concerning the needs of the people of our state with respect to local courts, is that there should be one court in each county having substantially the jurisdiction of our present probate court, and also substantially the jurisdiction now provided by law for justice of the peace courts, except that the jurisdiction in civil actions should be increased from \$300 to \$1,000; that this court should be open all the time and available to the people, and that it should be equipped with a personnel, a place to work, and such clerical assistance as would enable it, with reasonable promptness and efficiency, to handle the business brought before it. This court should have county-wide jurisdiction, but for the need of persons away from the county seat, such as local merchants, there should be a tribunal, such as magistrate courts, sought to be created by Senate bill No. 493 of the 1937 legislative session, in which actions for small amounts, or criminal matters, might be initiated without the necessity of those interested taking time to go to the county seat. We are approaching this situation in the county courts already organized in thirty-

two counties, and to some extent by the city courts; but this should be state-wide, and the jurisdiction of the court and the procedure therein several counties should be made uniform. In my opinion such local together with the district courts and the supreme court, substantially now have them, would make an adequate system of courts for this state.

It is one thing to have a structure of a system of courts suitable to the needs of the state, and another thing to have them equipped with a proper equipment and a procedure adequate to handle the business properly. The experience of mankind with courts over the centuries has developed the wisdom of a few principles so sound that they may be said to have become maxims. One of these is that whatever the judicial structure may be, the court can be more efficient than its presiding officer. The truth of this becomes more evident every year. At the beginning of our history as a state there was no educational qualification required by the constitution or statutes for judges of any of our courts, or for county attorneys; but long ago it was found necessary, or at least prudent, to provide such qualifications for justices of the supreme court, judges of the district court and county attorneys. There are many evidences to sustain the view that this should be done for probate judges. With the vast amount of business in those courts and the many legal questions arising, many of them as intricate and as difficult of solution as those which arise in any court, it would seem prudent to require some qualifications in addition to honesty and good citizenship for a probate jurist who has to depend upon the recommendation of an interested party or of his attorney, as to the wisdom or justice of an order to be made, or to work under a serious handicap. That serious losses arise from that cause to heirs, beneficiaries under wills, and creditors of a decedent, and in guardianship matters, is a fact well known to everyone familiar with the subject. I am not so concerned as some may be where one who presides over the probate court learns enough to enable him to have a sound, independent judgment upon the questions which arise before him as I am that he is not somewhere. Perhaps the fault in this respect now existing in this state cannot be located at one place. Perhaps a part of it is chargeable to the law schools, which until six or eight years ago never had in their curriculum the study of anything directly bearing upon the administration of estates, and now, as I understand it, their courses of study lack much of being thorough and complete on that subject. Perhaps some of it is chargeable to the courts as a class, perhaps some of it to the people as a whole, perhaps some to the probate judges. But whatever be the cause, the fact remains that the generally speaking the efficiency of probate courts will depend primarily upon the learning and ability of the probate judge.

Another maxim which comes to us from the experience of ages and which accords with common sense and fair dealing, is that when any important matter is to be determined by a court all those having an adverse interest should have notice of the contemplated action and an opportunity to be heard. The inadequate method under which that is done under the present procedure for handling business in probate courts has resulted, and continues each year to result, in substantial financial loss to heirs, beneficiaries under wills, and others interested in estates.

Another bit of wisdom which has come to us from the experience

that no individual should ever attempt to act in the dual capacity of an adviser of those interested in a court proceeding and as a jurist to pass upon the merits of the question involved. Early in the history of this state a prohibition against doing so was written into our statutes with respect to probate and justice of the peace courts. Word comes to us that this appears to have been forgotten or purposely ignored in some localities. The maxim is as sound with reference to the work of probate courts as it is with respect to the work of any other court, and the more thoroughly it is realized and followed the more just and efficient our courts will be.

Another truism worthy to be taken into account is that ordinarily one gets out the type of service for which he pays. Possibly that is more true in private employment than it is in public service, but I am convinced that the salary of a public official has much to do with the capability of those who will seek the place. Except in a few of the largest of our counties, where the need for an adequate salary for the probate judge has been impressed upon the members of the legislature, I think the probate judges throughout the state are grossly underpaid. The fact someone will seek the office irrespective of the low salary is not an answer to this question. Perhaps if the salaries of the chancellor of our university, the governor of the state, or the justices of the supreme court were placed at \$100 a month there would be applicants for the positions.



# INDEX

(ELEVEN YEARS—1927 TO JULY 1, 1938)

By CHARLES L. HUNT

This index covers the reports of the Judicial Council from the date of its organization, June 11, 1927, until and including its reports to July 1, 1938. For the years 1927, 1928, 1929, 1930, and 1931, reports of the Council were compiled for each year in one volume, dated as of December 1 of each year. Henceforth, the annual reports consisted of bulletins issued in April, July, October and December of each year, such four bulletins constituting the annual report for each year. The only exceptions are that no bulletins were published in October, 1933, or in July, 1934. References in this index as to the first five years are to page and year of the annual report, and thereafter to the page, month and year of the bulletins.

	Page	Month	Year
ACT CREATING JUDICIAL COUNCIL (Ch. 187, Laws 1927),	5	Dec.	1927
ALIMONY (See Divorce, this index).			
APPEALS:			
Appeals of justice, city and county courts, civil cases.....	23	Dec.	1929
Appeals of justice, city and county courts, civil cases, bill drafted (Senate bill No. 170).....	196	Dec.	1931
Appeals in criminal cases, article by Hon. W. W. Harvey, chairman .....	44	Oct.	1934
Civil actions, appeals to supreme court, amendment recommended, bill drafted .....	187	Dec.	1936
Civil actions, appeals to supreme court, bill drafted, statute amended .....	8	April	1937
Criminal actions, amendment recommended, bill drafted.....	71	Dec.	1934
Criminal actions, amendment recommended, bill drafted.....	12	April	1935
Criminal actions, amendment recommended, bill drafted.....	22	April	1936
Criminal actions, amendment recommended, bill drafted.....	185	Dec.	1936
Criminal actions, appeals to supreme court, bill drafted, statute amended .....	6	April	1937
New trials and appeals, civil cases, bill drafted.....	19	Dec.	1929
New trials and appeals, civil cases, district courts, bill drafted, (Senate bill No. 166).....	195	Dec.	1931
New trials and appeals, civil cases, amendment code.....	142	Dec.	1932
New trials and appeals, civil cases, bill drafted.....	54	Dec.	1934
Probate courts, appealable orders, statute amended.....	14	April	1937
Soldiers' compensation, law amended, chap. 268, Laws 1933, sec. 1; (amended chap. 105, 1933 Special Session, sec. 1).			
sec. 72-126, G. S. 1935.....	14	April	1933
Stay of execution, supersedeas bond, law amended, chap. 216, Laws 1933; sec. 1; sec. 60-1502, G. S. 1935.....	13	April	1933
APPROPRIATIONS:			
Comments upon .....	18	Dec.	1930
Comments upon .....	140	Dec.	1928
Lack of, 1929 .....	28	Dec.	1929

## ARTICLES:

	<i>Page</i>	<i>Month</i>
"A Code of Procedure for the Probate, County and Juvenile Courts of Kansas," by Hon. J. C. Ruppenthal.....	13	April
"A Crime Bureau Needed," by Hon. W. W. Harvey, chairman,	26	April
"A Proposal to Amend the Judicial Article of the Kansas Constitution" (proposal appended), by C. L. Hunt.....	35	July
"A Proposed Amendment to the Kansas Constitution Relating to the Faith and Credit to be Given to Foreign Judgments on Divorce," by Hal. E. Harlan .....	5	April
"A Synopsis of Statutory Provisions Relating to Right of Eminent Domain and Condemnation Procedure," by Franklin Corrick .....	72	Oct.
"A Synopsis of Supreme Court Decisions Relating to Eminent Domain and Condemnation Procedure," by Franklin Corrick .....	36	July
"Administration of Absentee's Estate," by Samuel E. Bartlett,	91	Oct.
"Administration upon Decedent's Real Property," by Hon. W. W. Harvey, chairman .....	74	Dec.
"Administration on Estate of Person Living—Presumption of Death," by Chester Stevens .....	15	April
"Administrative Government," by Hon. John S. Dawson, chief justice .....	69	July
"Appeals in Criminal Cases," by Hon. W. W. Harvey, chairman .....	44	Oct.
"Authority of Trial Judges to Comment on Evidence," by Hon. W. W. Harvey, chairman.....	70	Dec.
"Civil Appeals," by Kirke W. Dale.....	72	July
"Comment on the Evidence by Trial Judges in Criminal Cases," by Hon. Ray H. Beals.....	16	April
Concerning Acts 1933 Legislature Relating to Judicial Methods of Procedure, by Chester Stevens.....	152	Dec.
"Concerning District Association of Judges," by Judge Ray H. Beals .....	9	April
"Confusion in Condemnation Procedure," by Chester Stevens,	18	April
"Defendant's Testimony in Criminal Actions," by Hon. W. W. Harvey .....	69	Dec.
"Definite and Indefinite Failure of Issue," by Dean R. A. Burch .....	101	Oct.
"Depositions on Behalf of the Prosecution in Criminal Cases," by Hon. W. W. Harvey, chairman.....	43	Oct.
"Economy in Jury Trials," by Hon. E. L. Fischer.....	16	April
"Economy in Jury Trials—More Capable Jurors," by Hon. E. L. Fischer .....	43	July
"Eminent Domain, a Proposed Code of Procedure," by Chester Stevens .....	41	July
"Eminent Domain: The Administrative and Judicial Methods of Procedure," by Chester Stevens.....	152	Dec.
"Estate of Decedent Without Known Heir or Will," by Hon. W. W. Harvey, chairman .....	46	Oct.
"General Provisions Relating to All Estates," by Samuel E. Bartlett .....	79	Dec.
"General Verdict v. Special Verdict," by Charles L. Hunt...	51	July
"Improving the Administration of Justice Through the Rule-making Power of the Court," by Albert Faulconer.....	6	April
"Judicial Apportionment," by Hon. J. C. Ruppenthal.....	78	July
"Lawyers: Their Helpfulness to the Commonwealth," by B. I. Litowich .....	5	April
"New Legislative Act Relating to Attorneys, Courts and Procedure" (1933 legislature), by Hon. W. W. Harvey, chairman .....	11	April



ARTICLES—CONCLUDED:

