

MOTION DAYS FOR 1949

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HONORABLE T. M. LILLARD

KANSAS STATE

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FOREWORD

For many years the Judicial Council has published articles prepared by the incumbent president of the Bar Association of the state of Kansas. We are pleased to print in this issue an article by the Honorable T. M. Lillard, now president of the state bar association, on the subject of "A Plea for Reform in Trial Procedure." Mr. Lillard, whose portrait is printed on the cover, also served for many years as a member of the State Board of Law Examiners, and is head of the law firm of Lillard, Eidson, Lewis and Porter of Topeka.

We also print an address given by Mr. Samuel E. Bartlett, at the annual meeting of the Kansas Probate Judges' Association last month, on the subject of "Probate Judges and Their Responsibilities." Mr. Bartlett is the principal author of the Probate Code of Kansas and has been a member of the Council since 1941.

We are also fortunate in having a new contributor, Mr. William M. Mills, Jr., a member of the firm of Casey & Mills of Topeka, and one of the outstanding younger lawyers of the state. We print a paper by Mr. Mills entitled "Development of Requirements for Admission to the Bar in Kansas."

In accordance with our past practice, we also print in this issue of the BULLETIN the motion days of the district courts for the calendar year 1949. This includes a list of the judges and clerks of the district courts, including those newly elected in November.

A Plea for Reform in Trial Procedure

By T. M. LILLARD, president of the Bar Association of the State of Kansas

In this short article contributed to the JUDICIAL COUNCIL BULLETIN I will outline briefly steps that I think should be taken promptly in Kansas to improve the functioning of the bar and the courts in the important field of trial procedure.

Unnecessary intricacies and delays in the trial of lawsuits have long been a subject of criticism on the part of the public as well as a burden to the courts and lawyers. The end to be achieved if we are to remedy the faults in our method of trying lawsuits is the adoption of a procedure that is expeditious as well as simple, that enables the court to reach at once the heart of the controversy before it, and make a trial what it should be, *i.e.*, an effort to ascertain truth and administer justice, rather than a mere game of skill between opposing counsel.

In an effort to achieve this desirable end, a majority of the states have either already adopted or are now giving careful study to plans for adopting new modernized rules for state court procedure. While in some states this work is only in the study stage, most of the states that have progressed to the point of promulgating a new system of procedural rules have followed in whole or in part the federal court procedure under the new federal rules. Kansas is one of the few states that is definitely lagging behind the procession by its failure to move at all in the direction of a comprehensive reform in court procedure.

I personally feel very much impressed with the merits of the federal rules as marking a great advance towards attaining simplicity of pleading, clarification of issues, easy development of facts, and the broad inclusion into one court proceeding of all phases of legal entanglements growing out of a transaction. But whatever may be one's views as to the merits of the federal rules, it must be clear to any student of the subject that our Kansas court procedure is quite antiquated and in need of intelligent modernization.

We should at least give heed to the highly intelligent plan of study pursued by federal authorities in their efforts to discover what changes were appropriate to effect the long needed reform in federal court procedure. Even though we elect to adopt none of the federal rules of procedure, the plan of study followed by the federal authorities in dealing with the subject, involving as it did a coordination of efforts by the congress, the supreme court, and the leaders of the bar, was so admirably designed that an adoption of a similar plan of study here in Kansas would be most likely to bring about a new system of court procedure vastly better than that we now have.

The plan finally followed in formulating the new federal rules, after the subject had been under consideration for twenty years, was, briefly, as follows:

The first step was an act of congress adopted June 19, 1934, now published in 28 U. S. C. A., sections 723b and 723c. In this act congress authorized the supreme court to prescribe by general rules for the district courts "the forms of process, writs, pleadings, and motions, and the practice and procedure in civil actions at law." It was further provided that said rules shall "neither

abridge, enlarge, nor modify the substantive rights of any litigant," and the rules so adopted should take effect six months after their promulgation, "and thereafter all laws in conflict therewith shall be of no further force or effect."

The second section of the act specifically authorized the court to unite the general rules prescribed by it for cases in equity with those in actions at law so as to secure one form of civil action and procedure for both; the right of trial by jury as at common law and under the federal constitution to be preserved to the parties inviolate. The final provision was that such united rules should not take effect until they had been reported to congress by the attorney general at the beginning of a regular session thereof and until after the close of such session.

The supreme court, with commendable alacrity, entered upon the exercise of the power reposed in it by the act of June 19, 1934. It resolved to unite law and equity, as had been done in code states. For the purpose of formulating a draft of the rules, it appointed an advisory committee composed of eminent members of the bar and teachers of the law. After almost three years of incessant toil, in the course of which a thorough and painstaking study was made of the best features of the legal procedure in the various states and in England and an opportunity was extended to all bar associations and to individual lawyers to offer criticisms and suggestions, the committee, in the autumn of 1937, submitted to the supreme court a draft of the proposed federal rules of civil procedure. After making some changes and revisions, the supreme court, on December 20, 1937, adopted and promulgated the rules as regulating civil procedure in the district courts of the United States. The rules were formally transmitted to the attorney general for submission to the congress in accordance with the terms of the enabling act. On January 3, 1938—the opening day of a regular session of the congress—the attorney general submitted the rules to the Senate and House of Representatives. The session ended on June 16, 1938. No adverse action having been taken by the congress in respect to them, the federal rules of civil procedure became effective on September 16, 1938.

The rules terminated the line of cleavage that had existed in federal courts since 1789 as between conformity with state practice in respect to actions at law and uniformity in regard to suits in equity. They abolished all procedural distinctions between law and equity, and provided a single form of civil action to take the place of the action at law in its various forms and of the suit in equity. They prescribed simple forms of pleading and reduced to a minimum opportunities for technical, obstructive, and dilatory tactics. The old restrictions on joinder of parties and causes of action and on counter-claims were cast into the limbo of forgotten things. Third party practice was made a regular feature of federal procedure. The rules comprised extremely liberal provisions of discovery.

As heretofore indicated, the important problem which stands as a challenge to the bench and bar of Kansas is the necessity for a comprehensive study of our system of court procedure for the purpose of bringing to light its defects and weaknesses, and discovering and adopting in lieu thereof new provisions that will make for the prompt and expeditious handling of litigation. Whether or not the pattern of the federal rules is to be followed is a wholly

secondary consideration, to be determined by those who undertake to study as their work progresses.

There may be some lawyers long in practice who will say: "I know the present system. Through long years of court work it has become quite natural for me. I don't want to have to learn a new system."

Such an ill-considered attitude could not reasonably be maintained after the importance of the matter has been given careful thought. Experience under the new federal rules shows that they are not difficult to master. In any event, there are other generations to follow us lawyers of today. These coming generations will be grateful to us if we can arrange to shorten their labors by providing them with a simple and abbreviated procedural system.

Without attempting any extended argument in demonstration of the point, I think it may fairly be stated that our present statutory rules of procedure are ripe for a comprehensive revision. At the time Kansas entered the Union, like many other states, it adopted the so-called "Field Code," written by David Dudley Field and first adopted in New York in 1848. This civil code was a marked improvement over the mystic maze of old common law pleading and practice. However, through a series of legislative enactments there has been a rather haphazard overloading of its originally simple provisions with an incongruous set of statutory rules. Through these processes the Kansas Code, like the codes of other states, has finally been converted into a procedure almost as cumbersome as that of the old common law.

Such a condition almost of necessity inheres in a system of court procedure whose provisions are wholly dependent upon legislative enactment. By reason of the two-year interval between legislative sessions, statutory rules of procedure are bound to be more or less rigid and lacking in flexibility. Furthermore, while there are always a substantial number of lawyers in the legislature, the lawyer members cannot have the time, in a legislative session which requires consideration in a few weeks of a multitude of proposed laws covering every conceivable subject, to give to proposed amendments of court procedure that close study which each proposed amendment deserves.

Courts, on the contrary, being continuously engaged in the actual trial of cases, are in a position to discover and promptly adopt remedies for procedural defects as they appear in actual practice.

It is therefore generally conceded by experts on the subject that the first and fundamental step in procedural reform is to empower the courts to adopt and revise rules of practice and procedure.

The conclusion and recommendation which I wish to submit for the consideration of the courts and of the bar are as follows:

1. That the Judicial Council, if its members share the view that a study should be made looking towards a comprehensive reform in trial procedure in the Kansas courts, prepare and sponsor at the coming session of the legislature, a bill similar to the act of congress of 1934 (28 U.S.C.A. 273b and 273c) empowering the Supreme Court of Kansas to adopt and revise rules governing pleading, practice and procedure in the district courts.
2. In the event such a statute is enacted, that the Supreme Court enter an order similar to the United States Supreme Court's order of June 3, 1935, whereby the court assumes the duty of undertaking the preparation of such a system of procedural rules, the order to incorporate a provision appointing an

advisory committee of at least ten or twelve members of the bar, to assist the court in this undertaking, the members of the committee to serve without compensation.

3. If the court adopts a revised set of rules, they should be reported to the legislature at the beginning of a regular session. Unless adverse action thereon be taken by the legislature at such session, the rules so adopted be published in the official statute book and become effective at the end of three months following the date of such publication.

By pursuing this method, which proved so satisfactorily in producing the federal rules, the actual responsibility for authorship is vested in the court, yet the members of the bar will have a very potent voice in suggesting and formulating the provisions that go into the rules. The legislature by initiating this procedure and by retaining final supervisory and veto power, will in no manner abdicate its functions.

If, perchance, the rules adopted by our Kansas Supreme Court under such a plan should be in close harmony with the federal rules of procedure, then every Kansas lawyer would soon begin to feel just as much at home in the federal court as he feels in the district court of his own county.

