MOTION DAYS FOR 1945

# KANSAS JUDICIAL COUNCIL BULLETIN

DECEMBER, 1944 PART 5—EIGHTEENTH ANNUAL REPORT

# TABLE OF CONTENTS



## ANNOUNCEMENT OF TWO ESSAY CONTESTS

Each year the American Bar Association conducts an essay contest pursuant to the bequest of Judge Erskine M. Ross, deceased. The subject for this year's essay is:

"The Development of the Doctrine of Stare Decisis and the Extent to Which It Should Be Applied."

Essays must be submitted on or before March 15, 1945. The amount of the prize money to be awarded the winner is three thousand dollars. The contest is open to all members of the Association in good standing on January 1, 1945. Essays are restricted to five thousand words, including quoted matter and citations in the text, but footnotes and notes not included in the text are not included in the computation. Anyone wishing to enter the contest should communicate with the Executive Secretary, American Bar Association, 1140 N. Dearborn street, Chicago, 10, Illinois, who will furnish further information and instructions.

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The Committee on American Citizenship of the American Bar Association announces a prize contest for the best statements of principles or creed on the following subjects: (1) The Responsibility of the Citizen as a Voter; (2) the Responsibility of the Citizen as a Juror. Three prizes are to be awarded, the first $500, the second $250, and the third $100. The above contest is open to all members of the American Bar Association. Any contestant may write on either one or both topics. His entry on each subject shall be limited to two hundred fifty words, typewritten on one sheet of paper. The statement of principles or creed must be prepared for this particular contest and not previously published. All papers must be submitted to the Committee on American Citizenship, American Bar Association, 1140 N. Dearborn street, Chicago, 10, Illinois, on or before May 15, 1945.

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More detailed information of the above contests may be found on page VI and page No. 643 of the November, 1944, issue of the American Bar Association Journal.

## MOTION DAYS IN DISTRICT COURTS—1945

| 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 | 3 | 7 | 7 | 4 | 2 | 6 | 5 | 3 | 7 | 5 |
| | | | | | *9* | 14 | 28 | 11 | *8* | | *11* | 10 | | 12 |
| | | | | | | 21 | | 18 | | | | 17 | | 19 |
| | | | | | | 28 | | 25 | | | | 24 | | |
| Anderson | Garnett | Hugh Means, Lawrence | Mrs. Mabel Church | 4 | 3 | 3 | *5* | 3 | 4c | *11* | 11 | *8* | 3 | 8 |
| Atchison | Atchison | Lawrence F. Day | Hal Waisner | 2 | 6 | 3 | 3 | 7 | 5 | 2 | 8 | 6 | 3 | 1 |
| | | | | | 13 | 10 | 10 | 14 | 12 | 9 | 15 | 13 | 10 | 8 |
| | | | | | 20 | 17 | 17 | 21 | 19 | 16 | 22 | 20 | 17 | 15 |
| | | | | | 27 | 24 | 24 | 28 | 26 | 23 | 29 | 27 | 24 | 22 |
| | | | | | | | 31 | | | 30 | | | | 29 |
| Barber | Medicine Lodge | Clark A. Wallace, Kingman | Mrs. Edith Myers | 24 | 4 | 12 | 9 | 23 | 11 | 7 | 7 | 22 | 9 | 6 |
| Barton | Great Bend | Robert Garvin, St. John | Ethel Morrison | 20 | 5 | 1 | *6* | 6 | 4 | *5* | 3 | 5 | *5* | 3 |
| Bourbon | Fort Scott | Harry W. Fisher | Amy Armstrong | 6 | 5 | 2 | 2 | 6 | 4 | 1 | 7 | 5 | 2 | 7 |
| | | | | | 12 | 9 | 9 | 13 | 11 | 8 | 14 | 12 | 9 | |
| | | | | | 19 | 16 | 16 | 20 | 18 | 15 | 21 | 19 | 16 | |
| | | | | | 26 | 23 | 23 | 27 | 25 | 22 | 28 | 26 | 23 | |
| | | | | | | | 30 | | | 29 | | | 30 | |
| Brown | Hiawatha | John L. Gernon | H. N. Zimmerman | 22 | 23 | 20 | 20 | 24 | 22 | 19 | 25 | 23 | 20 | 18 |
| | | | | | | | | | | | | | *12* | 6 |
| Butler | ElDorado | | H. R. Martin | 13 | 5 | 5 | *5* | 7 | 1 | *11* | 7 | 5 | | |
| Division No. 1 | | Carl Ackarman, Sedan | | | | | | | | | | | | |
| Division No. 2 | | W. N. Calkins | | | | | | | | | | | | |
| Chase | Cottonwood Falls, | Jay Sullivan, Emporia | Mildred Speer | 5 | 26 | 23 | 30 | 27 | 25 | 29 | 28 | 26 | 30 | 28 |
| Chautauqua | Sedan: | | | | | | | | | | | | | |
| Division No. 1 | | Carl Ackarman, Sedan | Cleopha Call | 13 | 12 | 13 | 13 | *2* | 4 | 6 | *4* | 10 | 2 | *3* |
| Division No. 2 | | W. N. Calkins, ElDorado | | | | | | | | | | | | |

