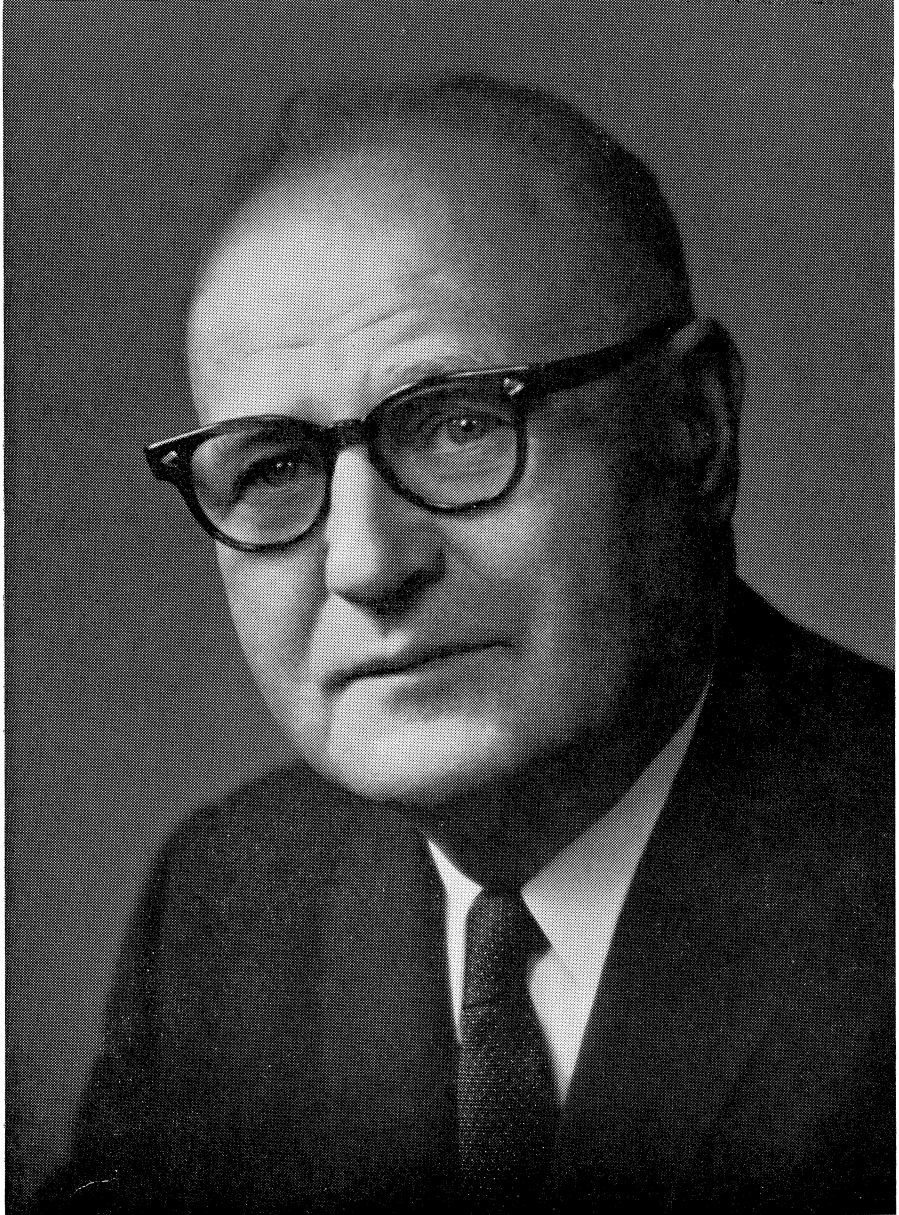


MOTION DAYS

KANSAS JUDICIAL COUNCIL BULLETIN

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PART 4—THIRTY-THIRD ANNUAL REPORT



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Chief Justice, Supreme Court of Kansas

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FOREWORD

In the April, 1948, issue of the BULLETIN appeared the article "Adventures in Democracy," written by Justice Jay S. Parker of the Supreme Court of Kansas. In view of present-day world events, we feel that the subject and contents of the article bear reprinting now, almost twelve years later.

Judge Parker is a native of Graham County, and attended the public schools of Hill City. He was graduated from the law school of Kansas University in 1918, and began the practice of law at Hill City. After serving as county attorney of Graham County, he accepted an appointment as assistant attorney general of Kansas. He was elected attorney general in 1938, and after serving two terms was elected as a Justice of the Supreme Court in 1942. He was re-elected in 1948 and 1954, and since January, 1957, has been Chief Justice by seniority.

Following established practice, this issue of the BULLETIN also contains a list of Motion Days in the various district courts of the state as designated by the district judges.

Adventures in Democracy

By JAY S. PARKER, Chief Justice of the Supreme Court

In the midst of a world-wide conflict between political ideologies in government it seems not only timely but imperative that every American citizen should devote some time and energy to familiarizing himself with matters pertaining to the history and development of democracy as a form of state and government to the end that when the day comes—as it surely will—he can intelligently and effectively participate in the momentous decision of what system is best for him, for his posterity and for his nation.

Any approach to a discussion on "Adventures in Democracy" requires a preliminary review of certain fundamental facts regarding forms of government as they have existed through the course of history. They can be classified, according to recognized books on political science, as follows:

Absolute monarchies where the head of state, irrespective of whether he was called King, or Emperor, or what not, ruled by divine right and the people had no choice in the affairs of State. Louis XIV exemplified this form when he said "I am the State."

Military dictatorships, resting upon the power and genius of great military leaders and usually passing with their death. Illustrations of this class, well known to the ancient world, are Alexander the Great of Macedonia; Cyrus the Great, founder of the Persian Empire; Karl the Great, of the Franks, better known as Charlemagne, and Genghis Khan, the Mongolian Conqueror. More recent exemplifications are Cromwell of England and Napoleon of France.

Limited monarchies, where the titular head possesses limited powers as a personal ruler but the people, through some legislative medium, have a voice in the making of laws and the conduct of government. Such was largely the situation in England from the time of the Stuart Kings to the end of the reign of the Georges.

Constitutional monarchies, where the citizenry through parliamentary and judicial processes attained sufficient ascendancy over the power of the crown to subject its will and the conduct of the state to the restraints of a written or unwritten constitution and laws enacted in accordance therewith. This is the England we have known in the last century and a half.

A Republic, where the executive and all other powers of government are derived from the people and exercised with the consent of the governed within the framework of constitutional guarantees and judicial precedents. It can be said that never in all history had there been a large scale venture in this form of government until our own experiment was launched following the American Revolution.