If, on the other hand, the new Kansas rules should follow different lines than those followed in the federal court rules, they would, nevertheless, without doubt mean a real advance towards the desirable end of making Kansas court procedure more simple and more expeditious.

We lawyers of Kansas should certainly not remain quietly and complacently content with our antiquated and outmoded system of court procedure while the lawyers of most other states have either already accomplished the adoption of improved systems or are diligently working towards that end.

Probate Judges and Their Responsibilities

By SAMUEL E. BARTLETT*

Nine years ago Chief Justice Harvey, then Chairman of the Kansas Judicial Council, said:

"While each is important in its sphere, those who have given the matter thought have come to realize that of our three state courts of record—the supreme court, district courts, and probate courts—none is more important to the residents of any county in the state than is the probate court."

What our Chief Justice said then is equally true today. The broad jurisdiction of the probate court makes it a court of primary importance; and it will remain a court of first importance as long as people accumulate property and continue to die. While exact figures are not available, from computations made from the statistical tables contained in the KANSAS JUDICIAL COUNCIL BULLETINS it is indicated that the value of estates being presently administered in your courts greatly exceeds one hundred million dollars and may approximate double that amount.

With this in mind, does it make you proud, or does it make you humble, when you contemplate the power and authority that have been conferred upon

* An address delivered at a meeting of the Kansas Probate Judges' Association held at Salina, Kan., November 15, 1948.

you as judge of this court? Reread section 59-301 of the probate code, which confers jurisdiction upon the probate court, and, as you reread it, reconsider the responsibility you assumed when you accepted the office of probate judge.

Jurisdiction of a court has been defined to be the power of the court to hear and determine a matter. (*In re Estate of Summerfield*, 158 Kan. 380, 147 P. 2d 759.) The probate courts are granted original jurisdiction and general power with respect to certain definitely enumerated matters stated in the probate code. Probate courts are courts of limited jurisdiction, that is to say, they have jurisdiction over certain peculiar, exclusive subjects, and their jurisdiction is limited in the sense, and only in the sense, that it is confined to the particular subject matter prescribed by the statutes of the state. (*Higgins v. Reed*, 48 Kan. 272, 29 Pac. 389; *Howbert v. Heyle*, 47 Kan. 58, 27 Pac. 116; *Parnell v. Thompson*, 81 Kan. 119, 105 Pac. 502, 33 L. R. A., n. s., 658.) While they have jurisdiction of only particular classes of subjects, such as the case of the estates of deceased persons, minors, and persons of unsound mind, yet they have general jurisdiction of these classes of subjects. (*Brack v. Morris*, 90 Kan. 64, 132 Pac. 1185; *Parsons v. McCabe*, 127 Kan. 847, 275 Pac. 173; *Denton v. Miller*, 110 Kan. 292, 203 Pac. 693.) Within the prescribed field they are courts of general jurisdiction, and they have primary and complete jurisdiction over such subjects committed to them by the laws of the state. (*Parsons v. McCabe*, 127 Kan. 847, 275 Pac. 173; *Denton v. Miller*, 110 Kan. 292, 203 Pac. 693; *Hudson v. Barratt*, 62 Kan. 137, 61 Pac. 737.)

As a general statement it may be said from an analysis of the decisions of the supreme court that the code provisions conferring original jurisdiction upon the probate courts are to be liberally construed, and that the jurisdiction conferred is exclusive over all matters incident and ancillary thereto unless otherwise provided by law. The probate courts have plenary power at law and in equity fully to dispose of all matters properly before them unless such power is otherwise limited or denied by statute. (*Pennington v. Green*, 152 Kan. 739, 107 P. 2d 766; *Sheneman v. Manring*, 152 Kan. 780, 107 P. 2d 741; *Foss v. Wiles*, 155 Kan. 262, 124 P. 2d 438; *Starke v. Starke*, 155 Kan. 331, 125 P. 2d 738, second case; *Dixon v. Flucker*, 155 Kan. 399, 125 P. 2d 364; *Yeager v. Yeager*, 155 Kan. 734, 129 P. 2d 242, supplemented 155 Kan. 870, 130 P. 2d 547; *Swisher v. Bouse*, 155 Kan. 797, 130 P. 2d 565; *In re Estate of Hoover*, 156 Kan. 31, 131 P. 2d 917; *Behee v. Beem*, 156 Kan. 115, 131 P. 2d 675; *Egnatic v. Wollard*, 156 Kan. 843, 137 P. 2d 188; *Shively v. Burr*, 157 Kan. 336, 139 P. 2d 401; *Burns v. Drake*, 157 Kan. 367, 139 P. 2d 386; *Herbel v. Nuss*, 158 Kan. 376, 147 P. 2d 735; *In re Estate of Garden*, 158 Kan. 554, 148 P. 2d 745; *Gantz v. Bondurant*, 159 Kan. 389, 155 P. 2d 450; *In re Estate of Bourke*, 159 Kan. 553, 156 P. 2d 501, 157 A. L. R. 1107.)

The line of demarkation between the original jurisdiction of the probate court and that of the district court has been indicated by a decision of the supreme court in the case of *In re Estate of Thompson*, 164 Kan. 518, 190 P. 2d 879. In this decision the supreme court grouped the cases relating to jurisdiction into two general classes.

The first class included those cases in which the plaintiff or petitioner sought to get something out of the estate. These included not only demands of creditors, but of those asserting some special claim to all or a portion of the

estate either as heirs or under a will or under an alleged contract with the decedent. A distinction should be drawn, however, between claims of creditors *against* the estate and claims of those seeking a *share in* the estate after creditors' demands are met. But whether one or the other, the petitioner seeks something *out of* the assets of the estate. And, in either case, the demand is clearly incident to administration and must be determined before distribution of assets can be properly made.

The *second class* includes, principally, those cases wherein an administrator or executor seeks to *bring property* of some sort *into* the assets of the estate, or otherwise to realize *something of benefit to the estate*.

In cases of the first class it is held that the probate court has exclusive original jurisdiction. In the second class it is held that the action is properly brought in the district court or other court of competent jurisdiction.

Coming to specific matters, the probate court, in the first instance, and in a proper case before it, has the authority and the duty to determine whether a will has been duly executed and is valid, and, if occasion requires, pending administration, to determine the meaning of its terms and provisions. (*Asendorf v. Asendorf*, 162 Kan. 310, 176 P. 2d 535.) Probate courts, in the final settlement of decedents' estates, should set forth in the decrees closing the estates the nature and extent of the title which devisees and legatees acquire in the property. But, in case they do not do so, and the estate is closed without such determination, the district courts of the state have jurisdiction, under the declaratory judgment act, to construe wills. But the duty rests upon the probate courts. (*Sharpe v. Sharpe*, 164 Kan. 484, 190 P. 2d 344.)

It often happens in testate estates that the devisees and legatees have confidence in the executor who is administering the estate, take the proceedings as a matter of course, and at the final settlement when the will is to be construed, while they are properly before the court, do not examine closely the provisions of the will or the contentions made by the petitioner for its construction. After the settlement is made and the time for appeal has expired, they may be disappointed in the results. The fact that a judgment may have been erroneous does not preclude the application of the principles of the doctrine of *res adjudicata* when such judgment has not been corrected by appeal or supplemental proceedings and has been allowed to become final. (*In re Estate of Bourke*, 159 Kan. 553, 156 P. 2d 501, 157 A. L. R. 1107.) The probate court's decree, being unappealed from, is a binding judgment and is not subject to collateral attack. (*Bitzer v. Smith*, 158 Kan. 83, 145 P. 2d 148.)

It is therefore very important in such cases that full and careful consideration by the court be given to the matter in order that the proper decree be entered. This, in itself, is a large assignment—a responsibility that may be properly discharged only by a proper understanding of the subject. Incidentally, one standard work on the subject of wills comprises five large volumes.

What has been said about the subject of wills applies generally, if not with equal force, to testamentary trusts and living trusts created in favor of beneficiaries under disability (with concurrent jurisdiction in the district courts), descent and distributions, homesteads, executors and administrators, guardians and wards, adoptions, and other subjects committed to the jurisdiction of the probate courts. The conferring of equitable powers upon such courts contemplates that probate judges shall have some knowledge of the

principles of equity. Since the probate courts are granted exclusive original jurisdiction of all demands against decedents' estates, whether *ex contractu* or *ex delicto* (*Egnatic v. Wollard*, 156 Kan. 843, 137 P. 2d 188; *Shively v. Burr*, 157 Kan. 336, 139 P. 2d 401), the law of contracts and the law of torts are subjects with which probate judges should be familiar. The rules of evidence prescribed for district courts are adopted for probate courts, and this necessitates some understanding of that subject. And it is obvious that probate judges should become conversant with the procedure prescribed for their courts.

I wish to stress one phase of probate procedure—the subject of notice. Probate Code, section 59-210 reads:

“59-210. PROCESS. All writs, orders, and other process of the probate court shall be issued and directed to the sheriff of the proper county where such process is to be served. In the absence or nonattendance of the sheriff, or where he is a party, the probate court may appoint any suitable person of the county and qualify him as a special sheriff for the service of any such process.”