MOTION DAYS IN DISTRICT COURTS—1945—CONTINUED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Cherokee | Columbus | V. J. Bowersock | Lois Mason | 11 | | | | | | | | | | |
| Columbus Division, | | | | | 2 | 13 | 6 | 3 | 1 | 5 | 4 | 2 | 6 | 4 |
| Galena Division | | | | | 4 | 8 | 8 | 5 | 3 | 7 | 6 | 4 | 8 | 6 |
| Cheyenne | St. Francis | Edward E. Kite | Charles N. Roberts | 17 | 20 | 17 | 26 | *2* | *28* | 6 | 15 | 5 | 26 | *3* |
| Clark | Ashland | Karl Miller, Dodge City | Hope Grimes | 31 | 11a | 8a | 15a | 12a | 10a | 7a | 6a | 4a | 8a | 13a |
| Clay | Clay Center | Edgar C. Bennett, Marysville | Hazel K. Chestnut | 21 | 5 | 7 | *5* | 4 | 9 | *4* | 7 | 3 | *5* | 3 |
| Cloud | Concordia | Charles A. Walsh | Marilyn Ann Whipp | 12 | *8* | 6 | 6 | *2* | 8 | 5 | *24* | 16 | 20 | 17 |
| Coffey | Burlington | Jay Sullivan, Emporia | Harry V. Phillips | 5 | 29 | 26 | 26 | 30 | 28 | 25 | 24 | 29 | 26 | 31 |
| Comanche | Coldwater | Karl Miller, Dodge City | Jessie Chamness | 31 | 10d | 7d | 14d | 11d | 9d | 6d | 5d | 3d | 7d | 12d |
| Cowley | Winfield | Stewart S. Bloss | Sallie K. Smith | 19 | *1* | 5 | *5* | 2 | 7 | *4* | 4 | *1* | 5 | 3 |
| | | | | | 15 | 19 | 19 | 16 | 21 | 18 | 17 | 15 | 19 | 17 |
| Crawford | Girard | L. M. Resler, Pittsburg | Grace Webb | 38 | | | | | | | | | | |
| Girard Division | | | | | *8* | 5 | 5 | *2* | 7 | 4 | 3 | *1* | 5 | 3 |
| Pittsburg Division, | | | | | 15 | *19* | 19 | 16 | *14* | 18 | 17 | 15 | *12* | 17 |
| Decatur | Oberlin | Edward E. Kite, St. Francis | Alice J. Vernon | 17 | 18 | 19 | 15 | 13 | *14* | 5 | 13 | 1 | | |
| | | | | | | *26* | | | | 9 to 12 a. m. | | *8* | 6 | 10 |
| Dickinson | Abilene | James P. Coleman, Junction City, | Seth Barter, Jr. | 8 | *2* | 13 | 14 | 16 | *21* | 12 | *10* | 8 | 9 | 14 |
| Doniphan | Troy | John L. Gernon, Hiawatha | Beulah M. Swiggett | 22 | 24 | 21 | 21 | 25 | 23 | 20 | 26 | 24 | 21 | 19 |
| Douglas | Lawrence | Hugh Means | Mary Ellen Simmons, | 4 | 13 | *5* | 3 | 7 | 7 | 9 | 8 | 6 | *5* | 15 |
| Edwards | Kinsley | Lorin T. Peters, Ness City | C. E. Burke | 33 | 2d | 5d | 5d | 2d | 1d | 4d | 3d | 1d | 5d | 3d |
| | | | | | | *12* | | | 7 | | | *22* | | |

MOTION DAYS IN DISTRICT COURTS—1945—CONTINUED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Elk: | | | | | | | | | | | | | | |
| Division No. 1 | | Carl Ackarman, Sedan | Frank A. Force | 13 | *1* | 1 | 12 | 3 | *7* | 4 | *17* | 2 | 1 | 5 |
| Division No. 2 | | W. N. Calkins, El Dorado | | | | | | | | | | | | |
| Ellis | Hays | C. A. Spencer, Oakley | Fred E. Bieker | 23 | 15 | *5* | 13 | 10 | *21* | 12 | 11 | *15* | 13 | 11 |
| Ellsworth | Ellsworth | Roy A. Smith, Salina | J. M. Wilson | 30 | 22 | 1 | 6 | 23 | 12 | 7 | 7 | 8 | 5 | 15 |
| Finney | Garden City | Fred J. Evans | Mrs. Edna Carter | 32 | *8* | 15a | 15a | 19a | *14* | 20a | *24* | 18a | 15a | 20a |
| Ford | Dodge City | Karl Miller | Mrs. Elta J. Riley | 31 | 13a | 10a | 17a | 14a | 12a | 9a | 8a | 6a | 10a | 15a |
| Franklin | Ottawa | Hugh Means, Lawrence | Christina Woke | 4 | *2* | 3c | 6 | *2* | 5c | 12 | *10* | 9 | 3c | 8c |
| Geary | Junction City | James P. Coleman | Archie H. Moon | 8 | 8 | 12 | *5* | 10 | 17 | *4* | 7 | 12 | *12* | 13 |
| Gove | Gove | C. A. Spencer, Oakley | W. S. Powers | 23 | 17 | 21 | *19* | 12 | 14 | *18* | 13 | 8 | *19* | 13 |
| Graham | Hill City | William K. Skinner, Stockton | B. A. Summers | 34 | 6 | *5* | 8 | 12 | *14* | 7 | *17* | 9 | 16 | 5 |
| Grant | Ulysses | Frank O. Rindom, Liberal | Mrs. Marjorie Fowler | 39 | 2d | 6d | 1 | *9* | 1d | 5d | 7d | 2d | 1d | *3* |
| Gray | Cimarron | Karl Miller, Dodge City | Mrs. Tressie Johnson | 31 | 9d | 6d | 13d Mtn. | 10d warti | 8d me | 5d | 4d | 2d | 6d | 11d |
| Greeley | Tribune | Fred J. Evans, Garden City | Mrs. Laura M. Holmes, | 32 | 15 | *12* | 13d | 17a | 21d | 18d | 19d | *15* | 13d | 18d |
| Greenwood | Eureka | | Mrs. Alma Long | 13 | *15* | 8 | 8 | 5 | *21* | 14 | 5 | *8* | 8 | 14 |
| Division No. 1 | | Carl Ackarman, Sedan | | | | | | | | | | | | |
| Division No. 2 | | W. N. Calkins, El Dorado | | | | | | | | | | | | |
| Hamilton | Syracuse | Fred J. Evans, Garden City | Amelia J. Minor | 32 | 12a | *26* | 16a | 16a | 16d | 15d | 17d | *22* | 16a | 19a |
| Harper | Anthony | Clark A. Wallace, Kingman | Jay B. Pearl | 24 | 8 | 8 | 8 | 9 | 10 | 18 | 6 | 8 | 8 | 5 |
| Harvey | Newton | G. L. Allison, McPherson | Mabel A. McMullen | 9 | 25 | *12* 22 | 29 | 26 | *14* 24 | 28 | 27 | 25 | *12* 29 | 27 |