	Page	Month	Year
Northwestern Kansas Bar Association, by E. C. Flood.....	7	April	1932
Northwestern Kansas Bar Meeting, by Hon. J. C. Ruppenthal, 47	47	July	1932
"Our Judiciary: Its Improvement," by Hon. William A. Johnston, chief justice .....	30	July	1932
"Our Proposed Constitutional Amendment," by Hon. W. W. Harvey, chairman .....	27	April	1935
"Pleading an Alibi," by Hon. W. W. Harvey, chairman.....	42	Oct.	1932
"Pleading an Alibi," by Hon. W. W. Harvey, chairman.....	67	Dec.	1934
"Probate and County Court," by Hon. W. W. Harvey, chairman .....	23	April	1935
"Probate Code," by Hon. W. W. Harvey, chairman.....	77	Dec.	1934
"Proposed Statutes, Probate and County Courts," address by Samuel E. Bartlett .....	8	April	1936
"Recognition of Foreign Attorneys," by Hon. W. W. Harvey, chairman .....	41	Oct.	1934
"Recognition of Foreign Attorneys," by Hon. W. W. Harvey, chairman .....	26	April	1936
"Redemption Period in Foreclosures," by George Austin Brown, 21	21	April	1932
"Redemption, Extension of Period, New Statute, 1933," by Schuyler C. Bloss.....	6	April	1933
"Revised Draft of Probate Law Relating to Guardianship, Minors, Incompetents and Imprisoned Convicts," by Samuel E. Bartlett .....	20	April	1934
"Right of Inheritance as Limited by Degrees of Consanguinity," by Hon. Walter G. Thiele, justice Kansas Supreme Court .....	209	Dec.	1937
"Sale of Mineral Rights under Direction of Probate Court," by Hon. Ray H. Beals.....	75	July	1937
"Some Changes in the Proposed Judicial Article of Our Constitution," by Charles L. Hunt.....	62	Oct.	1932
"Southwestern Kansas Bar Association," by Roscoe H. Wilson, 7	7	April	1932
"Southwestern Kansas Bar Meeting," by Roscoe H. Wilson, 51	51	July	1932
"Suggested Redraft of Probate Law," by Samuel E. Bartlett, 16	16	April	1933
"Suggestions for Amendment of the Proposed Code of Procedure Involving Eminent Domain," by Chester Stevens..	69	Oct.	1932
"The Administration in Kansas of Property Belonging to Non-resident Decedents," by Judge Ray H. Beals.....	9	April	1934
"The Judicial Council: What It Is Doing Now," by Hon. W. W. Harvey, chairman.....	10	April	1932
"The Judicial Council: What It Is Doing Now," by Hon. W. W. Harvey, chairman.....	32	July	1932
"The Kansas Law of Homestead," by James W. Taylor.....	52	July	1935
"The Law's Delay in the Supreme Court," by Hon. Rosseau A. Burch, chief justice.....	73	Oct.	1936
"The Proposed Integration of the Kansas Bar," by Robert C. Foulston .....	60	July	1936
"The Redemption of Real Property Sold on Execution or Orders of Sale," by George Austin Brown.....	66	Oct.	1932
"Unification of the Bar," by Hon. W. W. Harvey, chairman, 41	41	Oct.	1934
"Winding up of Partnership Estate on Death of Partner," by Chester Stevens.....	98	Oct.	1935

ATTORNEYS AT LAW:

Foreign, Recognition of, rule proposed.....	21	April	1936
Nonresident, Recognition of, rule proposed, effective 9-1-36..	50	July	1936
Recognition of, article by Hon. W. W. Harvey, chairman....	41	Oct.	1934
Recognition of Foreign Attorneys, article by Hon. W. W. Harvey, chairman .....	21	April	1936

	Page	Month
<b>ARRESTS:</b>		
Fresh pursuit, statute enacted.....	20	April
<b>BAR ASSOCIATION:</b>		
Northwestern Kansas Bar Association, Report of, by E. C. Flood .....	7	April
Northwestern Kansas Bar Association, Report of Meeting, by Hon. J. C. Ruppenthal.....	47	July
Program of State Bar Association, Hutchinson, May, 1932..	23	April
Report of Judicial Council to.....	9	Dec.
Southwestern Kansas Bar Association, Report of, by Roscoe H. Wilson .....	7	April
Southwestern Kansas Bar Association, Report of Meeting, by Hon. Roscoe H. Wilson.....	51	July
Suggestions from: (a) Jurisdiction of Probate Courts to Employ Administrators; (b) Relating to Rule Making Power of Supreme Court following Wisconsin.....	17	Dec.
"The Proposed Integration of the Kansas Bar," article by Robert C. Foulston.....	60	July
"Unification of the Bar," article by Hon. W. W. Harvey, chairman .....	41	Oct.
<b>BILLS DRAFTED:</b>		
Alibi, pleading, criminal procedure, recommended.....	68	Dec.
Appeals, civil actions, amendment recommended.....	187	Dec.
Appeals, justice, city and county courts, civil cases, bill recommended .....	23	Dec.
Appeals, justice, city and county courts, civil cases (Senate bill No. 170).....	196	Dec.
Appeals to supreme court, civil actions, amendment recommended .....	12	April
Appeals to supreme court, civil actions, statute amended....	8	April
Appeals to supreme court, criminal cases, statute amended....	6	April
Books and records of courts of record, relating to.....	24	Dec.
Books and records of courts of record, relating to (Senate bill No. 133).....	188	Dec.
Books and records of courts of record, relating to.....	52	Oct.
Clerks of court, compensation for reports to Judicial Council, act recommended .....	194	Dec.
Conspiracy, act defining (Senate bill No. 128).....	187	Dec.
Conspiracy defined, bill recommended and drafted.....	22	Dec.
Courts, creation of, inferior to district courts (Senate bill No. 153) .....	191	Dec.
Courts, creation of, inferior to district courts.....	137	Dec.
Courts, creation of, inferior to district courts.....	50	Oct.
Courts, creation of, inferior to district courts.....	26	April
Courts, creation of, inferior to district courts, recommended..	183	Dec.
Criminal procedure concerning challenge to jurors and competency of witnesses, amendment recommended.....	21	Dec.
Criminal procedure, defendant's testimony, procedure recommended .....	70	Dec.
Criminals, apprehension of, pursuit, act suggested to Judicial Council .....	39	April
Death penalty, first-degree murder, statute amended.....	13	April
Decedents' estates, administration of real property, act recommended .....	18	April
Decedents' estates, administration of real property, act recommended .....	191	Dec.
Decedents' estates, administration upon without known heir or will, act recommended.....	72	Dec.
Decedents' estates, allowance and payment of claims, bill drafted, statute amended .....	11	April

ILLS DRAFTED—CONTINUED:	Page	Month	Year
Decedents' estates, control of property and payment of debts,	9	April	1937
Decedents' estates, management of property chargeable with debts, amendment recommended.....	75	Dec.	1934
Decedents' estates, management of property chargeable with debts, amendment recommended.....	20	April	1935
Decedents' estates, management of property chargeable with debts, amendment recommended.....	192	Dec.	1936
Depositions by state, criminal cases, recommended.....	66	Dec.	1934
Depositions by state, criminal cases, amendment recommended,	189	Dec.	1936
Depositions criminal cases, amendment recommended.....	15	April	1935
Depositions criminal cases, amendment recommended.....	25	April	1936
Divorce actions, pleadings, amendment recommended.....	23	Dec.	1929
Divorce actions, pleadings in (Senate bill No. 145).....	190	Dec.	1931
Divorce actions, pleadings, amendment relating to.....	145	Dec.	1932
Divorce actions, pleadings, relating to.....	54	Oct.	1934
Divorce, foreign judgments of, amendment recommended....	55	Oct.	1934
Eminent domain, administrative code of procedure.....	153	Dec.	1932
Eminent domain, bill proposed relating to, by Chester Stevens,	41	July	1932
Eminent domain, judicial code of procedure.....	155	Dec.	1932
Extradition, interstate, bill concerning suggested to Judicial Council .....	31	April	1936
Guardianship of minors, incompetents and imprisoned convicts, revised draft, by Samuel E. Bartlett.....	20	April	1934
Joint trials of defendants, criminal cases, amendment recommended .....	14	April	1935
Joint trials of defendants, criminal actions.....	24	April	1936
Joint trials of defendants, criminal actions, amendment recommended .....	188	Dec.	1936
Judges and clerks, payment for making reports, to Judicial Council, statute amended .....	12	April	1937
Judges pro tem, appointment of by chief justice, recommended,	65	Dec.	1934
Judicial article, concurrent resolution, revision recommended..	14	Dec.	1930
Judicial article, second concurrent resolution, revision recommended .....	185	Dec.	1931
Judicial article, third concurrent resolution, revision recommended .....	35	July	1932
Judicial article, fourth concurrent resolution, revision recommended .....	63	Oct.	1932
Judicial article, fifth concurrent resolution, revision recommended .....	133	Dec.	1932
Judicial article, sixth concurrent resolution, revision recommended .....	48	Oct.	1934
Judicial article, seventh concurrent resolution, revision recommended .....	29	April	1935
Judicial article, eighth concurrent resolution, revision recommended .....	195	Dec.	1936
Jurors and witnesses, criminal procedure, challenge to and competency of (Senate bill No. 169).....	195	Dec.	1931
Jurors and witnesses, criminal procedure, challenge to and competency of .....	144	Dec.	1932
Jurors and witnesses, criminal procedure, challenge to and competency of.....	54	Oct.	1934
Jurors, number of, civil cases, amendment recommended.....	190	Dec.	1936
Jurors, number of, criminal cases, amendment recommended..	190	Dec.	1936
Jurors, number of, criminal procedure, amendment recommended,	18	April	1935
Jurors, selection of by board of jury commissioners.....	18	Dec.	1929
Jurors, selection of by jury commissioners (Senate bill No. 141) .....	188	Dec.	1929
Jurors, selection of, bill proposed, by Hon. E. L. Fischer....	43	July	1932

BILLS DRAFTED—CONCLUDED:		
	<i>Page</i>	<i>Month</i>
Jurors, selection of by jury commissioners, recommended....	146	Dec.
Jurors, selection of by jury commissioners, recommended....	55	Oct.
Jurors, trial to six, criminal procedure, amendment recommended .....	148	Dec.
Jury, less than twelve, recommendations.....	148	Dec.
Jury trials, civil actions, number of jurors, amendment recommended .....	17	April
Jury trials, criminal cases, to court or six jurors.....	56	Oct.
Jury trials, number of jurors, amendment recommended.....	56	Oct.
New trials and appeals, amendment.....	142	Dec.
New trials and appeals, civil cases, district courts (Senate bill No. 166) .....	193	Dec.
New trials and appeals, civil cases, relating to.....	19	Dec.
New trials and appeals, civil cases, relating to.....	53	Oct.
New trials and appeals, criminal cases .....	22	April
New trials and appeals, criminal cases, amendment recommended .....	185	Dec.
New trials and appeals, criminal procedure, amendment recommended .....	71	Dec.
Paroles, coöperation of state, act suggested to Judicial Council, .....	37	April
Probate courts, practice and procedure (draft by Samuel E. Bartlett) .....	6	April
Probate, magistrate and justice courts, bill recommended relating to .....	26	Dec.
Probate procedure, code relating to, by Hon. Roscoe H. Wilson, .....	88	Oct.
Probate procedure, code of.....	77	Dec.
Probate procedure, code of .....	21	April
Probate procedure, code of.....	160	Dec.
Redemption of real estate, bill proposed, by George Austin Brown .....	66	Oct.
Redemption of real property .....	149	Dec.
State crime bureau, creating.....	26	April
Supreme court, employees of, bill recommended.....	25	Dec.
Supreme court employees, relating to (Senate bill No. 147)..	190	Dec.
Witnesses, attendance of from other states in criminal cases..	29	April

## BOOKS AND RECORDS:

Courts of record, act recommended.....	24	Dec.
Courts of record, act recommended .....	188	Dec.
Courts of record, act recommended, bill drafted.....	140-141	Dec.
Courts of record, act recommended, bill drafted.....	52	Oct.
District courts, seal omitted, instruments validated.....	13	April
Probate courts, law amended, chap. 165, Laws 1933, sec. 19-1102, G. S. 1935.....	12	April

## CITY COURTS:

Appeals, civil cases, amendment recommended, bill drafted...	23	Dec.
Appeals, civil cases, amendment recommended, bill drafted (Senate bill No. 170).....	196	Dec.
Article relating to, by Hon. W. W. Harvey, chairman.....	23	April
Establishment of in certain cities, law amended, chap. 172, Laws 1933; sec. 1; sec. 20-2101, G. S. 1935.....	12	April
Laws relating to, amended, chap. 171, Laws 1933, secs. 1, 2, 3, 4; sec. 20-2001; 20-2015; sec. 20-2016; 20-2017, G. S. 1935 .....	12	April
Legislative acts, 1933, concerning, article by Hon. W. W. Harvey, chairman.....	11	April
Records concerning .....	17	Dec.
Statutory proposal concerning, inferior to district courts....	137	Dec.
Work of, to 7-1-28, summarized.....	64	Dec.
Work of, to 7-1-28, tabulated.....	119	Dec.

