

MOTION DAYS FOR 1950

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FOREWORD

James E. Taylor, whose photograph is the frontispiece of this Bulletin, has been a member of the Judicial Council since 1941. Mr. Taylor, who is engaged in practice at Sharon Springs, and the Honorable C. A. Spencer, Judge of the Twenty-third Judicial District, also a member of the Judicial Council, have spent considerable time and energy in research in connection with statutory provisions and problems relating to probation and parole of persons convicted of violations of the criminal law. Mr. Taylor has summarized a part of the results in an article on "Probation and Probation Officers" printed in this issue. This article and the legislation proposed merit careful reading and consideration. The Judicial Council invites comment.

In accordance with our practice in the past, we also include in this issue the motion days of the district court for the calendar year 1950, as well as a list of the judges and district clerks.

Your special attention is also directed to our request herein, entitled "Shall We Reprint These Articles?"

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Probation and Probation Officers

JAMES E. TAYLOR

Correcting the faults of the administration of justice has always been an aim of the bench and bar of our country. Probation and paroles are not new to the Judicial Council. In December, 1932, the BULLETIN had an article, "Paroles by Judges of the District Courts," in which the following appears:

"Several clerks were unable to give accurate reports because of imperfect records concerning paroles. These figures (referring to paroles granted) do not include except in a comparatively few instances paroles granted by district judges in cases where the conviction or plea of guilty was in a court inferior to the district court, such as a justice of the peace, city or county court. . . . Our inquiries further disclosed that as to fully a third of the persons paroled no attention was paid to the case or to the paroled person after the parole was granted."

At that time the writer of the above article commented that two things attracted attention: First, the lack of records in many instances and imperfect records in others; second, the absence of supervision of the paroled person while on parole. Quoting further the article stated:

"We understand the principal purpose of the parole law is to enable the paroled person to establish himself in industry and good citizenship and to assist him doing so. These purposes are lost when there is no supervision and are partially lost when that is imperfectly done. . . ."

That this problem is of current interest is shown in the feature section of the *Kansas City Star*, October 30, 1949, under a headline: PROBATION IS A METHOD USED TO SAVE MEN AND MONEY TOO." A subheading was, "First offenders in criminal courts are candidates for guidance work which sometimes yields vast benefits to convicted individuals and society."

It would appear that our present system is antiquated and inefficient; it has not protected the public; it has not reformed the criminal and society has not benefited. That no one should criticise unless he can defend the present system, or substitute something that can be considered better, gives rise to this article.

Another matter which would appear to require attention is the matter of some one to check up on the children involved in divorce actions and obedience to decrees in such actions. It is said that most of our criminals come as a result of poor environment; that much of this cause can be traced to broken homes; children who have lacked proper parental care and family life. All of us are familiar with the trial of divorce actions, the awarding of custody of children; yet after the final decree is entered, few lawyers continue to watch the case. They have received their fees, their job is considered completed. Payments for the support of children become delinquent; the parties drift apart; environment goes down in quality; home life is not good. Yet no steps are taken to better conditions because there is no one who has that responsibility or cares.

We realize that there are lawyers who feel that once the action is over, there should not be any one who has authority to go back and make further investigations, or make reports on conditions that may change the custody

of children, order for their support and the kindred orders. Yet, again we are faced with that challenge, to what extent should lawyers help in the administration of justice? If, in the case of a criminal released on probation or parole, it is advisable to supervise him, is there not good sound reason to advocate that there should be some sort of supervision of the divorce action and the children, innocent pawns in a game; see that they do not at some future time become subjects for the exercise of the probationary or parole system of criminal law administration? In other words, might not an ounce of supervision (prevention) prevent the necessity of the pound of cure (the arrest, conviction and probation or parole of an individual later) who has become a delinquent because improperly supervised in the divorce action? Because it is believed that a probation officer or friend of the court can help in these matters, and because there is actual need for such an officer, it is set out briefly here.

It is not intended to discuss parole as it relates to those discharged from a prison or the penitentiary, which have their own system. Rather it is intended to confine this article to cover releases of individuals who have been sentenced to jail for minor offenses, and those who have been sentenced to prison, penitentiary or reformatory but have not yet been committed.

Probation and parole have been and will continue to be used interchangeably. Under the system of courts in Kansas, and the nature of offenses, felonies and misdemeanors, the two of necessity must be used interchangeably. In the federal courts, the strict definition of parole and probation can be used, as they all stem from one court and one type of punishment generally. The probation officer, however, supervises the parolee as well as the individual on probation.

Probation is a suspended sentence. When placed on probation, the offender instead of being sent to or kept in jail, or prison, is released from custody by the court of competent jurisdiction, and is permitted to rejoin his community and family life. While on probation he is governed by similar rules and regulations as govern the conduct of a parolee. The period of probation probably should never exceed, except in exceptional cases, the maximum period of time that would be served under the maximum sentence provided for his crime. Probation will not work where the theory seems to be to release with an admonition, "Go thou hence and sin no more."

Probation has been defined as a method of rehabilitating and redeeming a defendant without sending him to a penal institution. Parole on the other hand, strictly speaking, is the release of a criminal defendant who has served a portion of his sentence. Probation involves imprisonment only when the period of probation fails to correct the criminal, when he can be taken to the place of original confinement to serve out his time. Individuals on probation should escape the contamination of association with hardened or persistent criminals.

Chief Justice Taft in a supreme court decision on probation once wrote: "Probation is the attempted saving of a man who has taken the wrong step and whom the judge thinks to be a brand who can be plucked from the burning at the time of the imposition of sentence."