MOTION DAYS IN DISTRICT COURTS—1945—CONTINUED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Haskell | Sublette | Frank O. Rindom, Liberal | Edith Yarbrough | 39 | 2 | 6 | *12* | 4 | 1 | 5 | *17* | 2 | 1 | 6 |
| Hodgeman | Jetmore | Lorin T. Peters, Ness City | Fred S. Haun | 33 | 2 | 5 | 5 | 2 | 1 | 4 | 3 | 1 | 5 | 3 |
| | | | | | | *26* | | | *21* | | | | *12* | |
| Jackson | Holton | Lloyde Morris, Oskaloosa | Chelsia Shelby | 36 | *8* | 2 | 9 | 5 | *7* | 8 | 6 | *1* | 9 | 6 |
| Jefferson | Oskaloosa | Lloyde Morris | Nona Crosby | 36 | 12 | 5 | *5* | 6 | 11 | *4* | 7 | 5 | *5* | 7 |
| Jewell | Mankato | Wm. R. Mitchell | Bernice Howard | 15 | 5 | 3 | 5 | 12 | 11 | 4 | 20 | 12 | 12 | 7 |
| Johnson | Olathe | G. A. Roberds | Gertrude S. Hedberg | 10 | *2* | 12 | 5 | 2 | *7* | 11 | *4* | 15 | 12 | 3 |
| Kearny | Lakin | Fred J. Evans, Garden City | Bertha Adams | 32 | 10a | 16a | *12* | 13a | 16a | 15a | 17a | 16d | *12* | 19d |
| Kingman | Kingman | Clark A. Wallace | Nell H. Walter | 24 | 6 | 10 | 26 | 7 | 12 | 4 | 24 | 6 | 10 | 10 |
| Kiowa | Greensburg | Karl Miller, Dodge City | Fred C. Betts | 31 | 10a | 7a | 14a | 11a | 9a | 6a | 5a | 3a | 7a | 12a |
| Labette | Oswego | Larue E. Goodrich, Parsons | Maye Eller | 16 | | | | | | | | | | |
| Oswego division | | | | | 26 | 23 | 30 | 27 | 18 | 29 | 28 | 26 | 30 | 28 |
| Parsons division | | | | | 15 | 19 | 19 | 23 | 28 | 18 | 17 | 15 | 26 | 17 |
| Lane | Dighton | Fred J. Evans, Garden City | Mrs. Eva Cramer | 32 | 16d | 14a | *26* | 18a | 18d | 19d | 18d | 17d | *26* | 18a |
| Leavenworth | Leavenworth | J. H. Wendorff | Minnie E. Courtney | 1 | 6 | 3 | 3 | 7 | 5 | 2 | 1 | 6 | 3 | 1 |
| | | | | | 20 | 17 | 17 | 21 | 19 | 16 | 15 | 20 | 17 | 15 |
| Lincoln | Lincoln | Roy A. Smith, Salina | E. D. Harlow | 30 | 4 | 19 | 7 | 4 | 14 | 6 | 5 | 5 | 12 | 3 |
| Linn | Mound City | Harry W. Fisher, Fort Scott | Will H. Bayless | 6 | 2 | 6 | 6 | 3 | 1 | 5 | 4 | 2 | 6 | 4 |
| | | | | | 16 | 20 | 20 | 17 | 15 | 19 | 18 | 16 | 20 | 18 |
| Logan | Russell Springs | C. A. Spencer, Oakley | A. W. Rogge | 23 | 18 | 22 | 26 | *2* | 28 | 25 | *3* | 22 | 26 | *3* |
| Lyon | Emporia | Jay Sullivan | Bess M. Cook | 5 | 31 | 28 | 28 | 25 | 30 | 27 | 26 | 31 | 28 | 26 |