CIVIL PROCEDURE:	Page	Month	Year
Amendment recommended concerning appeals of justice, city and county courts, civil cases, bill drafted.....	23	Dec.	1929
Amendment recommended concerning new trials and appeals, bill drafted .....	19	Dec.	1929
Amendment recommended concerning new trials and appeals, bill drafted (Senate bill No. 166).....	193	Dec.	1931
Amendment recommended concerning new trials and appeals, 142	Dec.	1932	
Amendment recommended concerning pleadings, divorce actions, bill drafted .....	23	Dec.	1929
Amendment recommended concerning pleadings, divorce actions, 190	Dec.	1931	
Amendment recommended selection of jurors by jury commissioners, bill drafted (Senate bill No. 141).....	188	Dec.	1931
Appeals, civil cases, amendment recommended, bill drafted..	187	Dec.	1936
Appeals, stay of execution, supersedeas bond, law amended, chap. 217, Laws 1933, sec. 1; sec. 60-3322, G. S. 1935..	13	April	1933
Appeals to supreme court, amendment recommended, bill drafted .....	14	April	1935
Appeals to supreme court, bill drafted, statute amended.....	8	April	1937
Article, "Code of Procedure for the Probate, Juvenile and County Courts of Kansas," by Hon. J. C. Ruppenthal....	13	April	1932
Article, "Confusion in Condemnation Procedure," by Chester Stevens .....	18	April	1932
Article, "Eminent Domain, a Proposed Code of Procedure," by Chester Stevens .....	41	July	1932
Article, "The Redemption of Real Property Sold on Execution or Orders of Sale" (bill proposed), by George Austin Brown .....	66	Oct.	1932
Article, "The Redemption Period in Foreclosures," by George Austin Brown .....	21	April	1932
Article, "Suggestions for Amendment of the Proposed Code of Procedure Involving Eminent Domain" (synopsis of statutes), by Chester Stevens .....	69	Oct.	1932
"Civil Appeals," article by Kirke W. Dale.....	72	July	1937
Code of, comments on proposed amendments to.....	141	Dec.	1932
Code of probate court recommended, bill drafted.....	160	Dec.	1932
Concerning selection of jurors, bill proposed, by Hon. E. L. Fischer .....	43	July	1932
Condemnation, Eminent Domain, article by Franklin Corrick, 36	July	1933	
Contempt in civil actions, citations of service for, new law, chap. 148, Laws 1935, sec. 1; sec. 20-1207, G. S. 1935..	7	April	1935
Decedents' estates, administration of real property, act recommended .....	75	Dec.	1934
Decedents' estates, administration of real property, act recommended, bill drafted .....	18	April	1935
Decedents' estates, administration of real property, act recommended .....	191	Dec.	1936
Decedents' estates, administration without known heir or will, amendment recommended, bill drafted.....	72	Dec.	1934
Decedents' estates, administration without known heir or will, amendment, chap. 168, Laws 1935, sections 1, 2, 3, 4, 5 and 6; secs. 22-1207 to 22-1212, inc., G. S. 1935.....	9	April	1935
Decedents' estates, management of property chargeable with debts, amendment recommended, bill drafted.....	20	April	1935
Decedents' estates, management of property chargeable with debts, amendment recommended, bill drafted.....	192	Dec.	1936
District courts, dissolution of corporations (new law), chap. 144, Laws 1933, sec. 1; sec. 17-1631, G. S. 1935.....	15	April	1933
District courts, rules of procedure for, amended.....	110	Dec.	1932

## CIVIL PROCEDURE—CONTINUED:

	<i>Page</i>	<i>Month</i>
District courts, soldier's compensation, law amended, chap. 268, Laws 1933, sec. 1; (amended, chap. 105, 1933 Special Session, sec. 1); sec. 73-126, G. S. 1935.....	14	April
Divorce and alimony .....	54	Oct.
Divorce actions, pleadings in, amendment recommended, bill drafted .....	145	Dec.
Divorce actions, pleadings in, new law; chap. 219, Laws 1935, sec. 1; sec. 60-1519, G. S. 1935.....	5	April
Divorce, foreign decrees of rendered on constructive service, amendment chap. 220, Laws 1935, sec. 1; sec. 60-1518, G. S. 1935 .....	6	April
Divorce, foreign judgment, amendment recommended, bill drafted .....	55	Oct.
Divorce, residence of plaintiff, law amended, chap. 216, Laws 1933, sec. 1; sec. 60-1502, G. S. 1935.....	13	April
Eminent domain and condemnation, synopsis of statutes, by Franklin Corrick .....	72	Oct.
Eminent domain, code of procedure recommended, bill drafted, 1933, sec. 1; sec. 60-1502, G. S. 1935.....	155	Dec.
Eminent domain, suggested bill concerning, by Chester Stevens, Exemptions, statute amended .....	41	July
Garnishment, statute amended .....	14	April
Garnishment, bond for, district court, law amended; chap. 215, Laws 1933, sec. 1 (amended chap. 82, Special Session, 1933, sec. 1); sec. 60-942, G. S. 1935.....	13	April
Garnishment, persons dropped from relief work.....	13	April
Garnishment, recommendation concerning bond in.....	27	Dec.
Injunction, district courts, vacation of, statute amended.....	14	April
Instructions, Comment on Evidence, article by Hon. W. W. Harvey, chairman .....	70	Dec.
Judges, pro tem, selection of, law amended, chap. 168, Laws 1933, secs. 1, 2, 3; secs. 20-306, 20-309, 20-311, G. S. 1935 .....	12	April
Judges, pro tem, district courts, appointment of by supreme court; new law, chap. 149, Laws 1935, sec. 1; sec. 20-311a, G. S. 1935.....	7	April
Judicial Sales and Redemption, Act of 1933, article by Schuyler C. Bloss .....	6	April
Jurors, number of, amendment recommended, bill drafted....	190	Dec.
Jurors, selection by board of commissioners recommended, bill drafted .....	146	Dec.
Jurors, selection by jury commissioners, bill drafted.....	56	Oct.
Jury trials, less than twelve jurors, amendment recommended, bill drafted .....	148	Dec.
Legislative Acts 1933, Concerning, article by Hon. W. W. Harvey, chairman .....	11	April
New trials and appeals, civil cases, bill drafted.....	53	Oct.
Probate Courts, Administration Decedents' Estates Without Known Heir or Will, article by Hon. W. W. Harvey, chairman .....	46	Oct.
Probate Courts, Administration Estates Nonresident Decedents, article by Hon. Ray H. Beals .....	9	April
Probate Courts, Administration Estates Living Persons—Presumption of Death, article by Chester Stevens.....	15	April
Probate courts, certain orders appealable, statute amended....	14	April
Probate courts, claims, appeals, laws, 1933, chap. 179, secs. 1, 2, 3; secs. 22-526, 22-531; sec. 22-532, G. S. 1935....	13	April
Probate courts, new proposed draft, practice and procedure (draft by Samuel E. Bartlett).....	6	April
Probate courts, recommended procedure.....	27	April
Proposed code probate procedure, comments.....	87	Oct.

## VIL PROCEDURE—CONCLUDED:

	<i>Page</i>	<i>Month</i>	<i>Year</i>
Proposed code of probate procedure, draft by Hon. Roscoe H. Wilson .....	88	April	1932
Redemption of real property, amendment recommended, bill drafted .....	149	Dec.	1932
Suits against state, determination of liens, statute enacted....	14	April	1937
Trials by jury, civil actions, number of jurors, amendment recommended, bill drafted .....	17	April	1935

NDEMNATION: (See Eminent Domain, this index).

## NSTITUTION:

Article, "Our Proposed Constitutional Amendment, by Hon. W. W. Harvey, chairman.....	27	April	1935
Article, "Some Changes in the Proposed Judicial Article to the Kansas Constitution," by C. L. Hunt .....	62	Oct.	1932
Judicial article, amendment suggested.....	18	Dec.	1931
Judicial article, first concurrent resolution drafted, revision recommended .....	14	Dec.	1930
Judicial article, second concurrent resolution drafted, revision recommended .....	185	Dec.	1931
Judicial article, third concurrent resolution drafted, revision recommended .....	35	July	1932
Judicial article, fourth concurrent resolution drafted, revision recommended .....	63	Oct.	1932
Judicial article, fifth concurrent resolution drafted, revision recommended .....	133	Dec.	1932
Judicial article, sixth concurrent resolution drafted, revision recommended .....	48	Oct.	1934
Judicial article, seventh concurrent resolution drafted, revision recommended .....	29	April	1935
Judicial article, eighth concurrent resolution drafted, revision recommended .....	195	Dec.	1936

## NTRIBUTORS:

## BARTLETT, SAMUEL E.:

Administration of Absentee's Estate.....	91	Oct.	1935
General Provisions Relating to all Estates.....	79	Dec.	1934
Proposed Statutes, Probate and County Courts.....	8	April	1936
Revised Draft of Probate Law Relating to Guardianship, Minors, Incompetents and Imprisoned Convicts.....	20	April	1934
Suggested Redraft of Probate Law.....	16	April	1933

## BEALS, JUDGE RAY H.:

Comment on Evidence by Trial Judges in Criminal Cases, Concerning District Association of Judges.....	16	April	1936
Sale of Mineral Rights under Direction of Probate Court..	9	April	1932
The Administration in Kansas of Property Belonging to Nonresident Decedents .....	75	July	1937
	9	April	1934

## BLOSS, SCHUYLER C.:

Redemption, Extension of Period, New Statute, 1933....	6	April	1933
--	---	-------	------

## BROWN, GEORGE AUSTIN:

Redemption Period in Foreclosures.....	31	April	1932
The Redemption of Real Property Sold on Execution or Orders of Sale .....	66	Oct.	1932

## BURCH, DEAN R. A.:

Definite and Indefinite Failure of Issue.....	101	Oct.	1937
The Law's Delay in the Supreme Court.....	73	Oct.	1936

## CONTRIBUTORS—CONTINUED:

	<i>Page</i>	<i>Month</i>
CORRICK, FRANKLIN:		
Synopsis of Statutory Provisions Relating to Right of Eminent Domain and Condemnation Procedure.....	72	Oct.
Synopsis of Supreme Court Decisions Relating to Eminent Domain and Condemnation Procedure.....	36	July
DALE, KIRKE W.:		
Civil Appeals .....	72	July
DAWSON, HON. JOHN S., CHIEF JUSTICE:		
Administrative Government .....	69	July
FAULCONER, ALBERT:		
Improving the Administration of Justice through the Rule-Making Power of the Court.....	6	April
FISCHER, E. L.:		
Economy in Jury Trials.....	16	April
Economy in Jury Trials—More Capable Jurors.....	43	July
FLOOD, E. C.:		
Northwestern Kansas Bar Association.....	7	April
FOULSTON, ROBERT C.:		
The Proposed Integration of the Kansas Bar.....	60	July
HARLAN, HAL E.:		
A Proposed Amendment to the Kansas Constitution Relating to the Faith and Credit to be Given to Foreign Judgments on Divorce .....	5	April
HARVEY, HON. W. W.:		
A Crime Bureau Needed.....	26	April
Administration upon Decedent's Real Property.....	74	Dec.
Appeals in Criminal Cases.....	40	Oct.
Authority of Trial Judge to Comment on Evidence.....	70	Dec.
Estate of Decedent Without Known Heir or Will.....	46	Oct.
Defendant's Testimony in Criminal Actions.....	69	Dec.
Depositions on Behalf of the Prosecution in Criminal Cases, New Legislative Act Relating to Attorneys, Courts and Procedure .....	43	Oct.
Our Proposed Constitutional Amendment.....	11	April
Pleading an Alibi.....	27	April
Pleading an Alibi .....	42	Oct.
Probate and County Court.....	67	Dec.
Probate and County Court.....	23	April
Probate Code .....	77	Dec.
Proposed Statutes, Probate and County Courts.....	8	April
Recognition of Foreign Attorneys.....	41	Oct.
Recognition of Foreign Attorneys.....	26	April
The Judicial Council: What It Is Doing Now.....	10	April
The Judicial Council: What It Is Doing Now.....	32	July
Unification of the Bar.....	41	Oct.
HUNT, CHARLES L.:		
A Proposal to Amend the Judicial Article of the Kansas Constitution .....	35	July
General Verdict v. Special Verdict.....	51	July
Some Changes in the Proposed Judicial Article of the Kansas Constitution .....	62	Oct.
JOHNSTON, HON. WILLIAM A.:		
Our Judiciary, Its Improvement.....	30	July