In probation the attempt is made to rehabilitate an individual through supervision, before he will be permitted to return to his normal way of life,

a free man. Probation naturally involves the postponement of final judgment, allowing the defendant an opportunity to better his behavior and to readapt himself to his community.

Probation has as its primary objective the protection of society against crime. Once a person has been brought to justice, the causes which brought him there, plus the social stigma placed upon him and his baneful experience with ordinary penal agencies make continuation of criminal conduct highly probable unless we can correct him before he serves time. In penal institutions he associates with hardened felons who soon deprive him of fear, threat or experience of punishment, and he is not cured.

To seek a better solution probation came into being. It is a post-judicial treatment before commitment or incarceration, and is an extension of the power of the court over future behavior and destiny of a convicted man. Opportunity is given for the individual offender to improve his conduct and adjust himself under the guidance of one who has his best interests at heart. Probation blots out to some extent the stigma of actual imprisonment. Basically, probation is intended to reinforce a weak or erring person by correcting his faults and in a tender manner help an erring individual to reform.

Under the system being advocated, broad discretion should be lodged in our courts as to length of time on probation and conditions of release, based upon complete and reliable information concerning the individual's prior background, and plans for his future made. There should be extreme care used in selection of individuals for probation, and probation must be operated in a businesslike manner with sympathy reinforced with a knowledge of correcting the cause.

Contrast this with the usual system found in Kansas. The individual charged with an offense is brought before the judge; there is a brief discussion, and an individual goes on probation or parole. Usually you will find that a deal has been made for a plea of guilty to a lesser offense and a parole. Such a prisoner does not realize the significance of what has happened. If his case had been referred to an individual for investigation, his life history searched and his plans for the future discussed, he would have a realization of the serious situation he is in; he would learn that it was up to him to make good, or failing be sentenced to confinement as originally provided. If sentence were imposed, he should have no bitterness towards society because he will have been given fair consideration.

Historically, parole or probation or suspended sentence is referred to in the common law or the King's court, as "benefit of clergy." Space will not permit discussion of the history to any extent; suffice to say that the program became extended to individuals; and in 1827 the English parliament abolished the practice. The majority of our courts have held that probation or suspended sentence did not belong to them unless set up by statutory enactment.

The earliest act in the United States was in 1878 when the Massachusetts legislature granted power of parole or probation to the courts of Boston; in 1880 the practice was extended to other cities in that state and eventually it was granted to all courts in Massachusetts. It was not until about 1899 that this system spread to other states; then followed quite an extension of the

same, and then it dropped off, but late years have seen an influx of laws seeking to do what is being advocated in this article.

In 1907 Kansas enacted our first parole or probation statute, and with very few changes it has remained to the present and may be found as 1935 G. S. 62-2201, *et seq.* Our system does not provide any power of pretrial investigation, and there is no post-trial supervision, except that under 1947 Supp. 20-2301, and 20-614A, the multiple judge districts, Shawnee, Wyandotte and Sedgwick, have power to establish a parole officer system. Of the three, Sedgwick county has been using the law extensively.

Are there conditions in Kansas which will justify a study of our parole and probation statutes? How many are paroled annually? How many violate the parole? Since 1927 the Kansas Judicial Council has compiled statistics on our criminal activity in the several courts, the nature of the offense, number of cases disposed of, how disposed of, number released on parole, etc. The word parole as used in those statistics is in the narrow or technical sense. A summary as to certain four year periods picked at random, but successively, is attached as a part of this article.

The table will disclose that an average of 3,004 criminal cases are disposed of annually in the Kansas district courts; that of this number there are an average of 1,422 individuals who enter a plea of guilty; and that 229 will be convicted upon trial; and of the number an average of 653 are paroled. In the year ending July 1, 1949, there were 4,518 criminal cases in county courts, and of this number 407 were placed on parole. In the city courts, there were 6,780 criminal cases, and 1,096 were granted paroles. There do not appear to be reliable figures on the number who are convicted before justices of the peace. How many were released from jails because unable to pay fine and costs under the provisions of 1935 G. S. 62-1515 by the board of county commissioners we do not know.

It will be noticed that almost forty percent of those who entered pleas of guilty or were convicted by a jury, received parole. Except as set forth above where 1947 Supp. G. S. 20-2301 and 20-614A are applicable, there was no investigation to speak of before release, and certainly none afterwards.

An over-all picture of the federal courts can be had by resort to the 1948 annual report of the Director of the Administrative Office of the United States Courts where it is shown that there were 22,278 probationers; 6,470 parolees and 2,463 prisoners on conditional release. The personnel to supervise these were 285 probation officers and 197 clerk stenographers. This means that each probation officer was responsible for an average of 114. The enforcement officers familiar with the federal probation system sing its praises very highly.

Violations are shown in the same volume to be for probationers, 11.8 percent; for parolees, 15.3 percent; and for prisoners on conditional release, 14.5 percent. Since 1941 somewhat more than seven-eighths of the probationers whose cases had been terminated had fulfilled the terms of their probation to the degree that they had avoided any record of conviction.

Frequent reference is found to a statement of Winston Churchill uttered some years ago that merits inclusion at this point, viz:

"The mood and temper of the public with regard to the treatment of crime and criminals is one of the most unflinching tests of the civilization of any

country. A calm, dispassionate recognition of the rights of the accused, and even of the convicted criminal against the state, a constant heart searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry those who have paid their due in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerative processes, unflinching faith that there is a treasure if you can only find it in the hearts of every man. These are the symbols which in the treatment of crime and criminal mark and measure the stored up strength of a nation and are signs and proof of the living virtue of it."