MOTION DAYS IN DISTRICT COURTS—1945—CONTINUED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Marion | Marion | James P. Coleman, Junction City, | Richard Brodhead | 8 | 12 | *5* | 16 | 9 | *7* | 15 | 4 | *1* | 6 | 10 |
| Marshall | Marysville | Edgar C. Bennett | W. J. Koppes | 21 | 3 | *5* | 9 | 6 | *7* | 8 | 5 | *1* | 9 | 7 |
| McPherson | McPherson | G. L. Allison | Donald S. Clark | 9 | 26 | 23 | *12*<br>30 | 27 | 25 | *4*<br>29 | 28 | 26 | 30 | *3*<br>28 |
| Meade | Meade | Karl Miller, Dodge City | Ethel R. Copenhaver | 31 | 11d | 8d | 15d | 12d | 10d | 7d | 6d | 4d | 8d | 13d |
| Miami | Paola | G. A. Roberds, Olathe | Ethel J. Hunt | 10 | 10 | *5* | 12 | 9 | 14 | *4*<br>18 | 7 | *1* | 5 | 10 |
| Mitchell | Beloit | Wm. R. Mitchell, Mankato | D. A. Gregory | 15 | 8 | 1 | 1 | 16 | 10 | 8 | 24 | 10 | 9 | 6 |
| Montgomery | Independence | J. W. Holdren | Thelma Wright | 14 | | | | | | | | | | |
| Independence div. | | | | | 6 | 3 | 3 | 7 | 5 | 2 | 1 | 6 | 3 | 1 |
| Coffeyville div | | | | | 20 | 17 | 17 | 21 | 19 | 16 | 15 | 20 | 17 | 15 |
| Morris | Council Grove | James P. Coleman, Junction City, | Inez Featherston | 8 | 11 | 15 | 15 | *2* | 18 | *18* | 5 | 10 | 5 | *3* |
| Morton | Richfield | Frank O. Rindom, Liberal | Irene Kuder | 39 | 3d | *12* | 8 | 5 | 2d | 6d | *4* | 3d | *2d* | 7 |
| Nemaha | Seneca | John L. Gernon, Hiawatha | Iva Weyer | 22 | 22 | 19 | 19 | 23 | 21 | 18 | 24 | 22 | 19 | 17 |
| Neosho | Erie | Le Roy Bradfield, Neodesha | Mamie E. Hayes | 7 | 3 | 7 | 7 | 4 | 2 | 6 | 5 | 3 | 7 | 5 |
| Ness | Ness City | Lorin T. Peters | Gladys Bondurant | 33 | 4 | 7 | 7<br>*12* | 4 | 3 | 6 | 5<br>*10* | 3 | 7 | 5 |
| Norton<br>Note 3 | Norton | Edward E. Kite, St. Francis | Pearl Thompson | 17 | 2<br>*8*<br>17 | 21 | 13 | *16* | 8 | 4<br>1:30 to<br>6 p. m. | *3*<br>12 | 3 | 7 | 12 |
| Osage | Lyndon | A. K. Stavely | Mildred Bremer | 35 | 5 | 2 | *13* | 6 | 4 | *12* | 7 | 5 | *13* | 7 |
| Osborne | Osborne | Wm. P. Mitchell, Mankato | Elma McColl | 15 | 11 | 5 | 2 | 11 | 14 | 7 | 18 | 15 | 7 | 5 |

MOTION DAYS IN DISTRICT COURTS—1945—CONTINUED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ottawa | Minneapolis | Roy A. Smith, Salina | A. H. Finley | 30 | 8 | 2 | 8 | 9 | 11 | 5 | 6 | 22 | 6 | 1 |
| Pawnee | Larned | Lorin T. Peters, Ness City | Rose Wood | 33 | 3<br>*22* | 6 | 6 | 3<br>*9* | 2 | 5 | 4 | 2<br>*8* | 6 | 4 |
| Phillips | Phillipsburg | Edward E. Kite, St. Francis | Floyd Keesee | 17 | 16 | *5*<br>20 | 14 | 14 | *7* | 4<br>9 to 12 a. m. | 11<br>*17* | 2 | 8 | 11 |
| Pottawatomie | Westmoreland | Lloyde Morris, Oskaloosa | Lloyd W. Hope | 36 | 11 | 1 | 8 | *3* | 10 | 7 | *4* | 4 | 8 | 4 |
| Pratt | Pratt | Clark A. Wallace, Kingman | O. E. Bonecutter | 24 | 5 | 9 | 12 | 6 | 21 | 8 | 10 | 5 | 12 | 7 |
| Rawlins | Atwood | Edward E. Kite, St. Francis | Louise Portschy | 17 | 19 | 22 | 12<br>*19* | 12 | *21* | 5<br>1:30 to 6 p. m. | 14 | 4 | 5<br>*12* | 13 |
| Reno | Hutchinson | Franklin B. Hettinger | G. R. Williams | 40 | 6<br>13<br>20<br>27 | 3<br>10<br>17<br>24 | 3<br>10<br>17<br>24<br>31 | 7<br>14<br>21<br>28 | 5<br>12<br>19<br>26 | 2<br>9<br>16<br>23<br>30 | 1<br>8<br>15<br>22<br>29 | 6<br>13<br>20<br>27 | 3<br>10<br>17<br>24 | 1<br>8<br>15 |
| Republic | Belleville | W. D. Vance | Warren A. Scott | 12 | 9 | *5* | 7 | 3 | *7* | 6 | 25 | *15* | 21 | 18 |
| Rice | Lyons | Robert Garvin, St. John | Laura Saint | 20 | *2* | 2 | 2 | *3* | 5 | 4 | *4* | 6 | 2 | 4 |
| Riley | Manhattan | Edgar C. Bennett, Marysville | Joseph F. Musil | 21 | *2*† | 9 | 7 | *2* | 11 | 6 | *4*† | 5 | 7 | 5 |
| Rooks | Stockton | William K. Skinner | George F. Crane | 34 | *8* | 15 | 7 | 11 | *7* | 6 | *3* | 8 | 15 | 4 |
| Rush | La Crosse | Lorin T. Peters, Ness City | Mrs. Gladys Driver | 33 | 3d<br>*8* | 6d | 6d<br>*26* | 3d | 2d | 5d | 4d<br>*24* | 2d | 6d | 4d |
| Russell | Russell | C. A. Spencer, Oakley | George W. Brandt | 23 | *1* | 19 | 12 | 9 | *7* | 11 | 10 | *1* | 12 | 10 |
| Saline | Salina | Roy A. Smith | O. Howard Ford | 30 | 5 | 3 | 12 | 5 | 10 | 4 | 4 | 6 | 7 | 8 |