A true democracy, where government is dependent upon the will and desires of an existing majority of the people and exercised directly by them. Otherwise stated, where all questions are settled by the meeting of men in mass. In Europe the true democracy is found in its simplest form in three Alpine cantons of Switzerland where it has existed for more than six hundred years, while in this country it is best illustrated by the old New England town meeting where all men interested in governmental affairs assembled in

mass meeting and after discussion and debate settled their problems by a show of hands.

Finally should be mentioned three other forms of government of which we hear little in early history. The first is socialism which, in its political aspect, is based on the conception that everything necessary to satisfy the wants of the people as a whole should be owned and controlled by a government operating in theory under democratic management. Second, totalitarianism, centralized under the control of a political group which allows no recognition of, or representation to, other political parties, as was the case in Fascist Italy and Nazi Germany before World War II and today is the situation in Soviet Russia and most of the ancient states of central and eastern Europe. The third is despotism, where the affairs of state are directed by a despot or tyrant such as Franco of Spain, who, having seized control, exercises absolute power over his subjects.

To the three forms of government just mentioned some would add a fourth—communism. I do not do so for the simple reason that in this age, irrespective of what its original concepts may have been, communism is totalitarianism pure and simple. According to its theory the state, controlled by a one party system without recognition of individual liberty, exactly as a totalitarianistic regime, is the supreme almighty power.

I anticipate the question I know has already arisen in the minds of some of my readers as to why the reference to so many forms of government. My answer is that I deem a résumé of that particular subject essential to any intelligent discussion on democracy because of the general inaccurate use of that term and the confusion existing in the minds of many as to its real meaning. Early the word was commonly used to denote the true democracy to which I have referred, while in more modern times, as a form of the state, it has come to mean "popular sovereignty" or "government by the people" irrespective of whether that government be carried on in mass assemblies or through the medium of duly elected representatives. Nowhere, so far as I have been able to find, does the word "democracy" appear in the Declaration of Independence, in the Constitution of the United States, in Washington's Farewell Address, in Jefferson's Inaugural, in Lincoln's Gettysburg Address, in our National Flag Salute, nor in any of the many other memorable addresses of the founders of our country. That the United States is not a democracy, but a republic, definitely appears from an examination of our constitution establishing a government of law, stabilized by constitutional guarantees and precedents under checks and balances, operating without regard to the transitory wishes and desires of a particular majority, which, after all, is the basic distinction between a true democracy and a republic. In fact, as applicable to our federal government, the term "democracy" did not come into general use until that famous pronouncement of Woodrow Wilson's "make the world safe for democracy." Since that time, and only since then, has the tendency grown until now it is common parlance to substitute the term "democracy" for every form of government possessing some, or all, of the attributes of popular sovereignty.

Since government by assembly or mass meeting is quite impossible in anything so complex as a state or nation the very title of our subject compels acceptance of the modern version of the term and we therefore proceed on that premise. In doing so we are, of course, concerned only with limited

monarchies, constitutional monarchies, republics, and democracies, irrespective of whether they be pure or representative in their character. Obviously, since they do not possess the concepts of democratic institutions, we are not concerned with the other forms of government to which we have heretofore referred.

With this background we may now turn the pages of history and refer to the happenings contemplated by the scope of our subject.

From the beginning of time mankind, consciously or otherwise, has sought to obtain and preserve the blessings of freedom, liberty and equality. Present-day anthropologists and ethnologists agree, that even though not recognized as such, democracy was prevalent in primitive society and government. However, it prevailed more as an incident to an underdeveloped prepolitical condition than the result of conscious planning on the basis of political liberalism. Briefly, it was based upon the customs and opinions of the adult members of a group whose policies were usually determined and leaders selected by such members after mass discussion and conference which continued until such time as unanimous agreement was reached. It existed because the members of the group believed it presented the safest kind of existence possible under the circumstances and conditions confronting them and its outstanding distinguishing feature, unlike a modern democracy, was that its individual members were not free to transfer allegiance from one group to another, but must remain within their own or become outcasts. So much for primitive democracies. History records little with respect to them and they merit no more attention in our discussion except, perhaps, to say in passing, that in the main they were gradually superseded during the period of barbarism by more despotic types of government.

It was ancient Greece which gave to the world the first outstanding examples of democracy in the form of free, self-governing cities or states, operating as republican institutions in an infinite variety of forms as compounded in various degrees of democratic or oligarchic elements, from about 900 B. C. to 338 B. C., when Greece was conquered by Phillip of Macedonia and ceased to be an independent nation. During a portion of this period, from 507 B. C. to 404 B. C., the government of Athens, so far as its citizens were concerned, became thoroughly democratic. Public offices of power were thrown open to all citizens and the people who were citizens, through their assembly, the Ecclesia, became well versed in public affairs, and practically, as well as legally, were supreme in the state. Even so, Athens was not then either a true democracy or a democracy in the sense we use the modern term for government was restricted to the "male citizen," who could establish Athenian descent on both sides. The free women, including the wife of a citizen, the freedman, the stranger, likewise the Greek born in the city, whose father had come, even as short a distance as eight or ten miles from its territorial limits, were excluded from rights of franchise. Thus it will be observed that in the Greek democracies, quite unlike in a modern democracy where every adult man and woman has a voice in government, even in Athens in its most liberal day, the citizens, who comprised a very small percent of the population absolutely ruled the women, the freedmen, the serfs, the slaves and the outlanders. In the strict sense of the word they were not democracies at all but oligarchies possessing certain democratic characteristics. They perished, as some historians relate, because of Greek folly, selfishness and sloth.

The only other noteworthy example of democracy in ancient times is found in Rome. Up to 500 B. C. the Roman government had been monarchical in form. About that time the monarchy was abolished and a republic established which existed until 30 B. C. when power was again wrested from the people and thereafter, until the fall of the Roman Empire, the country was ruled by Emperors. Like Greece the Roman Republic was not democratic but oligarchic in character. The same conception of exclusiveness in the citizenship prevailed, although within the citizen body itself there was less democratic control of political activities than existed in the Grecian democracies. It is, however, in the Roman Republic we obtain our first glimpse of what today would be called political parties. Politically, the citizenship was divided into two groups—patricians and plebians. As the names imply membership in the one group consisted for the most part of the aristocrat and the rich while in the other it was largely in the poorer classes. There, also, we hear for the first time of political machines and of the dole as a means of influencing the electorate. It is recorded with certainty that in the declining days of the Roman Republic there were machines just as efficient and just as corrupt as those which have existed in our big cities of today. Also, that persons in power not only saw to it that the dole and other persuasive handouts were given to the people along about election time but made certain that only those who voted as they directed were recipients.