Probation properly administered has been said to be a milepost in the progress of individual treatment of criminals based upon the right of court to suspend sentence. Yet in a sense, probation is also a sentence. Generally the court suspends the sentence with requirements of conduct and restrictions as to future conduct, which if violated, will cause the individual to be confined under his original sentence. Probation is intended to surround those who stray from law with a wholesome, healthy way of life. It appears that one-half of our jail population is between the ages of 14 and 25. The idleness, impure air, filthy cells, unclean conditions and poor food, reduce the prisoner's vitality and make him a fit subject unable to take his place in society under normal conditions when released.

It is believed that probation should be a local responsibility under state-wide control and financing and supervision. In the April, 1936, JUDICIAL COUNCIL BULLETIN, at pages 37-38 commenting on a proposed compact for the uniform coöperation of states of individuals on parole, it is stated:

"Such act and compact will effectuate the prime purpose of probation and parole, to-wit, rehabilitation to good citizenship of the person convicted. From the standpoint of the convicted person, obviously this can be better accomplished under proper supervision among home surroundings rather than among strangers. From the standpoint of the authorities of the state where such person resides has a greater responsibility for his conduct and consequently his supervision than the state to which he goes to commit the crime."

Should this not also apply to criminals within the state?

In the ensuing legislative session, 1937, the uniform compact on supervision of individuals on probation was adopted, and appears as 1947 Supp. G. S. 62-2701. However, didn't the legislative session stop too soon? There is no provision in our statutes for supervision of our citizens who are returned here. The act is a good one; but it is like erecting a building, then letting it stand idle.

All individuals who have studied this problem agree that the first essential is presence investigation. How can a busy trial judge procure facts on which to pass an intelligent decision on the question, "Is this defendant worthy of probation?" This pretrial investigation requires trained profession, full time, career individuals. Many of our leading legal firms have trained investigators to gather facts for the trial of their lawsuits. Should not our trial judges have just as good investigators to determine whether an individual shall be released on parole or probation?

Our probation system can be supervised under state control and direction, and we will be assured of uniformity of operation. The district judges have their judge's association, which holds regular meetings; they discuss their problems, and certainly the power of parole and probation and selection of probation officers should be lodged with the organization as a unit setting up

the rules and regulations necessary for its success. Judges have seen from the bench many individuals convicted of crime. They are impartial individuals seeking to see justice done. Their experience and impartiality enable them to select better qualified individuals to supervise probationers. As far as possible, probation should be free from political influence or pressure.

The model act of the National Probation Association recommends that the administration of parole and probation where possible should be combined. However, the probation problem as to juvenile courts should be left lodged in the probate or juvenile court as it now is. The juvenile problem is different in that it is a problem of the adolescent in his formative age; the parole and probation problem in other courts deals with that failure and the eternal hope that we can still make the individual useful to society.

In this connection we wish to quote from the comment of Lewis J. Grout, probation officer of the federal government for Kansas City, appearing in the *Kansas City Star* article above referred to, "Probation is like a family doctor in a way. The damage is always done before the patient reaches our office; we have to take a subject who has all the symptoms of the criminal, even the background that makes the ordinary criminal in most cases, and bring him successfully to the life of a normal man. We can't give the man a new boyhood in a home where crime would be improbable. We can hardly teach him a skill that will assure him a good living for the rest of his life."

To make the system work, there should be uniform standards of administration; the probation officer's tenure should be stable; there should be adequate pay; provision should be made for refresher courses and continued schools of study; all of which can make for uniform operation. The officer should have tact to the nth degree, education and training, with a full knowledge of social study. Failure in probation can be charged to lack of understanding and inefficiency of supervision. Probation is in effect "constructive criminology."

If there is to be a presentence investigation, what will be done with the prisoner? Some say continue him under bail bond; others say confine to jail pending report upon the theory that a taste of imprisonment will make him appreciate the situation more.

A presentence investigation takes time, and to that extent delays justice. It should be able to be completed within a reasonable time, say ten days at the outside. If this enables us to restore a man to a useful place in society, the delay in administration of justice will be justified. If refused, the institution where he will be sent will have the benefit of an investigation which will enable them to work out his salvation if possible. It will enable our indeterminate criminal law to work to its fullest extent.

The pretrial or presentence investigation should include at least the following (1) search for previous criminal record; (2) examination of the social history of the individual; (3) inquiry as to his activity and standing in his community; (4) standing amongst associates; (5) physical and mental examinations should be made; (6) his associates and their attitudes; (7) tentative plans for employment and his future should be discussed; (8) any other matters which the investigation discloses should be looked into. Then the officer should put the findings down as he finds the facts; if there are rumors they should be so shown; and the report should be a full, complete and unbiased

statement of the facts as found. Any opinions or recommendations should be set down for what they are, and not as findings of fact.

In any discussion of parole or probation, the question naturally arises who should be granted these rights, or either of them. Kansas started out in 1907 with a statute appearing substantially the same as 1947 Supp. G. S. 60-2203 which excepted from the operation of the statute, murder, forcible rape, arson, robbery, burglary, larceny of certain motor vehicles and livestock. The 1949 legislative session enacted Ch. 324, Laws 1949, which excepts offenses where the punishment is death or life imprisonment. How long on parole should also be determined; the present 1949 enactment says five years; the provisions of 1935, G. S. 62-2209 that was not repealed say ten years. Again there is a difference of opinion, yet how can an ordinary layman, with no experience with criminal offenders, say that one person who commits a grievous offense will respond less to probation than one who commits the lesser?