MOTION DAYS IN DISTRICT COURTS—1945—CONTINUED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Scott | Scott City | Fred J. Evans, Garden City | Nellie Scheuerman | 32 | 16a | 13d | 14a | *9* | 18a | 19a | 18a | 17a | 14a | *10* |
| Sedgwick | Wichita | | L. D. Leland | 18 | | | | | | | | | | |
| 1st div | | Ross McCormick | | | 6 | 3 | 3 | 7 | 5 | 2 | 1 | 6 | 3 | 1 |
| 2d div | | Robert L. Ne Smith | | | 20 | 17 | 17 | 21 | 19 | 16 | 15 | 20 | 17 | 15 |
| 3d div | | Clair E. Robb | | | 13 | 10 | 10 | 14 | 12 | 9 | 8 | 13 | 10 | 8 |
| 4th div | | Isaac N. Williams | | | 17 | 24 | 24 | 28 | 26 | 23 | 22 | 27 | 24 | 22 |
| Seward | Liberal | Frank O. Rindom | Alice Brannan | 39 | *8* | 17 | 17 | *16* | 12 | 16 | 15 | *8* | 17 | 15 |
| Shawnee | Topeka | | Leah B. Willcuts | 3 | | | | | | | | | | |
| 1st div | | George A. Kline | | | 6 | 17 | 10 | 21 | 12 | 2 | 15 | 6 | 17 | 8 |
| | | | | | 27 | | 31 | | | 23 | | 27 | | 29 |
| 2d div | | Paul H. Heinz | | | 13 | 3 | 17 | 7 | 19 | 9 | 1 | 13 | 3 | 15 |
| | | | | | | 24 | | 28 | | 30 | 22 | | 24 | |
| 3d div | | Dean McElhenny | | | 20 | 10 | 3 | 14 | 5 | 16 | 8 | 20 | 10 | 1 |
| Note 2 | | | | | | | 24 | | 26 | | 29 | | | 22 |
| Sheridan | Hoxie | Wm. K. Skinner, Stockton | Nannie E. Adams | 34 | 5 | *26* | 9 | 13 | *21* | 8 | 13 | *1* | 17 | 6 |
| Sherman | Goodland | Wm. K. Skinner, Stockton | Sylvia Riley | 34 | 3 | 17 | 10 | *2* | 16 | *11* | 15 | 11 | *19* | 8 |
| Smith | Smith Center | Wm. R. Mitchell, Mankato | Zelma Williams | 15 | 4 | 2 | 26 | 13 | 9 | 18 | 19 | 11 | 8 | 3 |
| Stafford | St. John | Robert Garvin | Gertrude Bartle | 20 | 6 | *6* | 3 | 7 | *1* | 2 | 1 | *2* | 3 | 1 |
| Stanton | Johnson | Frank O. Rindom, Liberal | Tina B. Wilson | 39 | 3 | *26* | 1d | 4d | 2 | 6 | *10* | 3 | 2 | 6d |
| Stevens | Hugoton | Frank O. Rindom, Liberal | John F. Fulkerson | 39 | 22 | 7 | *26* | 5d | 3 | 7 | 7 | *22* | 2d | 7d |
| Sumner | Wellington | Wendel Ready | Ruth Goodrum | 25 | 2 | 6 | 6 | 3 | 1 | 5 | 11 | 2 | 6 | 4 |
| Thomas | Colby | Wm. K. Skinner, Stockton | N. C. Knudson | 34 | 4 | 16 | *19* | 14 | *28* | 9 | 14 | 10 | *5* | 7 |
| Trego | Wakeeney | C. A. Spencer, Oakley | D. E. Cypher | 23 | 16 | 20 | *5* | 11 | 15 | *4* | 12 | 9 | *5* | 12 |