But more interesting to us in this day and age than any account of the activities of the Roman Republic are the causes attributed to its decline and fall. I know of no better or more accurate statement than the one found in Well's Outline of History, where it is said:

"The essence of its failure was that it could not sustain unity. In its early stages its citizens, both patrician and plebian, had a certain tradition of justice and good faith, and of the loyalty of all citizens to the law, and of the goodness of the law for all citizens; it clung to this idea of the importance of the law and of law-abidingness nearly into the first century, B. C. But the unforeseen invention and development of money, the temptations and disruptions of imperial expansion, the entanglement of electoral methods, weakened and swamped this tradition by presenting old issues in new disguises under which the judgment did not recognize them, and enabled men to be loyal to the profession of citizenship and disloyal to its spirit. The bond of the Roman people had always been a moral rather than a religious bond; their religion was sacrificial and superstitious; it embodied no such great ideas of a divine leader and of a sacred mission as Judaism was developing. As the idea of citizenship failed and faded before the new occasions, there remained no inner, that is to say no real, unity in the system to all. Every man tended more and more to do what was right in his own eyes, and every man sought to attain for himself rights and privileges regardless of whether their attainment took from another that which he had rightfully attained and possessed as a result of his own enterprise and initiative.

"Under such conditions there was no choice between chaos and a return to monarchy, to the acceptance of some chosen individual as the one unifying will in the state."

With the collapse of the Roman Empire in 473 A. D., democracy did not again raise its head for considerably more than a thousand years. There was little chance for the development of its theoretical concepts and still less opportunity for achievements in the field of its practices during the Dark Ages (5th to end of 11th century) or under the Feudal System (5th to 15th century). Nevertheless the fines of liberty still smouldered within the hearts of men and

were kept alive notwithstanding the passing of the centuries. From the close of the thirteenth century to the end of the fifteenth century, except for a few isolated instances in the medieval Free Towns of Europe, the flames merely flickered. But commencing with the sixteenth century they burst forth in conflagrations that could be seen around the world. What mankind had lost by its folly and greed it found again after paying the penalty for ages in slavery, serfdom and untold misery.

In passing it should perhaps be noted there are some who point to 1215 A. D. and the activities which led to the signing of Magna Charta by King John of England at Runnymede as the date of the kindling of the fires, but that theory has been thoroughly disproved by historical research. Magna Charta did not mark a movement looking toward modern political liberalism, but was merely a reactionary manifesto of feudal lords who were incited to action by recent extension of royal power and at most can only be regarded as a definite indication of dissatisfaction and unrest under the then existing system of government.

Definitely the rebirth of the ideals of democracy can be traced to the beginning of the sixteenth century and just as definitely in the two succeeding centuries occurred the great transformation which marks the dawn of the formation of modern democratic forms of government.

There is not room in this article for a discussion of the fundamentals responsible for the change. It will suffice to say they were of such character as to make easily possible the subsequent overthrow of many governments then in existence and substitute in their stead ones which offered more hope to the common man, who, although always in the majority, had for centuries been denied rights and privileges accorded to those who had been recognized as his superiors because of birth or some other circumstances of fortune. The ultimate result was that with the advent of the eighteenth and nineteenth centuries, except in Asia and Africa where for some inexplicable reason democratic ideals have never become sufficiently rooted to result in concerted popular demand, governments possessing some or all of the attributes of democracy sprang up like mushrooms over the rest of the entire world. Strange as it may be, however, practically all notable and worth-while accomplishments in that direction originated either in Europe or in countries where European influences, social, religious, economic or political, were predominant. Neither time nor space will permit a listing of all those nations which, by revolution or otherwise, indulged in the great experiment. To do so would verge on monotony. Besides we are more interested at this point in those surviving than we are in the ones—and there were many—which made the effort and failed.

In Europe, at sometime or other during the period to which I have referred, practically every country, including Russia which for our purposes can be classified as European, attempted to operate under the guise of democracy. Today only England and little Switzerland—which according to many authorities on the subject has developed the nearest and most perfect type of democratic government the world has ever known—adhere to its principles. Even England, although still within the classifications, is fast becoming socialistic.

Aside from the Americas the only other live examples are South Africa, one of the more outstanding at the moment, and perhaps, New Zealand and Australia, although these two are already definitely committed to state socialism. China, of course, is known as a Republic but is democratic in name only and not in principle.

In the Americas only the United States and Canada survive. Some point to the so-called Republics of Central and South America and include them, but to do so is error. Without exceptions their forms of government are autocratic in character and will not stand the test.

So to summarize, I repeat, that in all the world today only the United States, Canada, South Africa, Switzerland and perhaps England, New Zealand and Australia, have not succumbed to some form of arbitrary central government in which the individual has lost his freedom and his importance.

Quite naturally the questions arise: Why is it that so many democracies have risen and prospered for a time only to sink into oblivion? What is there about the human race which prompts it to struggle so valiantly to attain the benefits of liberty, even to the extent of loss of life itself, and then in a space of generation or so relinquish those privileges without so much as a struggle?

Both questions and answers, although always intriguing are not new but ancient as the ages which have preceded them. Three hundred years before the coming of Christ, Aristotle gave one answer which down through the years, even to the present moment, must be regarded as fairly accurate when he wrote:

"The insolence of demagogues is generally the cause of ruin in democracies. First, they calumniate the wealthy, and rouse them against the government, thus causing opposite parties to unite against a common danger. Next, they produce the same result by stirring up the populace and creating a sense of insecurity. Nearly all the tyrants of old began with being demagogues. In well-balanced commonwealths, besides strict observance of established laws, it is especially necessary to keep close watch upon little matters. For a great change in the laws may creep on gradually, just as a small expense often incurred ruins a large fortune. Next, let men be on their guard against those who flatter and mislead the multitude; their actions prove what sort of men they are. Of the tyrant, spies and informers are the principal instruments. War is his favorite occupation, for the sake of engrossing the attention of the people, and making himself necessary to them as their leader. An unbridled democracy is exactly similar to a tyranny. Its objects and instruments are the worst, and both are equally served by the tamest of mankind. It is always anxious to lord it as a sovereign; it therefore has its flatterers in the shape of demagogues. Ancient customs must be done away with; ancient ties, civil and sacred, must be broken; everything must be changed according to new and false theories; and the result is an assimilation of democratic to tyrannical government, in its habits and modes of action."