CONTRIBUTORS—CONCLUDED:

	Page	Month	Year
LITOWICH, B. I.:			
Lawyers, Their Helpfulness to the Commonwealth.....	5	April	1932
RUPPENTHAL, HON. J. C.:			
A Code of Procedure for the Probate, County and Juvenile Courts of Kansas .....	13	April	1932
Judicial Apportionment .....	78	July	1937
Northwestern Kansas Bar Meeting.....	47	July	1932
TAYLOR, JAMES W.:			
The Kansas Law of Homestead.....	52	July	1935
THIELE, WALTER G.:			
Right of Inheritance as Limited by Degrees of Consanguin- ity .....	209	Dec.	1937
STEVENS, CHESTER:			
Administration on Estate of Person Living—Presumption of Death .....	15	April	1934
Concerning Acts 1933 Legislature Relating to Judicial Methods of Procedure.....	152	Dec.	1932
Confusion in Condemnation Procedure.....	18	April	1932
Eminent Domain, a Proposed Code of Procedure.....	41	July	1932
Eminent Domain: The Administrative and Judicial Meth- ods of Procedure.....	152	Dec.	1932
Suggestions for Amendment of the Proposed Code of Pro- cedure Involving Eminent Domain.....	69	Oct.	1932
Winding up of Partnership Estate on Death of Partner...	98	Oct.	1935
WILSON, ROSCOE H.:			
Southwestern Kansas Bar Association.....	7	April	1932
Southwestern Kansas Bar Meeting.....	51	July	1932
CORPORATIONS:			
Dissolution of, District Courts (new law), chap. 144, Laws 1933, sec. 1; sec. 17-1631, G. S. 1935.....	15	April	1933
COUNTY COURTS:			
Act creating, bill drafted.....	26	Dec.	1929
Act creating, bill drafted (Senate bill No. 153).....	191	Dec.	1931
Act creating, bill drafted.....	138	Dec.	1932
Act creating, bill drafted.....	50	Oct.	1934
Act creating, bill drafted.....	26	April	1935
Act creating, amendment recommended, bill drafted.....	183	Dec.	1936
Appeals, civil cases, amendment recommended, bill drafted...	23	Dec.	1929
Appeals civil cases, amendment recommended, bill drafted (Senate bill No. 170).....	196	Dec.	1931
Comments upon .....	80	April	1936
Counties conducting, summary of.....	78	April	1936
Counties having .....	95	Dec.	1929
Proposed Statutes Concerning, address by Samuel E. Bartlett,	8	April	1936
Recognition of Foreign Attorneys, article by Hon. W. W. Harvey .....	41	Oct.	1934
Work of, to 7-1-28, summarized.....	63	Dec.	1928
Work of, to 7-1-28, tabulated.....	138	Dec.	1928
Work of, to 7-1-29, tabulated.....	96	Dec.	1929
Work of, to 7-1-36, tabulated.....	79	April	1936
Work of, to 7-1-37, tabulated.....	107	Oct.	1937
COURTS:			
Actions against state, determination of liens, statute enacted,	14	April	1937
Books and records, act recommended, bill drafted.....	24	Dec.	1929
Books and records, act recommended, bill drafted.....	52	Oct.	1934

## COURTS—CONCLUDED:

	<i>Page</i>	<i>Month</i>
Clerks of, compensation for reports to Judicial Council, act recommended, bill drafted .....	194	Dec.
Courts inferior to district courts, creation of, act recommended (Senate bill No. 153).....	191	Dec.
Exemptions, statute amended .....	14	April
Garnishment, persons dropped from relief work.....	13	April
Judicial districts, redistricting of, House resolution No. 35...	4	April
Jurisdiction, injunction or quo warranto, unlawful practice of medicine .....	14	April
Rule-making power—"Improving the Administration of Justice through the Rule-making Power of Courts," article by Albert Faulconer .....	6	April
Rules, nonresident attorneys, filing of papers, promulgated, effective 9-1-36.....	50	July
Seal omitted, instruments validated.....	13	April

## CRIME BUREAU:

Act creating, recommended to Judicial Council, bill drafted..	26	April
---	----	-------

## CRIMES AND PUNISHMENTS:

Act defining conspiracy (Senate bill No. 128), bill drafted....	187	Dec.
Appeals to supreme court, bill drafted, statute amended.....	6	April
Conspiracy, bill drafted, defined.....	22	Dec.
Murder, death penalty, statute amended.....	13	April

## CRIMINAL PROCEDURE:

Alibi, pleading of, article by Hon. W. W. Harvey, chairman..	42	Oct.
Alibi, pleading of, article by Hon. W. W. Harvey, chairman..	67	Dec.
Alibi, pleading, recommended, bill drafted.....	68	Dec.
Alibi, plea of, new law, chap. 229, Laws 1935; sec. 1; sec. 62-1341, G. S. 1935 .....	8	April
"Appeals in Criminal Cases," article by Hon. W. W. Harvey, chairman .....	44	Oct.
Appeals to supreme court, bill drafted, statute amended.....	6	April
Changes suggested .....	28	Dec.
Continuance of trial, statute enacted.....	14	April
Defendant's testimony, amendment recommended, bill drafted,	70	Dec.
Defendant's testimony, article by Hon. W. W. Harvey, chairman .....	70	Dec.
Depositions, amendment recommended, bill drafted.....	16	April
Depositions, amendment recommended, bill drafted.....	25	April
Depositions, amendment recommended, bill drafted.....	189	Dec.
Depositions on behalf of state, article by Hon. W. W. Harvey, chairman .....	43	Oct.
Extradition, interstate, act concerning, recommended to Judicial Council, bill drafted .....	31	April
Extradition, interstate, statute enacted.....	15	April
Instructions, comments on evidence, article by Hon. W. W. Harvey, chairman .....	70	Dec.
Jurors and witnesses, amendment recommended, bill drafted..	144	Dec.
Jurors and witnesses, challenge to, competency of, amendment, bill drafted .....	21	Dec.
Jurors and witnesses, challenge to, competency of, amendment, bill drafted (Senate bill No. 169).....	195	Dec.
Jurors and witnesses, challenge to, competency of, amendment, bill drafted .....	54	Oct.
Jurors, number of, amendment recommended, bill drafted....	190	Dec.
Murder, death penalty, bill drafted, statute amended.....	13	April
New trials and appeals, amendment recommended, bill drafted,	71	Dec.
New trials and appeals, amendment recommended, bill drafted,	12	April

# INDEX

117

CRIMINAL PROCEDURE—CONCLUDED:			
	<i>Page</i>	<i>Month</i>	<i>Year</i>
New trials and appeals, amendment recommended.....	22	April	1936
New trials and appeals, amendment recommended, bill drafted,	185	Dec.	1936
Paroles, Coöperation of state, act recommended, to Judicial Council, bill drafted.....	37	April	1936
Pursuit, fresh, of criminals, coöperation of state, act recommended to Judicial Council, bill drafted.....	39	April	1936
Pursuit, fresh, statute enacted.....	20	April	1937
Trial to court or six jurors, amendment recommended, bill drafted .....	148	Dec.	1932
Trial to court or six jurors, amendment recommended, bill drafted .....	56	Oct.	1934
Trials, Criminal Cases, Comment on Evidence, article by Judge Ray H. Beals.....	16	April	1936
Trials, joint, amendment recommended, bill drafted.....	15	April	1935
Trials, joint, amendment recommended, bill drafted.....	188	Dec.	1935
Trials, joint, amendment recommended, bill drafted.....	24	April	1936
Trials, joint, number of jurors, amendment recommended, bill drafted .....	18	April	1935
Witnesses, attendance of from other states, act recommended to Judicial Council, bill drafted.....	29	April	1935
DECEDENT'S ESTATES (See, also, Probate Courts, this index):			
Allowance and payment of claims, bill drafted, statute amended,	11	April	1937
Appeals from certain orders, statute amended.....	14	April	1937
Control of property and payment of debts, bill drafted, statute enacted .....	9	April	1937
DISTRICT COURTS:			
Alibi, pleading of, new law, chap. 229, Laws 1935, sec. 1; sec. 62-1341, G. S. 1935.....	8	April	1935
Amendment civil procedure concerning new trials and appeals recommended, bill drafted.....	19	Dec.	1929
Amendment criminal procedure concerning challenge to jurors and incompetency of witnesses recommended, bill drafted..	21	Dec.	1929
Amendment civil procedure concerning new trials and appeals recommended, bill drafted (Senate bill No. 166).....	193	Dec.	1931
Amendment criminal procedure concerning challenge to jurors and competency of witnesses, recommended, bill drafted (Senate bill No. 169).....	195	Dec.	1931
Amendment civil procedure concerning new trials and appeals recommended, bill drafted.....	142	Dec.	1932
Amendment civil procedure concerning new trials and appeals recommended, bill drafted.....	53	Oct.	1934
Amendment criminal procedure concerning joint trials of defendants recommended, bill drafted.....	15	April	1935
Amendment criminal procedure concerning depositions recommended, bill drafted.....	16	April	1935
Amendment civil procedure concerning trials by jury, number of jurors, recommended, bill drafted.....	17	April	1935
Amendment criminal procedure concerning trials by jury, number of jurors, recommended, bill drafted.....	18	April	1935
Amendment criminal procedure concerning depositions recommended, bill drafted .....	189	Dec.	1936
Appeals from supreme court, civil actions, bill drafted, statute amended .....	6	April	1937
Contempt in civil actions, service of citations for, new law, chap. 148, Laws 1935, sec. 1; sec. 20-1207, G. S. 1935..	7	April	1935
Corporations, Dissolution of (new law), chap. 144, Laws 1933, sec. 1; sec. 17-1631, G. S. 1935.....	15	April	1933