The constitution states that the style of all process shall be “The State of Kansas,” and all prosecutions shall be carried on in the name of the state. (Const., art. 3, § 17.) But the word “process” has many meanings. In its broadest sense it comprehends all proceedings to the accomplishment of an end, including judicial proceedings. Frequently its signification is limited to the means of bringing a party into court. In the constitution process which at the common law would have run in the name of the king is intended. In the probate code process issued from the court is meant. The legislature may authorize steps to be taken involving the use of process the equivalent of that which was known to the law of England and which formerly ran in the name of the king. If this be done, such process must bear the style of the sovereignty—“The State of Kansas.” The object is manifest. It is to provide a name or title by which the sovereign power of the state should be designated. The meaning is not that everything shall be done expressly in the name of “The State,” but that nothing shall be done in any other name. Whenever the name of the sovereign power is invoked or expressed, that shall be its designation. (*McKenna v. Cooper*, 79 Kan. 847, 101 Pac. 662; *Hanna v. Russell*, 12 Minn. 80, 12 Gil. 43; *Curry v. Hinman*, 11 Ill. 420.)

But the legislature in its discretion may authorize steps to be taken involving the use of other means than process in the strict sense. Notices not issuing from the court itself, but given by some fiduciary or interested person, may be employed, and in such case the form of process is not essential, although persons or property may thereby be subjected to the jurisdiction of a court. Notices in proceedings by executors, administrators and guardians to sell real estate are not process. (*McKenna v. Cooper*, 79 Kan. 847, 101 Pac. 662.) These notices are not issued out of or under the seal of the court. The fact that the court acquires jurisdiction by service of notice does not prove notice to be process, for it is competent for the legislature to provide that the court shall acquire jurisdiction by the service of notice in such manner that the party may be notified that the proceedings have been instituted. (*McKenna v. Cooper*, 79 Kan. 847, 101 Pac. 662.) In the main this is the method adopted in the probate code.

By these code provisions probate proceedings may be had in accordance

with due process of law, whether the question be one of residence and venue, the sale of realty, the determination of heirship, or any other question arising under probate jurisdiction. The mere fact that the code does not specifically require notice is not conclusive proof that notice is not necessary. (*In re Estate of Schroeder*, 158 Kan. 783, 786, 150 P. 2d 173, 175; *Steinkirchner v. Linscheid*, 165 Kan. 390, 188 P. 2d 960.) All the authorities agree that the fundamental requisites of due process in judicial proceedings are: (1) adequate notice; (2) a hearing; (3) the application of equal laws, and (4) jurisdiction. (Restatement, Conflict of laws, §§ 75, 100.) Notice is, as a rule, essential in judicial proceedings to obtain a valid decree. Reasonableness of the notice involves a vital element of due process. But as the power to prescribe the kind and length of notice is vested in the legislature, a very clear case of unreasonableness must be made to appear before the courts will interfere. Regard must be had to the probable necessities of ordinary cases, and no hardship to a particular individual can invalidate a general rule. (*Scott v. McNeal*, 154 U. S. 34, 14 S. Ct. 1108, 38 L. Ed. 896; *Bellingham Bay & B. C. R. Co. v. New Whatcom*, 172 U. S. 314, 19 S. Ct. 205, 43 L. Ed. 460.) The probate code sections on notice are believed to meet the requirements of due process of law. (*Roller v. Holly*, 176 U. S. 398, 20 S. Ct. 410, 44 L. Ed. 520; *Goodrich v. Ferris*, 214 U. S. 71, 29 S. Ct. 580, 53 L. Ed. 914; *Scott v. McNeal*, 154 U. S. 34, 14 S. Ct. 1108, 38 L. Ed. 896; *Jacobs v. Roberts*, 223 U. S. 261, 32 S. Ct. 303, 56 L. Ed. 429.)

If the statute prescribes the manner of service, there should be a substantial compliance with the statute; if the matter is discretionary with the court and the court directs the manner of service, there should be a substantial compliance with the order of the court, but the court may approve any manner of service which it had the right to direct in the first instance. (*Thompson v. Burge*, 60 Kan. 549, 57 Pac. 110, 72 Am. St. Rep. 369.)

Let me pursue this subject of notice further by one or two concrete illustrations. A problem that confronts the lawyer, especially the examiner of titles, particularly in guardianship estates, with emphasis on the estates of incompetent and insane persons, is definitely related to this subject. These guardianship estates often run for a period of years and the record is often meager and not altogether satisfactory. Sometimes the record is silent as to notice, although it is claimed there was a compliance with the statute in this respect.

A few years ago the Judicial Council sent a questionnaire to the probate judges, which included the following questions:

1. What notice do you require for the hearing of a petition alleging incompetency or insanity and asking for the appointment of a guardian?
2. What length of time do you require between the service of the notice and the date of hearing?

The probate judges answered; and their answers are revealing. I shall collate the answers for you.

To question No. 1, most of the judges gave answers which were in conformity with the statute, that they required written notice of the time and place of the hearing, stating the nature thereof, served upon the patient and next of kin named in the petition. Others added that, if the patient has already been committed to a state hospital and the petition is for appointment

only, they also served notice by mail upon the superintendent of the hospital. A few answered that they appointed an attorney for the patient and had the attorney waive notice. Others stated that the notice was served upon the attorney appointed.

To question No. 2, most of the judges gave answers ranging from three days to three weeks. A considerable number answered from one day to three days. Some answered "at least one day." A few answered "the day of hearing," "on day set for hearing," "immediately," "proceed instanter," "none."

It is possible, according to some of these answers, that we may have some invalid adjudications of incompetency or insanity in this state. The statute pertaining to commitment proceedings provides:

"The trial or hearing shall be held at such time and place and upon such notice to such persons and served in such manner as the court may determine. . . . In no case shall the hearing be had until the patient shall be notified as the court may determine." (G. S. 1947 Supp. 59-2272.)

It is also provided:

"If the patient is adjudged insane, the court may appoint a guardian of his estate; provided (1) such proceedings are had in the county having venue of appointment, (2) such appointment is within the terms of the application made by the petition, and (3) the notice required therefor has been duly given." (G. S. 1947 Supp. 59-2273.)

In the appointment of a guardian in such cases,

" . . . personal service shall be made upon the ward in such manner and for such period of time as the court shall direct. If he has a spouse, custodian, testamentary or natural guardian, notice shall be given to such persons and to such of the nearest kindred and in such manner as the court may direct. If he is an inmate of any hospital, notice by mail shall be given to the superintendent thereof. If he is a nonresident of the state, notice shall be given in such manner and to such persons as the court shall deem reasonable." (G. S. 1947 Supp. 59-2259.)

These code sections have not been passed upon by the supreme court, but the general law upon the subject is rather well defined. It is held that a decree of the probate court adjudging an adult mentally incompetent, which decree is entered without service of notice of hearing upon the alleged incompetent, is void. (*In re Mize's Guardianship*, Okla., 142 P. 2d 116.) The statute, which requires only such notice as the court may direct, is subject to the constitutional requirement of due process of law. This requisite to the valid commitment of an insane person cannot be ignored either by the legislature, or by a court proceeding as the legislature prescribed. (*In re Masters*, 216 Minn. 553, 13 N. W. 2d 487, 158 A. L. R. 1210; *In re Wretling*, Minn., 32 N. W. 2d 161.) The notice must be reasonable. (*Ex parte Trant*, Mo. App., 175 S. W. 2d 161.) It must also state the character of the hearing. (*In re Estate of Grove*, 158 Kan. 444, 148 P. 2d 497; see also, *In re Estate of Schroeder*, 158 Kan. 783, 150 P. 2d 173.)

It is possible that, under some circumstances, a very short notice will be adequate and under other circumstances inadequate. A lawyer may not be able to say that the irregularities invalidate the proceedings, yet he hesitates if he does not decline to accept the proceedings, especially, for example, if an oil and gas lease which may in the future become very valuable is to be executed upon the strength of them.

The matter of notice is also very important in some situations that arise in adoption proceedings. No difficulty is encountered when the living parent or parents duly execute the proper consent. The consent of the mother of an illegitimate child is all that is required, unless the father has acknowledged paternity and has assumed the duties of a parent. (G. S. 1947 Supp. 59-2102, subsection 2.) In cases of divorce, separation and the like, you may have a situation in which one of the parents has failed or refused to assume the duties of a parent for two consecutive years, or you may have a situation in which one parent is incapable of giving such consent. In such cases the consent of such parent is not required. (G. S. 1947 Supp. 59-2102, subsection 3.) If there is a dereliction of parental duty which violates the statute, and adoption proceedings are instituted, such dereliction may and should be alleged in the petition for adoption, notice ordered and given to the derelict parent, and the matter adjudicated at the hearing in the adoption proceedings for an interlocutory decree. If the whereabouts or address of the offending parent is unknown, such should be alleged, and notice by publication may be ordered. (G. S. 1947 Supp. 59-2278.) This procedure has been approved by the supreme court. (*Walker v. McNutt*, 165 Kan. 533, 196 P. 2d 163.)

Notice, which may otherwise be required, may in some cases be waived. Code section 59-2208 reads in part:

"Any required notice may be waived in writing by any competent person or by any beneficiary."

This provision of course has its limitations. Any competent person may waive any notice which otherwise would be required to be served upon him; any fiduciary may waive any notice which otherwise would be required to be given him as such fiduciary. The provision does not authorize a competent person to waive any notice which is required to be given another or others or is required to be published. Nor does it authorize a fiduciary, for example a guardian, to waive any notice which is required to be given to his ward or to be published. When the code requires notice of hearing to be given by publication—and there are three instances where it is so required (see G. S. 1947 Supp. 59-2247, 59-2251, 59-2304)—notice shall be so given, and it cannot be waived by any competent person or by any fiduciary.

Closely associated with the subject of notice is the matter of the appointment of a guardian *ad litem*. The code provision relating to such appointment reads:

"The court may appoint a guardian *ad litem* in any probate proceeding to represent and defend any party thereto under legal disability." (G. S. 1947 Supp. 59-2205.)