More than 2,100 years later (1835) Alexis De Tocqueville in his great work "Democracy in America" portrayed the reasons in the matchless sentences with which he closed his remarkable work. He said:

"Providence has not created mankind entirely independent or entirely free. It is true that around every man a fatal circle is traced, beyond which he cannot pass; but within the wide verge of that circle he is powerful and free; as it is with man, so with communities. The nations of our time cannot prevent the conditions of men from becoming equal; but it depends upon themselves whether the principle of equality is to lead them to servitude or to freedom, to knowledge or barbarism, to prosperity or to wretchedness."

James A. Garfield once touched on the subject in a public address when he said:

"We are apt to be deluded into false security by political catchwords, devised to flatter rather than to instruct. We have happily escaped the dogma

of the divine right of Kings . . . Our faith in the democratic principles rests upon the belief that intelligent men will see that their highest political good is in liberty, regulated by just and equal laws . . .”

To me the simple answer to both questions—embodied, of course, in each of the preceding quotations—is that man has always been the slave of his own passions and ignorance. He has always been amenable to appeals to self interest, cupidity and sentiment. So long as he remains so, so long as he regards his own selfish personal interests as paramount to the public weal, just that long will democracies pass into oblivion. Otherwise stated, no democracy can hope to survive permanently until the true spirit of democracy dwells in the hearts and minds of all the people and, as individuals, the great majority are willing to accept not only its benefits but its attending responsibilities as well. To insure its survival the entire citizenry must not only be trained in the knowledge and art of self government, but prepared to participate in the affairs of government with patriotic rather than selfish ends in view.

Heretofore I have purposely refrained from referring to our own form of government except when necessary to mention it in connection with other matters and then only in a general way. It seems, however, that a paper of this character would not be complete unless some thought and attention is given it specifically for the American experiment inaugurated in 1776, and which has prospered for more than 170 years, is conceded—so far as democracy is concerned—to be the Greatest Adventure of them all.

Our forefathers in embarking upon that adventure were fully and completely cognizant of the fact that the examples of democracies preceding their efforts had almost without exception degenerated into tyrannies as a result of action on the part of temporary majorities. They understood that tyranny or a totalitarianism on the part of a majority acting by force or numbers could be just as unreasonable, self willed, vicious, and destructive of individual freedom and action as absolutism at its very worst. They well knew the effect of centralized and bureaucratic power upon the progress of a free people and sought in some manner to avoid it. It was for that reason they created a republic rather than a pure democracy and deliberately established a government of checks and balances within the guarantees and framework of a constitution. Their purpose in so doing was not to render the machinery of government complicated or make it possible to thwart the ultimate will of the majority but to provide a method whereby the majority itself in times of public hysteria and political, economic and social unrest could not impose upon the people as a whole fundamental changes in their form of government without first going through, what for our purposes may be termed, a cooling off period to permit ample opportunity for calm reflection and consideration as to whether those changes were ultimately advisable and desired.

Their conception of a democratically organized and administered government is definitely set forth in the Declaration of Independence and in our Federal Constitution with its Bill of Rights.

To comprehend the depth of their sincerity and the extent of their purpose we need only to refer to the Declaration, where it is said:

“We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are Life, Liberty and the Pursuit of Happiness.”

Or to the Preamble of the Constitution which clearly and unequivocally discloses their expressed determination to "form," "establish," "insure," "provide," "promote," and "secure" a governmental system whereby each and every one of the objectives mentioned was directed to the supreme aim of securing the blessings of liberty to themselves and to their posterity.

How well they succeeded in their efforts is now a matter of history. The fact the United States of America is conceded by all to be the greatest democratic nation on the face of the earth obviates all necessity of further comment. But how we are to continue—whether we progress or decline—is another matter. A problem, if you please, of the future which must be determined by the collective thinking of each and every citizen.

No one will gainsay that since the days of our Revolutionary fathers our form of government has undergone fundamental changes, not only prior to and in our own lifetime but also within the short space of a few years. Consideration of these changes or those to be made in the future should not be, nor is it, a partisan matter. If we are desirous of carrying on, if we are anxious to secure the blessings of liberty to ourselves and our posterity, we must honestly recognize what has been occurring in the past with respect to our form of government, anticipate as best we can what those changes have meant and may mean to us in the future, and do our part in seeing to it that that which is good for democracy is retained and that which is bad is discarded. In no other way can we insure the perpetuation of our democracy for, as we have seen, under such a form of government the affairs of state are the concern of each and every citizen, whose duty it is to actively participate in their determination.

To me these are days of crisis. I am perfectly willing to concede that all loyal Americans share in common a deep-rooted desire to preserve in our system of government the fundamental principles of democracy although they may differ as to proper methods of insuring their retention. The thing that alarms me is the apparent unconcern with which the individual citizen views the changes made, contemplated and suggested and his seeming lack of interest in their whys, their wherefores and their results. One of the things, Mr. Individual Citizen, I seek to do by this article is to stir up your interest in those matters so that now and henceforth you will make them your business and concern, not only for the purpose of acquiring such information and knowledge as will enable you to *correctly decide* them for yourself but for the additional purpose of disseminating that information and knowledge to others who might not otherwise comprehend their significance and import.

I cannot believe the framers of our Constitution visualized the time, which because of our rapid growth in population and modern methods of transportation and communication is here, when the mere profession of public spirit, properly advertised by any group in quest of political power, might easily dominate public judgment or control public decisions. Neither do I believe they contemplated an economic period when those groups could lead us into a definite trend toward a paternalistic type of government based upon subsidization of business, education, health, and even self government itself, which, unless checked, is bound to result eventually in deprivation of the free and unrestricted exercise of states rights within the limitations originally prescribed in the Constitution.

All fair-minded men must concede that in today's social, economic and political order there is ever present strife between free and untrammelled public opinion and the public will on the one hand and highly organized self-seeking pressure groups on the other. They must concede also that nothing could more certainly or completely undermine democracy than if it were to become possible to displace the power of public opinion and substitute in its stead, either directly or indirectly, the influence and power of such groups.

Because these conditions are definite possibilities, if in fact some of them do not already exist, it seems to me the passing of every day makes it of increasing importance that the rank and file—the individual citizen—take steps to insure that government be guided and controlled by the voice of the entire people whose government it is. We can, in my opinion, as I have heretofore indicated, accomplish such a result only by reviving public interest in affairs of state through the medium of personal discussion and public debate. And by discussion and debate I do not mean the mere arbitrary expression of one's personal views with eyes blinded to the opinion of others but an approach to our present day governmental problems with minds open and a common desire to reach their solution in the true spirit of democracy. We must let the other fellow have his say, we must be tolerant of his opinions however violently we may disagree therewith, we must be prepared to yield to his viewpoint if after sober thought and consideration we become convinced his ideas are more in accord with fundamental democratic ideals than our own but he too must be prepared to do likewise.