## DISTRICT COURTS—CONTINUED:

	<i>Page</i>	<i>Month</i>
Divorce, residence of plaintiff, law amended, chap. 216, Laws 1933, sec. 1; sec. 60-1502, G. S. 1935.....	13	April
Eminent domain, code of procedure for, recommended, bill drafted .....	155	Dec.
Fees to clerks of, reports to Judicial Council, bill drafted, statute amended .....	12	April
Garnishment, bond for, law amended, chap. 215, Laws 1933, sec. 1 (amended chap. 82, Special Session, 1933, sec. 1); sec. 60-942, G. S. 1935.....	13	April
Injunction, vacation of, statute amended.....	14	April
Judges of, pro tem, selection, law amended, chap. 168, Laws 1933, secs. 1, 2, 3; secs. 20-306, 20-309, 20-311, G. S. 1935 .....	12	April
Judges pro tem, appointment of by chief justice, recommended, bill drafted .....	65	Dec.
Judges pro tem, appointment by supreme court, new law, chap. 149, Laws 1935, sec. 1; sec. 20-311a, G. S. 1935.....	7	April
"Judicial Apportionment," article by J. C. Ruppenthal.....	78	April
Judicial districts, redistricting of, House resolution No. 35....	4	April
Motion days for 1930.....	10	Dec.
Motion days for 1931.....	7	Dec.
Motion days for 1932.....	11	Dec.
Motion days for 1933.....	112	Dec.
Motion days for 1934.....	86	Dec.
Motion days for 1935.....	88	Dec.
Motion days for 1936.....	108	Dec.
Motion days for 1937.....	175	Dec.
Motion days for 1938.....	200	Dec.
Murder, death penalty, bill drafted, statute amended.....	13	April
Paroles, by judges of.....	133	Dec.
Parole officer, appointment Sedgwick county, statute enacted,	14	April
Recommendations concerning.....	13	Dec.
Rule Concerning Foreign Attorneys, article by Hon. W. W. Harvey .....	21	April
Rule No. 29, amended.....	5	Dec.
Rule proposed concerning statement of court whether evidence considered .....	10	Dec.
Rule recommended concerning voluntary appearance.....	6	Dec.
Rules concerning, amended .....	7	Dec.
Rules of procedure for amended.....	110	Dec.
Rules, power of supreme court to make.....	20	Dec.
Rules relating to, promulgated by supreme court, effective 9-1-29 .....	5	Dec.
Rules suggested for .....	14	Dec.
Seal omitted, instruments validated.....	13	April
Soldier's Compensation, law amended, chap. 268, Laws 1933, sec. 1 (amended chap. 105, 1933, Special Session, sec. 1), sec. 73-126, G. S. 1935.....	14	April
Summary of work of, by counties, to 7-1-27.....	31	Dec.
Summary of work of, by counties, to 7-1-31.....	39	Dec.
Summary of work of, by districts, to 7-1-27.....	123	Dec.
Summary of work of, by districts, to 7-1-28.....	23	Dec.
Summary of work of, by districts, to 7-1-29.....	35	Dec.
Summary of work of, by districts, to 7-1-30.....	26	Dec.
Summary of work of, by districts, to 7-1-33.....	95	Dec.
Summary of work of, by districts, to 7-1-35.....	115	Dec.
Summary of work of, by districts, to 7-1-37.....	109	Oct.
Summary of work of, for state as a whole, to 7-1-27.....	152	Dec.
Summary of work of, for state as a whole, to 7-1-28.....	61	Dec.

## STRICT COURTS—CONCLUDED:

	<i>Page</i>	<i>Month</i>	<i>Year</i>
Summary of work of, for state as a whole, to 7-1-30.....	73	Dec.	1930
Summary of work of, for state as a whole, to 7-1-33.....	138	Dec.	1933
Tabulation of work of, to 7-1-27.....	155	Dec.	1927
Tabulation of work of, to 7-1-28.....	67	Dec.	1928
Tabulation of work of, to 7-1-29.....	73	Dec.	1929
Tabulation of work of, to 7-1-30.....	73	Dec.	1930
Tabulation of work of, to 7-1-31.....	151	Dec.	1931
Tabulation of work of, by counties, (1927 to 1931).....	122	Dec.	1932
Tabulation of work of, by districts, (1927 to 1931).....	131	Dec.	1932
Tabulation of work of, to 7-1-33.....	141	Dec.	1933
Tabulation of work of, to 7-1-35.....	168	Dec.	1935
Tabulation of work of, to 7-1-37.....	160	Oct.	1937
Terms of, beginning, statute amended.....	14	April	1937
Trials, criminal, continuance of, statute amended.....	14	April	1937
Work of, to 7-1-27, survey.....	28	Dec.	1927

## STRICT JUDGES:

Associations of, article by Ray H. Beals.....	9	April	1932
Comment on Evidence, Authority Challenged, article by Hon. W. W. Harvey, chairman.....	70	Dec.	1934
Judges pro tem, district courts, selection of, law amended, chap. 168, Laws 1933, secs. 1, 2, 3; secs. 20-306, 20-309, 20-311, G. S. 1935.....	12	April	1933
Judges pro tem, appointment by chief justice, recommended, bill drafted .....	65	Dec.	1934
Judges pro tem, appointment by supreme court, new law, chap. 149, Laws 1935, sec. 1; sec. 20-311a, G. S. 1935.....	7	April	1935

## VORCE AND ALIMONY:

Foreign decrees of, rendered on constructive service, amendment, chap. 220, Laws 1935, sec. 1; sec. 60-1518, G. S. 1935..	6	April	1935
Foreign judgments of, proposed amendments relating to.....	5	April	1934
Foreign judgment of, recommended amendment, bill drafted..	55	Oct.	1934
Pleadings in actions for, amendment recommended, bill drafted,	23	Dec.	1929
Pleadings in actions for.....	190	Dec.	1931
Pleadings in actions for, amendment recommended, bill drafted,	145	Dec.	1932
Pleadings in actions for, amendment recommended, bill drafted,	54	Oct.	1934
Pleadings in actions for, new law, chap. 219, Laws 1935, sec. 1; sec. 60-1519, G. S. 1935.....	5	April	1935
Residence of plaintiff, law amended, chap. 216, Laws 1933, sec. 1; sec. 60-1502, G. S. 1935.....	13	April	1933

## IN EMINENT DOMAIN:

Article, "Confusion in Condemnation Procedure," by Chester Stevens .....	18	April	1932
Article, "Eminent Domain, Proposed Code of Procedure," by Chester Stevens .....	41	July	1932
Article, "Suggestions for Amendment of Proposed Code of Procedure Involving Eminent Domain," by Chester Stevens,	69	Oct.	1932
Article, "The Administrative and Judicial Methods of Pro- cedure," by Chester Stevens.....	152	Dec.	1932
Code of procedure recommended, bill drafted.....	155	Dec.	1932
Lienholder, notice to upon condemnation, statute amended..	14	April	1937
Proposed Act Relating to, draft by Chester Stevens.....	41	July	1932
Synopsis of Supreme Court Decisions Relating to, article by Franklin Corrick .....	36	July	1933

## EMPTIONS:

Statute amended .....	14	April	1937
-----------------------	----	-------	------

## GARNISHMENT:

	Page	Month
District court, bond for, law amended, chap. 215, Laws 1933, sec. 1 (amended chap. 82, Special Session, 1933, sec. 1), sec. 60-942, G. S. 1935.....	13	April
Persons dropped from relief work.....	13	April

## HOMESTEAD:

"The Kansas Law of," article by James W. Taylor.....	52	July
--	----	------

## INJUNCTION:

Vacation of, statute amended.....	14	April
Unlawful practice of medicine and surgery, statute enacted..	14	April

## ITEMS OF INTEREST..... 22 April

## JUDICIAL COUNCIL:

Act creating (chap. 187, Laws 1927).....	5	Dec.
Article, "What It Is Doing Now," by Hon. W. W. Harvey, chairman .....	10	April
Article, "What It Is Doing Now," by Hon. W. W. Harvey, chairman .....	32	July
Future work of .....	139	Dec.
Origin of .....	7	Dec.
Reports to, fees to clerks and judges for making, bill drafted, statute enacted .....	12	April
Report of to State Bar Association.....	9	Dec.
Report of to Kansas State Bar Association, by Hon. W. W. Harvey, chairman.....	89	July
Scope of work for year 1928.....	5	Dec.
Scope of work of.....	5	Dec.
Work of, Comments Upon, by Hon. W. W. Harvey, chairman,	61	Dec.
Work of, outlined.....	13	Dec.

## JURY:

Article, "Economy in Jury Trials," by Hon. E. L. Fischer...	16	April
Article, "Economy in Jury Trials—More Capable Jurors," by Hon. E. L. Fischer.....	43	July
Challenges of, recommended amendment relating to criminal procedure, bill drafted .....	21	Dec.
Challenge of, recommended amendment relating to criminal procedure, bill drafted .....	54	Oct.
Challenge of, recommended amendment relating to criminal procedure, bill drafted (Senate bill No. 169).....	195	Dec.
Civil actions, number of jurors, amendment recommended, bill drafted .....	190	Dec.
Concerning selection of jurors, bill proposed by Hon. E. L. Fischer .....	43	July
Criminal cases, amendment recommended, bill drafted.....	144	Dec.
Expense jury trials by counties for year ending June 30, 1931,	147	Dec.
Selection by board of jury commissioners, bill drafted.....	18	Dec.
Selection by board of jury commissioners, bill drafted.....	55	Oct.
Selection of jurors by board of commissioners, recommended, bill drafted .....	146	Dec.
Selection of by jury commissioners, bill drafted (Senate bill No. 141).....	188	Dec.
Trials by and methods of selection.....	8	Dec.
Trial by, less than twelve jurors, amendment recommended, bill drafted.....	148	Dec.
Trials, criminal cases, court or six jurors, amendment recom- mended, bill drafted .....	56	Oct.
Trials, criminal, court or six jurors, amendment recommended, bill drafted .....	148	Dec.

# INDEX

121

JURY—CONCLUDED:			
	<i>Page</i>	<i>Month</i>	<i>Year</i>
Trials, number of jurors, bill drafted.....	56	Oct.	1934
Verdict of, "General Verdict vs. Special Verdict," article by Charles L. Hunt.....	51	July	1936
JUSTICE OF THE PEACE COURTS:			
Appeals, civil cases, amendment recommended, bill drafted....	23	Dec.	1929
Appeals, civil cases, amendment recommended, bill drafted (Senate bill No. 170).....	196	Dec.	1931
Bonds of, law amended, chap. 328, Laws 1933, sec. 1; sec. 80-205, G. S. 1935.....	15	April	1933
Criminal actions, number of jurors, amendment recommended, bill drafted .....	190	Dec.	1936
Limiting jurisdiction of, bill drafted.....	26	Dec.	1929
Limiting jurisdiction of, bill drafted.....	191	Dec.	1931
Limiting jurisdiction of, bill drafted.....	138	Dec.	1932
Limiting jurisdiction of, bill drafted.....	50	Oct.	1934
Limiting jurisdiction of, bill drafted.....	26	April	1935
Limiting jurisdiction of, amendment recommended, bill drafted, 183		Dec.	1936
Recommendations concerning .....	17	Dec.	1928
Work of, to 7-1-28, summarized.....	64	Dec.	1928
Work of, to 7-1-28, tabulated.....	99	Dec.	1928
LAWS ENACTED ON RECOMMENDATION JUDICIAL COUNCIL:			
Alibi, pleading, chap. 229, Laws 1935, sec. 1; sec. 62-1341, G. S. 1935.....	8	April	1935
Appeals to supreme court, civil cases, statute amended.....	8	April	1937
Appeals to supreme court, criminal cases, statute amended...	6	April	1937
Claims against estates, barring of, chap. 180, Laws 1933, sec. 1; sec. 22-702, 1935 G. S.....	13	April	1933
Concerning judges pro tem, district courts, law amended, chap. 168, Laws 1933, secs. 1, 2, 3; sec. 20-306; 20-309, 20-311, G. S. 1935 .....	12	April	1933
Contempt in civil actions; service of citations for; new law; chap. 148, Laws 1935, sec. 1; sec. 20-1207, G. S. 1935...	7	April	1935
Death penalty, first-degree murder.....	13	April	1937
Decedent's estates, allowance and payments of debts, statute amended .....	11	April	1937
Decedent's estates, control of property and payment of debts, statute enacted .....	9	April	1937
Divorce, foreign decrees of rendered on constructive service, amendment chap. 220, Laws 1935, sec. 1; sec. 60-1518, G. S. 1935 .....	6	April	1935
Divorce, pleadings in actions for; chap. 219, Laws 1935, sec. 1; sec. 60-1519, G. S. 1935.....	5	April	1935
Estate of decedent without known heir or will, administration of, amendment, chap. 168, Laws 1935, secs. 1, 2, 3, 4, 5, 6; secs. 22-1207 to 22-1212, G. S. 1935.....	9	April	1935
Fees to judges and clerks, preparation reports to Judicial Council, statute amended .....	12	April	1937
Garnishment, bond for, district court, law amended; chap. 215, Laws 1933, sec. 1 (amended chap. 82, Special Session, 1933, sec. 1); sec. 60-942, G. S. 1935.....	13	April	1933
Judges pro tem, district courts, appointment by supreme court, chap. 149, Laws 1935, sec. 1; sec. 20-311a, G. S. 1935..	7	April	1935
Probate courts, clerks, assistants and records (chap. 165, Laws 1933); sec. 19-1102, G. S. 1935.....	12	April	1933
Relating to claims in probate courts, laws repealed and amended; chap. 179, Laws 1933, secs. 1, 2 and 3; secs. 22-526, 22-531, 22-532, 22-533, G. S. 1935.....	13	April	1933