Again under the new act persistent violators probably are eligible for parole or probation when they were not under the former act, unless their conviction would carry life imprisonment. Yet this 1949 act still has the same defects that have existed before, there is no pretrial or presentence investigation, and there is no post-trial supervision; both of which are essential elements to a successful system.

It is said that ninety-five out of every one hundred individuals sentenced to confinement in jails or prison will some day be released, it can be seen that probation is an important step to rehabilitate in the normal way of life. It is meant by this statement that some day all but five out of every hundred individuals sentenced to confinement will some day be released either because they served their time, were paroled or released otherwise.

Probably most individuals convicted of crimes are not criminal in the sense that they are unable to live within the limits of law; rather they are unfortunate individuals who commit an offense upon the spur of the moment, are caught and arrested for their first offense. First offenders without regard to the type of crime should be fair risks for probation; they have not been embittered by long time in jail; they do not have the resignation to a life of harassment by police that marks persistent violators. The probation officer has the duty of erasing in some manner the undesirable factors in a man's life that caused him to commit the offense convicted of.

Supervision of the individual requires some discussion. What conditions, how long a time, and related matters. Since to make probation work requires individualized attention, the program should be administered under a general framework, and not under a rigid statutory program. Thus changes can be made to fit the individual case. No one can say that what will deter one individual is proper for another. Our aim should be to rehabilitate individuals under conditions that will cause him never to think even remotely of violating a statute again.

Some states, however, follow the theory of covering everything under a statutory enactment, and where that is found, the following conditions are incorporated to a more or less extent, viz: (1) Avoid persons or places of disreputable or harmful character; (2) make regular reports; (3) shall be visited at regular intervals by the probation officer; (4) provide for visitation in the home and neighborhood of the probation officer; (5) work faithfully at suitable employment insofar as possible; (6) remain within a specified territory;

(7) make reparation or restitution to the aggrieved person for damages or loss caused by his offense to such an amount as may be fixed by the trial court; (8) refrain from the use of intoxicating liquors and use of drugs; (9) support his legal dependents to the best of his ability and provide them with the necessities of life. There could be many more conditions for the particular case, yet is it not better to meet them when they arise rather than to seek to anticipate every possible situation?

The supervision on parole is the testing ground of the program. This phase disciplines the individual; rehabilitates him; enables the man to contribute to the upbuilding of his community; and should engender in him a desire to make his community a better place by taking his place in society. There has to be intelligent guidance of the offender, or all that is sought will fail. It is necessary to change a pattern of life, long accustomed to and may require transfer to a different community and a change of life work. You cannot change antisocial habits overnight.

Yet society and the community has a place in this program if it is to work. No community should shirk its responsibility to its citizens to hold crime at a minimum, and to adjust individuals to a better way of life. The community's accountability includes clean and healthful outlets for recreation, excellent citizenship, superior religious and educational advantages, good government, adequate housing and an opportunity to earn a good living.

Always there is the problem of how many will be required to supervise the program. Some who will be on probation will require very little supervision, others will require almost constant surveillance. The federal courts use one supervisor to an average of about 114 individuals.

Under our present system, an individual released on parole is not supervised, and if he should violate his parole, there is no one to make the complaint, and no one to lodge it, unless he should violate the statute and be caught.

Our statistics that have been compiled do not disclose how successful probation or parole is. The tables above referred to show some of the success. The federal publication referred to before has compiled statistics insofar as the federal program is concerned; certainly our citizens will rank as high or better than the average of the United States as a whole.

In the use of figures again we must consider the basis used. There appear to be two bases for arriving at percentages of those who violate the probation or parole conditions. One basis used to determine the percentage of violations has been to consider only those granted paroles in any one year and who have violated it. The other is to take the proportion of offenders of each class whose supervision was terminated during the year and compute the percentage of violations in relation to that number. Under the first method, the figures are approximately five percent; but under the latter the percentage will range from 8.3 percent to 15.3 for the years of 1941 to 1948 in the federal courts.

Always to be considered is the matter of cost of any governmental program. This is justifiably so, as it is essential that our citizens receive full value for the taxes they pay to keep the system going. In the federal publication referred to herein, it is found that the 1948 cost to the United States government was a daily cost for each individual on probation or

parole of sixteen cents per person; as compared with \$2.98 for those imprisoned. This is an annual difference between probation and imprisonment of \$1,029. The figures speak for themselves.

There is another viewpoint to be considered as to cost not reflected in the above. The man on probation is earning a living; he is supporting his family and dependents; keeping them from being public charges. The above federal report stated that the 1948 average income of the men on probation was \$1986.

Since our present plan has been criticised and a change advocated there is attached as a part of this article a proposed statute incorporating the features set forth above. It is not claimed to be perfect; but it seeks to incorporate the theory of presentence investigation and post-trial supervision of individuals who have strayed, and it is believed to be a step forward in the administration of justice. As Attorney General Cummings once stated, "If probationers are carefully chosen and the supervisory work is performed with intelligence, and understanding, we can work miracles in rehabilitation."