Under the former law no statutory provision was made for the appointment of a guardian *ad litem* in proceedings before the probate court. In an early case the supreme court said:

"So far as the matter of a guardian *ad litem* for the minor heirs is concerned, the statute requires none, and it would be legislation to hold that one is essential. . . . It has (was) doubtless thought that the administrator and the court would sufficiently watch over and protect the minors' interests." (*Fudge v. Fudge*, 23 Kan. 417, 420.)

Yet it has been held that the power of appointment inheres in probate courts as courts of record. It therefore appears that the law has not been greatly changed by the code provision. It will be noted that the provision is permissive, not mandatory in form. In many cases an appointment would incur an unnecessary expense; in others, failure to appoint would be clearly an abuse of discretion. Certainly, if any party to the proceeding claims that the rights or interests of a person under disability are involved or in controversy, prudence should dictate the appointment of a guardian *ad litem* to represent and protect those rights and interests. If for any reason it appears that the interest of the person under disability may require the appointment, it should be made.

In *Osmont v. Trout*, 156 Kan. 120, 131 P. 2d 640, the court said:

"Although in instances appointment of a guardian *ad litem* may be discretionary, where, as here, the appointed and acting guardian was proponent of a claim, failure of the court to appoint a guardian *ad litem* was an abuse of discretion."

In *Paronto v. Armstrong*, 161 Kan. 720, 727, 171 P. 2d 299, the court had under consideration the appointment of a guardian for the person and estate of an infant whose parents were dead. The court said:

"Under the quoted statute (G. S. 1947 Supp. 59-2259) service should have been made upon the ward. A guardian *ad litem* should have been appointed for him, G. S. 1945 Supp. 59-2205, and notice should have been given to his nearest kindred."

In a subsequent case involving the same infant and his inheritance, the court held:

"On the hearing of a petition for the appointment of an administrator, where the sole heir of decedent was a minor of the age of three years, under the circumstances detailed in this opinion it was an abuse of discretion on the part of the probate court to refuse to appoint a guardian *ad litem* for him." (*In re Estate of Paronto*, 163 Kan. 85, 180 P. 2d 302, Syl. 1.)

In another case the supreme court said:

"Whenever the interests of an incompetent may be adverse to those of his legal guardian, a court must require notice to be given to the incompetent and appoint a guardian *ad litem* for him." (*Steinkirchner v. Linscheid*, 164 Kan. 179, P. 2d, 165 Kan. 390, P. 2d.)

When a guardian *ad litem* is appointed, he has duties to perform and they are not perfunctory duties. He should examine the file or otherwise acquaint himself with the situation, and without being unduly contentious, he should do whatever may be necessary to protect the interests of his ward. It is the duty of the court to see that such rights and interests are protected, and this is one method the law affords to assist the court in the performance of this duty.

It may be added that in a proceeding to mortgage or lease for oil and gas purposes the homestead of an insane spouse, the appointment of a guardian *ad litem* is mandatory. (G. S. 1947 Supp. 59-2317.)

Enough has been said to indicate your heavy responsibilities as probate judges. And a probate judge, who is forced to rely exclusively upon the opinion or advice of an attorney in the case, especially in contested matters, labors under a heavy burden.

But nothing I have said has been said in criticism; quite the contrary. I think the probate judges of the state, since the effective date of the probate code, are as a whole to be commended for their diligence and industry, and the part they have taken in putting the code into successful operation. Credit should be given you because you are entitled to it.

Yet, notwithstanding the importance of your office, as depicted by Chief Justice Harvey, the qualifications for the office of probate judge have not been as exacting as those of a district judge, who is required by law to be admitted to the bar and to have had legal or judicial experience. (G. S. 1935, 20-105.) This is the rule in most of the states. In approximately half of the states probate judges are not required to be lawyers or to have had legal experience. (Problems in Probate Law, Simes and Basye, p. 469.) This makes it possible for laymen to administer the affairs of the office, and in many localities this is the case. It may be observed that a law school diploma or admission to the bar is not in itself a certification of competence. It is equally true that an absence of these is not a mark of incompetence. The affairs of many probate courts presided over by laymen are administered with integrity and common sense. But it should be obvious that no layman, however efficient or conscientious, should be expected to appreciate and pass upon the multitudinous legal aspects involved in the administration of an estate. Many matters are not questioned at the time, or subjected to the scrutiny of appellate review, and for this reason extraordinary care and skill should be exercised to avoid any question of their efficacy at some future date.

But to inaugurate a system in the state designed to raise the qualifications of probate judges is easier said than done. The public is not fully appreciative of the necessity therefor. There are laymen already holding these offices who are doing a creditable job, and who are justified in feeling that their experience gives them a right to the office as long as their constituents are willing to elect them. A system for higher qualifications of probate judges was proposed in this state in 1939. Section 3 (59-201) of the probate code draft, as submitted to the legislature, contained the following:

"There shall be elected in each county a probate judge who shall have been admitted to practice law in this state, or who shall have served as probate judge prior to the effective date of this act." (13 Kansas Judicial Council Bulletin, 12, Note to § 3.)

In order not to oust those who had previously held the office of probate judge, it was provided that only members of the bar or past probate judges should be eligible for that office. The probate judge of my (Ellsworth) county, who was not a lawyer, favored the measure. He said:

"The provision will limit my opposition to lawyers, and I can defeat any attorney in the county who may choose to become an opposition candidate."

The pressure against the provision, however, was so great as to cause its elimination from the code upon its adoption. Similar statutes have been enacted in some of the other states. (See Ohio Gen. Code, 1937, § 10501-1; Wis. Stats., 1943, § 253.02.)

Administrative ability and a specialized legal knowledge on the part of probate judges are indispensable qualifications if we are to approach the standards for an ideal probate court. Perhaps reconsideration should be given to the

enactment of the provision deleted at the time the probate code was adopted, or to some similar provision. It has also been suggested that the counties of the state should be classified according to population into two or three groups, and that the qualifications for the office should be graded upward from the counties in the lowest group to those in the highest. The suggestion is said to meet the objection sometimes made in rural areas of sparse population. I have no cut-and-dried solution of the problem, and merely submit it to you for such study and consideration as you may care to give it.

I may add that the question of salary is also pertinent and that salary, in a large measure, determines the kind of person who will seek the office of probate judge. Serious consideration should therefore be given this subject if we are to raise the standards of the office.

So far as I know no study has been made of the exact costs of the probate courts to the people of the state. But figures compiled a few years ago show that the annual cost to the people of the state for the supreme court is only four and one-third cents per person. The annual cost for the district judges is approximately ten and two-thirds cents per capita. The court reporters cost the people of the state less than seven cents each per year. The total cost per person per year to sustain the judiciary (exclusive of probate courts) by state taxation is approximately twenty-one cents each. (KANSAS JUDICIAL COUNCIL BULLETIN, July, 1944, p. 47.) And it may safely be said that the costs of maintaining our probate courts are comparable, and are far from excessive. Our judicial system is one of the most economically administered, as well as one of the most valuable, institutions the state possesses. It is possible that it is too economically administered to attain the highest efficiency which we all seek. Its efficiency can never rise above the efficiency of its personnel.

The subject is one that appeals to and invites study by all who are interested in improving the administration of justice. The lawyers of the state have become aware of the importance of probate practice, not only to themselves, but also to the public generally; and I am confident that probate judges and probate lawyers will move forward together to make these courts increasingly useful to all our citizens.

The Kansas probate code is the principal tool of your craft, and it is well attested. In closing, may I recite one example of its attestation. Several years ago the American Bar Association appointed a committee of skilled lawyers, law teachers and judges who, in coöperation with the Research Staff of the University of Michigan Law School, undertook the preparation of a model probate code, to provide an adequate and authoritative guide for legislative reform in probate law and procedure. Their work was completed and approved in 1946. This model probate code contains approximately one hundred sections that are taken in substance from or patterned after corresponding sections of the Kansas enactment. The Kansas code has proved its usefulness to the public and it will continue to prove its usefulness to the extent that its provisions are fairly and efficiently administered by the probate judges of the state.

Development of Requirements for Admission to the Bar in Kansas

By WILLIAM M. MILLS, JR.*

All of us have a real and vital interest in the requirements for admission to the bar in Kansas. These requirements and the administration and enforcement of these requirements determine, more than any other factors, the caliber of our Kansas bar. We all have a general knowledge of the existing statutory requirements for admission and the present rules of the State Board of Law Examiners, but I wonder how many of us are acquainted with the history of these statutes and rules.

It is my purpose tonight briefly to sketch the history of admission to the bar in Kansas, present to you a few facts, figures and statistics, touch upon the bar examinations themselves, and let you draw your own conclusions, if any.

Kansas became a territory under the Organic Act of May 30, 1854. In 1859 the governor and the legislative assembly of the territory of Kansas enacted an act relating to attorneys at law. This act provided, in part, as follows:

"SECTION 2. Any white male citizen of the United States, who is actually an inhabitant of this Territory, and who satisfies any district court of this Territory, that he possesses the requisite learning, and that he is of good moral character, may, by such court, be permitted to practice in all district and inferior courts of this Territory, upon taking the usual oath of office.

"SEC. 3. The supreme court may, on motion, admit any practicing attorney of the district court, to practice in the supreme court upon his taking the usual oath of office.

"SEC. 4. Any practicing attorney of any State or Territory, having professional business in either the supreme or district court, may, on motion, be admitted to practice in either of those courts, upon taking the oath as aforesaid." (Acts of 1859, chapter XIV.)