		<i>Page</i>	<i>Month</i>
<b>MAGISTRATE COURTS:</b>			
Act creating, bill drafted.....	26	Dec.	
Act creating, bill drafted (Senate bill No. 153).....	191	Dec.	
Act creating, bill drafted.....	138	Dec.	
Act creating, bill drafted.....	50	Oct.	
Recommendations concerning .....	17	Dec.	
<b>MEMORIALS:</b>			
Hon. Roscoe H. Wilson.....	84	Dec.	
<b>MORTGAGES:</b>			
Extension Period of Redemption, Act of 1933, article by Schuyler C. Bloss.....	6	April	
<b>MOTION DAYS:</b>			
District courts for 1930.....	10	Dec.	
District courts for 1931.....	7	Dec.	
District courts for 1932.....	11	Dec.	
District courts for 1933.....	112	Dec.	
District courts for 1934.....	86	Dec.	
District courts for 1935.....	88	Dec.	
District courts for 1936.....	108	Dec.	
District courts for 1937.....	175	Dec.	
District courts for 1938.....	200	Dec.	
<b>PAROLES:</b>			
By judges district courts.....	133	Dec.	
Parole officer, appointment Sedgwick county.....	14	April	
<b>PARTNERSHIP ESTATES:</b>			
Winding up of on Death of Partner, article by Chester Stevens, 98		Oct.	
<b>PORTRAITS:</b>			
Bartlett, Samuel E., frontispiece.....	1	April	
Bloss, Schuyler C., Chairman House Judiciary Committee....	6	April	
Burch, R. A., Chief Justice Supreme Court of Kansas.....	69	Oct.	
Dale, Kirke W., Chairman Senate Judiciary Committee.....	3	April	
Dawson, John S., Chief Justice Kansas Supreme Court.....	1	July	
Faulconer, Albert, President, Kansas State Bar Association..	1	April	
Fisher, Harry W., Chairman, House Judiciary Committee....	3	April	
Harlan, Hal E., Chairman Senate Judiciary Committee.....	6	April	
Johnston, W. A., Chief Justice Supreme Court of Kansas....	25	July	
Judicial Council, group portrait.....	108	Dec.	
Litowich, B. I., President Kansas State Bar Association.....	1	April	
May, O. P., Chairman House Judiciary Committee.....	3	April	
Rees, E. H., Chairman Senate Judiciary Committee.....	3	April	
Supreme Court Justices of Kansas, group portrait.....	53	Oct.	
Supreme Court Justices of Kansas, group portrait.....	60	Dec.	
Thiele, Walter G., Justice Supreme Court, frontispiece.....	..	Dec.	
Wilson, Roscoe H., Deceased Member of the Judicial Council, 84		Dec.	
<b>PROBATE COURTS:</b>			
Act creating, bill drafted (Senate bill No. 153).....	191	Dec.	
Act creating, bill drafted.....	50	Oct.	
Act creating, bill drafted.....	26	April	
Act creating, bill drafted, amendment recommended.....	183	Dec.	
Administration Estate Living Person, Presumption of Death, article by Chester Stevens .....	15	April	
Administration estate of decedent without known heir or will, amendment recommended, bill drafted.....	46	Oct.	
Administration Upon Decedent's Real Property, article by Hon. W. W. Harvey, chairman.....	74	Dec.	



## PROBATE COURTS—CONTINUED:

	<i>Page</i>	<i>Month</i>	<i>Year</i>
Adversary proceedings .....	27	Dec.	1931
Article concerning, by Hon. W. W. Harvey, chairman.....	23	April	1935
Certain orders appealable, statute amended.....	14	April	1937
Claims against estates, laws repealed and amended; Laws 1933, chap. 179; secs. 1, 2, 3; secs. 22-526, 22-531, 22-532, and 22-533, G. S. 1935.....	13	April	1933
Code of procedure for, recommended, bill drafted.....	160	Dec.	1932
Code of procedure proposed, comments.....	159	Dec.	1932
Code of procedure proposed by Samuel E. Bartlett.....	77	Dec.	1934
Code of procedure suggested, bill drafted.....	21	April	1935
Decedents' estates, administration of real property, act recom- mended .....	18	April	1935
Decedents' estates, administration of real property, exhibit of demands, amendment recommended, bill drafted.....	75	Dec.	1934
Decedents' estates, administration of real property, act recom- mended, bill drafted.....	191	Dec.	1936
Decedents' estates, administration without known heir or will, amendment recommended, bill drafted.....	72	Dec.	1934
Decedents' estates, allowance and payment of claims, bill drafted, statute amended.....	11	April	1937
Decedents' estates, control of property and payment of debts, bill drafted, statute enacted.....	9	April	1937
Decedents' estates, management of property chargeable with debts, amendment recommended, bill drafted.....	20	April	1935
Decedents' estates, management of property chargeable with debts, act recommended .....	75	Dec.	1934
Decedents' estates, management of property chargeable with debts, amendment recommended, bill drafted.....	192	Dec.	1936
Demands against estates, barring of, law amended, chap. 180, Laws 1933, sec. 1; sec. 22-702, G. S. 1935.....	13	April	1933
Estates of Absentees, Administration of, article by Samuel E. Bartlett .....	91	Oct.	1935
Estate of decedent without known heir or will, administration of; amendment; chap. 168, Laws 1935, secs. 1, 2, 3, 4, 5, 6; secs. 22-1207 to 22-1212, inc., G. S. 1935.....	9	April	1935
Executors, administrators, guardians and trustees, act pro- posed by Samuel E. Bartlett.....	79	Dec.	1934
Guardianship, revised draft of law concerning, by Samuel E. Bartlett .....	20	April	1934
Law concerning clerks, assistants and records amended; chap. 165, Laws 1933, sec. 1; sec. 19-1102, G. S. 1935.....	12	April	1933
Nonresident Decedents, Administration of Estate of, article by Ray H. Beals.....	16	April	1934
Partnership, Winding up of, article by Chester Stevens.....	98	Oct.	1935
Payment of fees, reports to Judicial Council, bill drafted, statute amended .....	12	April	1937
Practice and procedure in, proposed new draft (draft by Samuel E. Bartlett).....	6	April	1938
Probate Code, article by Hon. W. W. Harvey, chairman.....	77	Oct.	1934
Probate law, suggested redraft, article by Samuel E. Bartlett,	16	April	1933
Procedure, new, suggested by Samuel E. Bartlett.....	14	April	1936
Procedure recommended .....	27	Dec.	1931
Proposed code of procedure, comments on.....	87	Oct.	1932
Proposed Code of Procedure, Draft of, by Hon. Roscoe H. Wilson .....	88	Oct.	1932
Proposed statutes concerning, address by Samuel E. Bartlett,	8	April	1936
Recommended act creating, bill drafted.....	138	Dec.	1932
Recommended bill relating to, bill drafted.....	26	Dec.	1929
Records concerning .....	15	Dec.	1928

## PROBATE COURTS—CONCLUDED:

	<i>Page</i>	<i>Month</i>
Sale of Mineral Rights under Direction of, article by Ray H. Beals .....	75	July
Suggestions Bar Association relating to jurisdiction appointment administrators .....	17	Dec.
Tabulations, miscellaneous information, year ending 7-1-34..	32	April
Tabulations, miscellaneous information, year ending 7-1-36..	22	April
Tabulations, miscellaneous information, year ending 7-1-37..	52	April
Work of, summarized to 7-1-28.....	62	Dec.
Work of, to 7-1-28, by tabulation.....	122	Dec.
Work of, to 7-1-30, by tabulation.....	107	Dec.
Work of, summarized to 7-1-30, for state as a whole.....	71	Dec.
Work of, summarized to 7-1-34.....	86	Dec.
Work of, summarized to 7-1-34, by tabulation.....	36	April
Work of, summarized to 7-1-36, by counties (76 counties)...	81	Oct.
Work of, summarized to 7-1-36, by counties (continued from October report).....	196	Dec.
Work of, summarized to 7-1-36, for state as a whole.....	230	Dec.
Work of, summarized to 7-1-36, by tabulation.....	26	April
Work of, summarized to 7-1-37, by counties.....	212	Dec.
Work of, summarized to 7-1-37, for state as a whole.....	343	Dec.

## RECOMMENDATIONS:

Alibi, pleading of, criminal procedure, bill drafted.....	68	Dec.
Appeals, civil actions to supreme court, bill drafted, statute amended .....	8	April
Appeals, criminal actions, amendment, bill drafted.....	187	Dec.
Appeals, criminal actions to supreme court, bill drafted, statute amended .....	6	April
Appeals, justice, city and county courts, civil cases, bill drafted .....	23	Dec.
Appeals, justice, city and county courts, civil cases, bill drafted (Senate bill No. 170).....	196	Dec.
Appeals to supreme court, civil actions, amendment recommended, bill drafted.....	14	April
Attorneys, foreign, recognition of, rule proposed.....	28	April
Books and records of courts of record, bill drafted.....	24	Dec.
Books and records of courts of record, bill drafted.....	188	Dec.
Books and records of courts of record, bill drafted.....	140-141	Dec.
Books and records of courts of record, bill drafted.....	52	Oct.
Civil code, amendment relating to new trials and appeals, bill drafted .....	142	Dec.
Civil code, amendments to.....	141	Dec.
Clerks of court, compensation for reports to Judicial Council, new act, bill drafted .....	194	Dec.
Conspiracy, act defining (Senate bill No. 128), bill drafted..	187	Dec.
Conspiracy, defined, bill drafted.....	22	Dec.
Courts, inferior to district courts, bill drafted, act creating (Senate bill No. 153).....	191	Dec.
Courts, inferior to district courts, bill drafted.....	50	Oct.
Courts, inferior to district courts, amendment relating to...	138	Dec.
Courts, inferior to district courts, creation of, bill drafted..	26	April
Courts, inferior to district courts, creation of, bill drafted...	183	Dec.
Courts, miscellaneous .....	17	Dec.
Criminal cases, procedure in, suggested.....	28	Dec.
Criminal procedure, defendant's testimony, bill drafted.....	70	Dec.
Criminal procedure, joint trial of defendants, amendment, bill drafted .....	24	April
Criminal procedure, joint trial of defendants, amendment, bill drafted .....	188	Dec.