With the finger of doubt pointed at democracy as a form of government this seems to me to be an opportune time for citizens to indulge in collective introspection of the democracy under which they live. Therefore, in the spirit to which I have referred, I propose to suggest a few of its ever present problems which will afford ample opportunity for discussion and debate on the subject in the form of a few questions limited to domestic problems, the proper determination of which appears to me to be of vital importance to our future status as a nation. In doing so I want it distinctly understood I am not minimizing the many worth-while changes that have taken place in our system of government from the date of its inception down to the recent and immediate past. I simply recognize that time and space will not permit a discussion of their merits in this article and restrict my reference to a few impending matters on which there is much diversity of opinion as to whether they are good or bad for a government which professes to intend to continue to operate under the fundamental principles of democracy.

What, then, in the light of history must our answers as citizens be to the following questions:

1. Will a democracy survive if all power and authority is centralized in the national government?
2. Does the tendency to increase bureaucracy under our present governmental system by continued operation of bureaus, boards and commissions tend to break down and eventually do away with the fundamental principles under which it must operate to be successful?
3. What is the ultimate effect of a planned and controlled economy on democracy as a form of government?

4. How long can a democracy exist without limiting its expenditures to a point where it can maintain a balanced budget?

5. Can it substitute national paternalism for private initiative and enterprise and hope for continued existence?

6. Is a governmental program of subsidies for business, agriculture, education, health and other activities conducive to its welfare?

7. Does national conscription stand in the way of the development of a democratic form of government?

8. Are efforts of the government to manage money, control prices and regulate wages justified under existing conditions or do they impinge upon the rights of a free and independent people?

Ordinarily we think of an adventure as short lived, but as we contemplate our own experiment in government we are prone to think of it as permanent and fixed in character because it has existed and prospered for more than one hundred seventy years. Not so. When measured by the eons of time the American Republic is an adventure yet in its infancy. Your ultimate response to the foregoing questions, and others which they may suggest, mean much to its future. On them, in my opinion, may hinge the answer as to whether the great American experiment will prove to be merely an adventure or a permanent reality. For that reason, I entreat all who are interested in the perpetuation of individual liberty and personal freedom to consider and decide such questions with candor, fairness, understanding and solemnity as patriots not as partisans or as selfish men, having in mind at every stage of their deliberations that the words of the immortal Webster are just as apropos today as they were during another crisis in our history when he said:

“If disastrous war should sweep our commerce from the ocean, another generation may renew it; if it exhaust our treasury, future industry may replenish it; if it desolate and lay waste our fields, still under a cultivation they will grow green again and ripen to future harvest. But who shall reconstruct the fabric of demolished government? Who shall rear again the well proportioned columns of constitutional liberty? Who shall frame together the skillful architecture which unites national sovereignty with state rights, individual security, and public prosperity?”

MOTION DAYS IN DISTRICT COURTS—1960

(Please see notes on page 85)

COUNTY	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Allen (See note 2)	Iola	Spencer A. Gard.	Mrs. Ina F. West.	37	12 25	8	7 21	4 18	9 23	20	12	4 17	7 21	12
Anderson (See note 3)	Garnett	Floyd H. Coffman	Mrs. Nell R. Graves.	4	8	5	7	1	20	13	16	10	4	9
Aitchison	Aitchison	Edmund L. Page	Hal Waisner	2	6 13 20 27	3 10 17 24	2 9 16 23 30	6 13 20 27	4 11 18 25	1 8 15 22 29	7 14 21 28	5 12 19 26 30	2 9 16 23 30	7 14 21 28
Barber (See note 12)	Medicine Lodge	Clark A. Wallace	Mrs. Edith Myers.	24	6	8	11	25	12	16	9	24	10	8
Barton (See note 16)	Great Bend	Frederick Woelagel	Geneva Steincamp	20	6	3	7	6	4	7	7	5	7	7
Bourbon (See note 4)	Fort Scott	Harry W. Fisher	Amy Armstrong	6	4 15 22	5 19 26	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24	2 9 16 23 30	7 14 21 28	4 11 18	2 9 16
Brown	Hiawatha	Chester C. Ingels	Mrs. Edna Boicourt	22	19	16	22	19	17	2	20	18	22	20
Butler Div. No. 1 Div. No. 2	El Dorado	George Reynolds W. N. Calkins	Mrs. Leah E. Walsh	13	6	5	7	7	5	13	1	4	14	6
Chase	Cottonwood Falls	Jay Sullivan	Mrs. Mildred Speer	5	29	26	25	29	27	24	30	28	25	30
Chautauqua Div. No. 1 Div. No. 2	Sedan	George Reynolds W. N. Calkins	Cleopha Call	13	14	8	4	4	6	6	6	6	7	5
Cherokee Columbus Div. Gaena Div.	Columbus	Jerome Harmon	Nina Coldiron	11	5 6	2 3	1 9	5 6	3 4	7 1	12 7	4 5	1 16	6 7

MOTION DAYS IN DISTRICT COURTS—1960—CONTINUED

(Please see notes on page 85)

	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Cheyenne.....	St. Francis.....	Robert W. Hemphill.....	Mrs. Lois Slyhoff.....	17	22	12	18	4	23	8	16	6	2	5 16
Clark.....	Ashland.....	Ernest Vieux.....	Mrs. Hope Grimes.....	31	7a	4a	10a	7a	5a	9a	8a	6a	10a	8a
Clay.....	Clay Center.....	Lewis L. McLaughlin.....	Mrs. Hazel K. Chestnut.....	21	7	3	7	1	3	6	8	5	7	8
Cloud.....	Concordia.....	Marvin O. Brummett.....	Mrs. Minnie L. Johnson.....	12	4	3	9	4	4	8	20	19	23	14
Coffey.....	Burlington.....	Jay Sullivan.....	Mrs. Mary Henning.....	5	25	29	28	25	31	27	26	31	28	26
Comanche.....	Coldwater.....	Ernest Vieux.....	Mary Guyer.....	31	6a	3a	9a	6a	4a	8a	7a	5a	9a	5a
Cowley.....	Winfield.....	Doyle E. White.....	Mrs. Sallie Smith.....	19	5 15	5 19	4 18	1 15	6 20	3 17	2 18	7 21	4 18	2 16
Crawford Girard Div. Pittsburg Div. (See note 7)	Girard.....	Don Musser.....	Josephine Cattaneo.....	38	1 13	5 10	4 9	1 13	6 11	3 8	2 14	7 12	4 9	2 14
Decatur.....	Oberlin.....	Robert W. Hemphill.....	Mrs. Alice Vernon.....	17	20	10 22	16	12	9	2	14	4 10	22	14
Dickinson (See note 5)	Abilene.....	Walter E. Hembrow.....	Seth Barter, Jr.....	8	4	3	1	6	16	1	12	5	2	6
Doniphan.....	Troy.....	Chester C. Ingels.....	Virgil Pegesse.....	22	20	17	23	20	18	3	21	19	23	21
Douglas (See note 8)	Lawrence.....	Frank R. Gray.....	Mrs. Lucille Allison.....	41	8	7	4	1	2	3	9	7	7	2
Edwards.....	Kinsley.....	Lorin T. Peters.....	Cecil Mathews.....	33	6c	8e 3e	9e	6e	2d 2d	2e	7e	4e 5e	9e	7e
Elk Div. No. 1 Div. No. 2	Howard.....	George Reynolds W. N. Calkins	Mrs. Floyd B. Magers.....	13	4	2	1	5	2	7	19	7	1	1