TABLE SHOWING CRIMINAL CASES IN KANSAS DISTRICT COURTS AS WHOLE

Year	Total cases	Guilty pleas	Guilty verdicts	Paroles granted
1928.....	3,619	1,654	396	573
1929.....	4,584	1,359	387	650
1930.....	4,098	2,003	334	729
1931.....	4,647	2,299	398	728
1938.....	2,930	1,609	203	709
1939.....	2,659	1,431	203	649
1940.....	2,678	1,404	177	765
1941.....	2,506	1,163	160	516
1946.....	1,691	841	139	528
1947.....	1,997	1,016	93	628
1948.....	2,301	1,149	107	696
1949.....	2,348	1,159	150	660
Total.....	36,058	17,087	2,747	7,831
Average.....	3,004	1,422	229	653

NOTE: Year represents the figures for year ending on July 1st of year shown. Parole refers to those discharged on cases commenced and terminated in the district court.

SUGGESTED PAROLE AND PROBATION ACT

AN ACT providing for suspended sentence and probation in felony cases, and paroles in misdemeanor cases, for parole officers and their duties, rules or procedure, and repealing sections 62-2201 to 62-2214, both inclusive, of the General Statutes of 1935.

Be it Enacted by the Legislature of the State of Kansas:

SECTION 1. PROBATION AND SUSPENSION OF EXECUTION OF SENTENCE. The district courts, county courts and other courts of record of this state having original jurisdiction of criminal offenses, except juvenile courts subject to the conditions hereinafter provided, may suspend execution of sentence and place on probation any person convicted of crime in any court exercising criminal jurisdiction.

SEC. 2. PAROLEABLE OFFENSES. The court having jurisdiction of the offense charged shall have the power to suspend the execution of sentence imposed

upon any person after conviction or plea of guilty for any crime or offense not punishable by death or life imprisonment. No parole, probation or suspended sentence shall be granted in any case in which the defendant has previously been convicted and sentenced in any jurisdiction for the commission of any felony where the minimum penalty would be more than five years. Except as above provided district courts, county courts or other courts of record having jurisdiction of the criminal offense charged, after a plea of guilty or after final verdict of guilty by a jury or court may suspend execution of the sentence and place the defendant on probation in accordance with the provisions of this act.

SEC. 3. PROCEDURE IN COURTS NOT HAVING POWER OF PAROLE OR PROBATION.

Where the court imposing punishment is not a court of record, or is a justice court or a city court not having the power of parole or probation by statute, such court shall have no power to suspend the execution of sentence, provided, however, that if request is made in writing by the defendant for the benefits of probation or parole, such court shall stay further proceedings and certify the complaint, warrant and copy of its judgment to the district court of the county having concurrent jurisdiction, of the offense, which court upon the filing of such transcript shall proceed in the same manner and under the same conditions as if such conviction had been had originally in such district court.

SEC. 4. PROCEDURE. It shall be the duty of the judge of the district court or of the county court or other court of record where such court has original jurisdiction upon written application for the benefits of this act, as soon as may be practicable, having in mind the interests of public justice to hold a hearing under such rules and in such manner as the district court or the supreme court may prescribe by rule, and determine whether the defendant shall have the benefits of probation and the action of the court in granting or refusing the same shall not be reviewable.

SEC. 5. BOND. If any defendant who makes application for the benefits of probation be under bond, such court may continue the bond in effect or require a new bond for appearance at such time and place as may be fixed.

SEC. 6. PROBATION DISTRICTS. Each judicial district within the state of Kansas shall for the purpose of this act constitute a separate probation district. Each judge of such district may appoint some suitable qualified person to act as parole officer to handle the matter of paroles and probation or suspended sentence and to make investigations and supervise persons on parole or probation in accordance with the terms of this act and the intent thereof. Deputy probation officers may be appointed by said judge if deemed necessary.

SEC. 7. INVESTIGATION. No application for parole or suspended sentence or probation shall be heard by any court until after the probation officer provided for by this act shall have made a full investigation and made report to the court in writing of the circumstances of the offense, the criminal record, if any, social history and present conditions of the defendant, and such other matters as may be required by the court. Upon the filing of the application for the benefits of this act, the court before whom pending shall continue the hearing to such time as may be advisable; such hearing may be had in chambers or at any suitable place as may be designated by the court. If parole, suspended sentence or probation be not granted, and conviction carries com-

mitment to some state penal institution, a copy of such proceedings shall be furnished to the warden of such institution.

SEC. 8. CONDITIONS OF PAROLE OR SUSPENDED SENTENCE. The court, if suspended sentence, probation or parole be granted, determines the terms and conditions thereof, in accordance with rules of court fixed either by the district court or the supreme court of Kansas. The terms and conditions of such parole, suspension or probation may be altered at any time with or without notice as the court may determine.

SEC. 9. DUTIES OF PROBATION OFFICERS; RECORDS. The probation officer shall investigate all cases referred to him by any court and shall make his report in writing to the court having jurisdiction of the offender, and also to the sheriff and county attorney of said county. The probation officer shall furnish to each person released on probation, suspended sentence or parole, a written statement of the conditions of the same and shall carefully explain the same. The probation officer shall supervise all persons on parole or probation within his district; shall keep detailed records of such supervision; shall use all practicable and suitable methods to aid and encourage in the reformation of the person on parole or suspended sentence or probation. The probation officer provided for herein shall in the execution of his duties have the power of arrest for violation of the conditions of parole, suspended sentence or probation: *Provided, however,* That all reports, records and data assembled by any probation officer shall be considered privileged communications and shall not be available to public inspection except under the order of the court to which referred for good cause shown: *Provided, however,* That the defendant and his counsel shall have access to the same upon written application therefor.