MOTION DAYS IN DISTRICT COURTS—1945—CONCLUDED

| COUNTY. | County seat. | Judge. | Clerk. | No. Jud. Dist. | Jan. | Feb. | Mar. | Apr. | May. | June. | Sept. | Oct. | Nov. | Dec. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Wabaunsee | Alma | A. K. Stavely, Lyndon | Mrs. Eva Dorman | 35 | 2 | *6* | 6 | 3 | *1* | 5 | 4 | *2* | 6 | 4 |
| Wallace | Sharon Springs | C. A. Spencer, Oakley | Mrs. Ida Ward | 23 | 19 | 23 | 27 | *16* | 29 | 26 | *17* | 23 | 27 | *17* |
| Washington | Washington | W. D. Vance, Belleville | Mrs. Alta Hennon | 12 | 10 | 7 | *5* | 4 | 9 | *4* | 26 | 17 | *19* | 19 |
| Wichita | Leoti | Fred J. Evans, Garden City | Daisy Dickey | 32 | 15a | 13a | 13a | *23* | 21a | 18a | 19a | 16a | 13a | *17* |
| Wilson | Fredonia | Le Roy Bradfield, Neodesha | J. E. Kenney | 7 | 2 | 1 | 1 | *3* | 3 | 7 | 4 | 4 | 1 | 6 |
| Woodson | Yates Center | Wallace H. Anderson, Iola | Myra S. Dumond | 37 | 2 | 6 | 6 | 3 | 1 | 5 | 4 | 2 | *13* | 4 |
| | | | | ..... | ..... | 13 | *13* | 10 | ..... | *12* | ..... | 9 | ..... | 11 |
| | | | | ..... | ..... | 20 | ..... | 17 | ..... | ..... | ..... | 16 | ..... | 18 |
| | | | | ..... | ..... | 27 | ..... | 24 | ..... | ..... | ..... | 23 | ..... | ..... |
| Wyandotte | Kansas City | ..... | John W. Foley | 29 | | | | | | | | | | |
| 1st div | ..... | Edward L. Fischer | ..... | ..... | 6 | 3 | 3 | 7 | 5 | 2 | 1 | 6 | 3 | 1 |
| 2d div | ..... | Willard M. Benton | ..... | ..... | 13 | 10 | 10 | 14 | 12 | 9 | 8 | 13 | 10 | 8 |
| 3d div | ..... | §Harvey J. Emerson | ..... | ..... | 20 | 17 | 17 | 21 | 19 | 16 | 15 | 20 | 17 | 15 |
| 4th div | ..... | §Russell C. Hardy | ..... | ..... | 27 | 24 | 24 | 28 | 26 | 23 | 22 | 27 | 24 | 22 |

a—10 a. m. c—1:30 p. m. d—2 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: Div. 1—Judge George A. Kline: July 14, and August 4 and 25. Div. 2—Judge Paul H. Heinz: July 21, and August 11. Div. 3—Judge Dean McElhenny: July 7 and 28, and August 18.

NOTE 3.—In Norton county August 27 is motion day.

† Riley county—First day of term delayed because statutory day falls on a legal holiday.

Except as otherwise noted, all judges of district courts reside at the county seat.

# "THE DOCTRINE OF COMPARATIVE NEGLIGENCE"

By GEORGE TEMPLAR

Whenever two or more lawyers meet, a common question is one of the first and most important discussed. It is, "How's Law Business?" Among lawyers this is a far more common topic than the weather. But, as a wit once remarked, "Everyone talks of the weather, but no one ever does anything about it," so, with the law business, it is a popular topic for discussion, but not often does anyone really do anything constructive about it, at least, not often enough.

Perhaps one reason for this is because the professional man loses sight of the point of view taken by his client, who in the majority of cases is a layman (if not a corporation), and sets out, with others of his profession, to do something that is really going to do great things for the law business. Now the law business is something like the unemployment problem, and the individual lawyer, if steadily employed by clients (who pay), worries not one whit about what is happening to the law business in general.

Yet we can no longer close our eyes to the fact that something has happened to law business, that fewer and fewer cases reach the courts, that not so many clients darken the doorway, and that upon the return from service of many lawyers now in the armed forces, a serious problem of employment in the profession is likely to arise. We cannot attribute the condition entirely to the war. The condition existed before the war, to such an extent that higher and higher educational requirements were demanded of those seeking admission to the Bar, but even this did not stem the ever increasing tide of the unemployed or the partially employed (among the lawyers).

Some lawyers hit upon a plan to integrate the Bar. This, according to proponents of the Integrated Bar, would most certainly put the Bar Association on a higher plane, clean it up, and make it more wholesome and desirable. Such objectives, described in terms of glaring generalities, mean little to the general practicing attorney and much less to his "employer," the layman in need of professional advice and counsel. In examining arguments in favor of an integrated bar, the one most prominent and frequently urged was, that upon its adoption a program would be created to punish or even disbar certain unnamed members of the Bar before a board of disciplinarians composed of other members of the Bar. Indeed, it must have appeared to the untutored layman that law business had reached such a low ebb the lawyers would start working on each other in disbarment and disciplinary actions.

The failure to integrate or the integration of the Bar has not and will not solve the average general practitioner's most pressing problem, which is, "What can be done to help law business?" The layman client does not care a rap if his lawyer belongs to an Integrated Bar or to a Bar group at all. He is looking beyond that to the kind of results he will obtain in court. He wonders, first, "Can I afford to have a lawsuit?" (He has heard a neighbor say, "You lose even if you win.") He wonders, next, "How much time will it take?" (The opposing party's "representative" has told him the case will be dragged clear through to the supreme court and even higher, if necessary.) He wonders what determines his right to recover or (contra) what is his liability, if any. (He is willing to rest his case to twelve of his neighbors, but is told on the

golf course or at the church supper that verdicts of juries are far from final and as often as not are upset.)