MOTION DAYS IN DISTRICT COURTS—1960—CONTINUED

(Please see notes on page 85)

Country	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Ellis (See note 9)	Hays	Benedict P. Cruise	Edward Bieker	23	18	1	14	11	16	13	12	17	14	12
Ellsworth	Ellsworth	John I. Young	Frank A. Vanek	30	25	11	4	25	13	3	19	10	3	12
Finney (See note 11)	Garden City	Roland H. Tate	G. Mae Purdy	32	11	5a	11a	8a	9	6a	19	7a	8a	9a
Ford	Dodge City	Ernest Vieux	Elta J. Riley	31	8a	5a	11a	8a	6a	10a	9a	7a	11a	9a
Franklin (See note 3)	Ottawa	Floyd H. Coffman	Christina Woke	4	4	3	2	4	18	8	12	12	2	7
Geary (See note 5)	Junction City	Walter E. Hembrow	Edward C. Verbeke	8	5	2	7	5	3	6	6	4	14	2
Gove (See note 9)	Gove	Benedict P. Cruise	Mrs. Louise Brown	23	20	17	21	14	10	20	15	11	21	15
Graham	Hill City	C. E. Birney	Mrs. Louise Lee	34	6	1	9	13	9	8	19	11	14	7
Grant (See note 10)	Ulysses	L. L. Morgan	Mrs. Juanita Barber	39	4d	1d	7d	11	2d	6d	1a	3d	7d	5
Gray	Cimarron	Ernest Vieux	Carrie Borland	31	5a	2a	8a	4a	3a	7a	6a	4a	8a	6a
Greeley (See note 11)	Tribune	Roland H. Tate	Laura M. Holmes	32	6a	8	9a	5a	11a	1a	13a	17	9a	6a
Greenwood	Eureka	George Reynolds W. N. Calkins	Mrs. Alma Long	13	18	4	3	1	16	2	2	10	3	2
Hamilton (See note 11)	Syracuse	Roland H. Tate	Amelia J. Minor	32	8a	15	9d	5d	13a	3a	16a	10	9d	6d
Harper (See note 12)	Anthony	Clark A. Wallace	Mrs. Helen Pearl	24	11	3	10	11	11	20	8	10	9	7
Harvey (See note 13)	Newton	George L. Allison	Joe Fox	9	7	8	10	7	9	9	1	6	14	1
Haskell (See note 10)	Sublette	L. L. Morgan	Mrs. Evelyn Yount	39	21	18	24	21	26	23	22	20	24	15
					4a	1a	14	4a	2a	6a	19	3a	7a	19a

MOTION DAYS IN DISTRICT COURTS—1960—CONTINUED

(Please see notes on page 85)

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Hodgeman	Jetmore	Lorin T. Peters	Mrs. Nina Lupfer	33	6d	22d 3d	9d	6d	16e 2e	2d	7d	5d	14d 9d	7d
Jackson (See note 14)	Holton	Robert H. Kaul	Mrs. Florence Clements	36	11	3	9	6	2	8	7	3	9	7
Jefferson (See note 14)	Oskaloosa	Robert H. Kaul	Mrs. Myrtle Kimmel	36	15	5	7	8	6	6	9	7	7	9
Jewell	Mankato	Donald J. Magaw	Mrs. Iris Cosand	15	14	4	7	21	12	6	29	20	14	7
Johnson Div. No. 1 Div. No. 2 Div. No. 3	Olathe	Earl E. O'Conner Clayton Brenner Raymond H. Carr	Mrs. Betty West	10	4	1	7	4	2	6	6	3	7	5
Kearny (See note 11)	Lakin	Roland H. Tate	Mrs. Bertha Adams	32	8d	3d	14	7a	13d	3d	16d	5d	14	8a
Kingman (See note 12)	Kingman	Clark A. Wallace	Gladys Layman	24	8	5	23	8	13	6	26	7	11	12
Kiowa	Greensburg	Ernest Vieux	Mrs. Eunice E. Rich	31	6d	3d	9d	6d	2a	8d	7d	5d	9d	7d
Labette Oswego Div. Parsons Div.	Oswego	Hal Hyler	Glen Cossett	16	8 22 4	2 19 15	4 18 7 28	12 22 18	6 20 3 16	10 24 13 16	9 23 19 14	4 21 17 14	4 18 7 14	9 23 19 14
Lane (See note 11)	Dighton	Roland H. Tate	Mrs. Eva Cramer	32	7a	4a	21	6a	12a	2a	15a	6a	21	7a
Leavenworth (See note 15)	Leavenworth	Joseph J. Dawes	Mary Kate Gausz	1	8	5	4	1	6	3	2	7	5	2
Lincoln	Lincoln	John I. Young	Roy Livingood	30	18	15	2	5	16	6	21	17	7	13
Linn (See note 4)	Mound City	Harry W. Fisher	Mrs. Ferne Beatty	6	7 21	4 18	10 24	4 21	12 26	9 23	8 22	6 20	3 17	5 22

MOTION DAYS IN DISTRICT COURTS—1960—CONTINUED

(Please see notes on page 85)