SEC. 10. TRANSFER OF INDIVIDUALS ON PROBATION OR PAROLE. Whenever a person placed on probation, parole or suspended sentence resides in another district or removes to some other district such court may transfer such person to the probation officer of such district who shall have the same powers of supervision as if granted to him originally: *Provided,* Such transfer is made upon written application; but the court of original jurisdiction shall not lose jurisdiction of the same.

SEC. 11. TERMINATION OF PROBATIONARY PERIOD; ARRESTS; SUBSEQUENT DISPOSITION. The period of probation or suspension of sentence shall be determined by the court but shall not exceed a period of ten years; and the court may at any time that it is satisfied that the purpose of the parole or probation has been served or for good cause shown, discharge the prisoner prior to such time and all of his civil rights shall be restored to him at the time of final discharge. Any probation officer or peace officer having the power of arrest may arrest a violator without warrant provided such officer has been furnished a written statement by the probation officer showing violation of the same, setting forth the nature of such violation, and such statement shall be sufficient warrant to detain such individual in a jail until he can be brought before the court of original jurisdiction for further proceedings in accordance with the rules promulgated by the district or supreme court. Such probation officer shall make a full and complete report in the same manner and under the same condition as if investigation for original release.

SEC. 12. COSTS AND FEES. Each person to whom a parole, suspended sentence or probation is granted shall pay such costs and expenses as the court may determine to be proper.

SEC. 13. OTHER DUTIES. The parole or probation officer provided for herein if ordered by the judge of the court appointing him shall perform such other and further duties looking towards the administration of justice as the court may deem proper, including but not limited to acting as bailiff in said district; to investigations of such matters as the court may direct; the supervision of children where custody is subject to the jurisdiction of the court, obedience to orders of the court, make proper reports concerning the fulfillment of orders in divorce actions and such other proceedings in said court as may require supervision.

SEC. 14. JURISDICTION. The judge of the district court shall have the power to perform any of the duties herein provided for at any place in his district or in chambers, as to him may seem proper to carry into execution the intent of this act.

SEC. 15. PAYMENT OF SALARY. The probation officers provided for herein shall be paid an annual salary of \$2,400 in monthly installments in the same manner as other claims against the state are paid. If there is insufficient work to keep a full time parole officer, the court shall fix a per diem not to exceed \$10 per day for each day he performs services. Reasonable expenses while away from place of residence shall also be paid. The parole or probation officers provided for herein shall be officers of the court and shall not be subject to the provisions of the civil service act.

SEC. 16. JUVENILE AND OTHER COURTS. Any and all courts which now have the power of parole or probation or suspended sentence shall continue to exercise such rights as they now have as relates to such matters in their court, it being the intention that this act shall be supplemental to and not a repeal of any act not herein expressly repealed.

SEC. 17. REPEAL OF STATUTES. Sections 62-2201 to 62-2214, both inclusive, of the General Statutes of Kansas 1935 are hereby repealed.

SEC. 18. EFFECTIVE DATE. This act shall take effect and be in force from and after its publication in the official statute book.

Shall We Reprint These Articles?

In the April, 1949, BULLETIN we called attention to the fact that our supply of the following Bulletins has been exhausted:

July, 1933, containing Synopsis of Supreme Court decisions relating to eminent domain, by Franklin Corrick.

July, 1935, containing article on the Kansas Law of Homestead, by James W. Taylor (now practicing in Kansas City, Missouri).

April 1946, containing certain probate forms assembled under the heading of "In re: John Doe and Richard Roe, deceased," by Randal C. Harvey.

At that time we stated that the Council will consider the revision and reprinting of any of the articles from these Bulletins if there is sufficient demand for such reprinting.

We have received a few letters in response to this inquiry, but the expense of reprinting is quite substantial and we wish to know whether the demand is sufficient to justify the expense.

We hope that our readers will write if they think any of these articles should be reprinted in future Bulletins.

MOTION DAYS IN DISTRICT COURTS—1950—CONTINUED

(Please see notes on page 129)

Country	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	21	18	10	3	22	3	16	5	2	4 13
Clark	Ashland	Karl Miller	Hope Grimes	31	5 ^a	9 ^a	9 ^a	6 ^a	4 ^a	8 ^a	7 ^a	5 ^a	9 ^a	7 ^a
Clay	Clay Center	Edgar C. Bennett	Hazel K. Chestnut	21	4	8	6	5	10	5	7	4	6	6
Cloud	Concordia	W. D. Vance	Floyd R. Turner	12	2	8	8	3	2	7	25	17	21	19
Coffey	Burlington	Jay Sullivan	Mrs. Ruth H. Johnson	5	30	27	27	24	29	26	25	30	27	26
Comanche	Coldwater	Karl Miller	Mrs. Mabel Chamness	31	4 ^d	8 ^d	8 ^d	5 ^d	3 ^d	7 ^d	6 ^d	4 ^d	8 ^d	6 ^d
Cowley	Winfield	Albert Faulconer	Sallie K. Smith	19	2 16	6 20	6 20	3 17	1 15	5 19	4 18	2 16	6 20	4 18
Crawford Girard Div. Pittsburg Div.	Girard	Leland M. Resler	Mrs. Grace Webb	38	0 16	6 20	6 20	2 17	1 8	5 12	4 18	2 16	13 20	4 18
Decatur	Oberlin	Robert W. Hemphill	Mrs. Alice J. Vernon	17	19	16	8	11	8	1	14	3	3	13
Dickinson	Abilene	James P. Coleman	Seth Barter, Jr.	8	2	1	1	4	15	1	11	5	6	1
Doniphan	Troy	John L. Gernon	Virgil Begesse	22	25	23	22	19	17	7	20	18	22	20
Douglas	Lawrence	Hugh Means	Mrs. Mary Ellen Simmons	4	7	6	4	8	1	24	9	7	6	2
Edwards	Kinsley	Lorin T. Peters	J. Stoner	33	4e	13e 8e	8e	5e	1e 1e	7e	6e	23e 4e	8e	6e
Elk Div. No. 1 Div. No. 2	Howard	Carl Ackerman W. N. Calkins	Frank A. Force	13	2	2	14	6	1	6	18	3	2	7