Seldom does a client set himself in a lawyer's private office who does not have these stories and many others (some much too embarrassing for a lawyer to relate) running through his mind. Small wonder this client (employer) appears to be a little skeptical, maybe suspicious, yes, outright doubtful of his chances to get justice. There are people who have a feeling that to be in court is to gather just a little smirch on an otherwise wholesome reputation and that to be in court often is to fall into disgrace.

Until these attitudes are removed from the average laymen, law business may be expected to continue its present trend. To those who say this is not a true portrayal of the situation, I reply, you have not been paying any attention to what laymen say, not to mention what laymen (clients) think.

There is the group, in the Bar, who argue that the elimination of jury trials and the substitution of a three judge court to try questions of fact would be wholesome. This system, of course, assumes that three lawyers (judges) are better qualified to recognize and understand the truth when they hear it than are twelve laymen, a fact that I do not believe and one that is not true. Lawyers sitting as judges are too likely to get in a rut of legalism and forget about what is right and just in a particular case, and this soon would be reflected in the further constriction of law business. Furthermore, it has been the experience of many practicing lawyers that one judge, trying the facts of a case, takes many months to finally arrive at his findings on a submitted case. With three judges instead of one, is it not likely that this condition would be more aggravated than ever? Certainly it would take three judges longer to make findings of fact than it takes one. And all of the time the layman client waits and wonders if perhaps he should not have taken the settlement offered, though meager, and confidentially tells his neighbors and lodge brother that if he had the thing to do over, he most certainly would never have got in court. On the other hand, if he is a defendant, he sees the expenses and costs mounting, the litigation has his business tied up, he cannot have any peace of mind with a case dragging in court, so in despair, he proposes to his attorney, or many times to an intermediary, that he wants to buy his peace, that he cannot afford to wait the prolonged outcome of an uncertain court decision.

A practicing lawyer spends a great portion of his time explaining. He endeavors to reduce legal propositions presented to him to terms and illustrations that will enable his client to understand the meaning and purpose of statutes and rules of law. How well he succeeds at this is many times the measure of his success in his home community. But the lawyer is yet to be found, within the observation of the writer, who can satisfactorily explain to a client who has been awarded a verdict by a jury of his neighbors, in his home county, just why that verdict has been set aside, reversed or reduced, or perhaps judgment entered in favor of the opposing side notwithstanding the verdict. No explanation made will ever be accepted by a client as the real reason the case was so decided, and the street corner and farm sale discussion that follows is a most damaging factor to future court business.

No one should expect to perform a miracle and overnight offer a solution to the problem. No doubt many panaceas have been proposed, but seldom does one ever run the gauntlet required for passage by the legislature.

In the field of negligence actions, the type of cases supplying courts with a good portion of their business, the rule of contributory negligence, as applied, has created more confusion and uncertainty among lawyers, and therefore among clients, than any other. So long as the application of the rule was left to the jury as a question of due care, no serious problem was presented in the administration of justice, but when the courts commenced defining standards of conduct and declaring certain facts to constitute contributory negligence as a matter of law, just then was the function of the jury invaded, and the layman client left in a maize of uncertainty from which he nor his lawyer have ever been able to escape.

The doctrine was established in an early English case in which a plaintiff, who had stayed too late at a public house, mounted his horse after dark and rode at full gallop down a highway and into a barrier that had been put up by the defendant and which could be seen for a distance of one hundred yards. The English court held that one could not cast himself upon an obstruction which has been made by the fault of another and avail himself of it, if he does not himself use common and ordinary caution. The present application of the rule goes a good deal farther than this, and the rule, announced more than one hundred and thirty years ago, must, by reason of changing conditions, be modified, or else, instead of having but four jury cases in one of the larger judicial districts of this state in one year, there will be no need for a jury at all.

The doctrine of comparative negligence has been adopted by at least four states: South Dakota, Wisconsin, Mississippi and our neighboring state of Nebraska, which adopted such a law in 1913. The South Dakota act was enacted in 1941 and is an adoption of the Nebraska statute that has been in operation for nearly thirty years.

The Nebraska statute (and the South Dakota law) provide simply, that:

"In all actions brought to recover damages to a person or to his property caused by the negligence of another, the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery where the contributory negligence of the plaintiff was slight and the negligence of the defendant was gross in comparison, but the contributory negligence of the plaintiff shall be considered by the jury in the mitigation of damages in proportion to the amount of contributory negligence attributable to the plaintiff; and all questions of negligence and contributory negligence shall be for the jury."

It cannot be denied that under the legal rules of negligence and contributory negligence as they exist in Kansas today, negligence, however slight, legally bars a recovery for a plaintiff against a reckless and grossly negligent defendant.

Frequently, but not always, by any means, juries, in their painstaking effort to do their duty, *i. e.,* do justice between the litigants, sidestep the plain instructions of the trial court and find that under the evidence there was in fact no contributory negligence—at least none sufficient to bar the plaintiff from a recovery.