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Logan (See note 9)	Russell Springs	Benedict P. Cruise	Mrs. Ada Rogge	23	21	18	16	4	11	15	5	12	16	5
Lyon	Emporia	Jay Sullivan	Louise Henricks	5	27	24	30	27	25	29	28	26	30	28
Marion (See note 5)	Marion	Waller E. Hembrow	C. J. Ross	8	6	7	2	7	2	2	5	3	1	1
Marshall	Marysville	Lewis L. McLaughlin	Wallace J. Koppes	21	8	7	2	8	2	1	9	3	4	9
McPherson	McPherson	George L. Allison	Donald S. Clark	9	11 29	5 19	4 25	4 22	6 20	10 24	2 23	3 21	4 25	2 16
Meade	Meade	Ernest M. Vieux	Edyth Cooper	31	4d	1d	7d	4d	2d	6d	5a	3d	7d	5d
Miami (See note 4)	Paola	Harry W. Fisher	Mrs. Ethel J. Hunt	6	5 19	7 16	8 22	5 19	10 24	6 21	6 20	3 18	1 15	6 20
Mitchell	Beloit	Donald J. Magaw	Ida Jamison	15	11	5	10	18	13	9	26	21	17	8
Montgomery	Independence	Warren B. Grant	M. D. Smith	14	2	6	5	2	7	4	3	1	5	3
Independence Div. Coffeyville Div.					1	5	4	1	6	3	2	7	4	2
Morris (See note 5)	Council Grove	Waller E. Hembrow	Mrs. Virginia Scholes	8	7	4	3	4	5	20	1	6	3	5
Morton (See note 10)	Richfield	L. L. Morgan	Mrs. Irene Kuder	39	5d	8	8a	5d	3d	7d	6	4d	8d	20d
Nemaha	Seneca	Chester C. Ingels	Mrs. Ruth Shaffer	22	18	15	21	18	16	1	19	17	21	19
Neosho	Erte	B. M. Dunham	Merle Estes	7	6 12	3 2	8 9	6 12	4 3	1 7	7 13	12 11	2 1	7 6
Erte Div. Chanute Div.														
Ness	Ness City	Lorin T. Peters	Gerald Humburg	33	7e	4e	14e 10e	7e	4e	3e	12e 8e	6e	10e	12e Se

MOTION DAYS IN DISTRICT COURTS—1960—CONTINUED

(Please see notes on page 85)

COUNTY	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Norton	Norton	Robert W. Hemphill	Elsie Braut	17	11 18	8	7	18	13	3	6 17	7	23	12
Osage	Lyndon	Alex Hotchkiss	Mrs. Lucille Nelson	35	4	5	1	1	6	7	2	7	1	2
Osborne	Osborne	Donald J. Magaw	Elma McColl	15	15	1	11	22	9	10	30	17	18	7
Ottawa	Minneapolis	John I. Young	Mrs. Ester Plunkett	30	11	9	1	11	10	2	20	24	21	14
Pawnee	Larned	Lorin T. Peters	Mrs. Eulah Almquist	33	27d 5d	24	8d	11d 5d	3d	1d	6d	10d 4d	8d	6d
Phillips	Phillipsburg	Robert W. Hemphill	Gene Britt	17	19	1	8	15	2	1	13	20	3	13
Pottawatomie (See note 14)	Westmoreland	Robert H. Kaul	Deane L. Arnold	36	14	4	10	5	5	9	6	6	10	6
Pratt (See note 12)	Pratt	Clark A. Wallace	Mrs. Mabel Axline	24	7	4	14	7	16	17	12	6	14	9
Ravalli	Atwood	Robert W. Hemphill	Mrs. Louise Fortschy	17	21	11	17	13	16	7	15	5	1	15
Reno	Hutchinson	John F. Fontron	George Walter	40	2 8 15 22 29	5 12 19 26	4 11 18 25	1 8 15 22	6 13 20 27	3 10 17 24	2 9 16 23 30	7 14 21 28	4 11 18 25	2 9 16 23 30
Republic	Belleville	Marvin O. Brummett	Earl J. Baldrige	12	5	1	8	5	2	7	27	17	22	13
Rice (See note 16)	Lyons	Frederick Woelagel	Laura Saint	20	5	1	7	5	2	6	6	3	8	5
Riley (See note 6)	Manhattan	Lewis L. McLaughlin	Joseph F. Musil	21	4	5	4	4	9	3	6	7	2	2
Rooks	Stockton	C. E. Birney	Irma Renner	34	11	10	10	14	2	9	6	13	16	9

MOTION DAYS IN DISTRICT COURTS—1960—CONTINUED

(Please see notes on page 85)

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Rush	La Crosse	Lorin T. Peters	Esta Manahan	33	1/e 5e	2e	2/e 8e	5e	3e	1e	2/e 6e	4e	8e	6e
Russell (See note 9)	Russell	Benedict P. Cruise	Mrs. Mary Humes	23	4	15	15	12	2	14	13	3	15	13
Saline	Salina	John I. Young	Mrs. Betty J. Just	30	8	8	7	4	9	1	12	3	2	5
Scott (See note 11)	Scott City	Roland H. Tate	Nellie Scheuerman	32	7d	4d	10d	11	12d	2d	15d	6d	10d	12
Sedgwick	Wichita	William C. Kandt Howard C. Kline E. Mack Bryant Clement F. Clark James J. Noone E. E. Satgast	Harriet Graham	18	All motions in civil cases, except divorce, are heard on the second Monday morning following the filing thereof. These motions are assigned to the various divisions of court by the Assignment Judge who mails notices of hearings to attorneys of record in advance. All motions in divorce cases, including contempt and custody, are heard at 1:30 P.M. on the second Monday afternoon following the filing thereof, at which time they are called by the Assignment Judge and assigned to the various divisions of court for immediate hearing. All motions in criminal cases are heard by the Judge in charge of the Criminal Court, by arrangement with him. The Criminal Court rotates among the various divisions from term to term.									
Seward (See note 10)	Liberal	L. L. Morgan	Mrs. Mary Lindley	39	11	5a	4a	18	6a	10a	2a	10	11a	2a
Shawnee	Topeka	Beryl R. Johnson	Mrs. Lucile Carter	3	8	5	4	1	27	24	16	14	11	9
Div. No. 1		Paul H. Heinz		15	12	11	8	29	6	3	23	21	18	16
Div. No. 2		Dean McElhenny		22	19	18	15	13	10	2	28	25	23	23
Div. No. 3		David Prager		1	26	25	22	20	17	9	30	7	4	2
Div. No. 4				29										30
(See note 17)														
Sheridan	Hoxie	C. E. Birney	Mrs. Minnie Carder	34	4	23	7	11	16	6	1	3	15	5

MOTION DAYS IN DISTRICT COURTS—1960—CONCLUDED

(Please see notes on page 85)