As a sidelight I might point out that this statute also gave the attorney a lien on papers and money of his client. This would seem to indicate that the lawyers outnumbered the farmers in the Legislative Assembly of 1859.

We see that under the Acts of 1859 one could practice law in all district courts and all inferior courts by securing the permission of the district court and taking the oath. Any practicing attorney of the district court could then, upon motion, be admitted to practice before the supreme court. Practicing attorneys of any other state or territory could be admitted, on motion, to practice before either the district court or the supreme court.

At Wyandotte on July 29, 1859, a constitution and republican form of government were created. On October 4, 1859, this constitution and state government were ratified by the people at an election held for that purpose.

By the act of January 29, 1861, passed by the senate and the house of the United States, Kansas was admitted into the Union.

The state legislature in 1868 took the first of many steps toward stiffening the requirements for admission to practice by providing as follows:

"SECTION 1. All persons who, by the law heretofore in force, were permitted to practice as attorneys and counselors, may continue to practice as such.

"SEC. 2. Any person (being a) citizen of the United States, who has read law for two years, the last of which must be in the office of a regularly practicing attorney, who shall certify that the said applicant is a person of good

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moral character, and well qualified to practice law, who is actually an inhabitant of this state, and who satisfies any district court of this state that he possesses the requisite learning, and that he is of good moral character, may, by such court, be permitted to practice in all district and inferior courts of this state, upon taking the oath hereafter prescribed.

"SEC. 3. The supreme court may, on motion, admit any practicing attorney of the district court, to practice in the supreme court.

"SEC. 4. Any practicing attorney of any state or territory, having professional business in either the supreme or district court, may, on motion, be admitted to practice in either of those courts, upon taking the oath aforesaid." (Chap. 11, G. S. 1868.)

Thus we see that as a prerequisite to practice before the district court one had to read law two years, one year being in the office of a practicing attorney, and have that attorney then certify as to the qualifications and character of his student.

In 1897 another statute was enacted which provided as follows:

"SECTION 1. That any person who is a citizen of the United States and a graduate of the school of law of the University of Kansas, shall be admitted, by any district court of this state, to practice law in the district and inferior courts of the state of Kansas, upon the presentation of a certificate duly authenticated to said court, showing that the applicant is a graduate of said school." (L. 1897, Ch. 111, § 1; Feb. 26.)

Thus any Kansas University law school graduate was admitted simply upon presenting his diploma to the district court. As a matter of interest I might add that one of our local bar associations in Kansas recently requested the Revisor of Statutes to draft a statute to provide that all graduates of the law schools of Kansas University and Washburn University should be admitted without taking a bar examination. The legislature might enact such a statute and consider it a great forward step, when in effect the law would be retreating some fifty-one years.

This statute of 1897 was short-lived and in 1903 the statutes pertaining to admission to practice law were amended as follows:

"SECTION 1. . . . Any citizen of the state of Kansas who has read law for two years in the office of a regularly practicing attorney of this state, or who shall be a regular graduate of the law department of the University of Kansas or some other law school of equal requirements and reputation, and who satisfies the supreme court of this state that he possesses the requisite ability and learning and that he is of good moral character, may be admitted to practice in all the courts of this state upon taking the oath hereinafter prescribed.

"SEC. 3. The supreme court of this state may make such rules and regulations as it may deem necessary for the examination of applicants for admission to the bar of the state." (Laws of Kan. 1903, ch. 64.)

The only change since that date has been that "Any citizen of the state of Kansas" was amended to read "Any citizen of the United States."

Although the statute has remained virtually the same for forty-five years, there have been many changes in the rules and regulations set down by the supreme court and the rules of the State Board of Law Examiners, but before going into these comparatively recent requirements I want to spend a minute on the practice of admitting upon motion prior to 1904. We know many fine lawyers who were admitted to practice upon motion. I have inquired of several of the older lawyers and find they have many stories of admission to the

bar in those days. These storytellers have excellent general reputations for truthfulness, however time has an odd way of magnifying and embellishing stories such as these. I'm not going to ruin a good story by putting it in print, ask the old-timers yourselves. I am, however, going to read to you an on-the-scene report of admission upon motion. This report is in the form of a poem written by Eugene Ware, early Fort Scott attorney and uncrowned poet laureate of Kansas. Mr. Ware is best known by his pen name, "Ironquill."

AN AGREED STATEMENT OF FACTS

As to the Admission of Mr. Hic Jones to the Paint Creek Bar, Kansas

By Ironquill

Jones was young and unassuming, but the shrewd observer saw
Something that appeared abnormal in the structure of his jaw.
When the court convened, old Snipe-'em, with a voice like a guitar,
Offered Jones's application for admission to the bar.
Then the court looked wise and owly, and in slow, judicial tones
Ordered Snipe-'em, Brown, and Spot-'em first to analyze young Jones;
Saying, "Gentlemen, be thorough; at the opening of the court
We will skip the motion docket, and consider your report."

Sheriff Grabb then showed the party to the "ante"-room—up-stairs,
Where a table stacked with gun-wads had been checkmated with chairs.
It was four o'clock precisely; Spot-'em gently turned the key,
Saying, "Frauds, I'll act as banker—waltz your ducats up to me."

The analysis proceeded up to twelve or thereabout,
When the stock of ardent spirits unexpectedly gave out.
Spot-'em wrote a note to Julius, saying, "Julius, if you please,
Send us up a red-hot lunch for four; we're raking down for threes."
And an order for *frumenti* and cigars was sent by Brown,
Drawn on Thomas, of the "Wilder," chief nose-artist of the town.

The committee stopped for supper, readjusted all their loans,
And continued with fresh vigor their researches for young Jones.
Just about this time, "the district clerk of the aforesaid court"
By some unknown coincidence dropped in to see the sport.

Having hefted the *frumenti*, he did cheerfully reply
To their bland interrogations in regard to "chicken-pie."
Unpaid fees in Spot-'em's cow case were discounted then by Brown,
Which the clerk took out in gun-wads, most of which young Jones raked down.

At the hour of three precisely, after four successful raids,
Spot-'em raked down Snipe-'em's shirt studs on a hand composed of spades;
Snipe-'em took a dose of tonic and reluctantly resigned,
While the clerk, with sad bravado, went a collar-button blind.

Hour by hour the game continued; Jones came in on every draw,
But no syllable proceeded from that strange, abnormal jaw.

On a bench snoozed Snipe-'em, sadly, in the corner of the room,
While the smoked-up coal-oil chimney cast a deep, sepulchral gloom;
And at times his troubled slumbering evoked unconscious moans,
As if saying, "It is difficult—this analyzing Jones."

At last the time at which the court should reassemble came;
It did not seem to influence the progress of the game;
They had not yet made up their minds concerning their report.
And here we leave them briefly while we look in on the court.

A *pro tem.* judge was on the bench; two members of the bar
 Assaulted twelve one-gallows men with words of legal war.
 The way was this: It seems that Smith, in opening his case,
 Had told the jury carelessly, as of some time or place,
 That he had seen a real, dead mule; his language was not pat—
 Of course nobody ever saw a mule as dead as that.
 But still Smith was excusable—the heat of a debate
 May lead a man unconsciously to slightly overstate.
 Zeal for a client's lawsuit—the more if it be weak—
 May make a lawyer's language go impalpably oblique.
 But still, upon the other hand, an orator, forsooth,
 Should try and keep his statements within gunshot of the truth;
 And Smith was very careless in observance of the rule
 To make so rash a statement in regard to any mule.

Its absurdness never struck him, for he never stopped to think;
 All at once he dropped upon it when he saw a juror wink.
 Now if Smith had been sagacious, he immediately then
 Would have modified that statement to those twelve one-gallows men—
 Would have intimated mildly that it might have been a horse,
 But he didn't; conscience smote him, and he sank down with remorse—
 Folded up as folds a primrose when the gates of day are shut;
 Folded up as folds a jack-knife when a chaw of plug is cut.

The greater our experience the more we surely find
 Remarks should be adaptable unto the hearer's mind.
 Twelve preachers might have took it in, but Smith could never fool
 Twelve citizens of Turkey Creek with reference to the mule.

Then up rose lawyer Soak-'em; his lips were close compressed,
 His left hand gripped his coat-tail, his right was on his breast;
 He gazed on the "palladium"; his look was stern and high—
 In thunder tones he emphasized Smith's statement as a lie;
 And then, in terms that Soak-'em took occasion to adorn,
 He branded him—denounced him—held him up to public scorn,
 Pointed his finger at him, and, in allegoric sense,
 He peeled Smith's epidermis off and hung it on the fence.
 Then in a few pathetic words he made allusion to
 The immortality of mules, which every juror knew.
 The jury cheered the diction that in such profusion came,
 And Smith—he writhed in agony of hopeless grief and shame.
 The jury then were eulogized appropriately neat—
 Of course they found for Soak-'em without rising from their seat.
 But how they reached the merits of the case is not so clear,
 For the action they were trying was replevin for a steer.
 And then the restless, coatless, but appreciative crowd
 Gave Smith "the great, big horse-laugh," and he sat there cold and cowed.

Hereupon came Brown and Spot-'em, Jones and Snipe-'em in the rear,
 Arm in arm, each with his necktie dangling down below his ear;
 Each one made a short, spasmodic pull upon his rumpled vest,
 And, fronting up before the judge, the whole platoon right-dressed.

"Hic—your honor," said old Snipe-'em with a voice diffused, yet sweet,
 "Hic—we've ma' der 'zamination mor' n'er usual complete;
 We've jus' gone—hic—thro' er can'idate; 's proficiency is fair."
 "Hic—you bet," said Brown, who eyed the court with mild and fishy glare.