## COMMENDATIONS—CONTINUED:

	<i>Page</i>	<i>Month</i>	<i>Year</i>
Criminals, apprehension, pursuit, coöperation of state, act suggested to Judicial Council.....	39	April	1936
Death penalty, first-degree murder, bill drafted, statute amended .....	13	April	1937
Decedents' estates, administration of real property, amendment, act recommended .....	75	Dec.	1934
Decedents' estates, administration of real property, act recommended .....	20	April	1935
Decedents' estates, administration of real property, new act, bill drafted .....	191	Dec.	1936
Decedents' estates, administration without known heir or will, bill drafted .....	72	Dec.	1934
Decedents' estates, allowance and payment of claims, bill drafted, statute amended .....	11	April	1937
Decedents' estates, control of property and payment of debts, bill drafted, statute enacted.....	9	April	1937
Decedents' estates, management of property chargeable with debts, act recommended .....	75	Dec.	1934
Decedents' estates, management of property chargeable with debts, act recommended, bill drafted.....	18	April	1935
Decedents' estates, management of property chargeable with debts, amendment, bill drafted.....	192	Dec.	1936
Depositions for state, criminal cases, bill drafted.....	66	Dec.	1934
Depositions in criminal actions, amendment, bill drafted....	16	April	1935
Depositions in criminal actions, amendment, bill drafted.....	25	April	1936
Depositions in criminal actions, amendment recommended, bill drafted .....	189	Dec.	1936
District courts, concerning .....	13	Dec.	1928
Divorce and alimony, pleadings in actions for.....	54	Oct.	1934
Divorce actions, pleadings in.....	190	Dec.	1931
Divorce, foreign judgments of, amendment, bill drafted.....	54	Oct.	1934
Divorce, pleadings in, amendment, bill drafted.....	23	Dec.	1929
Divorce, pleadings, amendment, bill drafted.....	145	Dec.	1932
Eminent domain, procedure, bill drafted.....	155	Dec.	1932
Extradition, interstate, act concerning suggested to Judicial Council, bill drafted .....	31	April	1936
Garnishment, bond in .....	27	Dec.	1931
Joint trials of defendants, criminal actions amendment, bill drafted .....	15	April	1935
Judges and clerks, payment for making reports, bill drafted, statute amended .....	12	April	1937
Judges pro tem, appointment of by chief justice, bill drafted, .....	65	Dec.	1934
Judicial article, concurrent resolution drafted, revision.....	14	Dec.	1930
Judicial article, second concurrent resolution, revision.....	185	Dec.	1931
Judicial article, third concurrent resolution, revision.....	35	July	1932
Judicial article, fourth concurrent resolution, revision.....	63	Oct.	1932
Judicial article, fifth concurrent resolution, revision.....	133	Dec.	1932
Judicial article, sixth concurrent resolution, revision.....	48	Oct.	1934
Judicial article, seventh concurrent resolution, revision.....	29	April	1935
Judicial article, eighth concurrent resolution, revision.....	195	Dec.	1936
Judicial system, improvements in.....	9	Dec.	1928
Jurors and witnesses, amendment proposed, criminal code, bill drafted .....	144	Dec.	1932
Jurors and witnesses, challenge to, competency of, criminal procedure, amendment .....	21	Dec.	1929
Jurors and witnesses, challenge to, competency of, criminal procedure (Senate bill No. 169), bill drafted.....	195	Dec.	1931
Jurors and witnesses, challenge to, competency of, criminal procedure .....	54	Oct.	1934
Jurors, number of, civil cases, amendment, bill drafted.....	190	Dec.	1936
Jurors, number of, criminal actions, amendment, bill drafted, 190		Dec.	1936

## RECOMMENDATIONS—CONCLUDED:

	Page	Month
Jurors, selection of by board of jury commissioners, bill drafted .....	18	Dec.
Jurors, selection of by jury commissioners, bill drafted (Senate bill No. 141).....	188	Dec.
Jurors, selection of by board of jury commissioners recommended, bill drafted.....	146	Dec.
Jurors, selection of by jury commissioners, amendment, bill drafted .....	55	Oct.
Jury trials, civil actions, number of jurors, amendment, bill drafted .....	17	April
Jury trials, criminal cases to court or six jurors, bill drafted,	148	Dec.
Jury trials, criminal cases to court or six jurors, bill drafted,	56	Oct.
Jury trials, criminal actions, number of jurors, amendment, bill drafted .....	18	April
Jury trials, less than twelve jurors, amendment, bill drafted,	148	Dec.
Jury trials, number of jurors, amendment.....	56	Oct.
New trials and appeals, amendment relating to, bill drafted..	53	Oct.
New trials and appeals, bill drafted.....	19	Dec.
New trials and appeals, bill drafted (Senate bill No. 166)....	193	Dec.
New trials and appeals, criminal actions, amendment, bill drafted .....	71	Dec.
New trials and appeals, criminal actions, bill drafted.....	12	April
New trials and appeals, criminal actions, amendment, bill drafted .....	22	April
New trials and appeals, criminal actions, amendment, bill drafted .....	185	Dec.
Paroles, coopération of state, act recommended to Judicial Council, bill drafted .....	37	April
Probate, county and magistrate courts, bill drafted, creating,	26	Dec.
Probate, county and magistrate courts, creation of, bill drafted,	138	Dec.
Probate courts, concerning .....	15	Dec.
Probate courts, procedure .....	27	Dec.
Probate procedure, code of, bill drafted.....	160	Dec.
Redemption of real property, amendment, bill drafted.....	149	Dec.
Rule concerning nonresident attorneys promulgated, effective 9-1-36 .....	50	July
Rule requiring statement district court whether evidence considered .....	9	Dec.
Rules, district courts, amendment adopted.....	7	Dec.
Rules, filing of papers, promulgated, effective 9-1-36.....	50	July
Rules, supreme court, amendment adopted.....	5	Dec.
State crime bureau, creation of recommended to Judicial Council, bill drafted .....	26	April
Supreme court, amendment of rules 6 and 8.....	6	Dec.
Supreme court, concerning .....	11	Dec.
Supreme court, employees, bill drafted.....	25	Dec.
Supreme court employees, relating to, bill drafted (Senate bill No. 147) .....	190	Dec.
Voluntary appearances, rule concerning.....	6	Dec.
Witnesses from other states in criminal cases, act relating to recommended to Judicial Council, bill drafted.....	29	April

## REDEMPTION:

Article, "The Redemption of Real Property sold on Execution or Orders of Sale" (bill proposed), by George Austin Brown .....	66	Oct.
Article, "The Redemption Period in Foreclosures," by George Austin Brown .....	21	April
Extension of periods of, Act 1933, article by Schuyler C. Bloss .....	6	April
Real property, amendment recommended, bill drafted .....	149	Dec.

# INDEX

127

PORTS:	Page	Month	Year
Concerning Northwestern Kansas Bar Association.....	7	April	1932
Concerning Northwestern Kansas Bar Association.....	47	July	1932
Concerning Southwestern Kansas Bar Association.....	7	April	1932
Concerning Southwestern Kansas Bar Association.....	51	July	1932
Fees of judges and clerks for making, bill drafted, statute amended .....	12	April	1937
Of Judicial Council to Kansas State Bar Association, by W. W. Harvey .....	89	July	1937
Report of Judicial Council to Bar Association.....	9	Dec.	1927
SOLUTIONS:			
Judicial article, first concurrent resolution, revision recommended .....	14	Dec.	1930
Judicial article, second concurrent resolution, revision recommended .....	185	Dec.	1931
Judicial article, third concurrent resolution, revision recommended .....	35	July	1932
Judicial article, fourth concurrent resolution, revision recommended .....	63	Oct.	1932
Judicial article, fifth concurrent resolution, revision recommended .....	133	Dec.	1932
Judicial article, sixth concurrent resolution, revision recommended .....	48	Oct.	1934
Judicial article, seventh concurrent resolution, revision recommended .....	29	April	1935
Judicial article, eighth concurrent resolution, revision recommended .....	195	Dec.	1936
Judicial districts, redistricting of, House resolution No. 35..	4	April	1937
LES:			
Attorneys, nonresident concerning, promulgated, effective 9-1-36,	50	July	1936
Authority of supreme court to make concerning books and records, bill drafted .....	24	Dec.	1929
Authority recommended to make rules concerning books and records, bill drafted .....	140-141	Dec.	1932
Authority recommended to make rules concerning books and records, bill drafted .....	188	Dec.	1931
By supreme court for courts inferior to district courts, bill drafted .....	26	April	1935
By supreme court for courts inferior to district courts, bill drafted .....	50	Oct.	1934
Concerning district courts promulgated by supreme court, effective September 1, 1929.....	5	Dec.	1929
Concerning statement district court whether evidence considered proposed .....	9	Dec.	1931
Filing of papers concerning promulgated, effective 9-1-36....	50	July	1936
For attorneys, recognition of, proposed rule.....	21	April	1936
For district courts amended.....	7	Dec.	1931
For district courts amended.....	110	Dec.	1932
For district courts suggested.....	14	Dec.	1927
"Improve the Administration of Justice Through the Rule-making Power of Courts," article by Albert Faulconer....	6	April	1936
Of supreme court amended.....	5	Dec.	1931
Of supreme court amendment to rules 6 and 8, recommended,	6	Dec.	1930
Power of supreme court to make.....	20	Dec.	1927
Procedure inferior courts, recommendations supreme court made, bill drafted .....	138	Dec.	1932
Recommended concerning voluntary appearance.....	6	Dec.	1930
Recommendations to make by supreme court of courts inferior to district courts, bill drafted.....	26	Dec.	1929

RULES—CONCLUDED:		<i>Page</i>	<i>Month</i>
Rule No. 29 district courts amended.....	5	Dec.	
Rules proposed for district courts.....	5	Dec.	
Supreme court to make concerning inferior courts, amendment recommended, bill drafted.....	183	Dec.	
SCOPE OF WORK OF JUDICIAL COUNCIL.....	5	Dec.	
SMALL DEBTORS' COURTS:			
Recommendations concerning.....	17	Dec.	
Summary of work to 7-1-28.....	66	Dec.	
STATUTES (See, also, Bills Drafted, this index):			
Appeals from probate courts, statute amended.....	14	April	
Appointment parole officer, Sedgwick county.....	14	April	
Continuance of criminal trials, statute enacted.....	14	April	
Criminal procedure, fresh pursuit, statute enacted.....	20	April	
Eminent domain, notice to lienholders, statute amended.....	14	April	
Exemptions, statute amended.....	14	April	
Garnishment, persons dropped from relief work.....	13	April	
Injunction or quo warranto, unlawful practice of medicine and surgery .....	14	April	
Injunction, vacation of, statute amended.....	14	April	
Interstate extradition, statute enacted.....	15	April	
Liens in favor of state, actions against state, statute enacted, Recommended changes commented upon.....	14	April	
Relating to Eminent Domain and Condemnation, Synopsis of, by Franklin Corrick .....	22	Dec.	
Seal of district court omitted, instruments validated.....	36	July	
Terms of court, certain counties, statute amended.....	13	April	
Terms of court, certain counties, statute amended.....	14	April	
SUMMARIES:			
City courts, work of, to 7-1-28.....	64	Dec.	
City courts, work of, by tabulations, to 7-1-28.....	119	Dec.	
County courts, work of, to 7-1-28.....	63	Dec.	
County courts, work of, by tabulations, to 7-1-28.....	138	Dec.	
County courts, work of, by tabulations, to 7-1-29.....	96	Dec.	
County courts, work of, to July 1, 1937, by tabulation.....	107	Oct.	
District courts, work of, by counties, to 7-1-27.....	31	Dec.	
District courts, work of, by districts, to 7-1-27.....	123	Dec.	
District courts, work of, for state as a whole, to 7-1-27.....	152	Dec.	
District courts, work of, by tabulations, to 7-1-27.....	155	Dec.	
District courts, work of, by districts, to 7-1-28.....	23	Dec.	
District courts, work of, for state as a whole, to 7-1-28.....	61	Dec.	
District courts, work of, by tabulations, to 7-1-28.....	67	Dec.	
District courts, work of, by districts, to 7-1-29.....	35	Dec.	
District courts, work of, for state as a whole, to 7-1-29.....	71	Dec.	
District courts, work of, by tabulations, to 7-1-29.....	73	Dec.	
District courts, work of, by districts, to 7-1-30.....	26	Dec.	
District courts, work of, for state as a whole, to 7-1-30.....	69	Dec.	
District courts, work of, by tabulations, to 7-1-30.....	73	Dec.	
District courts, work of, by districts, to 7-1-31.....	39	Dec.	
District courts, work of, for state as a whole, to 7-1-31.....	149	Dec.	
District courts, work of, by tabulations, to 7-1-31.....	151	Dec.	
District courts, work of, for five-year period, 1927 to 1931..	121	Dec.	
District courts, work of, by counties for five-year period, 1927 to 1931, by tabulations.....	122	Dec.	
District courts, work of, by districts, for five-year period, 1927 to 1931, by tabulations.....	131	Dec.	
District courts, work of, by districts, to 7-1-33.....	138	Dec.	
District courts, work of, for state as a whole, to 7-1-33.....	141	Dec.	
District courts, work of, by tabulations, to 7-1-33.....	141	Dec.	