The trial judge is then faced with the problem of passing in a motion for a new trial. He has heard all the evidence, and being human (we assume), is impressed with the equity of the jury's decision. If he can keep at least one eye on the justice of the jury's decision while considering what his batting average will be in the supreme court should he approve the verdict and overrule the motion for a new trial, more than likely he will follow the jury's verdict and uphold it.

The tortuous course of the injured claimant has been only half run. The appellate court must, from the cold printed page of the record, many miles from the scene of the accident, view the entire case and ascertain whether it is possible that the jury and even the trial judge were such unreasonable men as to completely ignore contributory negligence of the plaintiff so obvious it can be gleaned from a lifeless printed record.

This may be determined by a four to three or five to four decision of the appellate court, which, by inference, makes some additional unreasonable men.

There is undoubtedly much opposition to the comparative negligence doctrine. Some of it comes from the damage suit specialist who complains that it will substantially reduce the amount of his large jury verdicts. The defense lawyer who spends his time playing golf or addressing civic clubs and who spends little time actually preparing his case for trial, will be opposed because he would be required to make some faithful, energy consuming preparation for the effective defense of a case. Some will oppose it merely because it is a modification of the status quo, and they might have to reëducate themselves on the law of negligence, too arduous a task in these trying times. Some might claim it is impossible to apportion negligence between the parties, or that the rule would be difficult to administer, that the outcome of a case would be subject to the whims, the likes or dislikes of a jury or even the trial court, but this is answered with the assertion that juries have exercised discretion in criminal cases and determined the degree of guilt of a defendant for years, that the admiralty rule as to damages, providing for apportionment of them, has been successfully administered and that neither the state nor the federal courts are experiencing insurmountable hardships in administering the federal employees liability act.

If complaint is made that it is injecting into our Kansas law a doctrine requiring the defining of degrees of negligence, a doctrine firmly rejected years ago, the answer is it has already been done to some extent in the guest statute. Who is there that would repeal this act? Certainly no one who is opposed to a comparative negligence statute.

Forward looking members of the Bar have viewed with alarm the tendency of law business to disappear. In the wake of annual or biennial meetings of legislative and congressional bodies appear new laws, many of which, contrary to the layman's belief, are designed to keep business away from the lawyers and particularly to keep it out of the courts. Some of this legislation even goes so far as to eliminate review or interference by courts. There must be a reason for this, and to say the tendency is "New Dealish" hardly answers the problem. The reason lies deeper than anything that shallow. The rise of workmen's compensation laws, laws to create committees for ascertainment and awarding of damages in automobile accidents, to name a few, indicate a public disgust if not distrust with the lack of facility or the failure of the courts to expedite legal actions which deal with human injury and human suffering and want that inevitably follow. The application of sturdy diligence is required to get a final determination of a personal injury case in less than two years after the injury has occurred. And no great confidence is established in those who might use the court, if at the end of that time, a crippled plaintiff, the jurors who heard and decided the case, the many friends and acquaintances of all these, and even the trial judge, learn that the case has been re-

versed by an appellate court, and not only reversed but because of contributory negligence so obvious it can be easily found by reading the printed abstract of the record, judgment is entered for the defendant and the case abruptly and finally ended.

To say that such procedure in the courts could possibly inspire confidence is to ignore and disdain human nature. No amount of explaining to these laymen in close touch with a case so determined can convince them of the justice and equity of the cause. Especially is this true if the plaintiff failed only slightly to use due care and the negligence of defendant was rank and gross. And pretty speeches by highly ethical, unpstanding members of the Bar Association about the administration of justice will not satisfy the laymen who have followed the case, that justice has been done.

The passage of the law proposed, or one similar, or one as enacted by the state of Georgia, providing that:

"If the plaintiff by ordinary care could have avoided the consequences to himself caused by the defendant's negligence, he is not entitled to recover. But in other cases the defendant is not relieved, although the plaintiff may in some way have contributed to the injury sustained."

would go a long way to remedy this present situation. Trial judges and appellate judges could be relieved from a tremendous responsibility and burden, and in the end a greater degree of justice would be done, and if justice is done, law business is bound to improve with a reëstablished confidence of the fellow most deeply concerned, the layman with a lawsuit.

The existing rule has the effect of putting a premium on carelessness, it does not fairly determine the rights between parties where maximum speed and unlimited output are the watchwords on every hand, and the complexity of modern industrial practices have presented situations and conditions undreamed of by the court which decided the case of the inebriated horseman who galloped into the barrier across the highway and was injured by his own contributory negligence.

The adoption of the comparative negligence rule is but one step toward the improvement of the administration of justice, but it would be a long one. We must, as lawyers, constantly bear in mind that during the last one hundred and fifty years our country has been transformed from a relatively simple society into a highly complex urban and industrial nation. It is not surprising that the forces promoting the administration of justice have failed to keep pace with so rapid an evolution. But failure in the past offers no excuse for stagnation now. Dissatisfaction with our law as administered, according to the late Justice Brandeis, has been due in a large measure to the fact that it has not kept pace with the rapid development of our political, economic and social ideals. We will, as lawyers, either accept this responsibility and modernize our rules and concepts of laws designed to promote justice or we may expect to see further encroachment upon the judicial field by the now despised boards, bureaus and commissions. Or will we spend our time arguing the advantages and disadvantages of a proposed change and worry about how it could affect some particular client who might not like it if such a law is passed?

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