"Went ri' through—hic—Jones," said Snipe-'em; "he z'all ri'—hic—on 'er law;
 He can draw 'er chattel mortgage—or three aces ever' draw;
 'Z got all Spot-'em's tex'-books and reports; mine, too—hic—hain't he, Brown?
 Young—hic—Jones has got 'er principal law lib'ry now in town.

"Z got 'er daisy moral character—Jones squarer 'an a string;
 Raised old Spot-'em seventeen dollars, an' he didnt have a thing;
 'Z by all means admit—hic—Jones 'er bar; 'ose book mus' stay in town;
 Hic—old Spot's too full for utterance." "Zas so," responded Brown.

"Clerk, swear Hic Jones," old *pro tem.* said, in language gruff and quick.
 (The court supposed that Jones's antecedent name was "Hic.")
 Then the clerk said somewhat vaguely, "You do swear—hic—from 'is date,
 You will solem'ny support 'er constiution of 'er State;
 Be 'er lawyer of 'er bar from 'is date—hic—forthly hence.
 (Hold up 'er han')—all ri'—hic—bob—so help you—fifty cents."
 Then the judge gave Jones a chromo; Jones received it with delight,
 And the whole platoon meandered, with a right flank—hic—file right.

So delighted was a juror that the shingle-nail was bust
 That did duty as a button where the juror's jeans were trussed;
 But the cardiac formation of young Smith was turned to stone—
 Ah! how lurid Jones's future, and how dismal was his own!

Years have passed, and Smith and Spot-'em have exuded from the State;
 Brown and Soak-'em work for Findley, in the coal bank, lifting slate;
 Snipe-'em got in debt to every one, but Snipe-'em never frets—
 They made him go to Congress so that he could pay his debts.

Jones is everywhere considered as a bright, peculiar star;
 He's got one case they say will make his fortune at the bar:
 Ejectionment for a dam-site on the shores of Yellow Paint—

On that boulder-drifted shore,

Where the angry billows roar,

And the women loudly snore, whether they're asleep or ain't.

He has written and delivers an exceedingly fine lecture
 On "Proceedings in Tribunals of Penultimate Conjecture";
 And this very able thesis, though epitomized and short,
 Contains the law for all the courts of *dernier* last resort.

Let us hope that Jones's future, so auspiciously begun,
 May, like Snipe-'em's outlawed due-bills, have sufficient time to run.

Not all applicants to the bar got by as easily as Hic Jones. Chief Justice
 Dawson, who was admitted at Wakeeney in 1898, relates this case of refusal.

Just before the turn of the century the son of a rancher, living near Wakeeney, was convicted of stealing a calf. The son spent considerable time in jail and to while away the hours he took up the study of law. After he was released from jail he continued his arduous pursuit of learning and finally persuaded a practicing attorney to move the court for his admission to the bar. The motion was promptly denied by the district judge.

Following the next election a new judge took the bench. No sooner had he assumed his office than our hero appeared before him with a motion for a *nunc pro tunc* order setting aside the denial of the former judge and ordering the applicant's admission. The new judge was not acquainted with the rancher's son and he granted the order.

Whereupon the local bar descended upon the new judge, convinced him that he had been "hornswoggled" and the *nunc pro tunc* order was set aside.

I am glad to report that there is a happy ending to the story. Our applicant gave up his legal ambitions and became "the best damned blacksmith in the

county." In fact he had considerably more spending money than most of the members of the bar.

As I said previously our basic statutes relating to admission to the bar in Kansas have remained virtually unchanged since 1903. The changes in requirements for admission have been effected through the rules of the supreme court and the rules of the State Board of Law Examiners. Time does not permit a detailed history of these changes. A check of the 1947 Supplement to the General Statutes of 1935 discloses that these rules of the supreme court regarding the examination of applicants were originally adopted in July, 1903, and have been amended and revised fourteen times since that date. The rules of the State Board of Law Examiners pertaining to examination of applicants were adopted first in July, 1903, and have been revised and amended six times since that date.

The journal of the clerk of the supreme court sets forth the rules adopted by the supreme court on July 7, 1903. These rules state that application for admission shall be by petition to the supreme court and the petition shall be referred to five attorneys appointed by the supreme court, who shall be known as the board of examiners of applications for admission to the bar. (On October 14, 1903, the name of this board was changed to The State Board of Law Examiners.) The rules further provided that examinations shall be oral or in writing or partly oral and partly in writing. The only educational requirement was that the applicant should be required to show educational attainments substantially equivalent to the results of completing an ordinary high-school course.

In 1924 the applicant was required to have, in addition to the high-school course, the equivalent of a one year general college course. In June, 1925, the requirement of two years of general college became effective. Throughout the intervening years the educational requirements have risen. Today all applicants must have a college degree and any applicant, other than a law office student, must also have a degree from an accredited law school.

You may be interested in a few statistics selected at random from the records of the clerk of the supreme court and the Kansas Reports. The year of 1904 was the first full year in which bar examinations were held and in that year fifty-three persons were admitted upon examination. Four years later, in 1908, seventy-seven applied, seven withdrew, five failed, and sixty-five passed. In 1922, eighty-seven passed, three failed and three withdrew. In 1933, ninety-five passed and thirteen failed. In 1948, one hundred forty-four passed and ten failed.

The figures, war years excepted, indicate a steady increase in the number of attorneys in Kansas. How many are actually practicing I do not know. The 1940 federal census reported 2,002 lawyers in the state. Approximately 1,400 lawyers are now members of the Bar Association of the State of Kansas. It is apparent that the growth in numbers of the legal profession in Kansas is proportionately much greater than the population growth in Kansas. The official United States census reports the following population figures for the state:

1900	1,470,495
1910	1,690,949
1920	1,769,257
1930	1,880,999
1940	1,801,028

It would appear that the state is gaining more lawyers per capita each year, but it does not necessarily follow that there are fewer dollars per lawyer each year.

Our requirements for admission are now among the highest of any state, but some other states, such as California, undoubtedly fail a higher percentage of those taking the bar examinations. You will recall our 1948 figure of 144 passing and ten failing.

As I conclude this paper on admission to the bar in Kansas I will take a negative approach to the subject, namely, exit from the bar in Kansas. Since June 1, 1903, there have been fifty-five proceedings in Kansas which have resulted in disbarment or suspension from practice. Twenty-eight of the lawyers involved in the above-mentioned fifty-five proceedings were reinstated. It is interesting to note that in several instances lawyers have been disbarred, reinstated, then disbarred again. Either Kansas attorneys are exceptionally virtuous or our state has followed a doctrine of leniency in disbarments—or both!

ADDENDUM

Upon completing this study it occurred to me that the members of our profession should *at all times* maintain the high standards set by the supreme court and the State Board of Law Examiners. Why store up this immense fund of legal knowledge at the time the bar examination is taken, only to forget it in the years that follow? I propose that we members of the Lawyers Club instigate a movement to require each practicing attorney to pass a bar examination every ten years in order to keep his certificate to practice. He should keep the seat of learning hot, so to speak.

None of *us* would be troubled by such an examination. To prove my point I ask each one present to take paper and pen and answer the following ten questions, selected from old bar examinations.

1. Define a tort. (June, 1911.)
2. When will a court of equity decree the specific performance of a verbal contract for the sale of real estate? (June, 1911.)
3. Distinguish between suretyship and guaranty. (June, 1911.)
4. A merchant delivered certain goods to *B* without any request therefor and *B* keeps the goods but refuses to pay for them. Can the merchant recover, and if so, how much? (Jan., 1912.)
5. Define (a) a corporeal hereditament. (b) An incorporeal hereditament. (Jan., 1912.)
6. Define novation and its essential requisites. (Jan., 1912.)
7. *A* owns 80 acres of land in Kansas. In 1908 *B* dug a ditch through *A*'s land wrongfully and without *A*'s consent. In 1912 *A* sues *B* for damages for digging the ditch and for the resulting damages to crops which *A* has raised on the land since 1908. Can *A* recover? (Jan., 1913.)
8. Under the negotiable instruments act in this state what constitutes a holder in due course? (Jan., 1914.)
9. Under what circumstances may a person not having an insurable interest in the life of another take insurance thereon? (Jan., 1914.)
10. What are the leading tests to be applied in determining whether or not personal property becomes a fixture? (June, 1914.)