County	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Sherman	Goodland	C. E. Birney	Viva Peter	34	7	9	8	4	6	13	12	12	21	8
Smith	Smith Center	Donald J. Magaw	Florence Vincent	15	13	3	28	20	11	20	28	19	16	5
Stafford (See note 16)	St. John	Roy J. McMullen	Arlene McCandless	20	4	2	2	4	3	1	8	4	2	6
Stanton (See note 10)	Johnson	L. L. Morgan	Mrs. Hazel Polly	39	5a	22	7a	5a	3a	7a	12	4a	8a	20a
Stevens (See note 10)	Hugoton	L. L. Morgan	John F. Fulkerson	39	25	4a	23	7a	5a	9a	1d	24	10a	1a
Sumner	Wellington	Wendell Ready	Mary E. Carter	25	5	2	1	5	3	7	13	4	1	6
Thomas	Colby	C. E. Birney	Thelma Livingston	34	5	8	21	12	23	7	2	10	7	6
Trego (See note 9)	WaKeeney	Benedict P. Cruise	Nina J. Galloway	23	19	16	7	13	9	6	14	10	7	14
Wabausee	Alma	Alex Hotchkiss	Mary Tolbert	35	7	2	3	7	3	2	1	4	3	1
Wallace (See note 9)	Sharon Springs	Benedict P. Cruise	Evelyn P. Warren	23	21	18	16	18	11	15	19	12	16	19
Washington	Washington	Marvin O. Brummett	Paul Froehlich	12	6	2	7	6	3	6	28	18	21	12
Wichita (See note 11)	Leoti	Roland H. Tate	Kate Elder	32	6d	3a	10a	18	11d	1d	14d	5a	10a	19
Wilson	Fredonia	B. M. Dunham	Dwayne Spoon	7	5	4	3	5	5	2	6	6	3	1
Woodson	Yates Center	Spencer A. Gard	Dixie L. Mentzer	37	5	9	7	12	17	7	6	25	8	13
Wynandotte	Kansas City	O. Q. Claffin, III	Richard D. Shannon	29	8	5	4	2	6	3	2	7	4	2
Div. No. 1					2	6	5	1	7	4	3	1	5	3
Div. No. 2		Willard M. Benton			8	13	11	8	13	10	9	7	11	9
Div. No. 3		Harry G. Miller, Jr.			9	13	12	9	14	11	10	8	12	10
Div. No. 4		William H. McHale			15	19	18	15	20	17	16	21	18	16
(See note 16)					16	20	19	16	21	18	17	15	19	17
					22	26	25	22	27	24	23	28	25	23
					23	27	26	23	28	25	24	22	26	24

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

- NOTE 1.—*Italicized* dates indicate the first day of the regular term of court.
- NOTE 2.—In Allen county July 18 is motion day.
- NOTE 3.—Court will open at 9:30 a. m. in Garnett and Ottawa.
- NOTE 4.—In Bourbon county, July 1-8-15-22 and 29 are motion days. In Miami county, July 12 and 19 are motion days. In Linn county, July 11 and 21 are motion days.
- NOTE 5.—In Dickinson, Geary, Marion and Morris counties, court convenes at 10:00 a. m. No jury at May term in Dickinson and June terms in Morris and Geary counties except on special order.
- NOTE 6.—In Riley county, opening day of term delayed one day because of Labor Day. In addition to the regular motion days in Riley county, time permitting, special motion days will be held on the 3rd Friday of the month.
- NOTE 7.—In Pittsburg, July 13th is motion day. In Girard, July 1st is motion day.
- NOTE 8.—In Douglas county, opening day of term, court will open at 9:30 a. m. The civil docket will be called at 9:30 a. m. and the criminal docket will be called beginning at 2:00 p. m. Also in Douglas county, July 1st is motion day and August 5th is motion day.
- NOTE 9.—In Ellis, Gove, Logan, Russell and Trego counties, court convenes at 9:00 a. m. In Wallace county, court convenes at 1:00 p. m.
- NOTE 10.—In Grant, Haskell, Morton, Seward, Stanton and Stevens counties, jury sessions (unless otherwise ordered) 10:00 a. m.
- NOTE 11.—In Finney, Greeley, Hamilton, Kearny, Lane, Scott and Wichita counties, jury sessions (unless otherwise ordered) 9:30 a. m.
- NOTE 12.—In Barber, Harper, Kingman and Pratt counties, court convenes at 10:00 a. m. on all motion days, and at 9:00 a. m. for all jury trials.
- NOTE 13.—In Harvey and McPherson counties, court convenes at 9:30 a. m.
- NOTE 14.—In Jackson, Jefferson and Pottawatomie counties, court convenes at 9:00 a. m. on the opening day of the term. On motion days the court will convene at 10:00 a. m. Time permitting, a special motion day will be held in each county two weeks after the regular motion days.
- NOTE 15.—In Leavenworth county, July 1st and August 5th are motion days.
- NOTE 16.—In Barton, Rice and Stafford counties, court convenes at 10:00 a. m. except when jury appears when court will convene at 9:00 a. m.
- NOTE 17.—In Shawnee county, the schedule continues through July and August as follows:
- Division No. 1.—Judge Beryl R. Johnson: July 22 and August 19.
- Division No. 2.—Judge Paul H. Heinz, July 1 and 29, August 26.
- Division No. 3.—Judge Dean McElhenny, July 8 and August 5.
- Division No. 4.—Judge David Prager, July 15 and August 12.
- NOTE 18.—In Wyandotte county separate dates are fixed for hearing pre-trial and post-trial motions. The first line of dates opposite each judge's name applies to pre-trial motions and the second line to post-trial motions.
- Pre-trial motion days for July are as follows: 1st-8th-15th and 22nd.
- Pre-trial motion days for August are as follows: 5th-12th-19th and 26th.

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ROSCOE H. WILSON. (1931-1933)	Jetmore
GEORGE AUSTIN BROWN. (1931-1933)	Wichita
RAY H. BEALS. (1933-1938)	St. John
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SCHUYLER C. BLOSS. (1933-1935)	Winfield
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O. P. MAY. (1935-1937)	Atchison
KIRKE W. DALE. (1937-1941)	Arkansas City
HARRY W. FISHER. (1937-1939)	Fort Scott
GEORGE TEMPLAR. (1939-1941, 1943-1947, 1953)	Arkansas City
EDGAR C. BENNETT. (1938-1951)	Marysville
SAMUEL E. BARTLETT. (1941-1951)	Wichita
PAUL R. WUNSCH. (1941-1943)	Kingman
WALTER F. JONES. (1941-1945)	Hutchinson
GROVER PIERPONT. (1943-1944)	Wichita
I. M. PLATT. (1943-1945)	Junction City
C. A. SPENCER. (1944-1951)	Oakley
CHARLES VANCE. (1945-1947)	Liberal
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W. D. VANCE. (1951-1952)	Belleville
JOHN A. ETLING. (1945-1953)	Kinsley
DALE M. BRYANT. (1947-1949, 1951-1953)	Wichita
FRANKLIN B. HETTINGER. (1952-1953)	Hutchinson
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