MOTION DAYS IN DISTRICT COURTS—1950—CONTINUED

(Please see notes on page 129)

Country	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Ellis	Hays	C. A. Spencer	J. T. Stroemel	23	9	6	13	12	15	12	13	16	13	13
Ellsworth	Ellsworth	A. R. Buzick	J. M. Wilson	30	23	13	1	17	16	2	2	2	6	9
Finney	Garden City	Ray H. Calihan	G. Mae Purdy	32	9	3e	3e	6e	8	6e	25	4e	3e	6e
Ford (Note 10)	Dodge City	Karl Miller	Elta J. Riley	31	6a	3a	3a	7a	5a	2a	1a	6a	3a	1a
Franklin	Otaawa	Hugh Means	Christina Woke	4	2	2	3	3	5	23	11	6	3	4
Geary	Junction City	James P. Coleman	C. W. Marston	8	4	2	6	5	2	5	6	3	13	5
Gove	Gove	C. A. Spencer	Mrs. Louise Brown	23	11	16	20	10	6	19	11	23	20	11
Graham	Hill City	W. K. Skinner	Cora A. Roberts	34	4	6	15	11	8	2	18	11	14	2
Grant	Ulysses	F. O. Rindom	Betty Teegerstrom	39	4d	7d	7a	10a	2d	6d	14a	3d	6d	4a
Gray	Cimarron	Karl Miller	Tressie Johnson	31	3d	7d	7d	4d	2d	6d	5d	3d	7d	5d
Greeley	Tribune	Ray H. Calihan	Laura M. Holmes	32	3e	13	1e	3e	1e	1e	18e	16	1e	1e
Greenwood Div. No. 1 Div. No. 2	Eureka	Carl Ackerman W. N. Calkins	Alma Long	13	16	10	7	6	15	8	7	9	9	19
Hamilton	Syracuse	Ray H. Calihan	Amelia J. Minor	32	5e	27	1c	3c	3e	5e	20e	23	1c	1c
Harper	Anthony	Clark A. Wallace	Roland N. Snair	24	9	9	9	10	11	19	7	9	8	6
Harvey	Newton	George L. Allison	Mrs. Mabel A. McMullen	9	26	13 23	23	27	8 23	22	21	26	13 23	21
Haskell	Sublette	F. O. Rindom	Mrs. Evelyn Yount	39	4a	7a	13a	4a	2a	6a	18a	3a	6a	13d

MOTION DAYS IN DISTRICT COURTS—1950—CONTINUED

(Please see notes on page 129)

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

MOTION DAYS IN DISTRICT COURTS—1950—CONTINUED

(Please see notes on page 129)

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

MOTION DAYS IN DISTRICT COURTS—1950—CONTINUED

(Please see notes on page 129)

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Ottawa	Minneapolis	A. R. Buzick	A. H. Finley	30	9	7	3	3	12	7	1	23	27	19
Pawnee	Larned	Lorin T. Peters	Rose Wood	33	23d 3d	7d	7d	10d 4d	3d	6d	5d	9d 3d	7d	5d
Phillips	Phillipsburg	Robert W. Hemphill	Gene Britt	17	17	6 14	7	13	1	6	12 18	6	4	12
Pottawatomie	Wamego	Robert H. Kaul	Lloyd W. Hope	36	12	9	9	4	4	8	5	5	9	5
Pratt	Pratt	Clark A. Wallace	Verna J. Barber	24	6	10	13	7	15	2	11	5	13	8
Rawlins	Atwood	Robert W. Hemphill	Mrs. Louise Portschy	17	20	17	9 20	12	15	2	15	4	1	14
Reno	Hutchinson	Franklin B. Heflinger	G. R. Williams	40	6 13 20 27	3 10 17 24	3 10 17 24	7 14 21 28	5 12 19 26	2 9 16 23	1 8 15 22 29	6 13 20 27	3 10 17 24	1 8 15 22 29
Republic	Belleville	W. D. Vance	Warren A. Scott	12	3	6	7	5	1	6	27	16	22	20
Rice	Lyon	Roy J. McMullen	Laura Saint	20	3	1	2	4	3	1	5	4	2	5
Riley (Note 7)	Manhattan	Edgar C. Bennett	Joseph F. Musil	21	2	10	8	3	12	7	5	6	8	4
Rooks	Stockton	W. K. Skinner	George F. Craue	34	9	13	14	10	1	1	4	12	13	1
Rush	La Crosse	Lorin T. Peters	Mrs. Gladys D. Peterson	33	9e 3e	7e	27e 7e	4e	3e	6e	25e 5e	3e	7e	5e
Russell	Russell	C. A. Spencer	George W. Brandt	23	2	14	14	13	1	13	14	2	14	14
Salina	Salina	A. R. Buzick	Robert H. Lively	30	3	1	13	7	11	6	11	7	4	4