MOTION DAYS IN DISTRICT COURTS—1949

Please see notes on page 106

COUNTY	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Allen	Iola	Wallace H. Anderson	Jessie M. Fry	37	5 11	2 16	2 23	6 20	4 10	1 22	7 13	12 26	2 16	14
Anderson	Garnett	Hugh Means	Mrs. Mabel Church	4	7	10	7	8	6	13	16	10	12	15
Atchison	Atchison	Lawrence F. Day	Hal Waisner	2	8 15 22 29	5 12 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 24 31
Barber	Medicine Lodge	Clark A. Wallace	Mrs. Edith Myers	24	6	14	11	25	13	2	9	24	10	8
Barton	Great Bend	Roy J. McMullen	Geneva Steincamp	20	6	3	7	7	5	7	1	6	7	8
Bourbon	Fort Scott	Harry W. Fisher	Amy Armstrong	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	2 9 16 23	7 14 21 28	4 18 25	2 9 16 23
Brown	Hiawatha	John L. Gernon	Edna Boicourt	22	18	15	15	19	17	7	20	18	15	13
Butler	El Dorado	Carl Ackerman W. N. Calkins	Harry R. Martin	13	14	1	7	1	3	13	2	4	14	2
Chase	Cottonwood Falls	Jay Sullivan	Mrs. Mildred Speer	5	28	25	25	29	27	24	23	28	25	30
Chautauqua	Sedan	Carl Ackerman W. N. Calkins	Edith K. Ross	13	20	2	8	4	6	1	6	12	28	5
Cherokee	Columbus	Jerome Harman	Lois Mason	11	4 6	1 3	1 10	5 7	3 5	7 2	6 8	4 6	1 10	6 1

Note 8

MOTION DAYS IN DISTRICT COURTS—1949—CONTINUED

Please see notes on page 106

COUNTY	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Cheyenne.....	St. Francis.....	Robert W. Hemphill.....	Charles N. Roberts.....	17	22	19	11	4	23	3	17	6	10	5 16
Clark.....	Asbland.....	Karl Miller.....	Mrs. Hope Grimes.....	31	6a	3a	3a	7a	5a	9a	8a	6a	3a	8a
Clay.....	Clay Center.....	Edgar C. Bennett.....	Hazel K. Chestnut.....	21	5	9	7	6	4	6	9	5	7	7
Cloud.....	Concordia.....	W. D. Vance.....	Floyd R. Turner.....	12	3	9	9	4	3	8	26	19	22	14
Coffey.....	Burlington.....	Jay Sullivan.....	Mrs. Ruth H. Johnson.....	5	24	28	28	25	30	27	26	31	28	26
Comanche.....	Coldwater.....	Karl Miller.....	Jessie Channness.....	31	5d	2d	2d	6d	4d	8d	7d	5d	2d	7d
Cowley.....	Winfield.....	Albert Faulconer.....	Sallie K. Smith.....	19	3 17	7 21	7 21	4 18	2 16	6 20	5 19	3 17	7 21	5 19
Crawford, Girard Div. Pittsburg Div.	Girard.....	L. M. Rester.....	Grace Webb.....	38	10 17	7 17	7 21	4 18	2 9	6 1	5 19	3 17	14 21	5 19
Decatur.....	Oberlin.....	Robert W. Hemphill.....	Alice J. Vernon.....	17	20	17 28	9	12	9	1	15	4 10	11	14
Dickinson.....	Abilene.....	James P. Coleman.....	Seth Parter, Jr.....	8	3	4	3	6	16	2	12	7	3	7
Doniphan.....	Troy.....	John L. Gernon.....	Virgil Begasse.....	22	19	15	16	20	18	8	21	19	16	14
Douglas.....	Lawrence.....	Hugh Means.....	Mrs. Mary Ellen Simmons.....	4	8	7	12	9	2	25	17	8	7	16
Edwards.....	Kinsley.....	Lorin T. Peters.....	J. Stoner.....	33	4e	14e 8e	8e	5e	2e 10e	2e	7e	24e 4e	8e	6e
Elk Div. No. 1 Div. No. 2	Howard.....	Carl Ackerman W. N. Calkins	Frank A. Force.....	13	3	4	14	5	2	6	19	3	3	1

MOTION DAYS IN DISTRICT COURTS—1949—CONTINUED

Please see notes on page 106

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Ellis.....	Hays.....	C. A. Spencer.....	Julius Stroemel.....	23	10	7	14	13	16	13	14	17	14	14
Ellsworth.....	Ellsworth.....	A. R. Buzick.....	J. M. Wilson.....	30	24	14	2	18	17	3	3	3	7	10
Finney.....	Garden City.....	Ray H. Calihan.....	G. Mae Purdy.....	32	10	3a	3a	6a	9	6a	26	5a	3a	6a
Ford.....	Dodge City.....	Karl Miller.....	Elta J. Riley.....	31	7a	4a	4a	8a	6a	10a	9a	7a	4a	9a
Franklin.....	Ottawa.....	Hugh Means.....	Christina Woke.....	4	3	11	11	4	7	10	12	7	5	17
Geary.....	Junction City.....	James P. Coleman.....	C. W. Marston.....	8	4	3	7	5	4	6	6	4	14	1
Gove.....	Gove.....	C. A. Spencer.....	Louise Brown.....	23	12	17	21	11	23	20	12	25	21	12
Graham.....	Hill City.....	W. K. Skinner.....	Cora Roberts.....	34	8	7	10	14	9	2	19	6	11	7
Grant.....	Ulysses.....	F. O. Rindom.....	Betty Teegerstrom.....	39	4d	1d	1a	11a	3d	7d	2d	4d	1d	5a
Gray.....	Cimarron.....	Karl Miller.....	Tressie Johnson.....	31	4d	1d	1d	5d	3d	7d	6d	4d	1d	6d
Greeley.....	Tribune.....	Ray H. Calihan.....	Laura M. Holmes.....	32	3a	14	1a	1a	2a	1a	19a	17	1a	1a
Greenwood..... Div. No. 1..... Div. No. 2.....	Eureka.....	Carl Ackerman W. N. Calkins	Alma Long.....	13	17	11	3	5	16	9	1	10	10	20
Hamilton.....	Syracuse.....	Ray H. Calihan.....	Amelia J. Minor.....	32	5a	28	1d	1d	4a	3a	21a	24	1d	1d
Harper.....	Anthony.....	Clark A. Wallace.....	Jay B. Pearl.....	24	10	10	10	11	12	1	8	10	9	7
Harvey.....	Newton.....	George L. Allison.....	Mrs. Mabel McMullen.....	9	27	14	24	28	9	23	22	27	14	22
						24			26				24	
Haskell.....	Sublette.....	F. O. Rindom.....	Evelyn Yount.....	39	4a	1a	14a	6a	3a	7a	19a	4a	1a	1a

MOTION DAYS IN DISTRICT COURTS—1949—CONTINUED

Please see notes on page 106

COUNTY	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Hodgeman.....	Jetmore.....	Lorin T. Peters.....	F. S. Haun.....	33	4d	23d 8d	8d	5d	16d 10d	2d	7d	4d	14d 8d	6d
Jackson.....	Holton.....	Lloyd Morris.....	Chelcia Shelby.....	36	10	4	11	7	2	10	8	3	11	8
Jefferson.....	Oskaloosa.....	Lloyd Morris.....	Nona Crosby.....	36	14	1	7	8	6	6	9	7	7	9
Jewell.....	Mankato.....	W. R. Mitchell.....	Bernice Howard.....	15	14	11	7	22	13	6	23	21	14	9
Johnson.....	Olathe.....	John L. Kirkpatrick.....	Gertrude S. Hedberg.....	10	3	14	7	4	2	13	6	17	14	5
Kearny.....	Lakin.....	Ray H. Calihan.....	Bertha Adams.....	32	5d	1d	14	5d	4d	3d	21d	3d	14	5a
Kingman.....	Kingman.....	Clark A. Wallace.....	Nell H. Walter.....	24	8	12	28	9	14	6	26	7	11	12
Kiowa.....	Greensburg.....	Karl Miller.....	James Estlack.....	31	5a	2a	2a	6a	4a	8a	7a	5a	2a	7a
Labette.....	Oswego.....	Hal Hylar.....	Maye Eller.....	16	28	25	25	29	20	24	23	28	25	23
Parsons Div.....	Parsons Div.....	Parsons Div.....	Parsons Div.....	10	10	21	21	18	23	20	19	17	21	19
Lane.....	Dighton.....	Ray H. Calihan.....	Mrs. Eva Cramer.....	32	4a	2a	28	4a	3a	2a	20a	4a	28	2a
Leavenworth.....	Leavenworth.....	Joseph J. Dawes.....	Dorothy Harrison.....	1	7 21	4 18	4 17	1 15	6 20	3 17	2 16	7 21	4 18	2 16
Lincoln.....	Lincoln.....	A. R. Buzick.....	E. D. Harlow.....	30	7	21	3	7	16	2	1	7	14	19
Linn.....	Mound City.....	Harry W. Fisher.....	Will H. Bayless.....	6	4 18	1 15	1 15	4 19	3 17	7 21	6 20	4 18	4 15	5 20
Logan.....	Russell Springs.....	C. A. Spencer.....	A. W. Rogge.....	23	13	19	17	4	24	16	5	10	17	5
Lyon.....	Emporia.....	Jay Sullivan.....	Mrs. Bess M. Cook.....	5	26	23	23	27	25	29	28	20	30	28

MOTION DAYS IN DISTRICT COURTS—1949—CONTINUED

Please see notes on page 106

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Marion.....	Marion.....	James P. Coleman.....	Virgil M. Wiebe.....	8	5	7	2	8	2	3	7	3	2	2
Marshall.....	Marysville.....	Edgar C. Bennett.....	Wallace J. Koppes.....	21	7	7	11	8	2	3	7	3	2	5
McPherson.....	McPherson.....	George L. Allison.....	Donald S. Clark.....	9	28	25	14 25	29	27	6 24	23	28	25	5 23
Meade.....	Meade.....	Karl Miller.....	Ethel R. Copenhaver.....	31	6d	3d	3d	7d	5d	9d	8d	6d	3d	8d
Miami.....	Paola.....	John L. Kirkpatrick.....	Ethel J. Hunt.....	10	5	7	14	11	9	6 20	2	3	7	12
Mitchell.....	Beloit.....	W. R. Mitchell.....	Ida Jamison.....	15	10	10	10	18	12	10	26	20	18	7
Montgomery.....	Independence.....	J. W. Holdren.....	M. D. Smith.....	14	1	5	5	2	7	4	3	1	5	3
Independence Div. Coffeyville Div.					7	4	4	1	6	3	2	7	4	2
Morris.....	Council Grove.....	James P. Coleman.....	Mrs. Inez Featherston.....	8	7	2	4	4	5	20	9	5	4	5
Morton.....	Richfield.....	F. O. Rindom.....	Mrs. Irene Kuder.....	39	5d	14a	2a	7a	4d	1d	6a	5d	2d	2a
Nemaha.....	Seneca.....	John L. Gernon.....	Ruth Shaffer.....	22	17	14	14	18	16	6	19	17	14	12
Neosho.....	Erie.....	Ora D. McClellan.....	Merle Estes.....	7	12	9	9	13	11	8	14	12	9	14
Ness.....	Ness City.....	Lorin T. Peters.....	Gladys K. Bondurant.....	33	5	9	14	6	11	3	12	5	9	12 7
Norton.....	Norton.....	Robert W. Hemphill.....	Arthur V. Poage.....	17	3	16	12	18	14	7	5	3	8	17
See Note 3					10 19						14			
Osage.....	Lyndon.....	A. K. Stavely.....	Edith Lindsay.....	35	7	4	8	1	6	14	2	7	8	2