# INDEX

129

SUMMARIES—CONCLUDED:	Page	Month	Year
District courts, work of, by districts to 7-1-35.....	115	Dec.	1935
District courts, work of, by tabulations, to 7-1-35.....	168	Dec.	1935
District courts, work of, by districts, to 7-1-37.....	109	Oct.	1937
District courts, work of, by tabulations, to 7-1-37.....	160	Oct.	1937
Justice courts, work of, to 7-1-28.....	64	Dec.	1928
Justice courts, work of, by tabulations, to 7-1-28.....	99	Dec.	1928
Probate courts, work of, for state as a whole, to 7-1-28.....	62	Dec.	1928
Probate courts, work of, by tabulations, to 7-1-28.....	122	Dec.	1928
Probate courts, work of, for state as a whole, to 7-1-30.....	71	Dec.	1930
Probate courts, work of, by tabulations, to 7-1-30.....	107	Dec.	1930
Probate courts, work of, to 7-1-34.....	86	Dec.	1934
Probate courts, miscellaneous information, by tabulation, to 7-1-34 .....	32	April	1935
Probate courts, work of, to 7-1-34, by tabulation.....	36	April	1935
Probate courts, work of, by counties (76 counties), to 7-1-36, 81		Oct.	1936
Probate courts, work of, by counties, to 7-1-36 (continued from October report).....	196	Dec.	1936
Probate courts, work of, for state as a whole, to 7-1-36.....	230	Dec.	1936
Probate courts, miscellaneous information, to 7-1-36.....	22	April	1937
Probate courts, work of, by tabulations, to 7-1-36.....	50	April	1937
Probate courts, work of, by counties, to 7-1-37.....	212	Dec.	1937
Probate courts, work of, for state as a whole, to 7-1-37.....	343	Dec.	1937
Probate courts, work of, by tabulations, to 7-1-37.....	56	April	1938
Small debtor's courts, work of, to 7-1-28.....	66	Dec.	1928
Supreme court, work of, to 7-1-28.....	19	Dec.	1928
Supreme court, work of, to 7-1-29.....	29	Dec.	1929
Supreme court, work of, to 7-1-30.....	19	Dec.	1930
Supreme court, work of, to 7-1-31.....	30-32	Dec.	1931
Supreme court, work of, to 7-1-32.....	57	Oct.	1932
Supreme court, five-year summary, to 7-1-32.....	119	Dec.	1932
Supreme court, work of, to 7-1-33.....	95	Dec.	1933
Supreme court, work of, to 7-1-34.....	36	Oct.	1934
Supreme court, seven-year summary.....	38	Oct.	1934
Supreme court, work of, to 7-1-35.....	88	Oct.	1935
Supreme court, eight-year summary.....	90	Oct.	1935
Supreme court, work of, to 7-1-36.....	75	Oct.	1936
Supreme court, nine-year summary.....	77	Oct.	1936
Supreme court, work of, by tabulation, to 7-1-36.....	79	Oct.	1936
Supreme court, work of, to 7-1-37.....	103	Oct.	1937
Supreme court, ten-year summary, by tabulation, to 7-1-37..	105	Oct.	1937
PREME COURT:			
Amendment recommended to rules 6 and 8.....	6	Dec.	1930
Appeals to, amendment concerning recommended.....	142	Dec.	1932
Appeals to, amendment recommended, bill drafted.....	185	Dec.	1936
Appeals to, amendment recommended, bill drafted.....	53	Oct.	1934
Appeals to, civil actions, amendment recommended, bill drafted,	14	April	1935
Appeals to, civil actions, bill drafted, statute amended.....	8	April	1937
Appeals to, criminal actions, bill drafted, statute amended...	6	April	1937
Appeals to, stay of execution supersedes bond, law amended, chap. 217, Laws 1933, sec. 1; sec. 60-3322, G. S. 1935..	13	April	1933
Authority recommended to make rules concerning books and records, bill drafted .....	24	Dec.	1929
Authority recommended to make rules concerning books and records, bill drafted (Senate bill No. 133).....	188	Dec.	1931
Authority recommended to make rules concerning books and records, bill drafted.....	140-141	Dec.	1932
Power to make rules for district courts.....	20	Dec.	1927
Publication of syllabii of opinion, law amended, chap. 221, Laws 1933, sec. 2; sec. 20-111, G. S. 1935.....	12	April	1933

## SUPREME COURT—CONCLUDED:

	<i>Page</i>	<i>Month</i>
Recommendation authority concerning employees, bill drafted,	25	Dec.
Recommendation authority concerning employees, bill drafted (Senate bill No. 147).....	190	Dec.
Recommendations concerning .....	11	Dec.
Recommendation to make rules, courts inferior to district courts, bill drafted .....	26	Dec.
Rules by of courts inferior to district courts.....	50	Oct.
Rules by of courts inferior to district courts.....	26	April
Rule-making power similar to Wisconsin suggested by Bar Association .....	17	Dec.
Rules of, amended .....	5	Dec.
Rules, to make concerning inferior courts, amendment recom- mended, bill drafted .....	183	Dec.
"The Law's Delay in the Supreme Court," article by Hon. R. A. Burch .....	73	Oct.
To make rules for inferior courts, power recommended, bill drafted .....	138	Dec.
Work of, summarized to 7-1-28.....	19	Dec.
Work of, summarized to 7-1-29.....	29	Dec.
Work of, summarized to 7-1-30.....	19	Dec.
Work of, summarized to 7-1-31.....	30-32	Dec.
Work of, summarized to 7-1-32.....	57	Oct.
Work of, summarized for five-year period.....	119	Dec.
Work of, summarized to 7-1-33.....	93	Dec.
Work of, summarized to 7-1-34.....	36	Oct.
Work of, summarized for seven-year period.....	38	Oct.
Work of, summarized to 7-1-35.....	88	Oct.
Work of, summarized for eight-year period.....	90	Oct.
Work of, summarized to 7-1-36.....	75	Oct.
Work of, summarized for nine-year period.....	77	Oct.
Work of, summarized to 7-1-37.....	103	Oct.
Work of, summarized for ten-year period, ending July 1, 1937, tabulated .....	105	Oct.

## TABULATIONS:

City courts, work of, to 7-1-28.....	119	Dec.
County courts, work of, to 7-1-28.....	138	Dec.
County courts, work of, to 7-1-29.....	96	Dec.
County courts, work of, to 7-1-36.....	79	Oct.
County courts, work of, to 7-1-37.....	107	Oct.
District courts, work of, to 7-1-27.....	155	Dec.
District courts, work of, to 7-1-28.....	67	Dec.
District courts, work of, to 7-1-29.....	73	Dec.
District courts, work of, to 7-1-30.....	73	Dec.
District courts, work of, to 7-1-31.....	151	Dec.
District courts, work of, to 7-1-33.....	141	Dec.
District courts, work of, to 7-1-35.....	168	Dec.
District courts, work of, to 7-1-37.....	160	Oct.
District courts, work of, by counties, five-year period, 1927 to 1931 .....	122	Dec.
District courts, work of, by districts, five-year period, 1927 to 1931 .....	131	Dec.
Justice courts, work of, to 7-1-28.....	99	Dec.
Jury trials for year ending July 1, 1931, expense of by counties,	147	Dec.
Probate courts, matters pending 7-1-34.....	36	April
Probate courts, miscellaneous information to 7-1-34.....	32	April
Probate courts, miscellaneous information to 7-1-36.....	22	April
Probate courts, miscellaneous information to 7-1-37.....	52	April
Probate courts, work of, to 7-1-28.....	122	Dec.
Probate courts, work of, to 7-1-30.....	107	Dec.



# INDEX

131

## ABULATIONS—CONCLUDED:

	<i>Page</i>	<i>Month</i>	<i>Year</i>
Probate courts, work of, to 7-1-36.....	50	April	1937
Probate courts, work of, to 7-1-37.....	56	April	1938
Supreme court, work of, ten years, ending July 1, 1937.....	105	Oct.	1937

## RIALS:

Continuance of, criminal cases, statute enacted.....	14	April	1937
Criminal actions, amendment recommended, bill drafted.....	22	April	1936
Criminal Cases, Comments on Evidence by Judges, article by Ray H. Beals .....	16	April	1936
Criminal cases, amendment recommended, bill drafted.....	185	Dec.	1936
General Verdict v. Special Verdict, article by Charles L. Hunt,	51	July	1936
Joint trials of defendants, criminal actions, amendment recommended, bill drafted .....	24	April	1936
Joint trials of defendants, criminal actions, amendment recommended, bill drafted .....	188	Dec.	1936
Jurors, number of, civil cases, amendment recommended, bill drafted .....	190	Dec.	1936
Jurors, number of, criminal cases, amendment recommended, bill drafted .....	190	Dec.	1936
Jury, methods of selection.....	8	Dec.	1928

## WITNESSES:

Attendance of from other states, criminal cases, act suggested to Judicial Council, bill drafted.....	29	April	1936
Competency of, criminal cases, amendment recommended, bill drafted .....	54	Oct.	1934
Competency of, criminal cases, bill drafted (Senate bill No. 169) .....	195	Dec.	1931
Competency of, criminal cases, recommended amendment, bill drafted .....	21	Dec.	1929
Criminal code, amendment recommended, bill drafted.....	144	Dec.	1932
Defendant as, in criminal cases, amendment recommended, bill drafted .....	70	Dec.	1934
Defendant's Testimony in a Criminal Action, article by Hon. W. W. Harvey, chairman.....	69	Dec.	1934
Depositions of for state in criminal cases, bill drafted.....	66	Dec.	1934
Work of Judicial Council outlined.....	13	Dec.	1927



PRINTED BY KANSAS STATE PRINTING PLANT  
W. C. AUSTIN, STATE PRINTER  
TOPEKA 1938  
17-4752









Sec. 562,  
U. S. P.

**PA**

Topeka  
Permit

---