MOTION DAYS IN DISTRICT COURTS—1950—CONTINUED

(Please see notes on page 129)

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Scott	Scott City	Ray H. Callihan	Nellie Scheuerman	32	4c	2c	2c	10	2c	2c	19c	3c	2c	11
Sedgewick	Wichita	Ross McCormick William Vertz Clair E. Robb George Austin Brown	L. D. Leland	18	5-19 6-20 12-26 13-27	2-16 3-17 9-23 10-24	2-16 3-17 9-23 10-24	6-20 7-14 13-27 7-21	4-18 5-19 11-25 12-26	1-15 2-16 8-22 9-23	7-14 1-15 7-21 8-22	5-19 6-20 12-26 13-27	2-16 3-17 9-23 10-24	7-14 1-15 7-21 8-22
Seward	Liberal	F. O. Rindom	Mrs. Mary Lindley	33	9a	18a	18a	17a	20a	17a	16a	9a	18a	16a
Shawnee	Topeka	Beryl R. Johnson Paul H. Heinz Dean McElhenry	Mrs. Lucille M. Carter	3	6 27 13 20	17 3 24 10	10 31 17 28	21 31 7 14	12 23 19 5	2 23 30 16	15 27 1 8	6 27 13 20	17 3 3 10	8 29 15 22
Sheridan	Hoxie	W. K. Skinner	Nannie E. Adams	34	5	27	16	12	15	5	11	2	15	4
Sherman	Goodland	W. K. Skinner	Sylvia R. Riley	34	7	15	17	3	9	12	13	9	20	6
Smith	Smith Center	W. R. Mitchell	Mrs. Lucille Figg	15	4	2	27	12	10	19	20	19	9	4
Stafford	St. John	Roy J. McMullen	Mrs. Wanda T. Langdale	20	4	7	1	5	2	7	6	3	1	6
Stanton	Johnson	F. O. Rindom	Tina B. Wilson	39	5a	27a	7d	4d	3a	7a	11a	4a	8a	12d
Stevens	Hugoton	F. O. Rindom	John F. Fulkerson	39	23a	20a	27a	5d	9a	13a	14d	23a	9a	13a
Sumner	Wellington	Wendell Ready	Laura McCormick	25	3	7	7	4	2	6	12	3	7	5
Thomas	Colby	W. K. Skinner	Mrs. Winifred Van Horn	34	6	14	20	13	22	6	12	10	6	5
Trego	Wakeeney	C. A. Spencer	D. E. Cypher	23	10	13	6	11	8	5	12	7	6	12

MOTION DAYS IN DISTRICT COURTS—1950—CONCLUDED

Please see notes below

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Wabunsee	Alma	A. K. Stavely	Mrs. Eva Dorman	35	3	7	7	4	2	6	5	3	6	5
Wallace	Sharon Springs	C. A. Spencer	Ida Ward	23	13	18	24	17	27	15	18	24	17	18
Washington	Washington	W. D. Vance	Mrs. Alta Hennon	12	4	7	6	4	3	5	26	18	20	18
Wichita	Leoti	Ray H. Calihan	Daisy Dickey	32	3c	1e	2e	24	1c	1c	18c	2e	2e	18
Wilson	Fredonia	B. M. Dunham	A. G. Green	7	2	2	2	3	4	1	4	5	2	7
Woodson	Yates Center	Wallace H. Anderson	Mrs. Maudie Beckett	37	4	7	7	4	23	6	12	17	7	12
Wyandotte	Kansas City	E. L. Fischer	Richard D. Shannon	29	7	4	4	1	6	3	11	7	4	2
Div. No. 1		Willard M. Benton			14	11	11	8	13	10	9	14	11	9
Div. No. 2		Harvey J. Emerson			21	18	18	15	20	17	16	21	18	16
Div. No. 3		Russell C. Hardy			28	25	25	22	27	24	23	28	25	23
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 regular term of court.

Note 2.—In Shawnee county the schedule continues through July and August as follows:
 Division No. 1.—Judge Beryl R. Johnson; July 14 and August 4 and 25.
 Division No. 2.—Judge Paul H. Heinz; July 21 and August 11.

Note 3.—In Norton county August 28 is motion day.

Note 4.—Wyandotte county has a regular motion day in four divisions, 1, 2, 3 and 4.
 Division No. 1.—Judge E. L. Fischer; July 1.
 Division No. 2.—Judge Willard M. Benton; July 8.

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 6 and 20 and August 3 and 17.
 Division No. 2.—July 7 and 14 and August 4 and 18.

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 3 and August 1; Galena Division—July 6 and August 3.

Note 9.—Regular motion days shall run through July and August as follows:
 Bourbon—July 7-14-21-28; August 4-11-18-25.
 Miami—July 18-25; August 1-15-29.
 Limb—July 27; August 10-24.

Note 10.—Ford county has regular motion days every Friday at 10:00 a. m. with the exception of June 16, 23 and 30.

Division No. 3.—Judge Dean McElhenny; July 7 and 28, August 18.

Division No. 3.—Judge Harvey J. Emerson; July 15.
 Division No. 4.—Judge Russell C. Hardy; July 22.

Division No. 3.—July 13 and 27 and August 10 and 24.
 Division No. 4.—July 7 and 21 and August 11 and 25.

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I. M. PLATT. (1943-1945).....	Junction City
CHARLES VANCE. (1945-1947).....	Liberal
DALE M. BRYANT. (1947-1949).....	Wichita

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