MOTION DAYS IN DISTRICT COURTS—1949—CONTINUED

Please see notes on page 106

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Osborne.....	Osborne.....	W. R. Mitchell.....	Elma McColl.....	15	13	7	11	21	9	9	22	17	17	8
Ottawa.....	Minneapolis.....	A. R. Buzick.....	A. H. Finley.....	30	10	8	4	4	13	1	2	24	28	20
Pawnee.....	Larned.....	Lorin T. Peters.....	Rose Wood.....	33	24d 3d	7d	7d	11d 4d	9d	1d	6d	10d 3d	7d	5d
Phillips.....	Phillipsburg.....	Robert W. Hemphill.....	Gene Britt.....	17	18	7 15	8 10	14	2	4	13 19	7	12	13
Pottawatomie.....	Westmoreland.....	Lloyd W. Hope.....	Lloyd W. Hope.....	36	13	3	10	5	5	9	6	6	10	6
Pratt.....	Pratt.....	Clark A. Wallace.....	Verna J. Barber.....	24	7	11	14	8	16	3	12	6	14	9
Rawlins.....	Atwood.....	Robert W. Hemphill.....	Louise Portschy.....	17	21	18	10 21	13	16	2	16	5	9	15
Reno.....	Hutchinson.....	Franklin B. Hettinger.....	G. R. Williams.....	40	7 14 21 28	4 11 18 25	4 11 18 25	1 8 15 22 29	6 13 20 27	3	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16
Republic.....	Belleville.....	W. D. Vance.....	Warren A. Scott.....	12	4	7	8	6	2	7	27	17	23	12
Rice.....	Lyons.....	Roy J. McMullen.....	Laura Saint.....	20	4	2	3	5	4	2	6	5	3	6
Riley (Note 7).....	Manhattan.....	Edgar C. Bennett.....	Joseph F. Musil.....	21	8	11	9	4	6	1	6	7	4	2
Rooks.....	Stockton.....	W. K. Skinner.....	George F. Crane.....	34	10	4	9	13	2	1	5	5	10	6
Rush.....	La Crosse.....	Lorin T. Peters.....	Mrs. Gladys D. Peterson.....	33	10e 3e	7e	28e 7e	4e	9e	1e	28e 6e	3e	7e	5e
Russell.....	Russell.....	C. A. Spencer.....	George W. Brandt.....	23	8	15	15	14	2	14	15	8	15	15

MOTION DAYS IN DISTRICT COURTS—1949—CONTINUED

Please see notes on page 106

COUNTY	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Saline.....	Salina.....	A. R. Buzick.....	Robert H. Lively.....	30	4	2	14	1	12	7	12	1	5	5
Scott.....	Scott City.....	Ray H. Calihan.....	Nellie Scheureman.....	32	4d	2d	2d	11	3d	2d	20d	4d	2d	12
Sedgwick.....	Wichita.....	L. D. Leland.....	L. D. Leland.....	18	6-20	3-17	3-17	7-21	5-19	2-16	1-15	6-20	3-17	1-15
Div. No. 1.....		Ross McCormick.....		7-21	4-18	4-18	4-18	1-15	6-20	3-17	2-16	7-21	4-18	2-16
Div. No. 2.....		W. J. Wertz.....		13-27	10-24	10-24	10-24	14-28	12-26	9-23	8-22	13-27	10-24	8-22
Div. No. 3.....		Clair E. Robb.....		14-28	11-25	11-25	11-25	8-22	13-27	10-24	9-23	14-28	11-25	9-23
Div. No. 4 (Note 6)		I. N. Williams.....												
Seward.....	Liberal.....	F. O. Rindom.....	Mrs. Mary Lindley.....	39	10a	19a	19a	18a	21a	18a	17a	10a	19a	17a
Shawnee.....	Topeka.....	Beryl R. Johnson.....	Lucille M. Carter.....	3	14	4	18	8	20	10	2	14	4	16
Div. No. 1.....					21	25	11	29	6	17	23	21	25	
Div. No. 2.....		Paul H. Heinz.....			7	18	11	25	13	3	30	7	11	2
Div. No. 3.....		Dean McElhenny.....			28					24			18	9
See Note 2													28	30
Sheridan.....	Hoxie.....	W. K. Skinner.....	Nannie A. Adams.....	34	7	28	11	15	16	3	14	3	12	3
Sherman.....	Goodland.....	W. K. Skinner.....	Sylvia R. Riley.....	34	5	16	12	4	17	13	12	1	21	1
Smith.....	Smith Center.....	W. R. Mitchell.....	Lucille Figg.....	15	12	9	28	20	11	20	21	19	16	5
Stafford.....	St. John.....	Roy J. McMullen.....	Wanda T. Langdale.....	20	5	1	2	6	3	1	7	4	2	7
Stanton.....	Johnson.....	F. O. Rindom.....	Tina B. Wilson.....	39	5a	28a	1d	6d	4a	1a	12a	5a	2a	1d
Stevens.....	Hugoton.....	F. O. Rindom.....	John F. Fulkerson.....	39	24a	2a	28a	7d	13a	2a	2a	24a	3a	2d
Sumner.....	Wellington.....	Wendell Ready.....	Laura McCormick.....	25	4	1	1	5	3	7	13	4	1	6
Thomas.....	Colby.....	W. K. Skinner.....	N. C. Knudson.....	34	6	15	21	16	23	4	13	7	7	2

MOTION DAYS IN DISTRICT COURTS—1949—CONCLUDED

Please see notes below

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Trego.....	Wakeeney.....	C. A. Spencer.....	D. E. Cypher.....	23	11	14	7	12	7	6	13	8	7	13
Wabaunsee.....	Alma.....	A. K. Stavely.....	Eva Dorman.....	35	4	1	1	5	3	7	6	4	1	6
Wallace.....	Sharon Springs.....	C. A. Spencer.....	Mrs. Ida Ward.....	23	14	18	18	18	25	17	19	24	18	19
Washington.....	Washington.....	W. D. Vance.....	Alta Hennon.....	12	5	8	7	5	4	6	28	18	21	13
Wichita.....	Leoti.....	Ray H. Calihan.....	Daisy Dickey.....	32	3d	1a	2a	25	2d	1d	19d	3a	2a	19
Wilson.....	Fredonia.....	Ora D. McClellan.....	A. G. Green.....	7	4	3	3	5	5	2	6	6	3	1
Woodson.....	Yates Center.....	Wallace H. Anderson.....	Maudie Frogge.....	37	4	1	1	5	3	7	6	11	1	13
				25		15	8	19	24	14	27	25	8	
Wyandotte.....	Kansas City.....	Edward L. Fischer.....	Richard D. Shannon.....	29	3	5	5	2	7	4	12	1	5	3
Div. No. 1.....		Willard M. Benton.....		8	12	12	12	9	14	11	10	8	12	10
Div. No. 2.....		Harvey J. Emerson.....		15	19	19	19	16	21	18	17	15	19	17
Div. No. 3.....		Russell C. Hardy.....		22	26	26	26	23	23	25	24	22	26	24
Div. No. 4.....														
(Note 4) (Note 5)														

e—9:00 a. m. a—10:00 a. m. c—1:30 p. m. d—2:00 p. m.

Note 1.—Italicized dates indicate the first day of a regular term of court.

Note 2.—In Shawnee county the schedule continues through July and August as follows:

Division No. 1.—Judge Beryl B. Johnson: July 1 and 22 and August 12.

Division No. 2.—Judge Paul H. Heinz: July 8 and 29 and August 19.

Note 3.—In Norton county, August 29 is motion day.

Note 4.—Wyandotte county has a regular motion day in July in four divisions, 1, 2, 3 and 4.

Division No. 1.—Judge E. L. Fischer: July 2.

Division No. 2.—Judge Willard M. Benton: July 9.

Note 5.—Wyandotte county—The division having law and equity cases has a motion day on Thursday of each week of term, in addition to above mentioned motion days.

Note 6.—Sedgewick county—Regular motion days shall run through July and August and will be heard by the preliminary judge for all divisions during these months:

Division No. 1.—July 7 and 21 and August 4 and 18.

Division No. 2.—July 1 and 15 and August 5 and 19.

Note 7.—Opening day in Riley county delayed one day a/c Labor Day.

Note 8.—Cherokee county—Motion days shall run through July and August—Columbus Division—July 5 and August 2; Galena Division July 7 and August 4.

Division No. 3.—Judge Dean McElhenry: July 15 and August 5 and 26.

Division No. 3.—Judge Harvey J. Emerson: July 16.

Division No. 4.—Judge Russell C. Hardy: July 23.

Division No. 3.—July 14 and 28 and August 11 and 25.

Division No. 4.—July 8 and 22 and August 12 and 26.

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